

MARINA MUNICIPAL CODE

**A Codification of the General Ordinances
of the City of Marina, California**

**Updated 2007
Through Ordinance No. 2007-02**

**LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902
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I. HOW TO USE YOUR CODE

This code is organized to make the laws of the city as accessible as possible to city officials, city employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System.

The numbering system is the backbone of a code of ordinances; Matthew Bender & Company, Inc. uses a unique and versatile numbering structure that allows for easy expansion and amendment of this code. It is based on three tiers, beginning with **title**, then **chapter**, and ending with **section**. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

Title.

A title is a broad category under which ordinances on a related subject are compiled. This code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this code are separated by tabbed divider pages for quick reference. Some titles are **Reserved** for later use.

Chapter.

Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material. For example, Chapter 2.06, City Manager, can be added between 2.04, City Council, and Chapter 2.08, City Attorney.

Section.

Each section of the code contains substantive ordinance material. The sections are numbered by “tens” to allow for expansion of the code without renumbering.

Tables of Contents.

There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

Ordinance History Note.

At the end of each code section, you will find an “ordinance history note,” which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).) This note will be updated by Matthew Bender & Company, Inc. as each section is amended, with the most recent amendment added to the beginning. The notation “(part)” is used when the code section contains only part of the ordinance (or section of the ordinance) specified; this indicates that there are other areas of the code affected by the same ordinance (or section of the ordinance). If the code section was derived from an earlier codification, the last entry in the note indicates the old or “prior code” section number.

Statutory References.

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. As the statutes are revised, these references will be updated by Matthew Bender & Company, Inc.

Cross-Reference Table.

When a code is based on an earlier codification, the cross-reference table will help users find older or “prior” code references in the new code. The cross-reference table is located near the end of the code, under the

tabbed divider “Tables.” This table lists the prior code section in the column labeled “Prior Code Section” and the new code section in the column labeled “Herein.” This table will be updated as prior code sections are renumbered or repealed.

Ordinance List and Disposition Table.

To find a specific ordinance in the code, turn to the section called “Tables” for the Ordinance List and Disposition Table. This very useful table tells you the status of every ordinance reviewed by Matthew Bender & Company, Inc. The table is organized by ordinance number and provides a brief description and the disposition of the ordinance. If the ordinance is codified, the chapter (or chapters) will be indicated. (Example: (2.04, 6.12, 9.04).) If the ordinance is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be “(Special).” If the ordinance is for some reason omitted from the code, usually at the direction of the municipality, the disposition will be “(Not codified).” When an ordinance is repealed, the disposition will be changed by Matthew Bender & Company, Inc. to “(Repealed by Ord.)” with the appropriate ordinance number. Other dispositions sometimes used are “(Tabled),” “(Pending),” “(Number Not Used)” or “(Missing).”

Index.

If you’re not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

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See also BUSINESS TAX

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The index will be updated as necessary when the code text is amended.

Insertion Guide.

Each supplement to the new code will be accompanied by an Insertion Guide. This guide will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current.

Page Numbers.

When originally published, this code was numbered with consecutive page numbers. As it is amended, new material may require the insertion of new pages that are numbered with hyphens. (Example: 31, 32, 32-1.) Backs of pages that are blank (in codes that are printed double-sided) are left unnumbered but the number is “reserved” for later use.

If you have any questions about this code or our services, please contact your editor at 1-800-446-3410 or your customer care representative at 1-866-501-5155, or write to us at the following address:

LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902

II. DRAFTING AND SENDING YOUR ORDINANCES TO LEXISNEXIS

In drawing up ordinances, it is important to designate *in the ordinance text* what specific portions of the code are affected. The history note in parentheses at the end of each code section documents those ordinance(s) underlying the section being changed. Clearly indicate whether the ordinance adds, amends, repeals and replaces, or simply repeals the affected section.

The title of an ordinance and any introductory language appearing before the ordaining clause has no legal effect. The title (or the summary words appearing with it) may state that the ordinance repeals (or amends or adds) certain provisions, but in order for these changes to be effective, the intended repeal, amendment or addition *must* be set out following the ordaining clause. If you have any questions as to the proper placement of a new provision, please contact us.

When Amending Existing Code Material.

Amend the code section specifically. The underlying ordinance section may also be included.

Examples:

§ 3.04.020 of the _____ Municipal Code is amended to read as follows:

§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are amended to read as follows:

If only a portion of a section is being amended, designate the specific portion:

Example:

§ 3.04.050(A)(2) of the _____ Municipal Code is amended to read as follows:

When Repealing Existing Code Material.

When repealing material, designate the specific portion of the code to be repealed. Include the underlying ordinance section if you wish; however, we consider *both* code section and underlying ordinance to be repealed whether you mention the underlying ordinance or not.

Examples:

§ 3.04.020 of the _____ Municipal Code is repealed.

§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are repealed.

Subsection B of § 3.04.030 of the _____ Municipal Code is repealed.

When Adding New Material to Code.

When new provisions are to be added to the code, determine where the material would best fit within the subject matter of the existing section, chapter or title. If there is no existing section, chapter or title, you should assign a new section, chapter or title number. Our expandable decimal numbering system is designed to allow for the incorporation of new material without disturbing the numbering system of existing material.

The following language is sufficient to locate new material in the code:

Examples:

Subsection D is added to § 5.10.040 of the _____ Municipal Code, to read as follows:

§ 5.10.033 is added to the _____ Municipal Code, to read as follows:

Chapter 12.07 is added to the _____ Municipal Code, to read as follows:

Formatting.

For every page please create a footer which contains: the ordinance no., attachment/exhibit no. (if any) and the page number. Don't use shadow bars, borders or other highlighting. It helps if you can format the ordinance as much like the codebook page as possible.

Electronic Submission.

In the interests of accuracy and speed, we encourage you to submit your ordinances electronically if at all possible. We can accept most any file format, including Word, WordPerfect or text files. If you have a choice, we prefer Word, any version. You can send files to us as an e-mail attachment, by FTP, on a diskette or CD-ROM. Electronic files enable us not only to get you your code more quickly but also ensure that it is error-free. Our e-mail address is: **ordinances@lexisnexis.com**.

For hard copy, send *two* copies of all ordinances passed to:

LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
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Our editorial staff is always willing to provide assistance should there be any difficulty in amending the code. Please call your editor at 1-800-446-3410 or your customer care representative at 1-866-501-5155.

SUPPLEMENT NO. 6

INSERTION GUIDE

MARINA MUNICIPAL CODE

February, 2007

(Covering Ordinances through 2007-02)

This supplement consists of reprinted pages replacing existing pages in the Marina Municipal Code.

Remove pages listed in the column headed "Remove Pages" and in their places insert the pages listed in the column headed "Insert Pages."

This Guide for Insertion should be retained as a permanent record of pages supplemented and should be inserted in the front of the code.

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Zoos, zoological gardens

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75-1	Continues effect of county ordinances (Not codified)
75-2	Council meeting time and location (2.04)
75-3	Imprisonment in county jail (1.08)
75-4	Establishes special gas tax street improvement fund (Not codified)
75-5	Establishes sales and use tax (3.04)
75-6	Establishes planning commission (Repealed by 95-13)
75-7	Interpretation of county ordinances (Not codified)
75-8	Establishes city manager (2.08)
75-9	Council expense reimbursement (2.04)
76-1	Pacific Gas and Electric Company franchise (Special)
76-2	Pacific Gas and Electric Company franchise (Special)
76-3	Establishes real property sale documentary stamp tax (3.08)
76-4	Purchase procedures (3.16)
76-5	Adopts by reference Monterey County Ordinances 346, 499, 548, 834, 911, 1010, 1035, 1134, 1138, 1162, 1172, 1201, 1235, 1241, 1314, 1343, 1390, 1511, 1640, 1671, 1713, 1732, 1836, 1936, 1954, 1967, 2120 and 2134 (5.64, 8.10, 12.20, 13.12, Title 16)
76-6	Establishes parks and recreation commission (Repealed by 95-13)
76-7	Establishes transient occupancy tax (3.12)
76-8	Animal control (6.04)
76-9	Adopts and amends uniform codes (15.04—15.28)
76-10	Establishes various funds (3.20)
76-11	Garbage regulations (8.04)
76-12	Authorizes contract with California Public Employees Retirement System board of administration (Special)
76-13	Bingo regulations (Not codified)
76-14	Acceptance of penal code standards for law enforcement training (2.32)
76-15	Amends County Ord. 911 as adopted by Ord. 76-5 as follows: adds § 33 and subsection (c) to § 20; amends §§ 11, 56(a) and (b), 17(k), 18(k) and (1), 19(b)(1), (e), (k) and (m), 20(b)(1) and (k), 21(a) (2)(a) and (b)(1), 21.1(c)(1), (g), (h) and (i), 22(a)(3)(a) and (b) (1), 22.1(b)(3), 23(a)(6)(a), (a)(2) and (b)(1), 31(b), (c) and (e), 32(a), (b) and (d), and 36(a)(1) and (b)(2); deletes §§ 19(b)(3), 20(b)(3) and (m)(2), 21(b)(7), 23(a)(1) and (b)(6) and 25, zoning (Not codified)
76-16	Amends County Ord. 1713 as adopted by Ord. 76-5 as follows: amends §§ 1.3, 1.3(a), 5.1(f), 6.5(b) and (d), 6.7(b), 6.8, 8.6 and 7.2; deletes § 6.6, subdivisions (Title 16)
76-17	Establishes speed limit on certain road (Not codified)
76-18	Fire prevention; adopts and amends Uniform Fire Code (15.32)
76-19	Pacific Gas and Electric Company franchise (Special)
76-20	Pacific Gas and Electric Company franchise (Special)
76-21	Emergency organization; repeals adoption of Monterey County Ord. 1732 (2.20)
76-22	Amends portion of Ord. 76-5, streets and highways plan (Special)
76-23	Rezone (Special)
76-24	Establishes speed limit on certain roads (Not codified)

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76-25	Amends County Ord. 911 as adopted by Ord. 76-5 as follows: amends § 30(a)(12); deletes § 30(a)(8), mobile home regulations (Not codified)
77-1	Repeals and replaces § 5(i) of county Ord. 1235 as adopted by Ord. 76-5, CATV rates (Special)
77-2	Repeals and replaces § 4(a) of County Ord. 1235 as adopted by Ord. 76-5, CATV license payments (Special)
77-3	Drive-in theater regulations (9.04)
77-4	Adds items 18—26 to § 19A of county Ord. 1134 as adopted by Ord. 76-5, bus loading zones designated (Repealed by 79-15)
77-5	Amends §§ 3, 6 and 12c of Ord. 75-6, planning commission (Repealed by 95-13)
77-6	Amends portions of Ord. 76-6, parks and recreation commission (Repealed by 95-13)
77-7	Rezone (Special)
77-8	Temporary moratorium on permit issuance for adult entertainment (Special)
77-9	Bingo regulations; repeals Ord. 76-18, bingo (5.28)
77-10	Adopts city zoning ordinance (17.02, 17.04, 17.06, 17.08, 17.10, 7.12, 17.14, 17.16, 17.18, 17.20, 17.22, 17.24, 17.26, 17.32, 17.34, 17.36, 17.38, 17.40, 17.42, 17.44, 17.46, 17.48, 17.50, 17.52, 17.54, 17.56, 17.58, 17.60)
77-11	Establishes business license taxes (5.04—5.24)
78-1	Not sent
78-2	Massage licensing and regulations (5.36)
78-3	Adopts standards for public works construction (13.04)
78-4	Public dance licensing and regulation (5.40)
78-5	Required public improvement installations with new construction (15.36)
78-6	Removal of trees on undeveloped private property (Repealed by 96-3)
78-7	Tree maintenance in public rights-of-way (Repealed by 96-3)
78-8	Amends portions of §§ 2 and 6 of Ord. 76-6, parks and recreation commission (Repealed by 95-13)
78-9	No. not used
78-10	Rezone (Special)
78-11	Rezone (Special)
78-12	Amends § 1 of Ord. 75-2, council meetings (2.04)
78-13	Rezone (Special)
78-14	Adds subsection (8) to § 2.1 of Ord. 76-9; amends § 1.7 and portions of §§ 2.1, 3.1, 4.1, 5.1, 6.1 and 7.1 of Ord. 76-9, uniform building codes (15.08, 15.12, 15.16, 15.20, 15.24, 15.28)
78-15	Installation of underground utility facilities in underground utility districts (13.08)
78-16	Rezone (Special)
78-17	Rezone (Special)
78-18	Commercial vehicle parking weight limits (Repealed by 79-15)
78-19	Amends item (4) of § 2.1 of Ord. 76-9, uniform building codes (15.08)
79-1	Repeals and replaces § 21 of Ord. 77-11, business licenses (5.16)
79-2	Smoking in public places (Repealed by 92-2)
79-3	Amends § 2.1 of Ord. 76-18, fire code (15.32)
79-4	Taxicabs (Repealed by 2003-10)
79-5	Amends § 11 and certain language in Ord. 75-6, planning commission (Repealed by

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	95-13)
79-6	Interim condominium conversion prohibition (Special)
79-7	Cardroom regulations (5.32)
79-8	Disposition of unclaimed personal property (2.28)
79-9	Amends Ord. 76-5, county ordinance adoption (Not codified)
79-10	Off-street parking (Not codified)
79-11	Amends §§ 9, 14 and 17 of Ord. 77-10; adds § 41 to Ord. 77-10, zoning (17.04, 17.14, 17.54)
79-12	City council salaries (Not codified)
79-13	Campaign expenditure limitations (Repealed by 80-2)
79-14	Amends contract between city and California Public Employees' Retirement Association (Special)
79-15	Traffic; repeals Ords. 78-18, 77-4 and § 1d of 76-5, traffic (Title 10)
79-16	General provisions (1.04)
79-17	Amends § 4c of Ord. 79-4, taxicabs (Repealed by 2003-10)
79-18	Amends § 4b of Ord. 79-4, taxicabs (Repealed by 2003-10)
80-1	Amends Ord. 77-9 §§ 9 and 12, bingo (5.28)
80-2	Repeals Ord. 79-13 (Repealer)
80-3	Adds Ch. 9.08, police canine program (9.08)
80-4	Adds Ch. 5.24, item price marking (Repealed by 96-25)
80-5	Adds chapter to Title 9 on drinking in public (9.12)
80-6	Amends County Ord. 1713, as adopted by Ord. 76-5, as follows: repeals and replaces § 3.61(a)(14), subdivisions (Title 16)
80-7	Repeals and replaces § 10.32,040, riding animals on sidewalk (10.32)
80-8	Speed limit on certain street (Repealed by 91-5)
80-9	Speed limit on nonresidential streets (Repealed by 91-5)
80-10	Amends County Ord. 1713, as adopted by Ord. 76-5, as follows: repeals and replaces § 14(b), subdivisions (Not codified)
80-11	Amends Ord. 76-11 § 21, garbage regulations (8.04)
80-12	Rezone (Special)
80-13	Amends Ord. 77-10 § 20, zoning (17.26)
81-1	Interim ordinance prohibiting permits for building applications (Special)
81-2	Adds §§ 15.08.011, 15.10.010, 15.10.011, 15.12.011, 15.16.011, 15.20.011, 15.24.011, 15.28.011, 15.30.010, 15.30.011, 15.30.020 and 15.32.035; repeals and replaces §§ 15.04.050, 15.08.010, 15.08.050, 15.12.010, 15.12.030, 15.16.010, 15.20.010, 15.24.010, 15.24.050, 15.28.010, 15.28.020, 15.32.030, uniform codes (15.04, 15.08, 15.10, 15.12, 15.16, 15.20, 15.24, 15.28, 15.30, 15.32)
81-3	Authorizes industrial development authority (2.36)
81-4	Adds Ch. 5.20, drug paraphernalia (Repealed by 96-25)
81-5	Extension of interim Ordinance 81-1 (Special)
81-6	Code adoption (1.01)
81-7	Amends zoning regulations in accordance with pages 20—35 of Local Program Implementation Plan of Local Coastal Program (Not codified)
81-8	Adds Ch. 15.40, residential property inspection program (15.40)
81-9	Adds Ch. 15.44, smoke detectors (15.44)
81-10	Authorizes amendment to contract with Public Employees' Retirement System (Not

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	codified)
81-11	(Rejected by voters)
81-12	Amends § 5.32.120(G), cardrooms (5.32)
81-13	Adds Ch. 2.06, municipal elections (2.06)
81-14	(Rejected by voters)
82-1	Adds Ch. 12.12, city parks and playgrounds (12.12)
82-2	Authorizes amendment to contract with Public Employees' Retirement System (Not codified)
82-3	Adds chapter to Title 12 on street improvement reimbursement fees (12.16)
82-4	Amends § 2.12.060, planning commission (Repealed by 95-13)
82-5	Amends § 2.16.020, parks and recreation commission (Repealed by 95-13)
82-6	Authorizes issuance of mortgage revenue bonds (Special)
82-7	Repeals and replaces Ch. 1.08, code violations—penalties; repeals §§ 1.12.030, 3.04.150, 3.12.140, 5.24.020, 6.04.240 and 17.60.030 (1.08)
82-8	(Rejected by voters)
82-9	(Rejected by voters)
82-10	Amends § 3.12.030, transient occupancy tax (3.12)
82-11	Adds § 17.04.045; amends § 17.06.020(A), zoning (17.04, 17.06)
82-12	Adds Ch. 5.52, CATV systems (Repealed by 98-09)
82-13	Amends § 5.28.130D, bingo (5.28)
82-14	Amends zoning, subdivision and grading regulations (Title 16, 17.02, 17.04, 17.06, 17.10, 17.11, 17.12, 17.14, 17.25, 17.26, 17.41, 17.43, 17.46, 17.48, 17.50, 17.55, 17.58)
83-1	Amends Ord. 80-6 subdivisions (Not codified)
83-2	Rezone (Special)
83-3	Rezone (Special)
83-4	Adds § 17.06.080, zoning (17.06)
83-5	Rezone (Special)
83-6	Rezone (Special)
83-7	Repeals and replaces Ch. 17.30, zoning (17.30)
83-8	Adopts Government Code section prohibiting second dwellings (Special)
83-9	Amends §§ 3.12.020 and 3.12.030, transient occupancy tax (3.12)
83-10	Amends § 15.08.010, building code (Repealed by 95-17)
83-11	Adds Ch. 17.59, zoning; repeals existing sign provisions (17.12, 17.14, 17.16, 17.18, 17.20, 17.22, 17.24, 17.30, 17.42, 17.59)
83-12	Adds Ch. 16.60, subdivisions (Title 16)
83-13	Adds § 17.54.140, zoning (17.54)
83-14	Amends § 5.44.010, taxicabs (Repealed by 2003-10)
83-15	Amends §§ 5.52.010 and 5.52.050, CATV systems (Repealed by 98-09)
83-16	Amends § 5.36.090(B)(12), massage businesses (5.36)
83-17	Amends § 3.04.120, sales and use tax (3.04)
83-18	Adds Ch. 8.12, hazardous materials storage and registration (8.12)
84-1	Adds Ch. 5.48, towing vehicles from private property (5.48)
84-2	Adds Ch. 2.19, historical commission (2.19)
84-3	Amends § 2.16.020, parks and recreation commission (Repealed by 95-13)
84-4	Adds Ch. 8.22, parking and storage of motor vehicles and parts in residential zones

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	(8.22)
84-5	Interim ordinance relating to proposed developments (Special)
84-6	Adds Ch. 8.20, abandoned vehicles (8.20)
84-7	Amends § 17.44.020, zoning (17.44)
84-8	Adds Ch. 10.60 [10.70], visibility at intersections (10.70)
84-9	Adds § 17.06.020(L), zoning (17.06)
84-10	Adds subsections (U) and (V) to § 8.12.020 and reletters subsections (T), (U) and (V) to be (W), (Z) and (Y), respectively; adds subsections (D), (E) and (F) to § 8.12.030; adds subsection (A) to § 8.12.040 and reletters subsequent subsections (A) through (G) to be (B) through (H); adds § 8.12.040(I); amends §§ 8.12.020(G) and (M), 8.12.030(A), 8.12.030(G) and 8.12.110, hazardous materials storage and registration (8.12)
85-1	Adds § 5.32.120(H); amends § 5.32.100, cardrooms (5.32)
85-2	Rezone (Special)
85-3	Salaries (Not codified)
85-4	Adds Ch. 17.21, commercial/multiple family residential district; rezones certain property (17.21)
85-5	Rezone (Special)
85-6	Adds Ch. 2.44, redevelopment agency (2.44)
85-7	Deletes subsection (G) from § 5.32.120, cardrooms (5.32)
85-8	Amends Ord. 85-3, salaries (Not codified)
85-9	Adds Ch. 2.22, improvement commission (Repealed by 95-13)
85-10	Rezone (Special)
86-1	Amends §§ 17.22.070 and 17.44.030, zoning (17.22, 17.44)
86-2	Amends § 17.50.020, zoning (17.50)
86-3	Adds § 17.06.090, zoning (17.06)
86-4	Amends § 2.19.020, historical commission (2.19)
86-5	Repeals and replaces § 12.16.060, street improvement reimbursement fees (12.16)
86-6	Compensation of council members (Not codified)
86-7	Amends Ord. 82-3 to add Ch. 12.16 instead of 12.12 (Not codified)
86-8	Deletes subsection (D) from § 17.44.070, zoning (17.44)
86-9	Amends §§ 17.59.180(A) and (D)(1), zoning (17.59)
86-10	Amends § 17.24.080, zoning (17.24)
86-11	Redevelopment plan (Special)
86-12	Adds § 5.32.120(G); amends § 5.32.130, cardrooms (5.32)
86-13	Moratorium on applications for multifamily residential structures (Not codified)
86-14	Extends Ord. 86-13, moratorium on applications for multifamily residential structures (Not codified)
86-15	Amends §§ 15.08.011, 15.10.011, 15.12.011, 15.16.011, 15.20.011, 15.24.011, 15.28.011, 15.30.011 and 15.32.031, uniform codes (15.08, 15.10, 15.12, 15.16, 15.20, 15.24, 15.28, 15.30, 15.32)
87-1	Repeals and replaces §§ 1.08.010, 1.08.020 and 1.08.030, general penalty (1.08)
87-2	Adds § 15.04.070 and amends § 15.04.010, buildings and construction (15.04)

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87-3	Amends § 3.12.030, transient occupancy tax (3.12)
87-4	Amends §§ 17.20.030 and 17.20.070, zoning (17.20)
87-5	Adds § 17.44.030(J), zoning (17.44)
87-6	Extends moratorium on applications for multifamily residential structures (Not codified)
87-7	Prohibits camping and parking on certain streets on certain days (Not codified)
87-8	Adds Ch. 12.24, bicycles and skateboards (12.24)
87-9	Rezone (Special)
88-1	Adds Ch. 3.24, fee and service charge revenue-to-cost determination system (Repealed by 99-14)
88-2	Adds Ch. 15.48, flood damage prevention (Repealed by 92-4)
88-3	Amends § 5.32.100, cardrooms (Repealed by 96-18)
88-4	Adds Ch. 1.10, civil enforcement (1.10)
88-5	Adds Ch. 8.24, security and fire alarm systems (8.24)
88-6	Amends subdivision ordinance (Title 16)
88-7	Urgency ordinance requiring use permits for operation of massage businesses (Not codified)
88-8	Moratorium on applications for multifamily residential structures (Not codified)
88-9	Repeals and replaces § 2.16.060, parks and recreation commission (Repealed by 95-13)
88-10	Rezone (Special)
88-11	Adds Ch. 17.19, criteria and standards for low income senior citizens apartment projects (17.19)
88-12	Extends moratorium on applications for multifamily residential structures (Not codified)
88-13	Extends Ord. 88-7, urgency ordinance requiring use permits for operation of massage businesses (Not codified)
88-14	Rezone (Special)
88-15	Amends § 3.24.040, fee and service charge revenue-to-cost determination system (Repealed by 99-14)
88-16	Amends § 17.26.070(A), zoning (17.26)
88-17	Amends Ch. 17.43, coastal development permit combining district (17.43)
88-18	Repeals and replaces § 12.12.030, city parks and playgrounds (Repealed by 90-3)
88-19	Adds Ch. 17.27, adult businesses and massage therapists (17.27)
88-20	Bond issuance (Special)
88-21	Bond issuance (Special)
89-1	Extends Ord. 88-19, adult businesses and massage therapists (Not codified)
89-2	Adds Ch. 15.34, minimum building security standards (15.34)
89-3	Adds Ch. 17.27, adult businesses and massage therapists (17.27)
89-4	Adds Ch. 15.50, park facilities improvement fee (Repealed by 91-9)
89-5	Adds Ch. 9.06, regulation of display of reading material (9.06)
89-6	Extends moratorium on applications for multifamily residential structures (Not codified)

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89-7	Adds Ch. 17.31, planned industrial small lot combining district (17.31)
89-8	Rezone (Special)
89-9	Bond issuance (Special)
89-10	Adds § 1.08.035, arrest and citation procedure (1.08)
89-11	Establishes certain speed limit (10.60)
90-1	Amends zoning ordinance (17.26)
90-2	Interim ordinance prohibiting permits or applications for multifamily residential structures (Not codified)
90-3	Repeals and replaces §§ 6.04.080 and 12.12.030, animals (6.04, 12.12)
90-4	Repeals and replaces subsection (N) of § 6.04.010, animals (6.04)
90-5	Moratorium on permits or applications for multifamily residential development exceeding ten units per acre (Not codified)
90-6	Amends zoning ordinance (17.19)
90-7	Extends Ord. 90-5, moratorium on permits or applications for multifamily residential development exceeding ten units per acre (Not codified)
90-8	Amends Ords. 79-12, 85-3 and 86-6, compensation of council members (Not codified)
90-9	Repeals and replaces § 10.52.020, commercial vehicle restrictions (Repealed by 97-6)
90-10	Adds § 16.04.040; amends § 16.04.020; repeals subsections (A) and (B) from § 16.04.030, subdivisions (Title 16)
91-1	Amends § 17.59.220(B), zoning (17.59)
91-2	Amends § 10.60.010(C), speed limits (Repealed by 91-5)
91-3	Adds Ch. 8.30, parades and assemblies (8.30)
91-4	Amends § 3.12.020(A), transient occupancy tax (3.12)
91-5	Repeals and replaces Ch. 10.60, speed limits (10.60)
91-6	Rezone (Special)
91-7	Extends Ord. 90-7, moratorium on permits or applications for multifamily residential development exceeding ten units per acre (Not codified)
91-8	Adds § 10.40.150, stopping, standing and parking (10.40)
91-9	Repeals and replaces Ch. 15.50, park facilities improvement fees (Repealed by 2005-13)
91-10	Amends Ch. 15.50, park facilities improvement fees (Repealed by 2005-13)
92-1	Adds Ch. 8.14, smoking in restaurants (Repealed by 95-7)
92-2	Amends Ch. 8.08, smoking in city facilities (Repealed by 95-7)
92-3	Amends § 2.12.110, planning commission (Repealed by 95-13)
92-4	Repeals and replaces Ch. 15.48, flood damage prevention (15.48)
92-5	Adds § 17.02.100, zoning (17.02)
92-6	Adds subsection (P) to § 17.06.070, zoning (17.06)
92-7	Amends §§ 3.16.040 and 3.16.060, purchasing system (3.16)
93-1	Amends Ch. 17.54, condominium guidelines (17.54)
93-2	Adds §§ 17.28.020(F) and 17.28.030(K); amends §§ 17.06.060(C), 17.14.090, 17.14.110, 17.14.120, 17.31.050, 17.31.070 and 17.31.090, zoning; rezones certain

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	property (17.06, 17.14, 17.28, 17.31)
93-3	Adds §§ 8.20.180, 8.20.190, 8.20.200 and 8.20.210; amends §§ 8.20.010 and 8.20.150, abandoned vehicles (8.20)
93-4	Amends § 17.54.150, zoning (17.54)
93-5	Adds Title 18, transportation management (18.04, 18.06, 18.08, 18.10, 18.12, 18.14)
93-6	Amends Chs. 16.08, 17.20 and 17.44, subdivisions and zoning (16.08, 17.20, 17.44)
93-7	Adds Ch. 3.14, utility tax (3.14)
93-8	Adds Ch. 17.29; amends Ch. 17.31, zoning; rezones certain property (17.29, 17.31)
93-9	Extends provisions of Ord. 93-8, zoning (17.29, 17.31)
93-10	Amends § 2.22.060(C), improvement commission (2.22)
93-11	Adds §§ 6.04.001, 6.04.054, 6.04.154 and 6.04.240; repeals and replaces §§ 6.04.050 and 6.04.180, animal control (6.04)
93-12	Amends § 1 of Ord. 79-10, off-street parking (Not codified)
93-13	Adds §§ 10.40.160 and 10.40.170, stopping, standing and parking (10.40)
94-1	Amends Ch. 17.50, site and architectural design review (17.50)
94-2	Amends § 17.19.120, zoning (17.19)
94-3	Amends Chs. 17.21, 17.22, 17.24 and 17.26, zoning (17.21, 17.22, 17.24, 17.26)
94-4	Repeals and replaces § 3.14.170, utility tax (Repealed by 96-15)
94-5	Interim ordinance prohibiting any use on portions of Fort Ord within the city limits (Not codified)
94-6	Rezone (Special)
94-7	Interim ordinance prohibiting any use on portions of Fort Ord within the city limits (Not codified)
94-8	Adds Ch. 12.28, graffiti (12.28)
94-9	Amends schedule in Ch. 3.24, fee and service charge revenue-to-cost determination system (Repealed by 99-14)
94-10	Renumbers Ch. 10.60 to be Ch. 10.70 (10.70)
94-11	Rezone (Special)
94-12	Adds Ch. 9.24, noise regulations (9.24)
94-13	Adds § 6.04.250, animal control (6.04)
94-14	Adds § 12.12.050, city parks and playgrounds (12.12)
94-15	Amends redevelopment plan (Special)
95-1	Amends §§ 10.70.020 and 10.70.030, visibility at intersections (10.70)
95-2	Amends Ord. 94-15, redevelopment plan (Special)
95-3	Amends § 8.04.120(A), garbage disposal (8.04)
95-4	Adds Ch. 2.50, airport commission (2.50)
95-5	Adds Ch. 15.54, occupancy of buildings on Fort Ord (15.54)
95-6	Adds § 8.22.060; repeals and replaces § 8.22.040, parking and storage of motor vehicles and parts (8.22)
95-7	Repeals and replaces Ch. 8.08, smoking in city facilities; repeals Ch. 8.14 (8.08)
95-8	Amends Chs. 17.29 and 17.31, zoning; repeals Ch. 17.28 (17.29, 17.31)
95-9	Repeals and replaces Ch. 5.68, fortunetelling and related practices (5.68)
95-10	Amends §§ 17.59.080, 17.59.140 and 17.59.150, zoning (17.59)

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95-11	Rezone (Special)
95-12	Amends Ch. 17.29, business park district (17.29)
95-13	Repeals and replaces Chs. 2.12 and 2.16, administration; repeals Chs. 2.19 and 2.22 (2.16)
95-14	Amends Ch. 3.24, fee and service charge revenue-to-cost determination system (Repealed by 99-14)
95-15	Adds §§ 5.32.104 and 5.32.124; amends §§ 5.32.050, 5.32.100 and 5.32.120, cardrooms (5.32)
95-16	Amends § 17.52.060, zoning (17.52)
95-17	Repeals and replaces §§ 15.08.010 and 15.08.011, building code (15.08)
96-1	Operating ordinance for municipal airport (Not codified)
96-2	Adds § 10.40.160, stopping, standing and parking; amends Ch. 3.24, fee and service charge revenue-to-cost determination system (10.40)
96-3	Repeals and replaces Ch. 12.04, tree removal, preservation and protection; repeals Ch. 12.08 (12.04)
96-4	Rezone (Special)
96-5	Amends Ord. 96-2 to adds § 10.40.180 instead of § 10.40.160, stopping, standing and parking (10.40)
96-6	Adds § 5.32.102 and subsection (I) to § 5.32.120, cardrooms (5.32)
96-7	Adds §§ 17.04.745 and 17.06.100; amends §§ 17.04.440 and 17.44.020(G), zoning (17.04, 17.06, 17.44)
96-8	Amends § 17.06.050, zoning (17.06)
96-9	Amends § 3.16.040, purchasing of supplies and equipment (3.16)
96-10	Interim ordinance limiting nonconforming uses of land within Fort Ord military reservation (Expired)
96-11	Interim ordinance limiting nonconforming uses of land within Fort Ord military reservation (Special)
96-12	Amends §§ 17.29.070, 17.31.030, 17.31.050 and 17.31.070, zoning (17.29, 17.31)
96-13	Interim ordinance regulating uses of land within portions of Fort Ord military reservation (Expired)
96-14	Amends § 2.12.030, commissions (Repealed by 2006-05)
96-15	Repeals and replaces § 3.14.170, utility users tax (Repealed by 98-8)
96-16	Adds § 10.60.010(A)(3) and (A)(4); deletes and replaces § 10.60.010(A)(2), speed limits (Repealed by 98-7)
96-17	Amends §§ 18.08.010 and 18.10.060(A) and (B), transportation management (18.08, 18.10)
96-18	Amends §§ 5.32.090 and 5.32.120(C), cardrooms; repeals §§ 5.32.100, 5.32.104 and 5.32.110 (5.32)
96-19	Interim ordinance regulating uses of land within portions of Fort Ord military reservation (Special)
96-20	Amends § 2.12.070, commissions (Repealed by 2006-05)
96-21	Adds § 2.16.040, docents of the museum (2.16)
96-22	Amends § 3.24.100, fee and service charge revenue-to-cost determination system

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	(Repealed by 99-14)
96-23	Amends §§ 17.52.010 and 17.52.060, zoning (17.52)
96-24	Amends § 17.44.020, zoning (17.44)
96-25	Adds Ch. 9.10, firearms, Ch. 9.14, curfew for minors and Ch. 13.06, sewer system; adds § 3.08.055, real property transfer; amends §§ 2.08.070(C), 2.19.020, 2.28.010 and 2.28.020, administration; amends § 3.08.050, real property transfer; amends §§ 5.28.010(B) [5.28.100(B)] and 5.36.090(B)(12), business licenses and regulations; amends §§ 8.24.030(B) and 8.24.040(A), security and fire alarm systems; amends §§ 12.16.020 and 12.20.090(4), streets and sidewalks; amends § 13.08.020, underground utilities; amends §§ 15.08.011, 15.08.030, 15.08.060, 15.10.011 and 15.24.011, buildings and construction; repeals Chs. 1.12, 5.56 and 5.60 and §§ 5.28.170, 5.32.130, 5.36.220, 5.40.140, 5.48.280, 8.10.030, 13.12.140, 15.08.020, 15.08.040, 15.08.070, 15.08.080 and 15.24.060 (2.08, 2.28, 3.08, 5.28, 5.36, 8.24, 9.10, 9.14, 12.16, 12.20, 13.06, 13.08, 15.08, 15.10, 15.24)
97-1	Amends § 17.06.060, zoning (17.06)
97-2	Repeals and replaces § 1.10.030, civil enforcement (1.10)
97-3	Adds §§ 12.04.040(D) and 12.04.110; amends § 12.04.070 and repeals and replaces § 12.04.060(D)(4), tree removal, preservation and protection (12.04)
97-4	Repeals and replaces § 1.01.040, code adoption (1.01)
97-5	Amends title of Ch. 822 and repeals and replaces §§ 8.22.010—8.22.030 and 8.22.060, parking and storage of vehicles, boats and parts in residential zones (8.22)
97-6	Adds §§ 10.52.040 and 10.52.050 and repeals and replaces § 10.52.020, commercial vehicle restrictions (10.52)
97-7	Adds Ch. 6.08, animals—prohibited practices (6.08)
97-8	Adds Ch. 13.16, franchises (13.16)
97-9	Adopts redevelopment plan (Special)
97-10	Rezone (Special)
97-11	Amends §§ 17.22.080 and 17.24.090, zoning (17.22, 17.24)
97-12	Amends §§ 17.04.221 and 17.50.010, zoning (17.04, 17.50)
97-13	Prohibits any and all uses or developments on a defined portion of the Marina Municipal Airport which do not comply with all provisions of the zoning ordinance (Special)
97-14	Amends public employees' retirement system contract (Special)
97-15	Prohibits any and all uses or developments on a defined portion of the Marina Municipal Airport which do not comply with all provisions of the zoning ordinance (Special)
97-16	Approves agreement for implementation of subdivision development (Special)
98-01	Interim ordinance prohibiting permits or applications for mini-storage facilities (Special)
98-02	Authorizes and levies special taxes (Special)
98-03	Extends Ord. 98-01, interim ordinance prohibiting permits or applications for mini-storage facilities (Special)
98-04	Adds Ch. 15.56, digging and excavation on the former Fort Ord (15.56)

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98-05	Amends § 17.06.060(C), zoning (17.06)
98-06	Repeals and replaces § 17.59.220, zoning (17.59)
98-07	Interim ordinance regulating uses of land within portions of Fort Ord military reservation; repeals Ord. 96-16 (Expired)
98-08	Repeals and replaces § 3.14.170, utility user's tax (Repealed by 2000-03)
98-09	Repeals and replaces Ch. 5.52, cable antenna television systems (5.52)
98-10	Interim ordinance prohibiting uses or developments on a defined portion of the Marina Municipal Airport (Special)
98-11	Interim ordinance regulating uses of land within portions of Fort Ord military reservation (Special)
98-12a	Franchise grant to Marina Coast water district, water and sewer (Special)
98-12b	Amends §§ 3.24.040, 3.24.050 and 3.24.090, fee and service charge revenue-to-cost determination system (Repealed by 99-14)
98-13	Repeals and replaces §§ 6.04.100—6.04.130, animal license fees (6.04)
98-14	Interim ordinance regulating uses within twenty acre sports center conveyance (Expired)
98-15	Amends §§ 17.06.070, 17.14.050 and 17.16.050, zoning (17.06, 17.14, 17.16)
98-16	Interim ordinance extension regulating uses within the twenty acre sports center conveyance and amending Ord. 98-11 (Special)
99-01	Amends contract with California Public Employees' Retirement System (Special)
99-02	Adds Ch. 10.42, residential parking permit program; amends § 3.24.040, fee and service charge revenue-to-cost determination system (10.42)
99-03	Rezone (Special)
99-04	Amends §§ 17.06.050 and 17.44.020(H), zoning (17.06, 17.44)
99-05	Interim urgency ordinance regulating certain temporary uses within lands conveyed from former Fort Ord (Special)
99-06	Interim urgency ordinance extending regulations of certain temporary uses within lands conveyed from former Fort Ord (Special)
99-07	Interim urgency ordinance prohibiting certain uses or developments on a defined portion of Marina municipal airport (Special)
99-08	Adds Ch. 13.02, local hiring for public works (13.02)
99-09	Adds § 3.16.070, preference for local suppliers (3.16)
99-10	Adds § 13.04.100, specified volunteer projects (13.04)
99-11	Interim urgency ordinance extending provisions of Ord. 99-07 (Special)
99-12	Adds Ch. 3.28, authorization for the use of mail ballot elections (3.28)
99-13	Interim urgency ordinance regulating uses within area of community park conveyance (Special)
99-14	Repeals and replaces Ch. 3.24, fees and service charges revenue-to-cost determination system (3.24)
99-15	Interim urgency ordinance regulating uses within area of community park conveyance (Special)
99-16	Interim urgency ordinance prohibiting certain uses or developments on a defined portion of Marina municipal airport (Special)

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99-17	Amends §§ 15.32.070, 15.32.090 and 15.32.100, fire code (15.32)
99-18	Interim urgency ordinance extending provisions of Ord. 99-16 (Special)
99-19	Amends § 2.12.130, commissions (Repealed by 2006-05)
99-20	Amends § 5.32.130; repeals and replaces § 5.32.060, cardrooms (5.32)
99-21	Adopts redevelopment plan for former Fort Ord project area number three (Special)
2000-01	Interim urgency ordinance prohibiting uses which may conflict with the proposed general plan land use designations of certain areas (Special)
2000-02	Interim urgency ordinance prohibiting demolition or major alteration of potential historic resources (Special)
2000-03	Repeals and replaces § 3.17.170, utility users' tax (3.14)
2000-04	Extends interim urgency Ord. 2000-02 (Special)
2000-05	Amends § 5.36.120(C), massage operations (5.36)
2000-06	Amends § 15.32.070, uniform fire code (15.32)
2000-07	Repeals and replaces § 2.12.010, city commissions (Repealed by 2006-05)
2000-08	Amends § 5.32.120(D) and (G), cardrooms (5.32)
2000-09	Interim urgency ordinance regulating uses of certain areas in former Fort Ord (Special)
2000-10	Adds Ch. 17.28; amends § 16.08.020, zoning and subdivisions (16.08, 17.28)
2000-11	Extends interim urgency ordinance regulating uses of certain areas in former Fort Ord (Special)
2000-12	Repeals and replaces § 3.24.040(67), fee schedule (3.24)
2000-13	Amends § 17.20.120, zoning (17.20)
2000-14	Amends § 17.52.060(C), zoning (17.52)
2001-01	Adds Ch. 15.58, excavation at airport prohibited (15.58)
2001-02	Adds § [17.06.120], development regulations (17.06)
2001-03	Interim urgency ordinance regarding permitted uses of navigational lights at the airport (Special)
2001-04	Rezone (Special)
2001-05	Interim urgency ordinance extending period of permitted uses of navigational lights at the airport (Special)
2001-06	Adds §§ 17.04.421 and 17.06.110, home occupation (17.04, 17.06)
2001-07	Adds §§ 16.06.165 and 16.06.275; amends §§ 16.08.040, 17.14.060, 17.14.070 and 17.50.010, infill development (16.06, 16.08, 17.14, 17.50)
2001-08	Amends § 17.44.070, parking requirements (17.44)
2001-09	Adds § 10.44.042, parking (10.44)
2001-10	Adds Ch. 13.18, hospitality operations (13.18)
2001-11	Amends § 2.04.010, city council meeting (2.04)
2002-01	Amends §§ 17.06.060, 17.22.080, 17.24.080 and 17.24.090, zoning (17.06, 17.22, 17.24)
2002-02	Amends § 5.32.120(G), cardrooms (5.32)
2002-03	Adds §§ 17.04.615, 17.04.695 and 17.04.696; amends §§ 17.04.760, 17.06.020, 17.14.040, 17.16.040, 17.18.040 and 17.20.050, zoning (17.04, 17.06, 17.14, 17.16, 17.18, 17.20)

**Ordinance
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2002-04	Amends § 5.16.020, business licenses (5.16)
2002-05	Amends § 5.44.040, taxicabs (Repealed by 2003-10)
2002-06	Adds §§ 16.06.165 [16.06.155] and 17.04.465 [17.04.455]; amends § 17.06.060, subdivisions, zoning (16.06, 17.04, 17.06)
2002-07	Amends § 17.06.090, satellite dish antennae (17.06)
2002-07b	Repeals and replaces § 3.14.170, utility tax (3.14)
2002-08	Bond issuance (Special)
2002-09	Amends § 17.24.020, zoning (17.24)
2002-10	Adopts an amendment to redevelopment plan (Special)
2002-11	Interim urgency ordinance regulating uses of land within portions of Fort Ord military reservation (Special)
2002-12	Amends contract with California Public Employees' Retirement System (Special)
2002-13	Interim urgency ordinance regulating uses of land within portions of Fort Ord military reservation (Special)
2002-14	Adds §§ 15.08.100—15.08.190, 15.24.030, 15.30.030 and 15.35.010; amends §§ 15.04.010, 15.08.010, 15.12.010, 15.16.010, 15.16.020, 15.20.010, 15.24.010, 15.24.020, 15.28.010, 15.30.010, 15.32.010—15.32.140 and 15.34.010; repeals §§ 15.04.020—15.04.040, 15.08.011, 15.08.060, 15.08.090, 15.12.020, 15.12.030, 15.24.030—15.24.050, 15.34.020—15.34.075, 15.34.090 and 15.34.100; repeals and replaces §§ 15.16.011 and 15.24.030, buildings and construction (15.04, 15.08, 15.12, 15.16, 15.20, 15.24, 15.28, 15.30, 15.32, 15.34, 15.35)
2003-01	Amends §§ 17.06.020 and 17.06.120, zoning (17.06)
2003-02	Adds Ch. 3.26, mitigation fees for new development (3.26)
2003-03	Amends §§ 17.22.030, 17.22.040 and 17.44.070, zoning (17.22, 17.44)
2003-04	Adds Title 4, Development Agreement Regulations and Ch. 4, development agreements (4.04)
2003-05	Adds Ch. 3.32, community facility district tax (3.32)
2003-06	Amends Ch. 17.28, airport district (17.28)
2003-07	Amends § 8.04.040, garbage and rubbish (8.04)
2003-08	Adopts interim development agreement (Special)
2003-09	Adds § 17.04.291; amends §§ 17.04.110, 17.04.380, 17.06.040, 17.06.070, 17.14.020—17.14.050, 17.16.020—17.16.050, 17.18.020, 17.18.040, 17.20.020, 17.20.050 and 17.44.020, zoning (17.04, 17.06, 17.14, 17.16, 17.18, 17.20, 17.44)
2003-10	Repeals and replaces Ch. 5.44, taxicabs (5.44)
2003-11	Amends § 3.12.070, transient occupancy tax (3.12)
2004-01	Amends § 17.22.030, zoning (17.22)
2004-02	Rezone (Special)
2004-03	Adds §§ 17.04.431 and 17.06.130; amends §§ 17.04.430 and 17.04.440, zoning (17.04, 17.06)
2004-04	Amends §§ 17.04.430, 17.04.431, 17.04.440 and 17.06.130, zoning (17.04, 17.06)
2004-05	Adds Ch. 17.13; amends zoning map, zoning (17.13)
2004-06	Approves final development agreement (Special)
2004-07	Adds Ch. 12.25, skate park rules and regulations (12.25)

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2004-08	Amends § 15.32.120, adoption of the uniform fire code (15.32)
2004-09	Amends §§ 16.04.020, 16.06.275, 16.08.040 and 16.08.058, subdivisions (16.04, 16.06, 16.08)
2004-10	Adds § 17.20.170; amends §§ 17.06.070, 17.20.030, 17.20.040, 17.20.070—17.20.090, 17.20.110—17.20.140 and 17.20.160, zoning (17.06, 17.20)
2004-11	Repeals and replaces §§ 3.14.160 and 3.14.170, utility tax (3.14)
2004-12	Amends § 17.06.040, zoning (17.06)
2004-13	Amends §§ 17.04.180, 17.04.190, 17.14.030, 17.20.030, 17.21.080 [17.21.030] and Ch. 17.54, zoning (17.04, 17.14, 17.20, 17.21, 17.54)
2005-01	Interim urgency ordinance regulating land uses (Special)
2005-02	Amends §§ 17.22.030, 17.24.030, 17.44.020 and 17.44.030, zoning (17.22, 17.24, 17.44)
2005-03	Adds Ch. 9.13, urination and defecation in public (9.13)
2005-04	Interim urgency ordinance regulating land uses (Special)
2005-05	Amends § 17.29.050, zoning (17.29)
2005-06	Rezone (Special)
2005-07	Amends zoning map (Special)
2005-08	Approves development agreement with Marina Community Partners, LLC (Special)
2005-09	Amends § 17.22.030, zoning (17.22)
2005-10	Amends §§ 17.04.740, 17.54.020 and 17.54.140, zoning (17.04, 17.54)
2005-11	Adds § 2.32.030, peace officers' standards and training (2.32)
2005-12	Amends §§ 15.54.060 and 17.52.010, buildings and construction and zoning (15.54, 17.52)
2005-13	Amends Ch. 3.26 and § 16.08.090; repeals Ch. 15.50, mitigation fees for new development and design requirement by type of subdivision (3.26, 16.08)
2006-01	Amends zoning map (Special)
2006-02	Amends § 17.29.030 and zoning map, zoning (17.29)
2006-03	Adds §§ 17.04.131, 17.04.176, 17.04.211—17.04.213, 17.04.265, 17.04.302, 17.04.303, 17.04.441, 17.04.443, 17.04.465, 17.04.516, 17.04.542, 17.04.612, 17.04.697 and 17.06.130—17.06.150 [17.06.135—17.06.150]; amends Chs. 17.20—17.22 and §§ 17.14.010—17.14.040, 17.16.010—17.16.040, 17.18.010—17.18.040, 17.54.060, 17.54.120 and 17.54.130; amends and renumbers § 17.04.740 to be 17.04.515; repeals § 17.04.420, zoning (17.04, 17.06, 17.14, 17.16, 17.18, 17.20, 17.21, 17.22, 17.54)
2006-04	Amends zoning map (Special)
2006-05	Repeals and replaces Ch. 2.12, commissions (2.12)
2006-06	Urgency interim ordinance establishing moratorium on the issuance of permits, entitlements, licenses and approvals of medical marijuana dispensaries (Special)
2006-07	Interim ordinance extending a moratorium prohibiting the issuance of permits, entitlements, licenses and approvals of medical marijuana dispensaries (Special)
2006-08	Local coastal program amendments (Not codified)
2006-09	Adds Ch. 1.12, administrative fines (1.12)
2006-10	Amends Ch. 8.22, parking and storage of vehicles, boats and parts in residential

**Ordinance
Number**

	areas (8.22)
2006-11	Amends § 17.06.040, zoning (17.06)
2006-12	Amends zoning map (Special)
2006-13	Approves zoning map amendment (Special)
2006-14	Adds Ch. 17.45, affordable housing (17.45)
2006-15	Amends Ch. 15.48, flood damage prevention (15.48)
2006-16	Approves zoning map amendment (Special)
2006-17	Amends §§ 17.14.050, 17.44.040 and 17.54.010, zoning (17.14, 17.44, 17.54)
2006-18	Approves development agreement (Special)
2006-19	Amends and renumbers Ch. 12.04 to be Ch. 17.51; amends § 17.50.020, zoning (17.50, 17.51)
2007-01	Adds § 17.14.045; amends § 16.08.040, subdivision and zoning (16.08, 17.14)
2007-02	Amends § 17.06.020, zoning (17.06)

PREFACE

The Marina Municipal Code, originally published by Book Publishing Company in 1980, has been kept current through regular supplementation by Matthew Bender & Company, Inc., its successor in interest.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of Robert Wellington, city attorney.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 2.04.010 is Section .010, located in Chapter 2.04 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification.

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the code up to date through Ordinance 2007-02, passed January 9, 2007.

LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902
866-501-5155

**STATUTORY REFERENCES
FOR
CALIFORNIA CITIES**

The statutory references listed below refer the code user to state statutes relevant to California cities. They are up to date through July, 2006.

General Provisions

Code adoption
Gov. Code §§ 50022.1—50022.10

Ordinances
Gov. Code § 36900 et seq.

Penalties for ordinance violations
Gov. Code §§ 36900 and 36901

Imprisonment
Gov. Code §§ 36903 and 36904

Citations for misdemeanors
Penal Code §§ 853.5—853.85

Administrative fines and penalties
Gov. Code § 53069.4

Judicial review of city decisions
Code of Civil Procedure § 1094.6

Expedited judicial review of First Amendment cases
Code of Civil Procedure § 1094.8

Elections
Gov. Code §§ 34050 and 36503 and Elections Code §§ 1301, 9200 et seq. and 10100 et seq.

Classification of cities
Gov. Code §§ 34100—34102

General powers
Gov. Code § 37100 et seq. and Cal. Const. Art. 11 § 7

Conflict of Interest Code
Gov. Code § 87100 et seq.

Eminent domain
Code of Civil Procedure § 1230.010 et seq.

Administration and Personnel

City officers generally
Gov. Code § 36501 et seq.

Legislative body
Gov. Code § 36801 et seq.

Election of legislative body by districts
Gov. Code § 34870 et seq.

Meetings
Gov. Code § 54950 et seq.

Mayor
Gov. Code § 40601 et seq.

City clerk
Gov. Code § 40801 et seq.

City treasurer
Gov. Code § 41001 et seq.

City assessor
Gov. Code § 41201 et seq.

Chief of police
Gov. Code § 41601 et seq.

City attorney
Gov. Code § 41801 et seq.

Alternative forms of government
Gov. Code § 34851 et seq.

City manager
Gov. Code §§ 34851—34859

Elective mayor
Gov. Code §§ 34900—34906

City records
Gov. Code §§ 34090—34090.7 et seq.

Conflict of interest
Gov. Code § 81000 et seq.

Removal from office
Gov. Code § 3000 et seq.

Political activities of public employees
Gov. Code § 3201 et seq.

Local planning agencies
Gov. Code § 65100 et seq.

Emergency services
Gov. Code § 8550 et seq.

Fire department
Gov. Code § 38611

Peace officer standards and training
Penal Code § 13520 et seq.

Personnel system
Gov. Code § 45000 et seq.

Retirement systems
Gov. Code § 45341 et seq.

Revenue and Finance

Financial powers
Gov. Code § 37200 et seq.

Transfer of tax function to county
Gov. Code § 51500 et seq.

Property tax assessment, levy and collection
Gov. Code § 43000 et seq.

Sales and use tax
Rev. and Tax. Code § 7200 et seq.

Transient occupancy tax
Rev. and Tax. Code §§ 7280 through 7283

Real property transfer tax
Rev. and Tax. Code § 11901 et seq.

Special gas tax street improvement fund
Str. and Hwys. Code § 2106 et seq.

Unclaimed property
Civil Code § 2080 et seq.

Local agency service fees and charges
Gov. Code § 66013 et seq.

Public works and public purchases
Gov. Code § 4000 et seq.

Contracting by local agencies
Pub. Contracts Code § 20100 et seq.

Uniform Public Construction Cost Accounting Act
Pub. Contracts Code § 22000 et seq.

Claims against public entities
Gov. Code § 900 et seq.

Development fees
Gov. Code § 66000 et seq.

Business Licenses, Taxes and Regulations

Authority to license businesses
Gov. Code § 37101, Bus. and Prof. Code
§ 16000 et seq. and Const. Art. II, § 2

Bingo
Penal Code § 326.5

Community antenna TV systems
Gov. Code § 53066

Charitable solicitations
Bus. and Prof. Code § 17510 et seq.

Commercial filming
Gov. Code § 65850.1

Private investigators
Bus. and Prof. Code § 7512 et seq.

Taxicabs
Vehicle Code §§ 16500 et seq., 21100, 21112
and Gov. Code § 53075.5

Gambling establishments
Bus. and Prof. Code § 19800 et seq.

Massage parlors
Gov. Code § 51030 et seq.

Automatic checkout systems
Civil Code § 7100 et seq.

Telecommunications facilities
Gov. Code § 50030

Animals

Animals generally
Food and Agric. Code § 16301 et seq.

Dogs
Gov. Code § 38792 and Food and Agric. Code
§ 30501 et seq.

Potentially dangerous and vicious dogs
Food and Agric. Code § 31601 et seq.

Rabies control
Health and Saf. Code § 121575 et seq.

Cruelty to animals
Penal Code § 597 et seq.

Health and Safety

Garbage and refuse collection and disposal
Public Resources Code §§ 49300 and 49400

Nuisance abatement
Gov. Code § 38771 et seq. and Penal Code
§ 373a

Weed and rubbish abatement
Gov. Code § 39501 et seq.

Littering
Penal Code § 374 et seq.

Smoking
Labor Code § 6404.5

Graffiti abatement
Gov. Code § 38772

Fire prevention
Health and Saf. Code § 13000 et seq.

Fireworks
Health and Saf. Code § 12500 et seq.

Noise control
Health and Saf. Code § 46000 et seq. and Gov.
Code § 65302(f)

Hospitals
Gov. Code § 37600 et seq.

Public Peace, Morals and Welfare

Crimes against public justice
Penal Code § 92 et seq.

Crimes against the person
Penal Code § 187 et seq.

Crimes against public decency and good morals
Penal Code § 261 et seq.

Crimes against the public peace
Penal Code § 403 et seq.

Crimes against property
Penal Code § 450 et seq.

Weapons
Penal Code § 12000 et seq.

Vehicles and Traffic

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Vehicle Code § 21100 et seq.

Traffic signs, signals and markings
Vehicle Code § 21350 et seq.

Turning movements
Vehicle Code §§ 22100-22113

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Vehicle Code § 22348 et seq.

One-way street designations
Vehicle Code § 21657

Stopping, standing and parking
Vehicle Code § 22500 et seq.

Through highways
Vehicle Code §§ 21101, 21353, 21354

Curb markings
Vehicle Code § 21458

Weight limits
Vehicle Code § 35700 et seq.

Pedestrians
Vehicle Code § 21949 et seq.

Establishment of crosswalks
Vehicle Code § 21106

Bicycles
Vehicle Code §§ 21100, 21206 and 39000 et seq.

Penalties
Vehicle Code § 40000.1 et seq.

Streets, Sidewalks and Public Places

Improvement Act of 1911
Str. and Hwys. Code § 5000 et seq.

Construction of sidewalks and curbs
Str. and Hwys. Code § 5870 et seq.

Underground utility districts
Str. and Hwys. Code § 5896.1 et seq.

Obstructions and encroachments on public ways
Gov. Code § 38775

Municipal parks
Public Res. Code § 5181 et seq.

Tree planting
Str. and Hwys. Code § 22000 et seq.

Landscaping and Lighting Act of 1972
Str. and Hwys. Code § 22500 et seq.

Charitable solicitations
Bus. and Prof. Code § 17510 et seq.

Advertising displays
Bus. and Prof. Code §§ 5230 and 5231

Public Services

Municipal water systems
Gov. Code § 38730 et seq.

Municipal sewers
Gov. Code § 38900 et seq. and Health and Saf.
Code § 5470 et seq.

Water wells
Water Code § 13800 et seq.

Buildings and Construction

Authority to regulate buildings and construction
Gov. Code §§ 38601 and 38660

State Housing Law
Health and Saf. Code § 17910 et seq.

Adoption of construction codes
Health and Saf. Code §§ 17922 and 17958

Mobile homes
Health and Saf. Code § 18200 et seq.

Signs
Gov. Code §§ 38774 and 65850; Bus. and Prof.
Code § 5229 et seq.

Inspection warrants
Civil Pro. Code § 1822.50 et seq.

Development fees
Gov. Code § 66000 et seq.

Subdivisions

Subdivision Map Act
Gov. Code § 66410 et seq.

Zoning

Local planning generally
Gov. Code § 65000 et seq.

Local authority to regulate land use
Gov. Code § 65850

Local zoning administration
Gov. Code § 65900 et seq.

Open-space zoning
Gov. Code § 65910 et seq.

Family day care homes
Health and Saf. Code § 1597.30 et seq.

Environmental Protection

Environmental Quality Act
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Noise Control Act
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Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption**
- 1.04 General Provisions**
- 1.08 Code Violations—Penalties**
- 1.10 Civil Enforcement**
- 1.12 Administrative Fines**

Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Adoption.**
- 1.01.020 Title—Citation—Reference.**
- 1.01.030 Codification authority.**
- 1.01.040 Ordinances passed subsequent to adoption of code.**
- 1.01.050 Reference applies to all amendments.**
- 1.01.060 Title, chapter and section headings.**
- 1.01.070 Reference to specific ordinances.**
- 1.01.080 Effect of code on past actions and obligations.**
- 1.01.090 Effective date.**
- 1.01.100 Constitutionality.**

1.01.010 Adoption.

Pursuant to the provisions of Sections 50022.1—50022.8 and 50022.10 of the Government Code, there is hereby adopted the “Marina Municipal Code” as published by Book Publishing Company, Seattle, Washington, together with those secondary codes adopted by reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted or modified by the provisions of the “Marina Municipal Code.” (Ord. 81-6 § 1, 1981)

1.01.020 Title—Citation—Reference.

This code shall be known as the “Marina Municipal Code” and it shall be sufficient to refer to said code as the “Marina Municipal Code” in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the “Marina Municipal Code.” Further reference may be had to the titles, chapters, sections and subsections of the “Marina Municipal Code” and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. (Ord. 81-6 § 2, 1981)

1.01.030 Codification authority.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city of Marina, California, codified pursuant to the provisions of Sections 50022.1—50022.8 and 50022.10 of the Government Code. (Ord. 81-6 § 3, 1981)

1.01.040 Ordinances passed subsequent to adoption of code.

All ordinances passed by the city council subsequent to the adoption of this code, which are amendments, revisions or additions to this code, shall be deemed to be adopted and incorporated into and made a part of this code. (Ord. 97-4 § 1, 1997)

1.01.050 Reference applies to all amendments.

Whenever a reference is made to this code as the “Marina Municipal Code” or to any portion thereof, or to any ordinance of the city of Marina, California, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 81-6 § 5, 1981)

1.01.060 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 81-6 § 6, 1981)

1.01.070 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 81-6 § 7, 1981)

1.01.080 Effect of code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date, hereof, nor be construed as a waiver of any license, fee, or penalty at the effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 81-6 § 8, 1981)

1.01.090 Effective date.

This code shall become effective on the date this ordinance adopting this code as the “Marina Municipal Code” shall become effective. (Ord. 81-6 § 9, 1981)

1.01.100 Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 81-6 § 10, 1981)

Chapter 1.04

GENERAL PROVISIONS

Sections:

1.04.010	Definitions.
1.04.020	Title of office.

1.04.030	Interpretation of language.
1.04.040	Grammatical interpretation.
1.04.050	Acts by agents.
1.04.060	Prohibited acts include causing and permitting.
1.04.070	Computation of time.
1.04.080	Construction.
1.04.090	Repeal shall not revive any ordinances.

1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city of Marina shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. "City" and "town" each mean the city of Marina or the area within the territorial limits of the city of Marina, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

B. "Council" means the city council of the city of Marina. "All its members" or "all council members" means the total number of council members holding office.

C. "County" means the county of Monterey.

D. "Law" denotes applicable federal law, the Constitution and statutes of the state of California, the ordinances of the city of Marina, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

E. "May" is permissive.

F. "Month" means a calendar month.

G. "Must" and "shall" are each mandatory.

H. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

I. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

J. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

L. "Preceding" and "following" mean next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes lands, tenements and hereditaments.

O. "Sidewalk" means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

P. "State" means the state of California.

Q. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

R. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

S. "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

T. "Year" means a calendar year. (Ord. 79-16 § 1, 1979)

1.04.020 Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city. (Ord. 79-16 § 2, 1979)

1.04.030 Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 79-16 § 3, 1979)

1.04.040 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the city of Marina, unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 79-16 § 4, 1979)

1.04.050 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 79-16 § 5, 1979)

1.04.060 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city of Marina, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 79-16 § 6, 1979)

1.04.070 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 79-16 § 7, 1979)

1.04.080 Construction.

The provisions of the ordinances of the city of Marina, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice. (Ord. 79-16 § 8, 1979)

1.04.090 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 79-16 § 9, 1979)

Chapter 1.08

CODE VIOLATIONS—PENALTIES

Sections:

- 1.08.010 Violation as misdemeanor.**
- 1.08.020 Violation as infraction—Exceptions.**
- 1.08.030 Punishment—Penalties.**
- 1.08.035 Arrest and citation.**
- 1.08.040 Civil action enforcement.**

1.08.010 Violation as misdemeanor.

A. Except as expressly set forth in Section 1.08.020, the violation of any provision or section of this municipal code, or the failing to comply with any mandatory requirement of an ordinance of the city, shall be a misdemeanor except that notwithstanding any other provision of this code, any such violation constituting a misdemeanor under this code may, in the discretion of the city attorney, be charged and prosecuted as an infraction.

B. Any person violating any provision or section of this municipal code or ordinance of the city shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision or section of this municipal code or ordinance of the city is committed, continued or permitted by such person, and shall be punishable accordingly. (Ord. 87-1 § 1, 1987)

1.08.020 Violation as infraction—Exceptions.

Any violation of the provisions of this code relating to parking, operation of bicycles, operation of motor vehicles, and use of freeways, highways and streets by animals, bicycles, motor vehicles or pedestrians shall constitute an infraction. (Ord. 87-1 § 2, 1987)

1.08.030 Punishment—Penalties.

A. Any person convicted of misdemeanor under the provisions of this code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.

B. Any person convicted of an infraction under the provisions of this code shall be punishable as follows: Upon a first conviction, by a fine not exceeding one hundred dollars, upon a second violation of the same ordinance within one year, by a fine not exceeding two hundred dollars, and for each additional violation of the same ordinance within one year, five hundred dollars, or a higher fine as permitted by Government Code Section 36900. (Ord. 87-1 § 3, 1987)

1.08.035 Arrest and citation.

A. The director of public safety is empowered to designate public officers or employees to exercise the powers authorized by Section 836.5(a) of the California Penal Code, including arrests for violations of this code pursuant to Sections 853.5 and 853.6 of the California Penal Code.

B. In any case in which a person is arrested pursuant to subsection A above and that person does not demand to be taken before a magistrate, the arresting officer or employee shall prepare a written notice to appear (citation) on a form provided by the director of public safety and release the person on his promise to appear. (Ord. 89-10 § 1, 1989)

1.08.040 Civil action enforcement.

In addition to the penalties provided for herein, any violation of this municipal code or city ordinance may be redressed by civil action. Any condition existing in violation of this code or a city ordinance is deemed to be a public nuisance. (Ord. 82-7 § 1 (part), 1982)

Chapter 1.10

CIVIL ENFORCEMENT

Sections:

- 1.10.010 Civil action brought by city.**
- 1.10.020 Remedies cumulative.**
- 1.10.030 Liability for costs.**

1.10.010 Civil action brought by city.

The city attorney may bring civil suit or other action to enforce any provision or section of this municipal code, enjoin or prevent any violation of this municipal code or abate any public nuisance as defined or declared by this municipal code. (Ord. 88-4 § 1 (part), 1988)

1.10.020 Remedies cumulative.

This remedy by civil action to enforce this municipal code is in addition to any other remedies available under ordinance, this municipal code, or statute and does not replace or support any other remedy but is cumulative thereto. (Ord. 88-4 § 1 (part), 1988)

1.10.030 Liability for costs.

In any such action where the city seeks recovery of its costs and attorneys' fees, the prevailing party shall be entitled to recover from the losing party its reasonable costs including but not limited to attorneys' fees, the costs of investigation, court costs and the costs of monitoring compliance. (Ord. 97-2 § 1, 1997)

Chapter 1.12

ADMINISTRATIVE FINES

Sections:

- 1.12.010 Purpose.**
- 1.12.020 Definitions.**
- 1.12.030 Enforcement authority.**
- 1.12.040 Scope.**
- 1.12.050 Administrative citation.**
- 1.12.060 Correction notice.**
- 1.12.070 Offender's obligations.**
- 1.12.080 Administrative fine.**
- 1.12.090 Administrative hearing.**

1.12.100 Judicial review.

1.12.110 Failure to comply.

1.12.010 Purpose.

It is the purpose and intent of this chapter to provide an alternative method of enforcement for violations of the Marina Municipal Code. Use of this chapter shall be at the sole discretion of the city. (Ord. 2006-09 § 1 (part), 2006)

1.12.020 Definitions.

For the purposes of this chapter:

“Enforcement official” means any officer or agent or employee with the authority to enforce the Marina Municipal Code.

“Offender” means any individual, any individual who is the owner or occupant of real property, or any individual who is the owner or authorized agent of any business, company, entity, who causes or maintains a violation of the Marina Municipal Code. (Ord. 2006-09 § 1 (part), 2006)

1.12.030 Enforcement authority.

Any person violating any provision of the Marina Municipal Code may be issued an administrative citation as provided in this chapter. A violation of this code includes, but is not limited to, all violations of the municipal code, the uniform codes adopted by the city council, and the failing to comply with any condition imposed by any entitlement, agreement, or environmental document issued or approved under the provisions of this code. (Ord. 2006-09 § 1 (part), 2006)

1.12.040 Scope.

The procedures established in this chapter shall supplement and be in addition to any criminal, civil or other remedy established by law or under the provisions of this code which may be pursued to address municipal code violations. (Ord. 2006-09 § 1 (part), 2006)

1.12.050 Administrative citation.

A. Issuance of Administrative Citation. An enforcement official may, upon discovering that a person has committed a violation of the municipal code (“municipal code violation”), issue an administrative citation on a form approved by the city manager to the offender for violations of the municipal code in the following manner:

1. Personal Service. In any case where an administrative citation is issued:

a. The enforcement official shall attempt to locate and personally serve the offender and obtain the signature of the offender on the administrative citation.

b. If the person served with the administrative citation refuses or fails to sign the administrative claim, the failure or refusal shall not affect the validity of the administrative citation or of subsequent proceedings.

2. Service of Citation by Mail. If the enforcement official is unable to personally serve the offender, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid with a requested return receipt. Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.

3. Service of Citation by Posting Notice. If the enforcement official does not succeed in personally serving the offender, or fails to send the administrative citation by certified or regular mail, the enforcement offi-

cial shall post the administrative citation on any real property within the city in which the city has knowledge that the offender has a legal interest, and such posting shall be deemed effective service.

B. Administrative Citation Contents. To the extent the following information is reasonably available to the enforcement official, the administrative citation shall:

1. State the date the administrative citation is issued and the date of the violation or, if that date is unknown, the date the violation is identified;
 2. State the offender's name, current residential address, and mailing address;
 3. Refer to code section(s) violated and describe how the offender violated the code section(s);
 4. State the date, approximate time, and address or definite description of the location where the violation(s) was discovered by the enforcement official;
 5. State the amount of fine imposed for the violation ("administrative fine");
 6. Explain how the offender may pay the fine, including the location and manner, as well as the time period by which the fine must be paid and the consequences of failure to pay the fine;
 7. Explain the procedure for obtaining an administrative hearing, specifically, notice that the offender must make a written request within fifteen working days from the date the administrative citation is issued and that the offender will be notified by mail of the date of the hearing;
 8. Include a warning that a failure to pay the fine or a failure to request and appear at an administrative hearing may result in the penalties described in Section 1.12.110(B);
 9. Include the name and signature of the enforcement official.
- (Ord. 2006-09 § 1 (part), 2006)

1.12.060 Correction notice.

A. Applicability of this Section. This Section 1.12.060 shall only apply when the municipal code violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety (hereinafter "correction condition").

B. Correction Period. An offender shall have at least ten calendar days to correct or otherwise remedy a correction condition prior to the issuance of an administrative citation and the imposition of a fine. A correction period longer than ten calendar days may be granted if deemed necessary by the enforcement official.

C. Correction Notice. Upon discovery of a correction condition, the enforcement official shall issue a written correction notice to the offender by personal service or by registered or certified mail to the offender's last known address. Such notice shall refer to the code section(s) violated and describe how the offender violated the code section(s). The correction notice shall also describe the action necessary to correct the violation and state the final date by which the correction must be completed, which shall not be less than ten calendar days from the date the correction notice is issued. In addition, the correction notice shall include a warning that failure to correct the violation may result in the imposition of an administrative fine and shall state the amount of the fine imposed for the violation.

D. Procedure Upon Expiration of Correction Period. If the offender remedies the correction condition within the period set forth in the correction notice, the enforcement official may issue the offender a notice of compliance. If the offender does not remedy the correction condition within the period set forth in the correction notice, the enforcement official may issue the offender an administrative citation pursuant to Section 1.12.050. (Ord. 2006-09 § 1 (part), 2006)

1.12.070 Offender's obligations.

Within fifteen working days from the date the administrative citation is issued, an offender shall pay the fine amount designated on the administrative citation. The issuance date shall mean the date the administrative

citation is released from the city's possession by any of the methods specified in Section 1.12.050(A). (Ord. 2006-09 § 1 (part), 2006)

1.12.080 Administrative fine.

A. The amounts of the fines for code violations imposed pursuant to this chapter shall be set forth in the schedule of fines established by resolution of the city council.

B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six months from the date of an administrative citation.

C. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.

D. Payments. The administrative fine must be paid directly to the city of Marina within fifteen working days from the date the administrative citation is issued even though the offender requests a hearing pursuant to Section 1.12.090. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city.

E. No Waiver. Under no circumstances shall the payment of the administrative fine constitute a waiver of the offender's right to a hearing. Therefore, even though an offender pays the administrative fine as required by subsection C of this section, the offender may also obtain a hearing to protest the imposition of the administrative fine, provided that the offender makes a timely request for a hearing, pursuant to Section 1.12.090.

F. Obligation to Correct Violation. Nothing in this chapter shall be interpreted to mean that because an offender has paid the administrative fine that he or she is not required to correct the municipal code violation. If the offender fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified pursuant to this section. (Ord. 2006-09 § 1 (part), 2006)

1.12.090 Administrative hearing.

A. Purpose. It is the purpose and intent of the city to afford due process of law to any person who is issued an administrative citation. Due process of law includes adequate notice, an opportunity to participate in a hearing, and an adequate explanation of the reasons justifying the administrative fine.

B. Request for Hearing. In order to request a hearing, the offender shall, within fifteen working days from the date the administrative citation is issued, submit a written request, together with payment of the fine. Any administrative fine which has been paid shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation is not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

C. Notification of Hearing. At least fifteen working days prior to the date of the hearing, the city shall, by certified mail or personal service, give notice to the offender of the time, date and location of the hearing.

D. Hearing Officer.

1. The city manager shall appoint a hearing officer to hear all facts and testimony presented and deemed appropriate ("hearing officer").

2. The employment, performance, evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of the administrative citation fines upheld by the hearing officer.

3. Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason, as determined by the city manager. Any offender challenging the hearing officer's impartiality shall file a statement with the city manager setting forth the grounds for disqualification. The

question of disqualification shall be determined in writing by the city manager within ten days following the date on which the disqualification statement is filed.

E. Administrative Hearing Procedures.

1. No hearing to contest an administrative citation before a hearing officer shall be held unless and until a request for hearing form has been completed and submitted, and, the fine has been paid in advance.

2. The city manager shall establish a monthly date for all hearings. A hearing before the hearing officer shall be set for the next hearing date that is not less than fifteen days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

3. The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the recipient of the administrative citation caused or maintained the violation(s) specified in the administrative citation.

4. The recipient of an administrative citation contesting the administrative citation shall be given the opportunity to testify, cross-examine witnesses, and present witnesses and evidence concerning the administrative citation.

5. The administrative citation and any additional documents submitted by the enforcement official shall constitute prima facie evidence of the respective facts contained in those documents.

6. Not less than five days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citation(s), reports and other documents submitted or relied upon by the enforcement official. No other discovery is permitted. Formal rules of the California Evidence Code and discovery shall not apply, except that irrelevant and unduly repetitious evidence may be excluded at the hearing officer's discretion.

7. The hearing officer may continue the hearing and request additional information from the enforcement official or the recipient of the administrative citation prior to issuing a written decision.

8. The offender, at the individual's expense, and the enforcement officer may be represented by legal counsel at the hearing; however, an offender may be entitled to have the public defender or other counsel appointed at public expense to represent him or her.

F. Administrative Order.

1. Within ten working days of the hearing's conclusion, the hearing officer shall provide the offender with its decision in writing ("administrative order"). The hearing officer shall provide the offender with the administrative order by personal service or by registered or certified mail to the offender's last known address.

2. The administrative order shall contain the hearing officer's findings of fact and conclusions and the procedure described in Section 1.12.050 for seeking judicial review. The decision of the hearing officer shall be final.

3. A decision in favor of the offender shall constitute a dismissal of the municipal code violation. The city shall return any moneys paid by the offender towards the dismissed municipal code violation fine.

4. If the hearing officer renders a decision in favor of the city, the offender must comply with the administrative order, or seek judicial review of the administrative order pursuant to Section 1.12.100.

G. Failure to Attend Administrative Hearing.

1. Waiver of Right to Hearing. The offender's failure to appear at a hearing shall constitute a waiver of the right to a hearing. An offender's failure to appear at the hearing shall be presumed an admission of guilt to the municipal code violation charges as indicated on the administrative citation.

2. Good Cause. Upon a showing of good cause by the offender, as determined by the hearing officer, the hearing officer may excuse the offender's failure to appear at the hearing and reschedule the hearing. Under no circumstances shall the hearing be rescheduled more than one time. Nothing in this subsection shall be inter-

preted to mean the offender is excused from the requirement of paying the administrative fine or appearing at a hearing.

3. Penalty. If the offender fails to appear at the hearing, the offender may be subject to the penalty set forth in Section 1.12.110. (Ord. 2006-09 § 1 (part), 2006)

1.12.100 Judicial review.

If an administrative order is rendered in favor of the city, the offender may seek judicial review of the administrative order in the Monterey County superior court, by doing one of the following:

A. Appeal the administrative order pursuant to California Government Code Section 53069.4 within twenty calendar days after service of the administrative order. Pursuant to Section 53069.4, the appealing party shall serve a copy of the appeal notice in person or by first class mail upon the city. Appeal notices shall be sent to the city clerk. If no appeal is filed within the twenty calendar day period, the decision shall be deemed confirmed; or

B. File a petition for a writ of mandate pursuant to California Code of Civil Procedure Section 1094.5 et seq. within ninety calendar days after service of the administrative order. (Ord. 2006-09 § 1 (part), 2006)

1.12.110 Failure to comply.

A. Event Defined. As used in this Section 1.12.110, the term “event” means any of the following occurrences:

1. The offender fails to pay the administrative fine within fifteen working days from the date the administrative citation is issued;

2. The offender requests a hearing and fails to appear;

3. The offender fails to either comply with the administrative order or seek judicial review of the administrative order.

B. Penalty Fine. The occurrence of an event may result in the city increasing the administrative fine, not to exceed the maximum amounts established pursuant to Section 1.12.080 (“penalty fine”).

C. Account Receivable. Upon the occurrence of an event, the city may treat the administrative fine or penalty fine, whichever is applicable, as an account receivable, subject to the city’s established policy for delinquent accounts receivable.

D. Violation. An event as described in subsection (A)(1) of this section shall constitute a separate violation of the municipal code which may be redressed through criminal, civil or other remedy established by law or under the provisions of this code.

E. Collection. The city may use all appropriate legal means to collect the fines imposed pursuant to this chapter. The city may also recover its collection costs, including reasonable attorneys’ fees according to proof. (Ord. 2006-09 § 1 (part), 2006)

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

2.04	City Council
2.06	Municipal Elections
2.08	City Manager
2.12	Commissions
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Chapter 2.04

CITY COUNCIL

Sections:

2.04.010	Meetings—Time.
2.04.020	Meetings—Place.
2.04.030	Expenses—Reimbursement by city—Furnishing information.
2.04.040	Expenses—Advances.
2.04.050	Expenses—City manager may grant exceptions.

2.04.010 Meetings—Time.

The regular meetings of the city council shall be held on the first and third Tuesdays of each month at the hour of five-thirty p.m. (Ord. 2001-11 § 1, 2001: Ord. 78-12 § 1, 1978: Ord. 75-2 § 1, 1975)

2.04.020 Meetings—Place.

The regular meetings of the city council shall be held at the Marina Community Center, 211 Hillcrest Avenue, Marina, California. (Ord. 75-2 § 2, 1975)

2.04.030 Expenses—Reimbursement by city—Furnishing information.

A city councilman who intends to attend a convention, conference or meeting, or who is required to attend to city business in the discharge of his work, shall file with the city manager, on a form provided by the city, the following information: the date, the place and an itemized estimated expense statement and an estimated statement of any other expenditure believed to be necessary in connection with the business. A councilman may apply for expenses only in connection with the business. A councilman may apply for expenses only in connection with a meeting of expenses authorized in the annual budget. Expenses in connection with a meeting of city business not authorized in the budget may be reimbursed only after approval by the city council. (Ord. 75-9 § 1, 1975)

2.04.040 Expenses—Advances.

A. A city councilman may apply for and receive an advance of funds against his contemplated expenses upon approval by the city manager. Upon the councilman's return to the city, he shall give a general itemized statement of expenditures.

B. The city manager may determine a per diem rate, and if he does so, the per diem rate shall include all expenses except transportation and registration for a convention. If the city manager fixes a per diem rate, a councilman attending upon city business is not entitled to any reimbursement or payment in excess of the per diem rate, except for transportation and registration and a convention and it is not necessary to submit an itemized statement of expenditures.

C. The city manager is authorized to prepare the forms he considers necessary in order to administer this chapter. (Ord. 75-9 § 2, 1975)

2.04.050 Expenses—City manager may grant exceptions.

The city manager may grant an exception or a variation to the requirements of this chapter when, in his judgment, an exception or variation is necessary, having in mind the economy of the city. The city council shall confirm each exception or variation granted by the city manager. (Ord. 75-9 § 3, 1975)

Chapter 2.06

MUNICIPAL ELECTIONS

Sections:

2.06.010 Date of general municipal election.

2.06.010 Date of general municipal election.

Pursuant to Government Code Section 36503.5, the general municipal election in the city shall be held on the same date as the statewide general election held in November of even-numbered years. (Ord. 81-13 § 1, 1981)

Chapter 2.08

CITY MANAGER

Sections:

2.08.010 Office created.

2.08.020 Residence.

2.08.030 Eligibility.

2.08.040 Bond.

2.08.050 Assistant city manager—Acting city manager.

2.08.060 Compensation.

2.08.070 Powers and duties.

2.08.080 Council-manager relations.

2.08.090 Departmental cooperation.

2.08.100 Attendance at commission meetings.

2.08.110 Removal—Council vote—Notice.

2.08.120 Removal—Hearing.

2.08.130 Removal—Suspension pending hearing.

2.08.140 Removal—Discretion of council.

2.08.150 Removal—Limitations.

2.08.160 Agreements on employment.

2.08.010 Office created.

The office of the city manager is created. The city council shall appoint the city manager and shall make the appointment wholly on the basis of his administrative and executive ability and qualifications. The city manager shall hold office at the pleasure of the city council. (Ord. 75-8 § 1, 1975)

2.08.020 Residence.

Residence in the city at the time of appointment of the city manager is not a condition of the appointment; however, within ninety days after reporting for work the city manager shall become a resident of the city, unless the city council approves his residence outside the city. (Ord. 75-8 § 2, 1975)

2.08.030 Eligibility.

A member of the city council is not eligible for appointment as city manager until one year elapses after the councilmember ceases to be a member of the council. (Ord. 75-8 § 3, 1975)

2.08.040 Bond.

The city manager shall furnish a corporate surety bond approved by the city council in such sum the city council determines. The bond shall be conditioned upon the faithful performance of the duties imposed upon the city manager. The premium for the bond is a proper charge against the city. (Ord. 75-8 § 4, 1975)

2.08.050 Assistant city manager—Acting city manager.

The city council may also appoint an assistant city manager to serve as acting city manager during the temporary absence or disability of the city manager. If there is no assistant city manager, the city manager shall designate a qualified city employee to exercise the powers and perform the duties of city manager during his temporary absence or disability by filing a written notice with the city clerk or the deputy or assistant city clerk. If the city manager's absence or disability extends over a two-month period, the city council may appoint an acting city manager. (Ord. 75-8 § 5, 1975)

2.08.060 Compensation.

- A. The city manager shall receive such compensation as the city council may determine from time to time.
- B. The city manager shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.
- C. On termination of employment of the city manager by involuntary removal from service other than for wilful misconduct in office, the city manager shall receive cash severance pay in the lump sum equal to one month's pay for every year of continuous service or fraction as city manager, up to a total of four months' pay. The severance pay is computed at the highest salary received by the city manager during his service with the city. Involuntary removal from service shall include reduction in pay not applicable to all employees of the city. (Ord. 75-8 § 6, 1975)

2.08.070 Powers and duties.

The city manager is the administrative head of the government of the city, subject to the direction and control of the city council. He is responsible for the efficient administration of all the affairs of the city which are under his control. In addition to his general powers as administrative head, and not as a limitation on them, the city manager shall:

- A. Enforce the laws and ordinances of the city and see that the franchises, contracts, permits and privileges granted by the council are faithfully observed;
- B. Control, order and give directions to all heads of departments and to subordinate officers and employees of the city who are subject to removal by him;
- C. Appoint, remove, promote and demote each officer and employee of the city, excepting the city attorney, subject to personnel ordinances, rules and regulations;
- D. Conduct studies and effect such administrative reorganization of offices, positions and units under his direction as are in the interest of efficient, effective and economical conduct of the city's business;
- E. Recommend to the council for adoption such measures and ordinances as he considers necessary;
- F. Attend all meetings of the council unless he is excused by the mayor individually or the council, except when his removal is under consideration;

- G. Keep the council advised at all times as to the financial condition and needs of the city;
- H. Prepare and submit the proposed annual budget and the proposed salary plan to the council for its approval;
- I. See that no expenditures are submitted or recommended to the council except on approval of the city manager or his authorized representative. The city manager or his authorized representative is responsible for the purchase of all supplies for all the departments and divisions of the city;
- J. Make investigations into the affairs of the city and each department and division of it and each contract and its proper performance by the city. The city manager shall investigate all complaints of matters concerning the administration of the city government and of the service maintained by public utilities in the city;
- K. Exercise general supervision over all public buildings, public parks, and all other public property under the control and jurisdiction of the council;
- L. Perform such other duties and exercise such other powers as the city council may delegate to him from time to time. (Ord. 96-25 § 1(2), 1996; Ord. 75-8 § 7, 1975)

2.08.080 Council-manager relations.

Each member of the city council shall deal with the administrative services of the city through the city manager, except for the purpose of inquiry. Neither the council nor a member of the council shall give orders or instructions to subordinates of the city manager. The city manager shall take his orders and instructions from the council only when the council is sitting in a duly convened meeting and no individual councilman shall give orders or instructions to the city manager. (Ord. 75-8 § 8, 1975)

2.08.090 Departmental cooperation.

Each subordinate officer and the city clerk, city treasurer and the city attorney shall assist the city manager in administering the affairs of the city efficiently, economically and harmoniously. (Ord. 75-8 § 9, 1975)

2.08.100 Attendance at commission meetings.

The city manager may, and upon request of the city council shall, attend meetings of the planning commission and other commissions, boards and committees created by the council. At these meetings which the city manager attends, boards or committees shall hear the city manager upon matters which he wishes to address the members, and he shall inform the members as to the status of matters being considered by the council. He shall cooperate to the fullest extent with the members of each commission, board and committee appointed by the council. (Ord. 75-8 § 10, 1975)

2.08.110 Removal—Council vote—Notice.

The city manager may be removed only by a majority vote of the whole city council, as then constituted, convened in a regular council meeting, subject to Sections 2.08.120 through 2.08.150 of this chapter. In case of his removal by the council, the council shall furnish the city manager with a written notice stating the council's intention to remove him at least thirty days before the effective date of his removal. If the city manager so requests, the council shall provide in writing reasons for the intended removal. The council shall provide the city manager with these written reasons within seven days after the receipt of a request from the city manager. The city manager shall make his request for the reasons in writing at least fifteen days before the effective date of his removal. (Ord. 75-8 § 11, 1975)

2.08.120 Removal—Hearing.

Within seven days after the delivery to the city manager of the notice of intention to remove, the city manager may request a hearing before the council by filing written notice with the city clerk or deputy or assistant city clerk. Thereafter, the council shall fix a time for the hearing. The council shall hold the hearing at its usual meeting place, before the effective date of the intended removal. At the hearing the city manager may appear and be heard with or without counsel. The purpose of the hearing is to allow the city manager to present to the council his grounds of opposition to his removal before the council acts. (Ord. 75-8 § 12, 1975)

2.08.130 Removal—Suspension pending hearing.

After furnishing the city manager with written notice of intended removal, the council may suspend him from duty, but his compensation continues until the effective date of his removal by action of the council taken after the hearing referred to in Section 2.08.120 of this chapter. (Ord. 75-8 § 13, 1975)

2.08.140 Removal—Discretion of council.

In removing the city manager, the council has absolute discretion and its action is final and conclusive and does not depend upon any particular showing or degree of proof at the hearing. (Ord. 75-8 § 14, 1975)

2.08.150 Removal—Limitations.

Notwithstanding Sections 2.08.110 through 2.08.140, the city manager may not be removed from office, other than for misconduct in office, during the period of one hundred eighty days following: 1) a general municipal election held in the city at which a member of the city council is elected, or 2) the time when a new city councilman is appointed. The purpose of this section is to allow each newly elected or appointed member of the council or a reorganized council to observe the actions and ability of the city manager in the performance of his powers and duties of his office. (Ord. 75-8 § 15, 1975)

2.08.160 Agreements on employment.

This chapter is not a limitation on the power or authority of the city council to enter into a supplemental agreement with the city manager delineating additional terms and conditions of employment not inconsistent with this chapter. (Ord. 75-8 § 16, 1975)

Chapter 2.12**COMMISSIONS****Sections:**

- 2.12.010 Commissions established.**
- 2.12.020 Duties and powers of the commissions.**
- 2.12.030 Qualifications.**
- 2.12.040 Terms of office.**
- 2.12.050 Removal or vacancy.**
- 2.12.060 Absence from meetings.**
- 2.12.070 Meetings—Time and place.**
- 2.12.080 Compensation.**
- 2.12.090 Officers.**

- 2.12.100 Rules of order.**
- 2.12.110 Agendas.**
- 2.12.120 Quorum.**
- 2.12.130 Reports.**
- 2.12.140 Committees of commissions.**

2.12.010 Commissions established.

The following commissions and committees thereof are established with the numbers of members as indicated, provided that the city council may, by resolution, change said number of members:

- A. Economic development commission consisting of five members;
- B. Public works commission consisting of five members;
- C. Recreation and cultural services commission consisting of five members; and
- D. Planning commission consisting of seven members.

(Ord. 2006-05 § 1 (part), 2006)

2.12.020 Duties and powers of the commissions.

In addition to any duties, rights and powers imposed by state law, any duties, rights, powers and privileges provided by ordinance or resolution of the city council, each commission shall have the following specific duties and powers:

A. The economic development commission shall be an advisory body to the city council regarding economic development in the city, downtown vitalization, and ways to encourage business to locate and remain in Marina.

B. The public works commission shall act as an advisory body to the city council on matters pertaining to city parks, facilities and improvement of residential and commercial areas.

- 1. Subcommittee: Traffic.

C. The recreation and cultural services commission shall act as an advisory body to the city council in the provision of recreation, cultural and public arts programs including services to seniors and youth and the implementation of art in public places.

D. The planning commission shall be an advisory body to the city council regarding the overall coordination of land use in the city and shall specifically perform those duties described in the ordinances and codes of the city.

- 1. Subcommittees: Design review board and tree committee.

(Ord. 2006-05 § 1 (part), 2006)

2.12.030 Qualifications.

A member of a commission shall be a qualified elector of the city and may not serve on two or more commissions simultaneously. Upon appointment to a second commission, the appointment to the first commission shall automatically terminate. (Ord. 2006-05 § 1 (part), 2006)

2.12.040 Terms of office.

Members of commissions shall be appointed by the city council for a term of two years except for the first appointment pursuant to this chapter in which case three members shall be appointed for two years and two members shall be appointed for one year except that members of the planning commission appointed previously shall serve until the expiration of that term. Once appointed, members shall serve until his or her successor is appointed. (Ord. 2006-05 § 1 (part), 2006)

2.12.050 Removal or vacancy.

A member of a commission may be removed at any time by a majority vote of the council with or without cause. A vacancy is filled in the same manner as the original appointment. A person appointed to fill a vacancy serves for the remainder of the unexpired term. (Ord. 2006-05 § 1 (part), 2006)

2.12.060 Absence from meetings.

If a member of a commission is absent without cause from three successive regular meetings of the commission, the office becomes vacant automatically. The commission shall immediately notify the city council of the vacancy. A member is not absent without cause if his or her absence is due to illness or unavoidable, and the member notifies the chair or secretary of the commission before the meeting that he or she will be absent and giving the reason for the absence. (Ord. 2006-05 § 1 (part), 2006)

2.12.070 Meetings—Time and place.

Each commission shall meet at least once a month and shall establish a time of such regular meeting. Meetings shall be held at the city of Marina Council Chambers, 211 Hillcrest Avenue, Marina, California. If the date of a regular meeting falls on a scheduled city holiday, the regular meeting will be held on the evening of the following workday at the established hour and place. Other meetings may be set by a commission as permitted under the Brown Act (Government Code Sections 54950 et seq.). (Ord. 2006-05 § 1 (part), 2006)

2.12.080 Compensation.

Members of the commissions shall not receive compensation for attendance at commission meetings. (Ord. 2006-05 § 1 (part), 2006)

2.12.090 Officers.

Each commission shall elect a chair and vice-chair from among its members who shall serve for a term of one year. Term of chair shall not exceed two successive years. The duties of the officers shall be as follows:

A. Chair. The chair shall preside at all meetings of the commission, make appointments to any committees and shall perform all the duties necessary or incidental to the office.

B. Vice-Chair. The vice-chair shall serve as chair in the absence or inability of the chair to serve. (Ord. 2006-05 § 1 (part), 2006)

2.12.100 Rules of order.

Each commission shall observe the rules of order prescribed for the city council. Any existing commission procedures not adopted by the city council are null and void. (Ord. 2006-05 § 1 (part), 2006)

2.12.110 Agendas.

City staff shall publish an agenda for each meeting as required under the Brown Act. (Ord. 2006-05 § 1 (part), 2006)

2.12.120 Quorum.

A majority of the members of a commission shall constitute a quorum for the transaction of business. (Ord. 2006-05 § 1 (part), 2006)

2.12.130 Reports.

- A. Minutes of each meeting of a commission shall be provided to the city council.
- B. An annual report to the city council shall be prepared and submitted by each commission by April 15th of each year. (Ord. 2006-05 § 1 (part), 2006)

2.12.140 Committees of commissions.

Any commission may, from time to time, from its membership form ad hoc committees to address specific issues. Standing committees shall be established and appointed by a majority vote of the city council upon a recommendation from a commission. (Ord. 2006-05 § 1 (part), 2006)

Chapter 2.16

DOCENT OF THE MUSEUM

Sections:

- 2.16.010 Docent of the museum.**
- 2.16.020 Appointment and term.**
- 2.16.030 Responsibilities.**
- 2.16.040 Associates.**

2.16.010 Docent of the museum.

There is created the office of docent of the Marina Museum.
(Ord. 95-13 § 3 (part), 1995)

2.16.020 Appointment and term.

From time to time and as it deems necessary, the council may appoint an individual or individuals as a docent who will serve until resignation or until such time as the council may revise the list of appointments. (Ord. 95-13 § 3 (part), 1995)

2.16.030 Responsibilities.

Docents shall be responsible to the city council, in coordination with the city manager, for the management of the Marina Museum. Docents shall establish a safe facility for the display of artifacts and mementoes of the city's and community's history and shall be responsible for the safeguarding, displaying and interpretation of exhibits and other materials at the Marina Museum. (Ord. 95-13 § 3 (part), 1995)

2.16.040 Associates.

Upon the written recommendation of not less than two then-serving docents of the museum an applicant shall be appointed as an associate of the Marina Museum. Any associate so appointed shall assist the docents of the museum with their responsibilities and tasks in the management of the Marina Museum and serve until resignation or removal by the city council. (Ord. 96-21 § 1, 1996)

Chapter 2.20

DISASTER COUNCIL

Sections:

2.20.010 Purpose.

2.20.020 Emergency defined.

2.20.030 Membership.

2.20.040 Powers and duties.

2.20.050 Director and assistant director of emergency services—Offices created.

2.20.060 Director and assistant director of emergency services—Powers and duties.

2.20.070 Emergency organization.

2.20.080 Emergency plan.

2.20.090 Expenditures.

2.20.100 Violation—Penalty.

2.20.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons. (Ord. 76-21 § 1, 1976)

2.20.020 Emergency defined.

As used in this chapter, “emergency” means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this city requiring the combined forces of other political subdivisions to combat. (Ord. 76-21 § 2, 1976)

2.20.030 Membership.

The Marina disaster council is created and shall consist of the following:

- A. The mayor, who shall be chairman;
- B. The director of emergency services, who shall be vice-chairman;
- C. The assistant director of emergency services;
- D. Such chiefs of emergency services as are provided for in a current emergency plan of this city, adopted pursuant to this chapter;
- E. Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the city council. (Ord. 76-21 § 3, 1976)

2.20.040 Powers and duties.

It shall be the duty of the Marina disaster council, and it is empowered, to develop and recommend for adoption by the city council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman or, in his absence from the city or inability to call such meeting, upon call of the vice-chairman. (Ord. 76-21 § 4, 1976)

2.20.050 Director and assistant director of emergency services—Offices created.

There is created the office of director of emergency services. The city manager shall be the director of emergency services.

There is created the office of assistant director of emergency services, who shall be appointed by the director. (Ord. 76-21 § 5, 1976)

2.20.060 Director and assistant director of emergency services—Powers and duties.

A. The director is empowered to:

1. Request the city council to proclaim the existence or threatened existence of a “local emergency” if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;

2. Request the Governor to proclaim a “state of emergency” when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency;

3. Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter;

4. Direct cooperation between and coordination of services and staff of the emergency organization of this city; and resolve questions of authority and responsibility that may arise between them;

5. Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined in Section 2.20.020;

6. In the event of the proclamation of a “local emergency” as herein provided, the proclamation of a “state of emergency” by the Governor or the Director of the State Office of Emergency Services, or the existence of a “state of war emergency,” the director is empowered:

a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council,

b. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use,

c. To require emergency services of any city officer or employee and, in the event of the proclamation of a “state of emergency” in the county in which this city is located or the existence of a “state of war emergency,” to command the aid of as many citizens of this community as he deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers,

d. To requisition necessary personnel or material of any city department or agency, and

e. To execute all of his ordinary power as city manager, all of the special powers conferred upon him by this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him by any statute, by any agreement approved by the city council, and by any other lawful authority.

B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be approved by the city council.

C. The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this city; and shall have such other powers and duties as may be assigned by the director. (Ord. 76-21 § 6, 1976)

2.20.070 Emergency organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.20.060(A)(6)(c) of this chapter, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city. (Ord. 76-21 § 7, 1976)

2.20.080 Emergency plan.

The Marina disaster council shall be responsible for the development of the city emergency plan, which plan shall provide for the effective mobilization of all of the resources of this city, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council. (Ord. 76-21 § 8, 1976)

2.20.090 Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city. (Ord. 76-21 § 9, 1976)

2.20.100 Violation—Penalty.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars, or by imprisonment for not to exceed six months, or both, for any person, during an emergency, to:

A. Wilfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;

B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof;

C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state. (Ord. 76-21 § 10, 1976)

Chapter 2.28

DISPOSITION OF UNCLAIMED PERSONAL PROPERTY

Sections:

2.28.010 Storage of unclaimed property—Redemption.

2.28.020 Sale of property.

2.28.030 Expenses of sale—Disposition of proceeds.

2.28.040 Exemptions.

2.28.010 Storage of unclaimed property—Redemption.

All unclaimed personal property or money in the possession of the public safety department shall be stored in a safe place by the public safety director for at least three months. The public safety director shall restore such property to its legal owner upon proof of such ownership satisfactory to the director and upon payment of all reasonably necessary costs in the care and protection thereof, unless such property is held by the department as evidence in a pending case, in which case it shall be disposed of only upon order of the proper court. (Ord. 96-25 § 1(4), 1996: Ord. 79-8 § 1, 1979)

2.28.020 Sale of property.

At any time after the expiration of the three-month period referred to in Section 2.28.010, the public safety director may publish once in a newspaper distributed in the city, and post in the three places designated by council resolution, a notice of the director's intention to sell at public auction to the highest bidder, at the time and place therein specified, all such unclaimed personal property; provided, however, that the foregoing provision shall not apply to cash or money which is turned in and is unclaimed for said period. The sale of unclaimed property pursuant to this chapter shall be held not less than five days after the publication of the notice thereof, and each item shall be separately sold at public auction to the highest bidder. Money or cash which is turned in and is unclaimed for said period shall be returned to the person finding and turning in same. (Ord. 96-25 § 1(5), 1996: Ord. 79-8 § 2, 1979)

2.28.030 Expenses of sale—Disposition of proceeds.

The expenses connected with a sale under this chapter shall be a proper charge against the funds of the public safety department and all proceeds received from such sale shall be delivered to the city treasurer for deposit in the general fund. (Ord. 79-8 § 3, 1979)

2.28.040 Exemptions.

The provisions of this chapter shall not apply to property subject to confiscation under the laws of the state or of the United States of America. (Ord. 79-8 § 4, 1979)

Chapter 2.32

PEACE OFFICERS' STANDARDS AND TRAINING

Sections:

2.32.010	Purpose.
2.32.020	Adherence to standards.
2.32.030	Police force—Person in control.

2.32.010 Purpose.

The city desires to qualify to receive state aid from the state of California under the provisions of Chapter I, Title 4, Part 4, of the California Penal Code. (Ord. 76-14 § 1, 1976)

2.32.020 Adherence to standards.

Pursuant to Section 13522 of Chapter I of the California Penal Code, the city will adhere to the standards for recruitment and training established by the California Commission on Peace Officers Standards and Training. (Ord. 76-14 § 2, 1976)

2.32.030 Police force—Person in control.

The police force of the city shall be under the control and direction of a person appointed by the city manager, such person to have the title as may be approved by the city council. The person appointed shall meet all of the same requirements imposed by law, regulation or guidelines and recommendations as a chief of police established by the California Commission on Peace Officers' Standards and Training and he or she shall have all of the same rights, responsibilities and privileges as does a chief of police, including those imposed by the Marina Municipal Code. (Ord. 2005-11 § 1, 2005)

Chapter 2.36

INDUSTRIAL DEVELOPMENT AUTHORITY

Sections:

- 2.36.010 Legislative findings.**
- 2.36.020 Need.**
- 2.36.030 Referendum provisions.**

2.36.010 Legislative findings.

The city council does find and determine that:

A. There exist within the city economically distressed areas which may be benefited by efforts to prevent the loss of existing jobs and to create new jobs.

B. In the interest of the health, welfare and safety of the people of the city and of the state of California, it is necessary to provide an alternative method of financing certain facilities in order to prevent the loss of existing jobs in the city and to increase employment opportunities and otherwise contribute to the economic development of the city.

C. The California Industrial Development Financing Act, California Government Code Sections 91500 et seq. (the "Act"), has created in the city a public, corporate instrumentality of the state of California known as the industrial development authority of the city, for the purpose of exercising powers granted by the Act.

D. Section 91520 of the Act provides that the authority shall not transact any business or exercise any powers under the Act unless, by ordinance, this city council declares that there is a need for such authority and that the authority shall function. (Ord. 81-3 § 1, 1981)

2.36.020 Need.

The city council does find and declare that there is a need within the city for the industrial development authority of the city, created by Section 91520 of the Act, and that such authority is authorized to transact business and to exercise all powers permitted by law. (Ord. 81-3 § 2, 1981)

2.36.030 Referendum provisions.

Pursuant to Section 91520(b) of the Act, the ordinance codified in this chapter is subject to the provisions for referendum as set forth in Sections 4051 through 4058 of the California Elections Code. (Ord. 81-3 § 3, 1981)

Chapter 2.44

REDEVELOPMENT AGENCY

Sections:

- 2.44.010 Declaration of need.**
- 2.44.020 Creation—Title.**
- 2.44.030 City council declared agency.**

2.44.010 Declaration of need.

The city council declares, pursuant to the provisions of the Community Redevelopment Law of the state of California, that there is a need for a redevelopment agency to function in the city. (Ord. 85-6 § 1 (part), 1985)

2.44.020 Creation—Title.

A redevelopment agency is authorized to transact business and exercise its powers under the Community Redevelopment Law with the city, and is designated the “Marina redevelopment agency.” (Ord. 85-6 § 1 (part), 1985)

2.44.030 City council declared agency.

Pursuant to Health and Safety Code Section 33200, as amended, of the Community Redevelopment Law, the city council does declare itself to be the Marina redevelopment agency, and the councilmembers shall constitute the legislative body of the agency. The council finds that this action shall serve the public interest and promote the public safety and welfare in an effective manner. (Ord. 85-6 § 1 (part), 1985)

Chapter 2.50

AIRPORT COMMISSION

Sections:

- 2.50.010 Commission created.**
- 2.50.020 Membership.**
- 2.50.030 Meetings.**
- 2.50.040 Appointments.**
- 2.50.050 Bylaws.**
- 2.50.060 Compensation and expenses.**
- 2.50.070 Duties and powers.**

2.50.010 Commission created.

There is created the “airport commission of Marina.” (Ord. 95-04 § 1 (part), 1995)

2.50.020 Membership.

The members of the city council shall serve as members of the airport commission of Marina. (Ord. 95-04 § 1 (part), 1995)

2.50.030 Meetings.

The airport commission of Marina shall fix the time and place of regular and special meetings of the commission, which shall average one meeting per month. All meetings of the commission shall be open to the public except for those meetings which may be closed as authorized by law. (Ord. 95-04 § 1 (part), 1995)

2.50.040 Appointments.

The mayor shall serve as the chair and the mayor pro tempore shall serve as the vice-chair of the commission. (Ord. 95-04 § 1 (part), 1995)

2.50.050 Bylaws.

The commission may adopt bylaws for the conduct of meetings and its activities. (Ord. 95-04 § 1 (part), 1995)

2.50.060 Compensation and expenses.

A. Compensation. Members of the commission shall receive compensation for attendance at commission meetings as part of their compensation as councilmembers in an amount set by the city council. Any such compensation shall be in addition to the salary set for serving strictly as a councilmember pursuant to city Ordinance 79-12, as amended, with the total not to exceed the amounts prescribed in Government Code Section 36516.

B. Expenses. The salaries prescribed in subsection A of this section are inclusive of vehicle expenses incurred in the performance of duties within the boundaries of the city, but are exclusive of any other amount payable to a member of the commission as reimbursement for other actual and necessary expenses incurred in the performance of official duties. (Ord. 95-04 § 1 (part), 1995)

2.50.070 Duties and powers.

The commission shall have the powers and shall perform all duties as follows:

A. Advise the city council and, through the city council, the public of Marina in the maintenance and revisions of the airport layout plan and comprehensive airport master plan for physical growth and development of the airport.

B. Serve as an advisory body to the city council on matters related to airport growth and development.

C. Enact policies and regulations governing the operations and the conduct of business on the airport subject to the approval of the city council in order to ensure that public and private facilities and services will be provided by an orderly and balanced growth of the airport and airport activity.

D. Engage in a program of informing the public of airport activities and alternate solutions relating to aviation transportation.

E. Establish, when appropriate, an advisory committee, which shall be charged to provide recommendations regarding issues of airport safety and operations. (Ord. 95-04 § 1 (part), 1995)

Title 3

REVENUE AND FINANCE

Chapters:

- 3.04 Sales and Use Tax**
- 3.08 Real Property Transfer Tax**
- 3.12 Transient Occupancy Tax**
- 3.14 Utility Tax**
- 3.16 Purchasing System**
- 3.20 Treasury Funds**
- 3.24 Fees and Service Charges Revenue-to-Cost Determination System**
- 3.26 Mitigation Fees for New Development**
- 3.28 Authorization for the Use of Mail Ballot Elections**
- 3.32 Community Facility District Tax**

SALES AND USE TAX

Sections:

- 3.04.010 Short title.**
- 3.04.020 Rate.**
- 3.04.030 Operative date.**
- 3.04.040 Purpose.**
- 3.04.050 Contract with state.**
- 3.04.060 Sales tax imposed.**
- 3.04.070 Place of sale.**
- 3.04.080 Use tax imposed.**
- 3.04.090 Adoption of state law.**
- 3.04.100 Limitations on adoption of state law.**
- 3.04.110 Permit not required when.**
- 3.04.120 Exclusions and exemptions.**
- 3.04.130 Amendments.**
- 3.04.140 Enjoining collection forbidden.**

3.04.010 Short title.

This chapter shall be known as the “uniform local sales and use tax ordinance.” (Ord. 75-5 § 1, 1975)

3.04.020 Rate.

The rate of sales tax and use tax imposed by this chapter shall be one percent. (Ord. 75-5 § 2, 1975)

3.04.030 Operative date.

This chapter shall be operative on January 1, 1976. (Ord. 75-5 § 3, 1975)

3.04.040 Purpose.

The city council declares that the ordinance codified in this chapter is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the state insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Ord. 75-5 § 4, 1975)

3.04.050 Contract with state.

Prior to the operative date, this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this chapter; provided, that if this city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter. (Ord. 75-5 § 5, 1975)

3.04.060 Sales tax imposed.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the city at the rate stated in Section 3.04.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date. (Ord. 75-5 § 6, 1975)

3.04.070 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Ord. 75-5 § 7, 1975)

3.04.080 Use tax imposed.

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city, at the rate stated in Section 3.04.020, of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. 75-5 § 8, 1975)

3.04.090 Adoption of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein. (Ord. 75-5 § 9, 1975)

3.04.100 Limitations on adoption of state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the state of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the

exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word “state” in the phrase “retailer engaged in business in this state” in Section 6203 or in the definition of that phrase in Section 6203. (Ord. 75-5 § 10, 1975)

3.04.110 Permit not required when.

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller’s permit shall not be required by this chapter. (Ord. 75-5 § 11, 1975)

3.04.120 Exclusions and exemptions.*

A. The amount subject to tax shall not include any sales or use tax imposed by the state of California upon a retailer or consumer.

B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city, in this state shall be exempt from the tax due under this chapter.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax. (Ord. 83-17 § 1, 1983; Ord. 75-5 § 12, 1975)

* **Editor’s Note:** Ordinance 83-17, provides for the future amendment of Section 3.04.120 which shall be operative on the operative date of any act of the Legislature of the State of California which amends or repeals and reenacts Section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of Section 7202 of the Revenue and Taxation Code as those subdivisions read on October 1, 1983.

3.04.130 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Ord. 75-5 § 13, 1975)

3.04.140 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this city, or against any officer of the state or this city, to prevent or en-

join the collection under this chapter or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Ord. 75-5 § 14, 1975)

Chapter 3.08

REAL PROPERTY TRANSFER TAX

Sections:

- 3.08.010** Short title and authority.
- 3.08.020** Tax imposed.
- 3.08.030** Who pays tax.
- 3.08.040** Security agreement excepted.
- 3.08.050** Exemption of public agencies.
- 3.08.055** Exemptions.
- 3.08.060** Exceptions.
- 3.08.070** Special exception—Order of S.E.C.
- 3.08.080** Partnership interest.
- 3.08.090** Administration.
- 3.08.100** Refunds.
- 3.08.110** Operative date.

3.08.010 Short title and authority.

This chapter may be cited as the “real property transfer tax ordinance of the city of Marina.” It is adopted under the authority of Part 6.7 of Division 2 of the Revenue and Taxation Code of the state, beginning with Section 11901. (Ord. 76-3 § 1, 1976)

3.08.020 Tax imposed.

There is imposed on each instrument of writing by which land, tenement, or other realty sold within the city is transferred or conveyed to the purchaser or other grantee when the consideration or value of the interest conveyed (exclusive of the value of an encumbrance remaining at the time of sale) exceeds one hundred dollars, a tax at the rate of \$0.275 for each five hundred dollars or fractional part of five hundred dollars. (Ord. 76-3 § 2, 1976)

3.08.030 Who pays tax.

The tax imposed under Section 3.08.020 shall be paid by the person who makes, signs or issues the instrument subject to the tax, or for whose use or benefit the instrument is made, signed or issued. (Ord. 76-3 § 3, 1976)

3.08.040 Security agreement excepted.

The tax imposed does not apply to an instrument in writing given to secure a debt. (Ord. 76-3 § 4, 1976)

3.08.050 Exemption of public agencies.

The United States or any agency or instrumentality thereof, any state, territory or political subdivision thereof, shall be exempt from any tax imposed pursuant to this chapter with respect to any deed, instrument or

writing to which it is a party, when the exempt agency is acquiring title. (Ord. 96-25 § 1(6), 1996: Ord. 76-3 § 5, 1976)

3.08.055 Exemptions.

A. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on said deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

B. 1. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses, executed in contemplation of any judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

2. In order to qualify for the exemption provided in subdivision 1 of this subsection, the deed, instrument or other writing shall include a written recital, signed by either spouse, stating the deed, instrument or other writing is entitled to the exemption.

C. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or other writing by which realty is conveyed by the state of California, any political subdivision thereof, or agency or instrumentality of either thereof, pursuant to an agreement whereby the purchaser agrees to immediately re-convey the realty to the exempt agency.

D. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument or other writing by which the state of California, any political subdivision thereof, or agency or instrumentality of either thereof, conveys to a nonprofit corporation realty the acquisition, construction or improvement of which was financed or refinanced by obligations issued by the nonprofit corporation on behalf of a governmental unit, within the meaning of Section 1.103-1(b) of Title 26 of the Code of Federal Regulations. (Ord. 96-25 § 1(7), 1996)

3.08.060 Exceptions.

The tax imposed does not apply to a conveyance to make effective a plan of reorganization or adjustment:

A. Confirmed under the federal Bankruptcy Act;

B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;

C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

D. Whereby a mere change in identity, form or place of organization is effected.

Subsections A through D of this section only apply if the filing of instrument of transfer or conveyance occurs within five years from the date of confirmation, approval or change. (Ord. 76-3 § 6, 1976)

3.08.070 Special exception—Order of S.E.C.

The tax does not apply to the making of conveyances to make effective an order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954 if:

A. The order of the Securities and Exchange Commission recites that the conveyance is necessary or appropriate to carry out Section 79k of Title 15 of the United State Code, relating to the Public Utility Holding Company Act of 1935; and

B. The order specifies the property which is ordered to be conveyed. (Ord. 76-3 § 7, 1976)

3.08.080 Partnership interest.

A. In the case of realty held by a partnership, no levy is imposed by reason of transfer of an interest in a partnership if:

1. The partnership is a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

2. The continuing partnership continues to hold the realty concerned.

B. If there is a termination of a partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter the partnership shall be treated as having executed an instrument whereby there was conveyed for fair market value (exclusive of the value of an encumbrance remaining) all realty held by the partnership at the time of termination.

C. Not more than one tax may be imposed by reason of a termination described in subsection B of this section, any transfer pursuant to it, with respect to the realty held by the partnership at the time of termination. (Ord. 76-3 § 8, 1976)

3.08.090 Administration.

The county recorder shall administer this chapter in conformity with Part 6.7 of Division 2 of the Revenue and Taxation Code and county ordinance adopted pursuant to it. (Ord. 76-3 § 9, 1976)

3.08.100 Refunds.

A claim for refund of the tax imposed is governed by Chapter 5 of Part 9 of Division 1 of the Revenue and Taxation Code of the state beginning with Section 5096. (Ord. 76-3 § 10, 1976)

3.08.110 Operative date.

The ordinance codified in this chapter becomes operative upon the operative date of any ordinance adopted by the county under Part 6.7 of Division 2 of the Revenue and Taxation Code of the state beginning with Section 11901, or upon the effective date of this chapter, whichever is the later. (Ord. 76-3 § 11, 1976)

Chapter 3.12

TRANSIENT OCCUPANCY TAX

Sections:

3.12.010 Title.

3.12.020 Definitions.

3.12.030 Tax imposed.

3.12.040 Exemptions.

3.12.050 Operator's duties.

3.12.060 Registration.

3.12.070 Reporting and remitting.

3.12.080 Penalties and interest.

3.12.090 Failure to collect and report tax—Determination of tax by tax administrator.

3.12.100 Appeal.

3.12.110 Records.

3.12.120 Refunds.

3.12.130 Actions to collect.

3.12.010 Title.

This chapter may be known as the "uniform transient occupancy tax ordinance of the city of Marina." (Ord. 76-7 § 1, 1976)

3.12.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

"Hotel" means any structure or lodging, or any portion of any structure or lodging, which is occupied or intended or designed for use or occupancy by transients, including but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, time-share project or facility, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or lodging or portion thereof; and shall further include any space, lot, area, site or portion of any real property which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes and includes any recreational vehicle, trailer and tent park and campground. The burden of establishing that the housing or facility is not a hotel as defined herein shall be upon the owner or operator thereof, who shall file with the tax administrator such information as the tax administrator may require, to establish and maintain such status.

"Occupancy" means the use or possession, or the right or entitlement to the use or possession, of any hotel, room, rooms or any portion thereof offered for rent or used or occupied for dwelling, lodging or sleeping purposes regardless of the purpose for which such rooms are rented or provided.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, time-share project or facility manager or operator, or any other capacity. Where the operator performs his or its functions through a managing agent of any type or character, the managing agent shall also be deemed an operator for the purpose of this chapter, and shall have jointly and severally the same duties and liabilities as the principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the amount of the consideration charged or chargeable to the tenant or person entitled to occupancy, for the occupancy of space, valued in money whether received in money, goods, labor or otherwise, including the full value of receipts, cash, credits, property or services of any kind or nature, without any deduction whatsoever. "Rent" may have been, or may be, payable or paid prior to or following (in whole or in part) the occupancy to which it is attributable, and may have been paid in whole or in part in advance on a long-term ba-

sis, such as in a time-share project or similar arrangement. It is not the intent of this subsection to make the operator liable for the tax on uncollected rent. However, uncollected rent must be reported.

“Tax administrator” means the city manager or his designated agent.

“Time-share occupancy” means occupancy related to the situation wherein a purchaser receives the right or entitlement in perpetuity, for life, or for a term of years or other extended term, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), hotel or portion thereof, or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the time-share project which is involved has been divided. The said right or entitlement to occupancy may attach in advance to a specific lot, parcel, unit, room(s), or portion of a hotel, or segment of real property, or may involve designation or selection of the same at a future time or times.

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, time-share arrangement or ownership or agreement, or other agreement of whatever nature, for a period of twenty-nine consecutive calendar days or less, counting portions of calendar days as full days. Any person so occupying space in a hotel shall be deemed to be a transient if his actual total period of occupancy does not exceed twenty-nine days. Unless days of occupancy or entitlement to occupancy by one person are consecutive without any break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated twenty-nine calendar days. (Ord. 91-4 § 1, 1991; Ord. 83-9 § 1, 1983; Ord. 76-7 § 2, 1976)

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. For purposes of this section, the rent deemed payable on account of time-share occupancy by a transient shall be the rental value of the unit or room(s) which accommodated such occupancy, which rental value shall be computed by determining the pro rata share of the total actual purchase price of the time-share right or entitlement (whether or not involving any estate or any ownership in real property), or if the unit has not yet been sold at the time of rental, then the pro rata share of the current listed sales price or the comparable price if not listed for sale, which share is allocable to the period of transient occupancy currently involved, and adding thereto the total applicable operating costs including, but not limited to, the applicable real and personal property taxes, plus the total amount of any and all fees, assessments, charges and expenses (not including the previously referred to taxes) charged by the operator as attributable to the time-share occupancy of the transient by whatever name such fees, assessments, charges or expenses may be denominated, whether “occupying fee,” “maintenance or operations charge,” “per diem fee,” “management fee” or like name or otherwise. In making the computation referred to above of the pro rata share of the total purchase price or other applicable price, in any case wherein the time-share right or entitlement is in perpetuity or for life or otherwise not for a definite or ascertainable term, such proration shall be made upon an assumed term of thirty years. (Ord. 87-3 § 1, 1987; Ord. 83-9 § 2, 1983; Ord. 82-10 § 1, 1982; Ord. 76-7 § 3, 1976)

3.12.040 Exemptions.

- A. No tax shall be imposed upon:
 - 1. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax provided in this chapter;

2. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Ord. 76-7 § 4, 1976)

3.12.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. (Ord. 76-7 § 5, 1976)

3.12.060 Registration.

Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain from him a transient occupancy registration certificate, to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;

D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the tax administrator for the purpose of collecting from transients the transient occupancy tax and remitting the tax to the tax administrator. This certificate does not authorize a person to conduct unlawful business or to conduct a lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit." (Ord. 76-7 § 6, 1976)

3.12.070 Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar month, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by the administrator, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. Any return, including the amount of tax collected, not received by the city treasurer by the end of the fifth working day following the month in which said return is due shall be considered delinquent and shall be subject to penalties and interest pursuant to Section 3.12.080, i.e., August tax due by September 30th, delinquent by the end of the fifth working day of October. The tax administrator may establish shorter reporting periods for any certificate holder if the administrator deems it necessary in order to insure collection of the tax and the administrator may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator. (Ord. 2003-11 § 1, 2003; Ord. 76-7 § 7, 1976)

3.12.080 Penalties and interest.

A. Original Delinquency. An operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. An operator who fails to remit a delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid. (Ord. 76-7 § 8, 1976)

3.12.090 Failure to collect and report tax—Determination of tax by tax administrator.

If any operator fails or refuses to collect said tax and to make, within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be fixed. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.12.100. (Ord. 76-7 § 9, 1976)

3.12.100 Appeal.

An operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to the operator at his last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the

manner prescribed in Section 3.12.090 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. 76-7 § 10, 1976)

3.12.110 Records.

Every operator liable for the collection and payment to the city of any tax imposed by this chapter shall keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Ord. 76-7 § 11, 1976)

3.12.120 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 76-7 § 12, 1976)

3.12.130 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. (Ord. 76-7 § 13, 1976)

Chapter 3.14

UTILITY TAX

Sections:

- 3.14.010 Purpose.**
- 3.14.020 Definitions.**
- 3.14.030 Exemptions and procedures for exemptions.**
- 3.14.040 Telephone users tax.**
- 3.14.050 Electricity users tax.**
- 3.14.060 Gas users tax.**
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- 3.14.080 Cable television users tax.**
- 3.14.090 Interest and penalty.**
- 3.14.100 Actions to collect.**
- 3.14.110 Duty to collect—Procedures.**
- 3.14.120 Additional powers and duties of tax administrator.**
- 3.14.130 Assessment—Administrative remedy.**
- 3.14.140 Records.**
- 3.14.150 Refunds.**
- 3.14.160 Operative date.**
- 3.14.170 Sunset of tax—Extension.**
- 3.14.180 Limitation of actions.**

3.14.010 Purpose.

This chapter is enacted solely to raise revenue for the general governmental purposes of the city. All of the proceeds from the tax imposed by this chapter shall be placed in the city's general fund and used for the usual and current expenses of the city. (Ord. 93-7 § 1 (part), 1993)

3.14.020 Definitions.

The following words and phrases whenever used in this chapter shall be construed as defined in this section.

“City” means the city of Marina.

“Cogenerator” means any corporation or person employing technology for producing power from other than a conventional power source for the generation of electricity for self use or sale to others.

“Fuel” means natural or manufactured gas or any alternate hydrocarbon fuel which may be substituted therefor.

“Month” means a calendar month.

“Nonutility supplier” means:

1. A service supplier, other than an electrical corporation franchised to serve the city, which generates electrical energy in capacities of at least fifty kilowatts for its own use or for sale to others; or
2. A gas supplier other than a gas corporation, that sells or supplies gas to users within the city.

“Person” means any domestic or foreign corporation, firm, association, syndicate, joint stock company, partnership of any kind, joint venture, club, Massachusetts business or common law trust, society or individuals.

“Service supplier” means a utility company which receives taxes paid and remits same as imposed by this chapter.

“Service user” means a person required to pay a tax imposed by this chapter.

“State” means the state of California.

“Tax administrator” means the finance director of the city.

“Telephone corporation,” “electrical corporation,” “gas corporation,” “water corporation” and “cable television corporation” shall have the same meanings as defined in Sections 234, 218, 222, 241 and 215-5, respectively, of the Public Utilities Code of the state except, “electrical corporation,” “gas corporation” and “water corporation” shall also be construed to include any municipality, public agency, broker/marketer, person or franchised agency engaged in the selling or supplying of electrical power, gas or water to a service user. (Ord. 93-7 § 1 (part), 1993)

3.14.030 Exemptions and procedures for exemptions.

A. Nothing in this chapter shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of California statute, the Constitution of the United States or the Constitution of the state of California.

B. Any tax imposed by this chapter shall not apply to utilities supplied to the residence, located in the city, of a service user if:

1. The combined gross income of all members of the service user’s residence is less than that amount specified as the current low income limits for comparable household sizes for the local area, as determined by the United States Department of Housing and Urban Development (HUD) with regard to the Public Housing and Section 8 Program (specified as eighty percent of the median income for the area);

2. The service user’s net worth is less than five times the amount of the foregoing income exemption limit, exclusive of the service user’s residence; and

3. Such conditions are demonstrated to the tax administrator’s satisfaction to be likely to continue through the current fiscal year, or such conditions are demonstrated to the tax administrator’s satisfaction to exist during the current fiscal year even though the conditions did not exist during the prior calendar year.

C. The city council reserves the power to, by order or resolution, establish other classes of persons or classes of utility service otherwise subject to payment of a tax imposed by this chapter and provides that such classes of persons or services shall be exempt, in whole or in part from such tax.

D. Following application and approval of any exemption by the city, the tax administrator shall prepare a list of the persons exempt from the provisions of this chapter by virtue of this section and furnish a copy thereof to each service supplier.

E. The tax administrator shall adopt rules and regulations not inconsistent with the provisions of this chapter to carry out any grant of exemption and authorized by the city council pursuant to this section and any subsequent resolution. The tax administrator shall require such information as necessary, including but not limited to, personal identification and verified federal and state income tax returns, to qualify a service user for such exemption.

F. An exemption shall not apply retroactively. Service users shall only be entitled to an exemption after filing the required information and the receipt of notification of exemption from the tax administrator. (Ord. 93-7 § 1 (part), 1993)

3.14.040 Telephone users tax.

A. There is imposed on every person other than a telephone corporation, electrical corporation, gas corporation or water corporation, a tax for any intrastate and interstate telephone services in the city. The tax imposed by this section shall be at the rate of five percent of the charges made for such services and shall be paid by the person paying for such services.

B. As used in this section, the term “charges” does not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due; nor does the term “charges” include charges for any type of service or equipment furnished by a service supplier subject to public utility regulation during any period in which the same or similar services or equipment are also available for sale or lease from persons other than a service supplier subject to public utility regulations; nor do the words “telephone communications services” include land mobile services or maritime mobile services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as said section existed on January 1, 1970. The term “telephone communication services” refers to that service which provides access to a telephone system and the privilege of telephone quality communication with substantially all persons having telephone stations which are part of such telephone system. The telephone users tax is intended to, and does, apply to all charges billed to a telephone account having a situs in the city, irrespective of whether a particular communication service originates and/or terminates within the city.

C. The tax imposed by this section shall be collected from the service user by the person providing the telephone communications services, or the person receiving payment for such services. The amount of the tax collected in one month shall be remitted to the tax administrator on or before the last day of the following month; or at the option of the person required to collect and remit the tax, an estimated amount of the tax collected, measured by the tax bill in the previous month, shall be remitted to the tax administrator on or before the last day of each month.

D. Notwithstanding the provisions of subsection A of this section, the tax imposed under this section shall not be imposed upon any person for using telephone communication services to the extent that the amounts paid for such services are exempt from and not subject to the tax imposed under Division 2, Part 20 of the California Revenue and Taxation Code, or the tax imposed under Section 4251 of the Internal Revenue Code. (Ord. 93-7 § 1 (part), 1993)

3.14.050 Electricity users tax.

A. There is imposed a tax on every person other than a telephone corporation, electrical corporation, gas corporation or water corporation, using electrical energy in the city. The tax imposed by this section shall be at the rate of five percent of the charges made for such services and shall be paid by the person paying for such energy. The tax applicable to electrical energy provided by a nonutility supplier shall be determined by applying the tax rate to the equivalent charges the service user would have incurred if the energy used had been provided by the electrical corporation franchised by the city. Rate schedules for this purpose shall be available from the city. Nonutility suppliers shall install and maintain an appropriate utility-type metering system which will enable compliance with this section. “Charges,” as used in this section, includes charges made for:

1. Metered energy; and
2. Minimum charges for service, including customer charges, service charges, demand charges, standby charges and annual and monthly charges, fuel cost adjustments, etc., authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.

B. As used in this section, the term “using electrical energy” shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him or her for use in an automobile or other ma-

chinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries; nor shall the term include electricity used and consumed by an electric public utility; nor shall the term include the mere receiving of such energy by an electric public utility or

governmental agency at a point within the city for resale; or the use of such energy in the production or distribution of water by a public utility or a governmental agency.

C. The tax imposed in this section shall be collected from the service user by the person supplying such energy. The tax shall be self-imposed by nonutility suppliers as to their own use. The amount of tax collected or self-imposed in one month shall be remitted to the tax administrator on or before the last day of the following month. Remittance of tax may be predicated on a formula based upon the payment pattern of the supplier's customers. (Ord. 93-7 § 1 (part), 1993)

3.14.060 Gas users tax.

A. There is imposed a tax on every person other than a telephone corporation, electrical corporation, gas corporation or water corporation, using, in the city, natural gas which is delivered through mains and pipes. The tax imposed by this section shall be at the rate of five percent of the charges made for such services and shall be paid by the person paying for such gas. The tax applicable to fuel provided by nonutility suppliers shall be determined by applying the tax rate to the actual charges the service user incurred. "Charges" as used in this section shall include:

1. Natural gas which is delivered through mains and pipes; and/or fuel transportation charges, as applicable;

2. Minimum charges for such services, including customer charges, service charges and annual and monthly charges, and any other charge authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission. Notwithstanding any other part of this section, the tax applied to fuel used by a cogenerator or fuel cell shall only apply to that amount of fuel attributable to the generation of electricity used on site.

B. There shall be excluded from the base on which the tax imposed in this section is computed the following:

1. Charges made for natural gas which is to be resold and delivered through mains and pipes;
2. Charges made for natural gas sold for use in the generation of electrical energy or for the production or distribution of water by a public utility or governmental agency;

3. Charges made by a gas utility for gas used and consumed in the conduct of business of gas public utilities;

4. Charges made for gas used in the propulsion of motor vehicles, as that phrase is defined in the Vehicle Code of the state, utilizing natural gas;

5. Charges related to late payments and returned checks; and

6. Charges made for gas used by a nonutility supplier to generate electrical energy for its own use or for sale to others provided the electricity so generated is subject to the tax in accordance with Section 3.14.050 of this chapter.

C. The tax imposed by this section shall be collected from the person paying for the natural gas service by the person selling or transporting the fuel. A person selling only transportation services to a user for delivery of natural gas through mains or pipes shall collect the tax from the service user based on the transportation charges. The person selling or transporting the gas shall, on or before the twentieth day of each calendar month, commencing on the twentieth day of the calendar month after the effective date of the ordinance codified in this chapter, make a return to the tax administrator setting the amount of taxes billed during the preceding calendar

month. At the time such returns are filed, the person selling or transporting the gas shall remit tax payments to the tax administrator in accordance with the schedules established or approved by the tax administrator. (Ord. 93-7 § 1 (part), 1993)

3.14.070 Water users tax.

A. There is imposed a tax upon every person other than a telephone corporation, electrical corporation, gas corporation or water corporation using water which is delivered through mains or pipes in the city. The tax imposed by this section shall be at the rate of five percent of the charges made for such services and shall be paid by the person paying for such water. "Charges" as used in this section shall include:

1. Water which is delivered through mains or pipes; and
2. Minimum charges for service, including customer charges, service charges, demand charges, standby charges and all other annual and monthly charges.

B. There shall be excluded from the base on which the tax imposed in this section is computed charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility department or a city, county or municipal water district for water used and consumed by such department, utility or district.

C. The tax imposed in this section shall be collected from the service user by the person supplying the water. The amount collected in one month shall be remitted to the tax administrator on or before the last day of the following month. (Ord. 93-7 § 1 (part), 1993)

3.14.080 Cable television users tax.

A. There is imposed a tax upon every person in the city using cable television service. The tax imposed by this section shall be at the rate of five percent of the charges made for such service and shall be paid by the person paying for such service.

B. The tax imposed in this section shall be collected from the service user by the person furnishing the cable television service. The amount collected in one month shall be remitted to the tax administrator on or before the last day of the following month. (Ord. 93-7 § 1 (part), 1993)

3.14.090 Interest and penalty.

A. Taxes collected from the service user which are not remitted to the tax administrator on or before the due dates provided in this chapter are delinquent. Should the due date occur on a weekend or legal holiday, the return may be postmarked on the first regular working day following a Saturday/Sunday or legal holiday.

B. Interest and penalty shall accrue on any delinquent account at a legal rate as established by resolution; nonpayment when due shall constitute a misdemeanor enforceable under the provisions of this code. (Ord. 93-7 § 1 (part), 1993)

3.14.100 Actions to collect.

Any tax required to be paid by a service user under the provisions of this chapter shall be deemed a debt owed by the service user to the city. Any such tax received from a service user which has wilfully been withheld from the tax administrator shall be deemed a debt to the city by the person required to collect and remit. Any person failing to pay such tax when due or holding such money contrary to the provisions of this chapter shall be liable for costs of any action brought in the name of the city for the recovery of such amount, including but not limited to attorney's fees and court costs. (Ord. 93-7 § 1 (part), 1993)

3.14.110 Duty to collect—Procedures.

The duty to collect and remit the taxes imposed by this chapter shall be performed as follows:

A. Notwithstanding the provisions of Section 3.14.060C, the tax shall be collected insofar as practicable at the time and along with the charges made in accordance with the regular billing practices of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which has accrued for the billing period, such amount and any subsequent payments by a service user may be applied to the utility service charge first until such charge has been fully satisfied. Any remaining balance shall be applied to the taxes due, except in those cases where a service user pays the full amount of the charges but notifies the service supplier of his or her refusal to pay the tax imposed on the charges, see Section 3.14.130C.

B. The duty to collect tax from a service user shall commence with the beginning of the first full regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this chapter. Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing. (Ord. 93-7 § 1 (part), 1993)

3.14.120 Additional powers and duties of tax administrator.

A. The tax administrator shall have the power and duty, and is directed to enforce each and all of the provisions of this chapter.

B. The tax administrator shall have the power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the taxes imposed by this chapter. A copy of such rules and regulations shall be on file in the office of the tax administrator and available to the public during regular business hours.

C. The tax administrator may make administrative agreements to vary the strict requirements of this chapter so that collection of any tax imposed here may be made in conformance with the billing procedures of a particular service supplier so long as such agreements result in collection of the tax in conformance with the general purpose and scope of this chapter. A copy of each such agreement shall be on file in the tax administrator's office.

D. The tax administrator shall determine the eligibility of any person who asserts a right to exemption from the tax imposed by this chapter. The tax administrator shall provide the service supplier with the name of any person determined to be exempt from the tax imposed hereby, together with the address and account number in which service is supplied to any such exempt person. The tax administrator shall notify the service supplier of the termination of any person's right to exemption hereunder, or the change of any address to which service is supplied to any exempt person.

E. The tax administrator shall provide notice to all service suppliers, at least ninety days prior to any annexation or other change in the city's boundaries. The notice shall set forth the revised boundaries by street and address along with a copy of the final annexation order from the local agency formation committee. (Ord. 93-7 § 1 (part), 1993)

3.14.130 Assessment—Administrative remedy.

A. The tax administrator may make an assessment for taxes remitted by a person required to remit.

B. Whenever the tax administrator determines that a service user has deliberately withheld the amount of the tax owed by him or her from the amounts remitted to a person required to collect the tax, or that a service user has refused to pay the amount of tax to such person, or whenever the tax administrator deems it in the best interest of the city, the tax administrator may relieve such person of the obligation to collect taxes due under this chapter from certain named service users for specified billing periods.

C. The service supplier shall provide the city with the amounts refused along with the names, addresses and reasons for the service user refusing to pay the tax imposed under the provisions of this chapter. Whenever the service user has failed to pay the amount of the tax for a period of two or more billing periods, the service supplier shall be relieved of the obligation to collect taxes due.

D. The tax administrator shall notify the service user that he or she has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him or her personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have changed address, to the last known address. Any interest or penalty imposed shall become part of the tax herein required to be paid. (Ord. 93-7 § 1 (part), 1993)

3.14.140 Records.

It shall be the duty of every person required to collect and remit to the city any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as that person may have been liable for the remittance to the tax administrator, which records the tax administrator shall have the right to inspect at any reasonable time. (Ord. 93-7 § 1 (part), 1993)

3.14.150 Refunds.

A. Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded as provided in this section.

B. Notwithstanding the provisions of subsection A of this section, a service supplier may claim a refund or take as credit against taxes collected and remitted, the amount overpaid, paid more than once, or erroneously or illegally collected or received, when it is established that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected any amount of tax in excess of the amount of tax imposed by this chapter and actually due from a service user, may refund such amount to the service user and claim a credit for such overpayment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than three years from the date of overpayment.

C. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

D. Notwithstanding other provisions of this section whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the taxes paid pursuant to this chapter on the amount of such refund charges shall also be refunded to the service users, and the service supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event this chapter is repealed, the amount of any refundable taxes will be borne by the city. (Ord. 93-7 § 1 (part), 1993)

3.14.160 Operative date.

This chapter shall become operative only following approval of the voters of Measure M at the election of November 2, 2004 ("Measure M"). The tax imposed under this chapter shall apply to services furnished from the beginning of the first regular billing period following action by the city council, as follows:

A. Following approval of the voters of Measure M, the council may, by a four-fifths vote, following a specifically-noticed public hearing, and upon making a written finding, based upon adequate evidence in the record before the council, that the funds to be generated by the tax are needed to provide a basic level of essential city services for public safety, health and the activities and services for city youth and senior citizens, adopt an ordinance providing for a utility user's tax as a tax for general government purposes of up to but not to exceed five percent, and effective for a period of not to exceed two years. Pursuant to Government Code Section 36937, the ordinance of the council in this matter shall be effective immediately following its adoption.

B. For any subsequent period, the city council may, by a four-fifths vote, following two specifically-noticed public hearings, and upon making a written finding, based upon adequate evidence in the record before the council, that the funds to be generated by the tax are needed to provide a basic level of essential city services for public safety, health and the activities and services for city youth and senior citizens, adopt an ordinance providing for a utility user's tax as a tax for general government purposes of up to but not to exceed five percent, and effective for a period of not to exceed two years. The ordinance of the council in this matter shall not be effective for thirty days following the second reading (adoption) of the ordinance. (Ord. 2004-11 § 1, 2004)

3.14.170 Sunset of tax extension.

The tax imposed by this chapter shall automatically be terminated on January 1, 2011, unless further extended by action of the city council. (Ord. 2004-11 § 2, 2004)

3.14.180 Limitation of actions.

The validity of this chapter or of any tax levied pursuant to this chapter shall not be contested in any action or proceeding or defense unless such action or proceeding or defense has been brought or raised within sixty days from the date of the adoption of the ordinance codified in this chapter. Unless an action or proceeding is commenced or such defense raised within said period, this chapter and any tax levied pursuant to this chapter shall be held valid and in every respect legal and incontestable. (Ord. 93-7 § 1 (part), 1993)

Chapter 3.16

PURCHASING SYSTEM

Sections:

3.16.010 Adoption of system.

3.16.020 Purchasing officer—Powers and duties.

3.16.030 Requisitions.

3.16.040 Bidding required—Exceptions.

3.16.050 Purchases by purchase orders.

3.16.060 Bidding procedure.

3.16.070 Preference for local suppliers.

3.16.010 Adoption of system.

In order to establish efficient procedures for the purchase of supplies and equipment, to secure for the city supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted. (Ord. 76-4 § 1, 1976)

3.16.020 Purchasing officer—Powers and duties.

The city manager, or his appointee, shall act as purchasing officer. The purchasing officer shall have authority to:

- A. Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the purchasing officer shall adopt and such other rules and regulations as shall be prescribed by the city council;
- B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment;
- C. Act to procure for the city the needed quality in supplies and equipment at least expense to the city;
- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- E. Prepare and recommend to the city council rules governing the purchase of supplies and equipment for the city;
- F. Prepare and recommend to the city council revisions and amendments to the purchasing rules;
- G. Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;
- H. Supervise the inspection of all supplies and equipment purchases to insure conformance with specifications;
- I. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any agency or which have become unsuitable for city use;
- J. Maintain a bidders' list, vendors' catalog file and records needed for the efficient operation of the purchasing department. (Ord. 76-4 § 2, 1976)

3.16.030 Requisitions.

Using agencies shall submit requests for supplies and equipment to the purchasing officer by standard requisition forms. (Ord. 76-4 § 3, 1976)

3.16.040 Bidding required—Exceptions.

Purchases of supplies and equipment shall be by bid procedures as prescribed by this chapter; provided, that bidding shall be dispensed with when an emergency requires that an order be placed with the nearest available source of supply, or when the amount involved is less than five thousand dollars, or when the commodity or product can be obtained from only one vendor or when the city council has found by resolution that competitive bidding would be unavailing, would not produce an advantage and would not be in the public interest. An emergency shall be deemed to exist if:

- A. There is a great public calamity;
- B. There is immediate need to prepare for national or local defense;
- C. There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies or services to protect the public health, welfare or safety; and
- D. An essential operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchasing procedure would cause an undue delay in procurement of the needed item or service. (Ord. 96-9 § 1, 1996; Ord. 92-7 § 1, 1992; Ord. 76-4 § 4, 1976)

3.16.050 Purchases by purchase orders.

Except in those cases in which the bidding procedures set forth in this chapter are to be followed, all purchases of supplies and equipment shall be made by purchase order. Except in cases of emergency, the purchasing officer shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged. (Ord. 76-4 § 5, 1976)

3.16.060 Bidding procedure.

Except as provided by this chapter, purchases of supplies and equipment of an estimated value of five thousand dollars, or more shall be made from the lowest responsible bidder pursuant to the procedure prescribed herein, as follows:

A. Notice Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

B. Published Notice. Notice inviting bids shall be published at least ten days before the date of opening of the bids. Such notice shall be published at least once in a newspaper of general circulation, printed and published in the city, or if there is none, it shall be posted in at least three public places in the city.

C. Bidders' List. The purchasing officer shall also solicit sealed bids from all prospective suppliers whose names are on the bidders' list or who have requested that their names be added thereto.

D. Bidder's Security. When deemed necessary by the purchasing officer, or when required by law, bidder's security shall be prescribed in the public notices inviting bids. Bidders shall be entitled to return of bid security; provided, that a successful bidder shall forfeit his bid security upon refusal or failure to execute the purchase contract within ten days after the notice of award of contract has been mailed, unless the city is responsible for the delay. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

E. Bid Opening Procedure. Sealed bids shall be submitted to the purchasing officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

F. Lowest Responsible Bidder. In addition to price, the lowest responsible bidder will be determined by the city council, in its discretion, after the following factors have been considered:

1. The ability, capacity and skill of the bidder to perform the contract or provide service required;
2. Whether the bidder has the facilities to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The bidder's record of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies, equipment or services to the particular use required;

8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and

9. The number of scope of conditions attached to the bid.

G. Rejection of Bids. In its discretion, the city council may reject any or all bids presented, waive any informalities or make award on any alternative that may be in the best interest of the city.

H. Performance Bonds. The city council shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interest of the city. If the city council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids. (Ord. 92-7 § 2, 1992; Ord. 76-4 § 6, 1976)

3.16.070 Preference for local suppliers.

A. General Requirements. Each local supplier to the city, or any department or agency of the city, shall be eligible for a local preference as provided in this section.

B. Rights of First Refusal. Each local supplier who is within five percent of the lowest responsible bid and who is otherwise responsive and responsible to the call for bids shall be provided the opportunity to reduce the local supplier's bid to the amount equal to the amount of the lowest responsible bid, if the lowest responsible bid is submitted by other than a local supplier. The opportunity to reduce the amount of the bid shall be provided first to the lowest eligible local supplier and, if not accepted by such local supplier within five business days of the opening of bids, then to each successive eligible local supplier, in ascending order of the amount of bids, who is within five percent of the lowest responsible bid. In the event: an eligible local supplier reduces the bid to the amount of the lowest responsible bid, the eligible local supplier shall be deemed to have provided the lowest responsible bid and shall be awarded the contract.

1. The foregoing provisions apply only to competitive bids that require that contracts be awarded to the lowest responsible bidder. For contracts awarded pursuant to requests for proposals or requests for quotations, the awarding authority may consider, as one of the factors in determining the most suitable proposal or quotation, whether or not the proposal or quotation is submitted by a local supplier.

C. Definitions. For the purpose of this section, the term "local supplier" shall mean a business or resident doing business (i.e., having a city business license and reporting the city as the point of any business sales) and located (i.e., maintaining an office or location) within the city as a supplier of goods, supplies or equipment for the past two years. (Ord. 99-09 § 1, 1999)

Chapter 3.20

TREASURY FUNDS

Sections:

3.20.010 Separate funds.

3.20.020 Authorization to transfer.

3.20.010 Separate funds.

The following separate treasury funds are established for the city, and each of the funds hereinafter shall be designated by the fund number set forth before the fund name as follows:

Fund Number	Fund Name

- 10 General
- 20 Special Gas Tax
- 21 Traffic Safety
- 22 Revenue Sharing
- 23 Special Construction Assistance
- 24 Comprehensive Employment and Training Act
- 50 Interdepartmental Service
- 60 Workmen's Compensation Reserve
- 70 Capital Projects

(Ord. 76-10 § 1, 1976)

3.20.020 Authorization to transfer.

The finance director is authorized and directed to transfer balances in all presently existing funds to the proper funds as designated in this chapter. (Ord. 76-10 § 2, 1976)

Chapter 3.24

FEES AND SERVICE CHARGES REVENUE-TO-COST DETERMINATION SYSTEM

Sections:

3.24.010 Purpose and intent.

3.24.020 City manager to set fees and charges.

3.24.030 Determination of costs reasonably borne.

3.24.040 Percentage of costs recovered and fee or charge for listed services.

3.24.050 Setting of fees by ordinance.

3.24.060 Review and adjustments.

3.24.070 Public meeting.

3.24.010 Purpose and intent.

Pursuant to Article XIII B of the California Constitution, it is the purpose and intent of the city council to require the ascertainment and recovery of costs reasonably borne by the city from fees and charges levied by the city in providing the regulation, products or services enumerated in this chapter. (Ord. 99-14 § 1 (part), 1999)

3.24.020 City council to set fees and charges.

The city manager shall from time to time make recommendations to the city council regarding setting new fees or service charges and adjusting existing fees and charges to recover the percentage of costs reasonably borne by the city in providing the regulation, products or services enumerated in this chapter in the percentage and amount as set forth in Schedule 3.24.040 and on the schedule of review and revision as set forth in Section 3.24.060. "Costs reasonably borne" shall be as set forth in Section 3.24.030. In adjusting fees and charges, the city manager shall act in an administrative and ministerial capacity and shall consider only the standards and criteria established by this chapter. (Ord. 99-14 § 1 (part), 1999)

3.24.030 Determination of costs reasonably borne.

“Costs reasonably borne,” as used and ordered to be applied in this chapter, are to consist of the following elements:

A. All applicable direct costs including, but not limited to, salaries, wages, overtime, employee fringe benefits, services and supplies, maintenance and operation expenses, contracted services, special supplies and any other direct expense incurred;

B. All applicable indirect costs including, but not restricted to, building maintenance and operations, equipment maintenance and operations, communications expenses, computer costs, printing and reproduction and like expenses when distributed on an accounted and documented rational proration system;

C. Fixed assets recovery expenses, consisting of depreciation of fixed assets, and additional fixed asset expense recovery charges calculated on the estimated cost of replacement, divided by the approximate life expectancy of the fixed asset, with an adjustment for the replacement cost using the Consumer Price Index;

D. General overhead, expressed as a percentage, distributing and charging the expenses of the city council, city manager, city clerk, public safety department, planning department, building department, public works department, finance, parks and recreation, city attorney’s office and all other staff and support service provided to the entire city organization as now organized, and as it may be reorganized at any time in the future. Overhead shall be prorated between tax-financed services and fee-financed services on the basis of such percentage so that each of taxes and fees and charges shall proportionately defray such overhead costs;

E. Departmental overhead, expressed as a percentage, distributing and charging the cost of each department head and his or her supporting expenses as enumerated in subsections A, B and C of this section;

F. Debt service costs, consisting of repayment of principal, payment of interest, and trustee fees and administrative expenses for all applicable bond, certificate or securities issues or loans. Any required coverage factors of added reserves beyond the basic debt service costs also shall be considered a cost if required by covenant within any securities ordinance, resolution, indenture or general law applicable to the city. (Ord. 99-14 § 1 (part), 1999)

3.24.040 Percentage of costs recovered and fee or charge for listed services.

The city manager and each city department director, under the direction of the city manager, shall review the fees and service charges listed on Schedule 3.24.040, set out at the end of this section, and shall recommend to the city council the setting of or adjustment to the fees or charges so as to recover the listed percentage of costs reasonably borne necessary to provide the listed regulation, products or services. The city manager and the responsible department director shall make reasonable efforts and take reasonable steps to notify, seek input from and take into consideration the opinions of any person or group who may be affected by any fee set or adjusted hereunder, including, when appropriate, an administrative hearing by the city manager, department director or appropriate city commission.

Schedule 3.24.040

No.	Regulation, Product or Service	Percentage of Costs to be Recovered	Fee or Charge

COMMUNITY DEVELOPMENT SERVICES

(Building Department fees shall be in accordance with the 1994 Uniform Building Code, Table 1-A “Building Permit Fees,” except as specified herein.)

1. Preliminary project review 100
 - Commercial, Multiple-Family and Industrial Zoning
 - No new construction \$50.00
 - Hotel/motel/multifamily \$950.00 + \$22.00/Ksf
 - Major subdivisions \$950.00 + \$50.00/lot
 - Commercial and industrial new square footage \$540.00 + \$44.00/Ksf
 - Return of incomplete submittal \$110.00
 - Each added reviews \$540.00 or 1/3 original fee if greater

Single-Family Residential Zoning

- No new construction \$216.00
- Residential (incl. minor subdivisions) \$432.00 + \$20.00/unit
- New construction (one unit) \$432.00
- Return of incomplete submittal \$54.00
- Additional reviews \$216.00

Percentage of Costs

No.	Regulation, Product or Service	to be Recovered	Fee or Charge
2.	Building plan checking	100	Per UBC
	Construction inspection	100	Per UBC
3.1	Commercial building	100	Per UBC
3.2	Residential building	100	Per UBC
	Sprinkler-building multiplier		+5% as allowed by code
4.	Residential property inspection for buyers	100	\$35.00
	Residential building construction valuation		\$100.00
5.	Mobile home inspection	15	Per UBC
6.1	Commercial building reinspection	100	Per UBC
6.2	Residential building reinspection	100	Per UBC
7.	Requested special inspection	100	Per UBC
7.1	Plumbing, mechanical and electrical	100	\$50.00
7.2	Re-roofing	100	\$100
8.0	General plan amendment review	100	

Minor text (alterations of existing sections)	\$600.00
Major text (addition of new sections)	\$1,000.00 deposit/Cost of service
Map	\$300.00 + \$100.00/acre deposit/Cost of service
Return of incomplete submittal	\$25.00
Additional reviews, meetings and staff reports for minor text amendments	\$100.00 each

8.1 General plan fee 100 \$500.00/acre for all uses
except public facilities

Percentage of Costs	
No. Regulation, Product or Service	to be Recovered Fee or Charge
9. Zoning ordinance amendment review	100
Minor text (alterations of existing sections)	\$500.00 for first section changed + \$200.00 for each additional section changed
Major text (addition of new sections)	\$1,000.00 deposit/Cost of service
Minor map <2 acres	\$500.00
Major map >2 acres	\$300.00 + \$100.00/acre deposit/Cost of service
Return of incomplete submittal	\$25.00
Additional reviews, meetings and staff reports for minor text and map amendments	\$100.00 each
10. Specific plan review	100 \$100.00/acre deposit/ Cost of service (Minimum deposit of \$20,000.00 required for projects over 200 acres with additional deposit under \$100.00/acre upon approval of city manager based upon estimate of the cost of service.)
11.1 General development plan review	100
General development plan review for commercial and industrial and multifamily Concurrent with full site design review	
<15,000 sf	\$750.00
>15,000 sf	Negotiated fee for cost of service
Separate from full site design review	Negotiated fee for cost of service
11.2 Reclamation plan	100 \$1,000 deposit/Cost of service + Cost of plan preparation if under city contract.
12. Site design review	100

Commercial, multifamily and industrial

No new square footage \$660.00

Hotel/Motel/multifamily:

1-7 units \$840.00

8-36 units \$120.00/unit

>36 units Negotiated fee for cost of service

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

12. (Cont'd.) Commercial and industrial:

<3,000 sf \$800.00

3,000-15,000 sf \$780.00 + \$240.00/Ksf

>15,000 sf Negotiated fee for cost of service

Recreational vehicle park Negotiated fee for cost of service

Additional meetings \$100.00 for DRB and \$350.00 for PC

13. Rezoning request review 100 Fee same as item #9

14. Zoning permit review 100 Fee same as item #16

15. Planning appeal processing 100

Zoning appeals for commercial and industrial \$350.00 per action appealed

Zoning and minor subdivision appeals — All permits

Coastal permits 0

Single family homes \$100.00

Added meetings and reports \$100.00

16. Conditional use permit review 100

Use permit and zoning permit review for single-family residential

No new square footage \$285.00

Residential \$228.00 + \$14.00/unit

Additional meetings \$132.00

Use permit and zoning permit review for commercial, multifamily and industrial

No new square footage \$875.00

Hotel/motel/multifamily

1-7 units \$875.00

8-36 units \$125.00/unit

>36 units Negotiated fee for cost of service

Commercial and industrial

<15,000 sf \$500.00 + \$140.00/Ksf

>15,000 sf Negotiated fee for cost of service

Recreational vehicle park	Negotiated fee for cost of service
Additional meetings	\$400.00

No.	Regulation, Product or Service	Percentage of Costs to be Recovered	Fee or Charge

17. Variance review 100

Single-family residential	
Single-family home variance	
1st Ordinance section	\$750.00
Each added section	\$600.00
Added meetings and reports	\$300.00

Commercial, multifamily and industrial variances	
Variance from ordinance section	\$1,200.00 ea./sec.
Added meetings	\$350.00

18. Coastal development permit review 100

Coastal development permit review for single-family residential	
Exemption/exclusion	\$30.00
No new square footage	\$200.00
Single-family residential	\$200.00 + \$10.00/unit
Added meetings and reports	\$100.00

Coastal development permit review for commercial, multifamily and industrial	
No new square footage	\$675.00

Hotel/motel/multifamily	
1-7 units	\$775.00
8-36 units	\$125.00/unit
>36 units	Negotiated fee for cost of service
Commercial and industrial	
<15,000 sf	\$435.00 + \$125.00/Ksf
>15,000 sf	Negotiated fee for cost of service
Additional meetings	\$350.00 (meeting in Marina)
	\$500.00 (meeting with Coastal Commission)

19. Local coastal program amendment review 100 Fee same as item #8

20. Sign review 100

Development of sign program — existing building	\$100.00
New sign	\$100.00
Sign face change	\$15.00

Temporary sign abatement storage and removal costs

Days 1-9	\$10.00	
Days 10-19	\$15.00	
Days 20-21 forward	\$20.00	

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

21. Lot line adjustment review 100 \$700.00

22. Environmental assessment review 100
Categorical exemption 0
initial study/negative declaration \$216.00

23. Environmental impact report 100
Report \$2,000.00 deposit
[Cost of service + cost of report]

24. Annexation review 100 \$50/Acre deposit/
Cost of service

(Minimum deposit of \$10,000 required for projects over 200 acres with additional deposit under \$50/acre upon approval of city manager based upon estimate of the cost of service.)

25. Tentative subdivision map review 100
Tentative map \$1,800.00 + \$100.00/lot
Exceptions \$700.00/lot w/exception
Return of incomplete submittal \$100.00
Additional reviews, meetings and staff reports \$350.00

26. Minor subdivision map review 100
Minor subdivision \$1,600.00
Exceptions \$700/lot w/exception
Minor subdivision appeal \$700.00
Return of incomplete submittal \$100.00
Additional reviews, meetings and staff reports \$350.00

27. Minor subdivision map check 100
Parcel map checking/processing \$600.00 per map

28. Final subdivision map check 100
Final map checking/processing \$750.00 + \$60.00/lot
Engineering inspection and administration
during construction 4% of engineer's value of improvements

29. Satellite antenna permit review 100 \$100.00

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

30. Subdivision public improvement plan check 100
\$200 per sheet and \$200 per 600 lineal ft. or fraction thereof

31. Subdivision improvement inspection 100
(Engineering inspection and administration during construction)
4% of city engineers value of improvements

32. Street encroachment plan check 100
600 LF street design \$240.00 per sheet
(Plan scale shall not be smaller than 1" = 20 ft.)

33. Street encroachment inspection 100
Encroachment permits
(When one or more items of work will be covered by the same
encroachment permit only one permit fee will be charged
for the item of work having the highest permit fee.
Inspection fee will be charged for various items of work as
set forth below.)

Minimum permit fee	\$20.00
Debris boxes	\$20.00
Pole installation or removal	\$75.00
Tree removal	\$40.00
Misc. items not covered by other permits	\$40.00
Curbs with or without gutter	\$100.00 + \$1.00/lf
Sidewalks	\$20.00 + 20¢/sf
Commercial drive approach	\$60.00
Street construction	\$360.00 + \$50/100 sf or fraction
Utility vault	\$100.00

Trenching permit \$300.00 + 1 or 2 below

1. Trench width 12 inches or greater: \$2.00 per LF for first 1,000
LF + \$1.00 per LF in excess of 1,000 LF

2. Trench width less than 12 inches: \$1.00 per LF for first 1,000
LF + 50¢ per LF in excess of 1,000 LF

Excavation — 25 sf or less \$50.00

Excavation — over 25 sf \$50.00 + \$1.50 ea. addtl. sf

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

33. (Cont'd.) Excavations over 5 feet in depth \$50.00 + \$1.00 ea. addl. 2 feet
in depth or fraction

(Exclusions: trenching or excavations
within subdivisions where the developer
is paying for engineering,
inspection, trenching or excavations
being done for the undergrounding of
existing overhead wires are not subject
to encroachment fees.)

34. Street cut inspection 100
4% of city engineers estimate of cost of improvements

35. Grading plan review 100
50 CY or less 0
First 1,000 CY \$100.00
1,001—10,000 CY \$300.00
10,001—100,000 CY \$300.00 + \$50.00/ea. addl. 10,000 CY or fraction
101,001—200,000 CY \$750.00 + \$30.00/ea. addtl. 10,000 CY or fraction
200,001 CY or more \$1,070.00 + \$15.00/ea. addtl. 10,000 CY or fraction

Grading permit
50 CY or less No permit required
51—1,000 CY \$100.00
1001—10,000 CY \$300.00
10,001—100,000 CY \$300.00 + \$60.00/ea. addtl. 10,000 CY or fraction
100,001—200,000 CY \$840.00 + \$45.00/ea. addtl. 10,000 CY or fraction
200,001 or more \$1,245.00 + \$30.00/ea. addtl. 10,000 CY or fraction

36. Drainage plan review 100
10,000 sf \$300.00
10,001—200,000 sf \$300.00 for 10,000 sf + \$45.00/ea. addtl. 10,000 sf or fraction
200,000 or more \$1,155.00 for 200,000 sf + \$3.00/ea. addtl. 1,000 sf or fraction

37. Developer agreement preparation 100 2 × FBHRP
with a one-half hour minimum
(FBHRP: for full time miscellaneous employees, fully
burdened hourly rate of pay is defined as the sum of annual
salary and fringe benefits divided by 1728 hours for each
employee engaged in that activity or 1455 hours for public

safety employees. Agreement preparation necessary to supplement standard agreements or to apply to a specific circumstance. Included with these agreements would be the following: Public Improvement Agreements, Encroachment Agreements, Supplemental Subdivision Agreements and other specific development agreements.)

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

38. Development modification request review 100 2 × FBHRP
with a one-half hour minimum

38.1 Occupancy permit 100* Per UBC

38.2 Occupancy permit appeal to city council 100* Per UBC

PUBLIC SAFETY SERVICES

39. Vehicle code enforcement 30 Set by court

40. Parking enforcement 65 See bail schedule
Parking Permit Fees

(2 guest permits shall be given free with each permit. Fees are established pursuant to Chapter 10.42 of the Municipal Code and are subject to rules and regulations set forth therein.)

Initial permit	\$25.00	
Renewal (each permit)	\$10.00	
Addtl. permits	\$5.00	
New permit — no initial permit issued		
Six months or less	\$15.00	
Annual	\$25.00	
Temporary parking permit (one time special event)		\$5.00
Replacement of lost or stolen permit	\$10.00	

41. General code enforcement 19 Set by court

42. Business regulation 100
Cardroom
Cardroom permit application feet \$200.00 + \$75.00/table
Cardroom permit renewal \$75.00/table
Employee permit application \$75.00
Employee permit renewal \$75.00

Massage	
Studio application fee	\$200.00
Studio permit renewal	\$200.00
Employee permit application	\$75.00
Employee permit renewal	\$75.00

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

42. (Cont'd.) Private property towing

Tow service application fee	\$200.00
Tow service renewal	\$200.00
Employee permit application	\$75.00
Employee permit renewal	\$75.00

Taxicab driver permit

Permit application \$100.00 + \$100.00/driver to a max. of \$800.00

Commercial vehicle parking

Permit application	\$100.00
Permit renewal	\$50.00

Gun dealer

Permit application	\$100.00
Permit renewal	\$50.00

Secondhand dealer

Permit application	\$200.00
Permit renewal	\$100.00

Solid waste service contract $1.86 \times \text{FBHRP}$

43. Dance regulation 50

Annual permit	\$200.00
Per dance	\$40.00

44. Bingo regulation 100

Permit (per year)	\$200.00

45. Accident investigation 50

Long form (injury/fatal)	10¢ per page
Short form (non-injury)	10¢ per page

46. Police false alarm response 100

1st alarm	0	
2nd alarm	\$100.00	
3rd, 4th, 5th alarm w/in 90 days		\$120.00
6 or more alarms w/in 90 days		\$140.00/ea.

Percentage of Costs

No.	Regulation, Product or Service	to be Recovered	Fee or Charge
47.	Special event regulation	50	$\$125.00 + 1.86 \times \text{FBHRP}$
48.	Concealed weapon investigation	100	
	Weapons storage processing		$\$25.00 + \$10.00$ for weapon left beyond court deadline
	Concealed weapon permit		\$479.00
49.	Vehicle inspection	100	\$10.00
	VIN verification		\$10.00
	Vehicle storage processing fee		\$75.00
50.	Fingerprint card processing	100	\$25.00/card
51.1	DUI arrests	100	\$459.00
51.2	DUI arrests with fire response	state limit	\$1,000.00
52.	Police photograph sale	100	\$45.00/set
53.	Animal regulation	100	
	Neutered or spayed animals		\$12.00/year
	All others		\$24.00/year
54.	State mandated fire inspection	100	Direct cost
55.	Special fire inspections	100	
	Sprinklered plan check		\$120.00
	Structure plan check		\$55.00
	Fire alarm plan check		\$65.00
	Hazardous material abatement		$1.86 \times \text{FBHRP}$
56.	Fire prevention inspection	50	
	1st one free 2nd 3rd 4th		
	Public assembly	\$100.00	\$150.00 \$200.00
	Business	60.00	90.00 120.00
	Educational	100.00	150.00 200.00
	Hazardous	100.00	150.00 200.00

Institutional	100.00	150.00	200.00
Parking garage	40.00	60.00	80.00
Residential	40.00	60.00	80.00

Percentage of Costs

No.	Regulation, Product or Service	to be Recovered	Fee or Charge
57.	Fire water vacuum 100	Direct cost	
58.	Utility emergency stand-by	100	\$200.00/hr
59.	False fire alarm response	100	
	1st alarm	0	
	2nd alarm	\$100.00	
	3rd, 4th, 5th alarm w/in 90 days		\$150.00
	6 or more alarms w/in 90 days		\$200.00/ea.
60.	Weed abatement	100	$1.86 \times \text{FBHRP}$
60.1	Alarm user's permit fee — Prior to a response	0	** 0
60.2	Alarm user's permit fee — After a response	100	** \$15.00
60.3	Designation of handicapped parking spaces on streets —		
	Annual permit	100	** Direct cost
60.4	Painting of handicapped parking space	100	** Direct cost

RECREATION SERVICES

61.	City adult sports league	60	
	ResidentNonresident		
	61A Fast pitch softball	\$424.00	\$484.00
	61B Slow pitch softball	299.00	324.00
	61C Basketball	249.00	274.00
	61D Volleyball	129.00	134.00
	61E Socko	274.00	284.00
	61F Mens' basketball	249.00	274.00
62.	City youth sports league	0	No charge
63.	City five-mile run	50	
	Early registration		\$15.00/person
	Late registration		\$20.00/person

64.1	Sports field lighting — Youth activity	25	\$12.30/hr
64.2	Sports field lighting — Adult activity	50	\$21.00/hr

Percentage of Costs to be Recovered			
No.	Regulation, Product or Service		Fee or Charge
65.	Summer youth program	0	No charge
66.	Contract recreation activities	100	

(Beginning 1999)							
	1st Year	2nd Year	3rd Year	4th Year	5th Year		
66.003	Akido Dojo	\$1,240.00		\$1,480.00	\$1,720.00	\$1,950.00	\$2,200.00
66.004	Creative movement — for children			324.00	368.00	412.00	456.00 500.00
66.005	Jazzercise	3,560.00		4,920.00	6,280.00	7,640.00	9,000.00
66.006	Gymnastics	5,400.00		5,800.00	6,200.00	6,600.00	7,000.00
66.007	Yoga	228.00	320.00	412.00	505.00	600.00	
66.009	Roller hockey	----- Lease terms -----					
66.010	Ord tennis	----- Use Permit -----					
66.011	Animal programs	2,210.00		2,295.00		3,780.00	4,565.00 5,350.00
66.012	Beginning tap dance	400.00	500.00	600.00	700.00	800.00	
66.013	Latin dance instruction		600.00	700.00	800.00	900.00	1,000.00
66.014	Israeli folk dancing	360.00	520.00	680.00	840.00	1,000.00	

67.	Community center and building rentals	50	
(Minimum rental period for <u>all</u> buildings is two hours.)			

Percentage of Costs to be Recovered			
(67)	Contract rental	50	\$40.00/hr
(67A)	Event — resident	25	\$20.00/hr
(67B)	Event — resident nonprofit	12.5	\$10.00/hr
(67C)	Event — nonresident	100	\$80.00/hr
(67D)	Event — nonresident nonprofit	50	\$40.00/hr
(67E)	City sponsored	0	No charge
(67F)	City sponsored fund raiser	12.5	\$10.00/hr
(67G)	Damage deposit *	100	\$300.00
(67H)	Clean-up deposit *	100	\$200.00
(67I)	Equipment rental:		
	Chairs**	\$0.50/ea	
	Tables**	\$4.00/ea	
	Kitchen	\$10.00	

*The city's actual cost of cleaning the building shall be deducted from the clean-up deposit and the balance shall be refunded. If the clean-up deposit is insufficient to cover the cost of cleaning the building, the balance of the cost shall be deducted from the damage deposit and if that deposit is insufficient for cleaning and/or repairs of damage, the permittee shall be responsible for reimbursing the city for the balance.

**There is no charge to a renter of the building for the amount of tables and chairs normally kept in the building. Additional tables and chairs moved into the building or any table or chairs rented for use without renting the building shall be charged the indicated rate.

Percentage of Costs

No.	Regulation, Product or Service	to be Recovered	Fee or Charge
68.	DiMaggio park building rental	50	
	Fireside room		
	Contract rental	\$40.00/hr	
	Resident	\$20.00/hr	
	Resident nonprofit	\$10.00/hr	
	Nonresident	\$25.00/hr	
	Nonresident nonprofit	\$13.00/hr	
	City sponsored	No charge	
	Damage deposit	\$75.00 (\$10.00 is nonrefundable)	
	Clean-up fee	\$35.00 nonrefundable	
	Equipment rental:		
	Chairs	50¢/ea.*	
	Tables	\$4.00/ea.*	
	P.A. system	\$10.00	
	(*nonprofit organizations have first hour free on chairs and tables)		
68.1	Community service/social counseling	25	
68.2	Community service/education by others	0	
68.3	Youth dances	33	
68.4	Organized youth groups	0	
68.5	Senior nonprofit programs	0	
68.6	City sponsored nonprofit events	0	
68.7	Fort Ord recreation building	100	(contract-long term)
	50(event-short term)		
	West wing		
	Contract rental	\$15.00/hr	
	Event resident	\$7.50/hr	
	Event resident nonprofit	\$5.00/hr	
	Event nonresident	\$15.00/hr	

Event nonresident nonprofit	\$7.50/hr
City sponsored	No charge
Damage deposit	\$75.00 (\$10.00 is nonrefundable)
Clean-up fee	\$50.00 nonrefundable

Percentage of Costs

No.	Regulation, Product or Service	to be Recovered	Fee or Charge

68.7 (Cont'd.) Center room

Contract rental	\$10.00/hr
Event resident	\$5.00/hr
Event resident nonprofit	\$4.50/hr
Event nonresident	\$10.00/hr
Event nonresident nonprofit	\$5.00/hr
City sponsored	No charge
Damage deposit	\$75.00 (\$10.00 is nonrefundable)
Clean-up fee	\$50.00 nonrefundable

East wing

Contract rental	\$10.00/hr
Event resident	\$5.00/hr
Event resident nonprofit	\$4.50/hr
Event nonresident	\$10.00/hr
Event nonresident nonprofit	\$5.00/hr
City sponsored	No charge
Damage deposit	\$75.00 (\$10.00 is nonrefundable)
Clean-up fee	\$50.00 nonrefundable

68.8 Tate Scout House 100 (Contract-long term)

50(Event-short term)

Contract rental	\$10.00/hr
Event resident	\$5.00/hr
Event resident nonprofit	\$4.00/hr
Event nonresident	\$10.00/hr
Event nonresident nonprofit	\$5.00/hr
City sponsored	No charge
Damage deposit	\$75.00 (\$10.00 is nonrefundable)
Clean-up fee	\$35.00 nonrefundable

FINANCE AND ADMINISTRATIVE SERVICES

69.	Redevelopment agency administration	100	Direct cost

70.	NSF check processing	100	\$45.00

71.	New business license review	100	\$50.00
72.	Property damage reimbursement	100	Direct cost
73.	Chamber of commerce rental	**	

Percentage of Costs

No. Regulation, Product or Service to be Recovered Fee or Charge

74.	Sale of documents and copies	100	
	Publications		
	Mining inspection report	0	
	General plan	\$20.00	
	Housing element	\$20.00	
	Zoning ordinance	\$10.00	
	Local coastal plan	\$5.00	
	Local coastal implementation plan		\$5.00
	Maps G.P. and zoning	\$2.00	
	Subdivision ordinance	\$10.00	

Copies 10¢ per 8½ × 11 sheet

Maps \$2.00/page

75.	Research assistance (In excess of 15 minutes)	100	\$45.00/hr
	Research assistance		
	Project proposal — Prior to specific preliminary application		
	2 FBHRP* for planning + 2 FBHRP for public works		
	General research		
	First 15 minutes	No charge	
	>15 minutes	2 FBHRP for planning + 2 FBHRP for public works	

76.	New services	100	Direct cost

77.	Street banner installation (rental)	100	
		\$115.00 for seven days	
		\$130.00 for fifteen days	

* Services 38.1 and 38.2 as listed in this section shall be as generally defined or referred to in Chapter 15.54 of this code.

** Services 60.1 through 60.4 as listed in this section shall be as generally defined or referred to in Chapter 8.24 of this code.

The regulation, product or service as listed in this section shall be as generally defined or referred to in that certain document entitled "Cost Control System for the City of Marina," dated October 16, 1987, as produced by Management Services Institute and as updated by city staff. (Ord. 2000-12 § 1, 2000; Ord. 99-14 § 1 (part), 1999)

3.24.050 Setting of fees by ordinance.

A. General. All fees and charges set pursuant to this chapter shall be set by ordinance and shall take effect sixty days following the adoption of the ordinance for those fees specified in Government Code Section 66017 and thirty days after the passage of the ordinance for all other fees and charges. The ordinance shall state that all provisions of this chapter have been complied with.

B. Recreation Services Fee Appeal Process. A representative selected by the participants in each category of services will be invited and encouraged to work with the city manager and recreation director and staff to recommend adjustments in the schedule of fees for recreation services. Following consultation and discussions with staff, should a representative believe that an adjustment is not justified, an appeal for reconsideration of the city manager's recommendation may be made in writing to the city's recreation and community services commission. Any appeal of the recommended adjustment shall include a financial statement for the program which details charges made to each participant, a schedule of operations for the activity and the number of participants. Such appeal shall be placed on the agenda for the next ensuing commission meeting after receipt of such appeal and heard at the next commission meeting. The recreation director shall, after the commission's resolution of any appeal, provide recommended adjustments to the schedule for recreation services fees to the city manager. If the city manager concurs with the recommendation of the commission, its determination shall be upheld and the fee amount as determined by the commission shall be included in the city manager's recommendation. If the city manager does not concur with a recommendation of the commission, the city council shall determine the fee amount. (Ord. 99-14 § 1 (part), 1999)

3.24.060 Review and adjustments.

All fees and charges shall be reviewed by the city manager annually and a recommendation to set or adjust a fee, if necessary to conform to this chapter shall be made to the city council. The schedule of frequency of fee adjustment recommendations may be varied by the city manager if, in his judgment and that of the requesting department director, a gross inequity would be perpetrated by the existing rate schedule on a new, and unanticipated event. The schedule of frequency of fee adjustment recommendations also may be varied by the city manager to adjust revenues sufficient to meet debt service coverage requirements of any bond, certificate, or ordinance, resolution, indenture, contract or action under which securities have been issued by the city which contain any coverage factor requirement. (Ord. 99-14 § 1 (part), 1999)

3.24.070 Public meeting.

Pursuant to Government Code Sections 66016 and 66018, the city clerk shall cause notice to be provided as set out in Government Code Sections 66016, 66018 and 6062a and the city council, periodically and at least annually, shall receive at a public regularly scheduled meeting, oral and written presentation. That public meeting shall be scheduled by the city council prior to the city manager making any final recommendation to the city council concerning new or proposed adjustments to fees or service charges. At least ten days prior to the scheduled public meeting, the city manager shall make available to the public appropriate data indicating the cost or estimated cost required to support the fees or charges proposed. The city manager also shall provide a summary of the present fees or charges proposed. The city manager also shall provide a summary of the present fee and charge schedules and those proposed at the public meeting. A general explanation of such fees and charges shall be published per the requirements of Government Code Section 6062a. (Ord. 99-14 § 1 (part), 1999)

Chapter 3.26

MITIGATION FEES FOR NEW DEVELOPMENT

Sections:

- 3.26.010 Purpose and intent.**
- 3.26.020 Definitions.**
- 3.26.030 City council to set fees.**
- 3.26.040 Purpose of fees.**
- 3.26.050 Payment of fees.**
- 3.26.060 Disposition of fees.**
- 3.26.070 Adoption or increase of fees.**
- 3.26.080 Protest of fees.**

3.26.010 Purpose and intent.

Pursuant to the Mitigation Fee Act, Sections 66000 et seq., of the California Government Code, the city may impose and charge mitigation fees as a condition of approval for development projects. This chapter and the fees imposed pursuant to this chapter shall be subject to the provisions of the Mitigation Fee Act, except as otherwise specifically modified herein. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.020 Definitions.

As used in this chapter, the words or terms “development project,” “fee” and “public facilities” shall be defined in Government Code Section 66000. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.030 City council to set fees.

A. Periodically, the community development director (“director”) shall cause to be prepared a “development impact fee study” (“study”). The study shall evaluate the impacts of contemplated future development on existing public (building) facilities, public safety facilities, transportation (roadways and intersections), and parks (“facilities”) in the city of Marina along with an analysis of the need for new facilities and improvements required by new development, as set forth the reasonable relationship between such needs and the impacts of the various types of development pending or anticipated for which this fee is charged and describe the estimated costs of those improvement and the continued need for those improvements. Cost estimates shall be set forth in the study that are the current reasonable cost estimates for constructing the facilities, and the fees expected to be generated by new development may not exceed the total of these costs. If, in his or her opinion, the study demonstrates that there is a need in the city for facilities that have not been contracted, or have been constructed but for which new development has not contributed its fair share of facility costs, and such facilities have been called for in or are consistent with the study, the director shall forward the study to the council for its consideration.

B. If the council determines that the facts and evidence presented in the study establish that there is a reasonable relationship between the need for the described facilities and the impacts of the types of development described, for which the corresponding fee is charged, and there is a reasonable relationship between the fee’s use and the type of development for which the fee is charged, as these reasonable relationships and nexus are described in the study, the council may set the fees as described in the study. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.040 Purpose of fees.

The purpose of the fees shall be to finance only the facilities described or identified in the study to reduce the impacts of growth caused by new development within the city. The fees shall be used solely to (1) pay for the described facilities to be constructed by the city, (2) reimburse city for the development's fair share of those capital improvements already constructed by city, (3) reimburse other developers who have constructed facilities described in the study, where those facilities were oversized or in excess of that needed to mitigate impacts created by such developers' project or projects. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.050 Payment of fees.

For new development, mitigation fees shall be charged and payable as set out in Table 1.4 of this chapter. The director shall determine, based on the type of development, the corresponding fee to be paid pursuant to this chapter. The fees shall be paid prior to issuance of any building permit for new development within the city.

Table 1.4
Development Impact Fee Summary

Land Use	Public Buildings Fee	Public Safety Fee	Roadways Fee	Intersections Fee	Parks Fee	Total Fee¹
Residential						
Single-family dwellings	\$2,120.00	\$1,498.00	\$3,214.00	\$1,638.00	\$8,766.00	\$17,236.00
Senior homes	1,413.00	999.00	1,246.00	635.00	5,844.00	10,137.00
Assisted living—Senior	785.00	555.00	920.00	469.00	3,247.00	5,976.00
Multifamily dwellings	1,963.00	1,387.00	2,227.00	1,135.00	8,117.00	14,828.00
Nonresidential						
Office/research	\$ 525.00	\$ 925.00	\$ 3,698.00	\$1,884.00	-	\$ 7,032.00
Retail/service ²	315.00	555.00	14,885.00	7,585.00	-	23,340.00
Hotel	1,507.00	1,273.00	2,744.00	1,398.00	-	6,923.00
Industrial	105.00	185.00	2,341.00	1,193.00	-	3,824.00

¹ Fee in this table refers to "fee per dwelling unit" or "fee per one thousand square feet of building space for nonresidential land uses."

² Hotels are "fee per room."

(Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.060 Disposition of fees.

The fees collected pursuant to this chapter shall accounted for, administered and disposed of only in accordance with Government Code Sections 66001 (c) through (e). (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.070 Adoption or increase of fees.

A. All fees and charges adopted or increased pursuant to this chapter shall be set any ordinance pursuant to Government Code Section 66016 and shall take effect sixty days following the adoption of the ordinance, except as otherwise provided in Government Code Section 66017. The ordinance shall state that all provisions of this chapter have been complied with.

B. Government Code Sections 66016 through 66018 contain the requirement for adoption or increase of these fees which are summarized as follows:

1. An open and public meeting shall be held prior to adoption of the fees, at which oral and written presentations can be made, as part of a regularly scheduled council meeting.

2. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that data described in Section 3.26.030(A) of this chapter is available, shall be mailed by the director at least fourteen days prior to the meeting to any interested party who files a written request for mailed notice on new or increased fees or service charges. The notices are good for one year.

3. At least ten days prior to the meeting the director shall make available to the public the data described in Section 3.26.030(A) of this chapter.

4. Prior to adopting or increasing a fee, the city council shall hold public hearing at which oral or written presentations can be made, as part of a regularly scheduled council meeting. This hearing is in addition to and following the meeting described in subsection (B)(2) of this section.

5. Notice of the time and place of the hearing, including a general explanation of the matter to be considered, is to be published in accordance with Government Code Section 6062A, i.e., twice, with at least five days intervening between dates of first and last publication not counting such publication dates. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

3.26.080 Protest of fees.

Protest of fees imposed by this chapter shall be made in accordance with and pursuant to the Mitigation Fee Act. (Ord. 2005-13 §§ 2, 3 (Exh. A (part)), 2005: Ord. 2003-02 § 2 (part), 2003)

Chapter 3.28

AUTHORIZATION FOR THE USE OF MAIL BALLOT ELECTIONS

Sections:

- 3.28.010 Mail ballot elections.**
- 3.28.020 Subjects approved for all-mail elections.**
- 3.28.030 Date of election.**
- 3.28.040 Procedures for conduct of all-mail elections.**
- 3.28.050 Enabling authority.**

3.28.010 Mail ballot elections.

The city council is authorized to conduct elections wholly by mail ballot as set forth in Section 3.28.020. The city council shall determine whether an election will be conducted by mail at the time the election is called. Actions of the city council pursuant to this section shall be set forth in a resolution approved at a regular meeting or special meeting of the city council. (Ord. 99-12 § 1 (part), 1999)

3.28.020 Subjects approved for all-mail elections.

The following items may be the subject of an all-mail election:

- A. Any election to approve a special tax or a general tax as required or authorized by Article XIIC of the California Constitution;
- B. Any election to approve a property-related fee or charge as required or authorized by Article XIID of the California Constitution;
- C. Any assessment ballot proceeding required or authorized by Article XIID of the California Constitution; provided, however, that such a proceeding shall be denominated an assessment ballot proceeding rather than an election. (Ord. 99-12 § 1 (part), 1999)

3.28.030 Date of election.

Elections authorized by this chapter shall not occur on the same date as a statewide direct primary election or statewide general election. (Ord. 99-12 § 1 (part), 1999)

3.28.040 Procedures for conduct of all-mail elections.

Elections authorized by this chapter shall be conducted in accordance with the provisions for mail ballot elections as set forth in Elections Code Sections 4100 et seq., as now exist or may hereafter be amended. (Ord. 99-12 § 1 (part), 1999)

3.28.050 Enabling authority.

This chapter is adopted pursuant to the authority granted by Elections Code Section 4000(c)(9). (Ord. 99-12 § 1 (part), 1999)

Chapter 3.32

COMMUNITY FACILITY DISTRICT TAX

Sections:

3.32.010	Tax levy.
3.32.020	Rates.
3.32.030	Use.
3.32.040	Billing and collection.

3.32.010 Tax levy.

A special tax is levied within the boundaries of the community facilities district (“CFD”) pursuant to the formula set forth in Exhibit A attached hereto and incorporated by reference, or as such special tax may be amended from time to time by a resolution of change adopted pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (“the act”) (the “special tax”), in an amount necessary to pay all of the costs of the project, periodic costs, and costs of the tax levy and collection, and all other costs including amounts payable with respect to the bonded indebtedness. (Ord. 2003-05 § 1, 2003)

3.32.020 Rates.

This legislative body hereby authorizes the director of administrative services on or before September 1st of each fiscal year to determine the specific tax rates and amounts to be levied for the current fiscal year in accordance with the rate and method of apportionment as provided in Section 53340 of the act, and to prepare or cause to be prepared a list of all nonexempt parcels within the CFD and the specific amount of the special tax for each such parcel, except that the special tax rate to be levied shall not exceed the maximum rates for the special tax. (Ord. 2003-05 § 2, 2003)

3.32.030 Use.

All of the collections of the special tax shall be used as provided for in the act and the resolution of formation and any resolution of change adopted from time to time by the city council. (Ord. 2003-05 § 3, 2003)

3.32.040 Billing and collection.

The above authorized special tax shall be separately billed and collected by the CFD from each owner of record of taxable property within the CFD and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, the CFD may collect the special tax at a different time or in a different manner if necessary to meet its financial obligations, or, alternatively, the CFD may collect the special tax in the same manner as ordinary ad valorem taxes are collected. In addition, the provisions of Section 53356.1 of the act shall apply to delinquent special tax payments. (Ord. 2003-05 § 4, 2003)

Title 4

DEVELOPMENT AGREEMENT REGULATIONS

Chapters:

4.04 Development Agreements

Chapter 4.04

DEVELOPMENT AGREEMENTS

Sections:

4.04.010	Citation and authority.
4.04.020	Purpose.
4.04.030	Applicability.
4.04.040	Forms, information and fees.
4.04.050	Review of application.
4.04.060	Notice.
4.04.070	Public hearings, generally.
4.04.080	Review by planning commission.
4.04.090	Decision by city council.
4.04.100	Approval of development agreement.
4.04.110	Amendment or cancellation.
4.04.120	Recordation.
4.04.130	Periodic review.
4.04.140	Modification or termination.

4.04.010 Citation and authority.

This chapter is enacted pursuant to Article 2.5 of Chapter 4 of Division 1 of Title 7 of the Government Code, Section 65864 et seq. This chapter may be cited as the development agreement regulations of the city of Marina. (Ord. 2003-04 § 2 (part), 2003)

4.04.020 Purpose.

A. The purpose of this chapter is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the city and developers to enter into development agreements. Such agreements shall only be used for projects such as large multiphase developments, low income housing developments, and developments involving public service and facilities installations which may require several years to complete.

B. To accomplish this purpose, the procedures, requirements and other provisions of this chapter are determined to be necessary to promote orderly growth and development, the economic welfare, and to ensure provision for adequate circulation, utilities and services. (Ord. 2003-04 § 2 (part), 2003)

4.04.030 Applicability.

The procedures and requirements set forth in this chapter shall apply to all development agreements proposed by developers and entered into by the city. (Ord. 2003-04 § 2 (part), 2003)

4.04.040 Forms, information and fees.

A. The planning director shall prescribe the form for each application, and for notice and documents provided for or required under these regulations for the preparation and implementation of development agreements.

B. Applicant may be required to submit such information and supporting data as the planning director considers necessary to process the application.

- C. Each application shall be accompanied by the development agreement proposed by the applicant.
- D. The city council shall by resolution fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations, and for the annual review. (Ord. 2003-04 § 2 (part), 2003)

4.04.050 Review of application.

The planning director or designee shall endorse on the application the date it is received. The planning director shall review the application and may reject it if it is incomplete or inaccurate for processing. If the planning director finds that the application is complete, it shall be accepted for filing. The planning director shall review the application and determine the additional requirements necessary to complete the agreement. After the required information is received, a staff report and recommendation shall be prepared and shall state whether or not the agreement, as proposed or in an amended form, would be consistent with the general plan and any applicable specific plan. (Ord. 2003-04 § 2 (part), 2003)

4.04.060 Notice.

- A. The time and manner of giving notice shall be as prescribed in the Government Code for amendments to the zoning ordinance.
- B. The notice of intention to consider adoption of the development agreement shall contain:
 - 1. The time and place of the hearing;
 - 2. A general explanation of the matter to be considered, including a general description of the area to be affected; and
 - 3. Other information required by law or which the planning director considers necessary or desirable.
- C. The failure of any person entitled to notice to receive such notice shall not affect the authority of the city to enter into a development agreement. (Ord. 2003-04 § 2 (part), 2003)

4.04.070 Public hearings, generally.

- A. The public hearings shall be conducted as nearly as may be in accordance with the procedural standards prescribed in the Government Code for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.
- B. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by the court by reason of any error, irregularity, informality, neglect or omission (“error”) as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that error is prejudicial or that injury was done if error is shown. (Ord. 2003-04 § 2 (part), 2003)

4.04.080 Review by planning commission.

The planning commission shall first hold a public hearing on a development agreement application and shall make its recommendation and reasons therefor in writing to the city council. The recommendation shall include the planning commission’s determination whether or not the development agreement proposed:

- A. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

- B. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- C. Is in conformity with public convenience, general welfare and good land use practice;
- D. Will be detrimental to the health, safety and general welfare;
- E. Will adversely affect the orderly development of property or the preservation of property values; and
- F. Is consistent with the provisions of Government Code Sections 65864 through 65869.5. (Ord. 2003-04 § 2 (part), 2003)

4.04.090 Decision by city council.

A. Following receipt of the planning commission's recommendation, the city council shall hold a duly noticed public hearing, after which it may accept, modify or disapprove the recommendation of the planning commission. It may, but need not, refer matters not previously considered by the planning commission during its hearing back to the planning commission for report and recommendation. The planning commission may, but need not, hold a public hearing on matters referred back to it by the city council.

B. The city council may not approve the development agreement unless it finds that the agreement is in conformity with items (a) through (f), Section 4.04.080. (Ord. 2003-04 § 2 (part), 2003)

4.04.100 Approval of development agreement.

If the city council approves the development agreement, it shall do so by the adoption of an ordinance. The agreement takes effect upon the effective date of the ordinance. (Ord. 2003-04 § 2 (part), 2003)

4.04.110 Amendment or cancellation.

A. Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

B. The procedure for proposing and adopting an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into an agreement.

C. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement, it shall first give notice to the property owner of its intention to initiate proceedings at least ten days in advance of the giving of notice of intention to consider the amendment or cancellation required by Section 4.04.060. (Ord. 2003-04 § 2 (part), 2003)

4.04.120 Recordation.

A. Within ten days after the effective date of the development agreement, the city clerk shall have the agreement recorded with the county recorder.

B. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the city clerk shall have notice of such action recorded with the county recorder. (Ord. 2003-04 § 2 (part), 2003)

4.04.130 Periodic review.

A. The city shall review the development agreement twelve months from the date the agreement is entered into and every twelve months thereafter. It is the developer's responsibility to apply in a timely fashion for the annual review. The time for review may be modified either by agreement between the parties or at the city's initiation, upon recommendation of the planning director, and by an affirmative vote of a majority of the planning commission.

B. The planning director or his designee shall give notice to the property owner that the city intends to undertake the review of the development agreement. He shall give the notice at least ten days in advance of the time at which the matter will be considered by the planning commission.

C. The planning commission shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

D. The planning commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

E. If the planning commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

F. If the planning commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the planning commission shall forward its recommendation to the city council and the city council may modify or terminate the agreement. (Ord. 2003-04 § 2 (part), 2003)

4.04.140 Modification or termination.

A. If the city determines to proceed with modification or termination of the agreement, the city shall give notice to the property owner of its intention so to do. The notice shall contain:

1. The time and place of the hearing;
2. A statement as to whether the city proposes to terminate or to modify the development agreement;

and

3. Other information which the city considers necessary to inform the property owner of the nature of the proceedings.

B. At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The city council may refer the matter back to the planning commission for further proceedings or for report and recommendation. The city council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the city council is final. (Ord. 2003-04 § 2 (part), 2003)

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

Article I. Business Licenses Generally

- 5.04 Definitions**
- 5.08 General Provisions**
- 5.12 Exemptions**
- 5.16 Licensing Procedure**
- 5.20 Rates**
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Article II. Specific Businesses

- 5.28 Bingo**
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Article I. Business Licenses Generally

Chapter 5.04

DEFINITIONS

Sections:

5.04.010 Business.

5.04.020 Contractor.

5.04.030 Gross payroll.

5.04.040 Gross receipts.

5.04.050 Operate.

5.04.060 Person.

5.04.010 Business.

As used in this article, “Business” means professions, trades and occupations and all and every kind of calling, whether or not carried on for profit. (Ord. 77-11 § 1a, 1978)

5.04.020 Contractor.

“Contractor,” for the purpose of this article, is synonymous with the term “builder” and means any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the installation of a mobile home upon a site for the purpose of human occupancy. The term contractor includes subcontractor, specialty contractor and owner-builder who builds either commercial or residential units for either rent or sale, either wholly or partially, or for any purpose other than occupancy by the owner. (Ord. 77-11 § 1d, 1978)

5.04.030 Gross payroll.

“Gross payroll” means the total annual wages paid employees working in the city as reported to the Department of Human Resources Development of the state on quarterly unemployment tax returns; provided, however, that where employees working in the city were reported to the state as having worked elsewhere than in the city, the part of their wages paid or due for work performed in the city shall be included as gross payroll in the city for purposes of this article. (Ord. 77-11 § 1e, 1978)

5.04.040 Gross receipts.

“Gross receipts” means the total of amounts actually received or receivable from sales and the total amounts actually received for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit is allowed, including interest and carrying charges in connection with sales, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in “gross receipts” shall be all receipts, cash, credits and property of any kind or nature without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable or losses or other expenses whatsoever.

Excluded from “gross receipts” shall be the following:

A. Cash discounts allowed and taken on sales;

B. Sales, use or transient occupancy taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

C. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded in either cash or by credit;

D. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them;

E. Receipts of refundable deposits, except that refundable deposits forfeited and taken into the income of the business shall not be excluded;

F. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of Part 2 Division 2 of the Revenue and Taxation Code of the state;

G. As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of United States Code if paid by the dealer or collected by him from the consumer or purchaser. (Ord. 77-1 § 1f, 1978)

5.04.050 Operate.

“Operate” means manage, control or carry on. (Ord. 77-11 § 1b, 1978)

5.04.060 Person.

“Person” means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business, or common law trust, societies, and individuals transacting and carrying on any business in the city other than as employees. (Ord. 77-11 § 1c, 1978)

Chapter 5.08

GENERAL PROVISIONS

Sections:

5.08.010 License and tax payment required.

5.08.020 Branch establishment and separate business.

5.08.030 Evidence of doing business.

5.08.040 Constitutional apportionment.

5.08.010 License and tax payment required.

Business license taxes in the amounts prescribed in this article are imposed upon the business and persons specified in this article, and no person shall transact and carry on any business without having procured a license from the city to do so, or without complying with any and all regulations of such business contained in this article, shall constitute a separate violation of this article for each day and every day that such business is so carried on. (Ord. 77-11 § 2, 1978)

5.08.020 Branch establishment and separate business.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the

licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license. (Ord. 77-11 § 3, 1978)

5.08.030 Evidence of doing business.

When any person shall, by use of signs, circulars, cards, telephone books or newspapers, advertise, hold out or represent that he is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the city, and such person fails to deny by a sworn statement given to the finance officer that he is not conducting a business in the city, after being requested to do so by the finance officer, then these facts shall be considered prima facie evidence that he is conducting a business in the city. (Ord. 77-11 § 4, 1978)

5.08.040 Constitutional apportionment.

None of the license taxes provided for by this article shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the state.

In any case where a license tax is believed by a licensee or applicant for license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the finance officer for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show his method of business and such other information as the finance officer may deem necessary in order to determine the extent, if any, of such undue burden of violation. The finance officer shall then conduct an investigation, and, after having first obtained the written approval of the city attorney, shall fix as the license tax for the applicant, an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. (Ord. 77-11 § 5, 1978)

Chapter 5.12

EXEMPTIONS

Sections:

- 5.12.010 Exemptions generally.
- 5.12.020 Charitable and nonprofit organizations.
- 5.12.030 Disabled veterans.
- 5.12.040 Minors.
- 5.12.050 Artists and art exhibits.
- 5.12.060 Revocation of exemption.

5.12.010 Exemptions generally.

A. Nothing in this article shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the state from the payment of such taxes as are herein prescribed.

B. Any person claiming an exemption pursuant to this section shall file a sworn statement with the finance officer stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this article.

C. The finance officer shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this article.

D. The finance officer, after giving notice and reasonable opportunity for hearing to a licensee, may revoke any license granted to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein. (Ord. 77-11 § 6, 1978)

5.12.020 Charitable and nonprofit organizations.

A. The provisions of this article shall not be deemed or construed to require the payment of a license tax to conduct, manage or carry on any business, occupation, event, or activity from any institution or organization which is conducted, managed or carried on for the benefit of religious, charitable, philanthropic or educational purposes; provided, that convincing evidence is furnished to the finance officer which establishes that not less than seventy-five percent of the gross receipts derived from any such business, occupation, event or activity will be devoted to religious, charitable, philanthropic or educational purposes. Such organization may also qualify under Section 501 of the United States Internal Revenue Code or equivalent statute, or equivalent statute of the state.

B. This section shall not be deemed to exempt any such institution or organization from complying with any other provisions of this article requiring a permit from the city.

C. The exemption in this section shall not be deemed applicable with regard to any commercial-type revenue-producing rental activity or other merchandising or business activities directly or indirectly operated on a regular basis by or on behalf of a religious or charitable institution or organization.

D. When activities otherwise exempt under the above basic rule are conducted for and on behalf of an exempt institution or organization by a profit-making contractor or concessionaire, or the like, then the exemption shall be applicable only with regard to the religious or charitable organization, and shall not be applicable with regard to the activities, operations or revenues received by the contractor or concessionaire or the like.

E. No license tax shall be required for the conducting of any entertainment, concert, exhibition, or lecture on scientific, historical, literary, religious, or moral subjects within the city, whenever the receipts therefrom are to be appropriated

to any institution or organization exempt under the above basic rule; provided, that this exemption shall not apply to any person or entity conducting the business and deriving profit, incidentally to producing the receipts as stated.

F. No license tax shall be required for the conducting of any temporary entertainment, concert, exhibition, or lecture by any religious, charitable, civic, fraternal, educational, military, state, county or municipal organization or association, whenever the receipts therefrom are to be appropriated for the purposes and objects for which such organization or association was formed, and from which profit is not derived by any other persons except those in the business of producing, staging, or otherwise participating in such events, and provided that this exemption shall not apply to such or any other persons or entities conducting business and deriving profit, incidentally to producing the receipts as stated. (Ord. 77-11 § 7, 1978)

5.12.030 Disabled veterans.

A. Every honorable discharged soldier, sailor, marine, or airman of the United States who is physically unable to obtain his livelihood by means of manual labor and who is a qualified voter of the state shall have the right to hawk, peddle and vend any goods, wares or merchandise owned by him, exempt spiritous, malt, vinous or other intoxicating beverages, without the payment of a license fee; subject, however, to the restrictions, limitations, regulations and conditions hereinafter set forth.

B. Every applicant must comply with the following requirements before a license may be issued under the provisions of this section:

1. Every applicant must furnish a certificate of physical disability executed by a qualified surgeon of the United States Army, Navy or Air Force, a certificate of honorable discharge from the United States Armed Forces, and a written recommendation from the representatives of the local posts of the American Legion and the Veterans of Foreign Wars.

2. Every applicant must furnish two identification photographs; one to be attached to the license issued to said applicant, and the other to be attached to the copy retained by the finance officer. The applicant must also sign both copies of said license at the time of the issuance thereof.

C. A license, when issued, is subject to the following conditions:

1. It is nontransferable and for the exclusive use of the licensee named.

2. Applicant's identification photograph must be attached to said license at all times, and failure to comply herewith is grounds for revocation of said license and for refusing its renewal or the issuance of a new license thereafter.

3. Should a license be found in the possession of one other than the licensee named, it shall be surrendered up to the finance officer and cancelled, and neither the licensee named nor the holder thereof shall thereafter be entitled to hold a license under the provisions of this section.

4. The licensee named must identify himself by his signature whenever required to do so by the police officers, or other authorized city officials.

5. Whenever the licensee uses any wagon, cart, tray, basket or other vehicle or receptacle in vending any such goods, wares, or merchandise, said license shall be carried in a license holder attached to said vehicle or receptacle and in plain view.

D. It is unlawful for any person other than the licensee named to use or have in his possession any license issued pursuant to the provisions of this section.

E. No person shall purchase or transfer any license issued pursuant to the provisions of this section, or transfer or convey the certificates mentioned in subsection B1 of this section, to any other person for the purpose of securing a license as herein provided for. (Ord. 77-11 § 8, 1978)

5.12.040 Minors.

Any person under sixteen years of age whose annual gross income from any business done within the city is less than eight hundred dollars shall be exempt from the requirements of this article. (Ord. 77-11 § 9, 1978)

5.12.050 Artists and art exhibits.

A business license shall not be required of individual artists for the exhibition or display of paintings, sculpture, photographs or other fine arts in public buildings, art galleries, or in any business establishment if the exhibition or display is incidental to the primary business conducted on the premises, and is primarily for cultural and educational purposes. Any artist shall be exempt from the requirements of this article if the sales of his art work within the city do not result in annual gross receipt in excess of one thousand dollars. (Ord. 77-11 § 10, 1978)

5.12.060 Revocation of exemption.

The city council or city manager may revoke the exemption license if in their opinion the person is not entitled to the exemption. (Ord. 77-11 § 11, 1978)

Chapter 5.16

LICENSING PROCEDURE

Sections:

- 5.16.010 Application for license.**
- 5.16.020 Processing of application.**
- 5.16.030 Issuance of license—Contents.**
- 5.16.040 Error in fee nonprejudicial.**
- 5.16.050 Error in terms voids license.**
- 5.16.060 Unpaid fees.**
- 5.16.070 Duplicate license.**
- 5.16.080 License nontransferable.**
- 5.16.090 Posting and keeping of license.**
- 5.16.100 Payment and term of license.**
- 5.16.110 Penalties for delinquency.**
- 5.16.120 License fee a debt.**
- 5.16.130 Food-handling businesses.**
- 5.16.140 Business requiring certificate of occupancy.**
- 5.16.150 Refunds.**
- 5.16.160 Extension of time.**
- 5.16.170 Appeal.**
- 5.16.180 Waiver or reduction of taxes or penalties.**
- 5.16.190 Information confidential.**
- 5.16.200 Verification of statements and records.**

5.16.010 Application for license.

Before any license is issued to any person, such person shall make application therefor to the finance officer. The applicant must state the name of the party to whom the license is to be issued; the nature of the trade or business to be pursued; the place where such business will be conducted and such other information as may be deemed necessary for the enforcement of the provisions of this article. (Ord. 77-11 § 12, 1978)

5.16.020 Processing of application.

Upon application being made as provided in Section 5.16.010, and when the applicant has tendered the license fee required, the finance officer shall process the application. If it is an application for a license for a new business or if the finance officer deems it necessary, the application shall be referred to other city departments, including the health officer, if health and sanitation may be affected, to determine whether the business and premises to be occupied meet the requirements of state law and city ordinances. (Ord. 2002-04 § 1, 2002: Ord. 77-11 § 13, 1978)

5.16.030 Issuance of license—Contents.

Upon receiving the approval of departments to which the application has been referred and, where necessary, the approval of the city manager, the finance officer shall prepare and issue the license showing upon the face of each license the following:

- A. Name of business and location;

- B. Business license number;
- C. Type of business by code;
- D. Date of issuance;
- E. Date of expiration;
- F. Term of license;
- G. Business mailing address; and
- H. Account number. (Ord. 77-11 § 14, 1978)

5.16.040 Error in fee nonprejudicial.

In no case shall any mistake by any officer or employee of the city in stating the amount of a license fee prevent or prejudice the collection by the city of what should be actually due from any person carrying on a business subject to a license under the provisions of the provisions of this article. (Ord. 77-11 § 15, 1978)

5.16.050 Error in terms voids license.

The payment of any license fee required by this article, its acceptance by the city, and the issuance of such license to any person shall not entitle the holder thereof to carry on any business called for by the license unless he has complied with all requirements of this article, or to carry on any business at any location contrary to the city's building and zoning regulations. (Ord. 77-11 § 16, 1978)

5.16.060 Unpaid fees.

A. No license for any succeeding, current unexpired license period shall knowingly be issued to any person who at the time of making application for any license, is indebted to the city for any unpaid license fee.

B. No license or sticker, tag, plate or symbol shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued, to any person, who at the time of applying therefor, is indebted to the city for any delinquent license taxes, unless such person, with the consent of the finance officer, enters into a written agreement with the city through the finance officer, to pay such delinquent taxes, plus eight percent simple annual interest upon the unpaid balance, in monthly installments, extending over a period of not to exceed one year.

C. In any agreement so entered into, such person shall acknowledge the obligation owed to the city and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that his current license shall be revocable by the finance officer upon thirty days' notice. In the event legal action is brought by the city to enforce collection of any amount included in the agreement, such person shall pay all costs of suit incurred by the city or its assignee, including a reasonable attorney's fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided in subsection B of this section, but no penalties shall accrue on account of taxes included in the agreement after the execution of the agreement, and the payment of the first installment and during such time as such person shall not be in breach of the agreement. (Ord. 77-11 § 17, 1978)

5.16.070 Duplicate license.

The finance officer shall charge a fee of three dollars for each duplicate license issued to replace any license under the provisions of this article, which has been lost or destroyed, upon reasonable proof thereof. (Ord. 77-11 § 18, 1978)

5.16.080 License nontransferable.

A. Each license granted or issued under any provision of this article shall authorize the licensee to transact or carry on the business therein named, at the place therein designated and at no other place, and the license shall not be assignable or transferable.

B. When a person, as defined in this article, transfers fifty percent or more of his interest, or more than fifty percent of the stock or assets of a business operated at a fixed place of business, regardless of whether the transfer is made under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, the transferee shall first report such change to the finance officer and pay a registration transfer fee in the amount of five dollars. For purposes of this subsection, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entities herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

C. A change of location shall be allowed to the holder of the license upon the payment of the finance officer of the sum of three dollars within thirty days of such change taking place. If the licensee fails to apply for change of address within thirty days of such change taking place, his license shall terminate and expire at midnight of the thirtieth day. In the event of any such termination of the tax or fee paid by such licensee and in any application for a new license, there shall be no proration of the required tax or fee. (Ord. 77-11 § 19, 1978)

5.16.090 Posting and keeping of license.

A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

B. Any licensee transacting and carrying on business, but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on the business for which it was issued.

C. Whenever identifying stickers, tags, plates or symbols have been issued for each vehicle, device, machine or other piece of equipment, the identifying sticker, tag, plate or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use, during the period for which the sticker, tag, plate or symbol is issued. (Ord. 77-11 § 20, 1978)

5.16.100 Payment and term of license.

Unless otherwise specifically provided, all annual license taxes, under the provisions of this article, shall be due and payable in advance on the first day of July of each year; provided, that license taxes covering new operations, commenced after the first day of July, may be prorated for the balance of the license period.

Except as otherwise herein provided, license taxes, other than annual, required hereunder shall be due and payable as follows:

A. Semiannual license taxes, measured by gross receipts, on the first day of January and the first day of July of each year;

B. Quarterly license taxes, measured by gross receipts, on the first day of January, April, July and October of each year;

C. Monthly license taxes, measure by gross receipts, on the first day of each and every month;

D. Weekly flat-rate license taxes on Monday of each week in advance;

E. Daily flat-rate license taxes each day in advance;

F. Other flat-rate license taxes are payable in advance on the first day of business and thereafter on the first day of any applicable period. (Ord. 79-1 § 1, 1979; Ord. 77-11 § 21, 1978)

5.16.110 Penalties for delinquency.

For failure to pay a license tax when due, the finance officer shall add a penalty of ten percent of said license tax to delinquent licenses on the fifteenth day of the succeeding month after the due date thereof, and an additional penalty of twenty-five percent shall be added thereto on the fifteenth day of each succeeding month thereafter; provided, that the amount of such penalties shall not exceed fifty percent of the license tax due. (Ord. 77-11 § 22, 1978)

5.16.120 License fee a debt.

The amount of any license fee and penalty imposed by the provisions of this article shall be deemed a debt to the city, and any person carrying on any business without first having procured a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of license fee and penalties imposed on such business.

A penalty of fifty percent of the prescribed license tax shall be imposed for operating without first procuring a license. (Ord. 77-11 § 24, 1978)

5.16.130 Food-handling businesses.

Where a business is required by law to have a food handling permit, no license shall be issued until the Monterey County health department, the city building and safety department, and the fire department have inspected and approved the premises. (Ord. 77-11 § 25, 1978)

5.16.140 Business requiring certificate of occupancy.

All commercial, industrial, and miscellaneous buildings constructed within the city which are to house a business requiring a city license must have a certificate of occupancy issued by the city building and safety department before a license to operate the business may be issued. Any existing buildings which are structurally altered to house a business requiring a city license must also have a certificate of occupancy issued by the city building and safety department before a license to operate said business may be issued. (Ord. 77-11 § 26, 1978)

5.16.150 Refunds.

The finance officer, with the approval of the city manager, may refund any license fee or penalty which he determines was erroneously collected, but no license shall be refunded if, prior to his application for a license, the applicant has engaged in the business for which the license is sought. (Ord. 77-11 § 27, 1978)

5.16.160 Extension of time.

An addition to all other power conferred upon him, the finance officer shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not to exceed thirty days, and in such case, to waive any penalty that would otherwise have accrued, except that eight percent simple interest shall be added to any tax determined to be payable. (Ord. 77-11 § 29, 1978)

5.16.170 Appeal.

Any person aggrieved by any decision of the finance officer with respect to the issuance or refusal to issue such license may appeal to the city council by filing a notice of appeal with the city clerk. The city council shall thereupon fix a time and place for hearing by serving it personally or by depositing it in the United States mail at Marina, California, postage prepaid, addressed to such person at his last known address. The council shall have the authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this article. (Ord. 77-11 § 30, 1978)

5.16.180 Waiver or reduction of taxes or penalties.

There shall be no deviation in fees, penalties, or due dates, unless specifically authorized by formal city council action, after written request by the applicant through the finance officer on forms provided by the city. (Ord. 77-11 § 31, 1978)

5.16.190 Information confidential.

It is unlawful for the finance officer or any person having an administrative duty under the provisions of this article to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person or business or any other person examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth in any statement or to permit any statement, or copy of any statement or any book containing any abstract or particulars thereof, to be seen or examined by any person; provided, however, that nothing in this section shall be construed to prevent the following:

A. The disclosure to or the examination of records and equipment by another city official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this article or collecting taxes imposed hereunder;

B. The disclosure of information to, or the examination of records by federal or state officials, or the tax officials of any city or county or the tax officials of the city of Marina, and its auditors if a reciprocal arrangement exists or to a grand jury or a court of law, upon subpoena;

C. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any business tax liability of the particular taxpayers to the city;

D. The disclosure after the filing of a written request to that effect to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalty; further provided, however, that the city attorney approve each such disclosure and that the collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

E. The disclosure of the names and addresses of taxpayers pursuant to this article and the general type of nature of their business;

F. The disclosure by way of public meeting or otherwise of such information as be necessary to the city council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of business taxes or submits an offer of compromise with regard to a claim asserted against him by the city for business taxes or when acting upon any other matter;

G. The disclosure of general statistics regarding taxes collected or business done in the city. (Ord. 77-11 § 32, 1978)

5.16.200 Verification of statements and records.

The correctness of tax computations, based upon statements and records relating directly or indirectly to business activity conducted within the city, shall be subject to verification upon the recommendation of the finance officer and approval by the city manager. The city is authorized to verify the statements and records of any and all persons licensed to conduct or carry on any business in the city.

All information relating to verification of statements and records are confidential as stated in this article.

Any unauthorized disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor and such officer or employee shall be subject to the penalty provisions of this article in addition to any other penalties provided by law. (Ord. 77-11 § 33, 1978)

Chapter 5.20

RATES

Sections:

- 5.20.010 Tax categories designated.
- 5.20.020 Category I.
- 5.20.030 Category II.
- 5.20.040 Category III.
- 5.20.050 Category IV.
- 5.20.060 Category V.
- 5.20.070 Category VI.
- 5.20.080 Category VII.
- 5.20.090 Category VIII.
- 5.20.100 Category IX.
- 5.20.110 Category X.
- 5.20.120 Category XI.
- 5.20.130 Category XII.
- 5.20.140 Category XIII.
- 5.20.150 Category XIV.
- 5.20.160 Category XV—Optional daily fixed fee license tax basis.
- 5.20.170 Category XVI—Businesses not specifically mentioned.

5.20.010 Tax categories designated.

Business license tax categories shall be as follows:

Category I Retail, wholesale sales, amusement and recreational centers, services dealing with the public.

Category II Industrial, manufacturing and research and development firms and public utilities dealing in communications.

Category III Professional establishments and those businesses offering skilled services.

Category IV General engineering contractors, general building contractors, swimming pool contractors, and all subcontractors or specialty contractors and builders.

Category V Any person conducting a business exclusively with a vehicle.

Category VI Coin-operated vending machines, laundry equipment, businesses limited exclusively to renting, leasing or operating.

Category VII Coin-operated machines—generally.

Category VIII Boxing and wrestling exhibitions or sporting events, carnivals, circus and menageries performances.

Category IX Soliciting, hawking, peddling.

Category X Auctioneering.

Category XI Bankrupt sales.

Category XII Advertising—outdoor structures, billboards.

Category XIII Leasing or rental units.

Category XIV Cardrooms.

Category XV Optional daily fees.

Category XVI Business not specifically mentioned.
(Ord. 77-11 § 34 (part), 1978)

5.20.020 Category I.

Category I rates shall be as follows:

A. Businesses Included. Retail, wholesale, amusement and recreational centers, and most businesses that deal directly with the public are included in Category I. Coin-operated vending machines as defined elsewhere in this chapter are omitted from this category.

B. Rate Schedule.

Gross ReceiptsRate	
Gross Receipts to and including \$40,000	\$ 25
Over \$40,000 but less than \$100,000	30
Over \$100,000 but less than \$250,000	41
Over \$250,000 but less than \$500,000	60
Over \$500,000 but less than \$750,000	79
Over \$750,000 but less than \$1,000,000	98
Over \$1,000,000 but less than \$1,500,000	135
Over \$1,500,000 but less than \$2,000,000	172
Over \$2,000,000 but less than \$3,000,000	247
Over \$3,000,000 but less than \$5,000,000	397
Over \$5,000,000 but less than \$7,500,000	585
Over \$7,500,000 but less than \$10,000,000	773

C. Computation Fee.

1. The first forty thousand dollars of gross receipts is taxed at a minimum of twenty-five dollars.

2. Gross receipts over forty thousand dollars taxed at the rate of fifteen cents per thousand applied to the midpoint of each bracket.

D. Type of Activities. The following businesses and business activities shall be included in Category I together with any other similar businesses:

- Agricultural supply
- Aircraft dealers and supply stores
- Amusement and recreational centers, arcades, theatres, golf course, tennis courts, bowling alley, etc.
- Animal care
- Awning and tent supply
- Automobile dealers, new and used
- Automobile renting or leasing
- Automobile repair shops and garages
- Automobile trailer dealers and trailer supply stores
- Bakery
- Blueprint shop
- Boat and motorcycle dealers and supply stores
- Building supplies
- Candy, confectionery and nut stores
- Child care centers (seven or more children)
- Cigar stores and stands
- Clubs—private or public
- Dancing schools or academy
- Department and dry goods stores
- Distributors
- Drugstores
- Dry cleaners and laundry
- Eating and drinking places
- Family apparel stores
- Farm implement and construction equipment
- Fine arts or music school
- Fine arts stores
- Florist shops
- General merchandise and country stores
- Gift shops
- Grocery stores
- Hardware and appliance stores
- Hospitals, rest homes and sanitariums (seven or more patients)
- Household and home furnishing stores
- Janitorial supplies stores
- Jewelry stores
- Junk dealers and automobile wrecking
- Laundromat
- Liquor stores selling other than packaged liquor, such as groceries and other staple goods
- Lumber and building material dealers
- Mobile vehicle and mobile home dealers

Mobile vehicle and mobile home renting and leasing
 Nurseries
 Office, store, and school furniture and equipment stores
 Paint, glass and wallpaper stores
 Parking lot
 Pawnbrokers and secondhand dealers
 Personal service shops (barber, beauty, reducing salons, dressmaking and alteration shops)
 Photographic equipment and supply stores
 Photography studio
 Plumbing and electrical supply stores
 Printing, publishing or circulating and distributing publications
 Real estate brokerage
 Repair and hand trade shops
 Schools (private, trade or business)
 Service stations
 Shoe stores
 Sign shops
 Specialty stores not elsewhere classified
 Sporting goods stores and bicycle stores
 Stationary and book stores
 Transfer and storage
 Trucks or trailer rental or leasing
 Upholstery shop
 Utilities—gas, water, electricity
 Variety store
 Warehouses
 Welding shop
 Women's apparel and accessories stores.

(Ord. 77-11 § 34 (part), 1978)

5.20.030 Category II.

Category II rates shall be as follows:

A. Businesses Included. Industrial, manufacturing and research and development firms are included in Category II.

B. Rate Schedule.

Gross Annual Payroll	Rate
Gross annual payroll to and including \$100,000	\$ 25
Over \$100,000 but less than \$250,000	55
Over \$250,000 but less than \$500,000	105
Over \$500,000 but less than \$750,000	155
Over \$750,000 but less than \$1,000,000	205
Over \$1,000,000 but less than \$1,500,000	\$ 305
Over \$1,500,000 but less than \$2,000,000	405

Over \$2,000,000 but less than \$3,000,000	605
Over \$3,000,000 but less than \$5,000,000	1,205
Over \$5,000,000 but less than \$7,500,000	1,705
Over \$7,500,000 but less than \$10,000,000	2,205

C. Computation Fee.

1. The first one hundred thousand dollars of gross annual payroll is taxed at a minimum of twenty-five dollars.
2. Gross annual payroll over one hundred thousand dollars taxed at the rate of forty cents per thousand applied to the midpoint of each bracket. (Ord. 77-11 § 34 (part), 1978)

5.20.040 Category III.

Category III rates shall be as follows:

A. Businesses Included. Professional establishments and those businesses offering skilled services are included in Category III.

B. Rate. Minimum business license tax of fifty dollars which includes one professional and one nonprofessional employee engaged in the business, plus a fee of fifty dollars for each additional professional, and five dollars for each additional nonprofessional employee.

C. Professional Defined. For purpose of this article “professional” is defined to also include certified, licensed, technical or other highly skilled persons.

D. Option. Professional establishments and those businesses in Category III have the option under this article of using the Category I tax schedule, if they wish.

E. Type of Activities. Professional and business establishments and skilled services shall include, but not be limited to, the following:

Abstractor of titles

Accounts, all types

Agencies, advertising, employment, public relations, travel

Appraiser

Architect

Artist

Assayer

Assessor

Attorney at law

Auditor

Bacteriologist

Bookkeeping service

Broker—all types, except real estate

Chemist

Chiropodist

Chiropractor

Consultants—all types

Dealers in stock, bond, and other securities

Dental hygienist

Dental laboratory

Dental technician

Dentist
Designer or illustrator
Detective, detective agency
Draftsman
Drugless practitioner
Electrologist
Engineers—all types
Engraver
Entomologist
Escrow company
Finance and loan company
Geologist
Herbalist
Hypnotherapist
Interior decorator
Investment counselor
Landscape designer or architect
Lapidary
Lithographer
Masseuse and masseur
Medical laboratory
Mortician
Naturopath
Nurse
Oculist
Optician
Optometrist
Osteopath
Photographer
Physician
Physiotherapist
Piano tuner
Property management
Psychiatrist
Psychologist
Public stenographer
Radiology
Roentgenologist
Savings and loan
Surgeon
Surveyor
Taxidermist
Termite inspector
Tree removing, surgery, or trimming

Tutoring
Veterinarian
X-ray technician
(Ord. 77-11 § 34 (part), 1978)

5.20.050 Category IV.

Category IV rates shall be as follows:

A. Businesses Included. General engineering contractors (A); general building contractors (B-1); swimming pool contractors (C-53); owner/builder and subcontractor.

B. Rate. General engineering contractor (A); general building contractor (B-1); and swimming pool contractors (C-53) shall pay a minimum business license of fifty dollars.

C. Owner/Builder. An owner/builder who builds any building, structure, shop, store, or apartment for rent, lease, or sale shall pay in accordance with subsection B of this section. The provisions of this category shall not apply to an owner of single residential property improving structures thereon for the exclusive occupancy of such owner and not offered for sale, lease, or rent.

D. Subcontractor List. Each general engineering contractor, general building contractor, swimming pool contractor, or owner/builder shall furnish the city with a list of each subcontractor under his control or direction, before the final inspection on a building or structure shall be given by the building and safety department.

E. Plumbing and Electrical Contractor Rates. Every person engaged in the business of plumbing contractor (C-36), and electrical contractor (C-10) shall pay a business license tax of fifty dollars.

F. Subcontractor or Specialty Contractor Rates. Every person engaged in the business of subcontractor or specialty contractor (other than C-53, C-36, C-10) shall pay a business license tax of twenty-five dollars.

G. Additional Tax for Retail Shop, Store, or Maintenance Service. In addition to the basic license tax payable by a contractor as stated in this section, each contractor shall pay a tax as stated in Categories I and V for any retail shop, store, or maintenance service in connection or conjunction with the contracting business.
(Ord. 77-11 § 34 (part), 1978)

5.20.060 Category V.

Category V rates shall be as follows:

A. Businesses Included. Any person conducting a business exclusively with a vehicle, advertising vehicle, vehicle used to deliver goods, wares, or merchandise of any kind, or any person who provides any service by use of a vehicle shall be included in Category V.

B. Rate. Two rates are included in this category, as follows:

1. Any person conducting a business with a vehicle from a fixed place of business in the city shall pay a minimum license tax of twenty-five dollars, which shall include the first vehicle. Each additional vehicle will be five dollars.

2. Any other person conducting business with a vehicle who does not have a fixed place of business in Marina will pay a minimum tax of fifty dollars for the first vehicle; each additional vehicle will be ten dollars.

C. Option. Establishments falling within subsection A1 of this section have the option under this article of using the Category I tax schedule, if they wish.

D. Type of Activities. Businesses conducted with a vehicle shall include, but not be limited to the following:

Ambulance service
Armored car service
Auto parts service

Bakery service
Cesspool service
Delivery service
Ditching or backhoe service (except contractors)

Driving school
Escort service
Gardener service
Guard and patrol service
Home maintenance service
Janitorial service
Junk pickup service
Laundry and cleaning service
Locksmith service
Messenger service
Mobile car washing service
Mobile repair service—all types
Portable toilets
Searchlights
Sign painter
Swimming pool service
Taxicab
Tow truck
Water softener service
Window-cleaning service

(Ord. 77-11 § 34 (part), 1978)

5.20.070 Category VI.

Category VI rates shall be as follows:

A. Businesses Included. Category VI businesses shall include coin-operated vending machines, laundry equipment; businesses limited exclusively to renting, leasing or operating:

1. Coin-operated vending machines dispensing tangible or intangible items, property, music, entertainment, recreation or other services; or
2. Laundry equipment, whether or not coin operated, but this category shall not be deemed to include coin-operated laundry equipment for general use.

B. Rate. The rate for this category shall be one percent of all gross receipts actually derived from or directly attributable to the business activities conducted within the city, with a minimum of twenty-five dollars.

C. Gross Receipts Defined. "Gross receipts," for the purposes of this category, means all sums deposited in the machine or paid for the use of the machines, from any source prior to the division, subtraction or distribution of any such moneys, but shall not include cash sums returned by the machines themselves to the customers.

(Ord. 77-11 § 34 (part), 1978)

5.20.080 Category VII.

Category VII rates shall be as follows:

A. Businesses Included. Category VII businesses shall include coin-operated machines generally. The provisions of this category apply to the proprietor of any established place of business who owns, possesses or maintains any coin-operated machines. These fees are in addition to any other license fees required by this chapter.

B. Rate.

\$25 Amusement machine, kiddie ride, or pool table not incidental to the original business license

10 Beverage machine

10 Food-dispensing machine

5 Laundry machine

25 Photograph machine

5 Service machine (soap, laundry, bags, etc.)

25 For the first 25 one-cent vending machines, and \$.50 for each machine over 25

5 Per machine—any other machine requiring a coin to open

C. Seizure of Unlicensed Coin Machines. In the event a coin machine remains unlicensed thirty days after first notification, the city may seize such machines and hold them as security for the payment of the license fee, and until license is obtained or renewed, and in the event the person owning or having control of possession of the machine, fails, within a period of thirty days, to obtain a license or pay any license due, then in that event, the machine shall be disposed of as follows: The machine or machines or so many thereof shall be sold to satisfy the amount of license fees due the city and any machine or machines not sold shall be returned to the owner thereof; and provided further, that in the event the machine or machines are sold for a sum less than the amount of the license fee, then the operator of the machines shall, nevertheless, remain liable for the balance of such license fees due and unpaid thereon. (Ord. 77-11 § 34 (part), 1978)

5.20.090 Category VIII.

Category VIII rates shall be as follows:

A. Businesses Included. Category VIII businesses shall include boxing or wrestling exhibitions, or sporting events, carnivals, circus and menageries. The term “circus” includes any collection of animals, acrobats, jugglers, magicians, sleight-of-hand exhibitions, sideshows, and similar attractions. The term “carnival” includes any group of attractions such as ball games, dice games, merry-go-rounds, ship, ferris wheels, or other riding devices, freaks, dancing show minstrels, or other like entertainments or games for which a charge is made for attending or playing or participating therein.

B. Rate. First day, one hundred dollars; each additional day, fifty dollars. (Ord. 77-11 § 34 (part), 1978)

5.20.100 Category IX.

Category IX rates shall be as follows:

A. Businesses Included. Soliciting, hawking, and peddling are included in Category IX, and such businesses shall consist of businesses which:

1. Solicit either by sample or otherwise the purchase of goods, ware, merchandise, services, magazines, periodicals, or other publications (to secure advertisements), or subscriptions for the same; or

2. Distribute goods, wares, merchandise or services of any kind from house to house, or upon any street, sidewalk, alley, or in any park or public place in the city; or

3. Offer to any person, or distribute to any person, any coupon, certificate, ticket or card which is redeemable in goods, wares, merchandise or services of any kind.

B. Exemptions. The foregoing licensing requirement shall not be applicable to persons engaged in the activities of soliciting subscriptions for, selling, or distributing regularly published newspapers, or to any person engaged in, or acting

as an agent for any business entitled to an exemption from local taxation by reason if it is being engaged in interstate commerce.

C. Rate. The license fee shall be one hundred dollars annually for each individual.

D. Option. Any business that assigned its business through the use of persons assigned as solicitors to established and defined routes regularly serviced by solicitors may pay according to Category I based on total annual gross receipts derived from all orders solicited by such solicitors. (Ord. 77-11 § 34 (part), 1978)

5.20.110 Category X.

Category X rates shall be as follows:

A. Businesses Included. Auctioneering businesses shall be included in Category X. "Auctioneering" means and includes any person who offers to sell or a sale of any property, real or personal, tangible, or intangible, by public outcry to the highest bidder or to any bidder when instead of asking the bidders to make increasingly higher bids for an article or articles of merchandise, the seller or auctioneer announces a price at which he will sell one or more articles of merchandise and then, if no sale occurs, increasingly adds additional articles of merchandise to those originally offered, with or without varying the price, or reduces the price on the originally offered article or articles.

B. Rate. The rate for Category X businesses shall be fifty dollars per day or three hundred dollars quarterly.

C. Exemption. Auctions required by law are exempt from the provisions of this section as follows:

1. When an auction in connection with a duly licensed existing business is required by law no tax will be applied; providing, however, that the licensee shall notify the finance officer in writing prior to the auction, regarding time and place;

2. No license tax shall be applied for selling at public sale of goods or property belonging to the United States or to the state or county, or by virtue of process issued by any state or county, or by virtue of process issued by any state or federal court or by the legally appointed administrator or executor of an estate. (Ord. 77-11 § 34 (part), 1978)

5.20.120 Category XI.

Category XI rates shall be as follows:

A. Businesses Included. Category XI businesses shall include bankrupt sales, etc., every person engaged in the business of owning, opening, establishing, managing, operating, maintaining, or having charge of any temporary location of business of any kind for the selling of any insolvent, bankrupt, fire damage or other similar goods, wares or merchandise, and every itinerant or transient merchant having a temporary place of business, but not having any continuous or permanent place of business in the city who sells or offers for sale, any insolvent, bankrupt, fire damaged goods or other goods, wares or merchandise.

B. Rate. The rate for Category XI businesses shall be one hundred dollars per day.

C. Exemption. This category shall not apply to any stock of goods owned by any person having a regular, fixed place of business in the city, whose stock has been damaged by fire, water, wreck, or business failure. (Ord. 77-11 § 34 (part), 1978)

5.20.130 Category XII.

Category XII rates shall be as follows:

A. Businesses Included. Category XII businesses shall include every person engaged in the business of constructing, erecting, installing, maintaining, or operating or renting any outdoor structure, billboard, sign, painted sign or structures, signboards, benches or similar devices used for the purpose of exhibiting or displaying advertising matter thereon.

B. Rate. The rate for Category XII businesses shall be fifty dollars plus five dollars for each single-face sign and ten dollars for each double-face sign located within the city limits.

C. Exemptions. This category shall not apply to signs relating to a building in which a business is being operated, which signs refer only to such businesses, nor “for sale” or “for rent” signs or real estate. (Ord. 77-11 § 34 (part), 1978)

5.20.140 Category XIII.

Category XIII rates shall be as follows:

A. Businesses Included. Every person engaged in the business of operating a hotel, motel, apartment complex, roominghouse, trailer or mobile home park, or recreational vehicle park, or any other similar type of lease or rented living facilities of ten or more units or spaces shall be included in Category XIII.

B. Rate. The rate for Category XIII businesses shall be twenty-five dollars for ten to twenty-five units or spaces, plus one dollar for every unit or space over twenty-five. (Ord. 77-11 § 34 (part), 1978)

5.20.150 Category XIV.

Category XIV rates shall be as follows: for each card club a business tax shall be imposed at the sum of three hundred dollars per year for the first table and one hundred fifty dollars for each additional table. (Ord. 77-11 § 34 (part), 1978)

5.20.160 Category XV—Optional daily fixed fee license tax basis.

When any of the following is conducted as or at a commercial activity, or public and private institution, open to all or parts of the general public, whether or not associated with another activity such as a convention, exhibition, showing or other gathering or event, the person conducting the business may, at his option, be taxed on a daily fixed fee basis for the following business activities, in lieu of longer term tax bases, and at the following rates:

A. Temporary Retail Sales. For the first four booths or individuals selling outside booths, twenty-five dollars per day. For each additional booth or individual selling outside any booth, one dollar per day;

B. Exhibits or Shows. Antiques, coin, furniture, travelogues, etc., not classified elsewhere at a higher daily rate, where a charge is made for admittance, but no sales are made, twenty-five dollars per day;

C. Temporary or Occasional Seminars, Schools, Classes, Lectures, and Traveling Theatrical Performances, Etc. Where a charge is made therefor, twenty-five dollars per day. (Ord. 77-11 § 34 (part), 1978)

5.20.170 Category XVI—Businesses not specifically mentioned.

It is the intent and purpose of this article to license, for revenue, as herein set forth, all business activities conducted within this city, and if an application for a license is made for any business not specifically referred to in this article or not included in any of the provisions hereof fixing license fees, the finance officer shall determine the fee applicable. If an appeal is made, it shall be submitted to the city manager for final determination. (Ord. 77-11 § 34 (part), 1978)

ENFORCEMENT—VIOLATION AND PENALTY

Sections:

5.24.010 Enforcement—Right of entry.

5.24.010 Enforcement—Right of entry.

A. It shall be the duty of the finance officer to enforce each and all of the provisions of this article, and the chief of police shall render such assistance in its enforcement as may from time to time be required by the finance officer.

B. The finance officer and each and all of his assistants, and any police officer or city employee whose job includes the inspection of the business license, shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed and demand an exhibition of its license certificate.

C. Any person having such license certificate theretofore issued in his possession or under his control, who wilfully fails to exhibit the same on demand, shall constitute a misdemeanor and subject to the penalties provided or by the provisions of this article. (Ord. 77-11 § 34 (part), 1978)

Article II. Specific Businesses

Chapter 5.28

BINGO

Sections:

5.28.010 Bingo defined.

5.28.020 Bingo games allowed.

5.28.030 Limited to nonprofit organizations.

5.28.040 Profits, wages or salaries.

5.28.050 No participation by minors.

5.28.060 Location of games.

5.28.070 Open to public.

5.28.080 Limited to organization personnel.

5.28.090 No other financial interest.

5.28.100 Special fund for profits.

5.28.110 Participants physically present.

5.28.120 Limit on prizes.

5.28.130 Issuance of permits—Fees—Reporting—Revocation.

5.28.140 Violation deemed public nuisance.

5.28.150 Cumulative remedies.

5.28.160 Violation of Section 5.28.040.

5.28.010 Bingo defined.

As used in this chapter, “bingo” means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected solely at random. Notwithstanding Penal Code Section 330c, as used in this section, the game of bingo shall include cards having

numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes; provided, however, that such cards may be sold or used only in connection with the conduct or operation of a bingo game which is proper and authorized pursuant to the provisions of a city ordinance (i.e., the game must be open to the public, etc.). The winning cards shall not be known prior to the game by any person participating in the play or operation of the bingo game. All such preprinted cards shall bear the legend "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." (Ord. 80-1 § 1(b), 1980; Ord. 77-9 § 12, 1977)

5.28.020 Bingo games allowed.

Bingo games shall be allowed within the incorporated area of the city pursuant to the terms of this chapter. (Ord. 77-9 § 1, 1977)

5.28.030 Limited to nonprofit organizations.

Bingo games shall be operated and/or conducted only by and for the benefit of organizations which are either:

- A. Exempted from the payment of the Bank and Corporation Tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(l) of the California Revenue and Taxation Code; or
- B. Mobile home park associations or senior citizens' organizations. (Ord. 77-9 § 2, 1977)

5.28.040 Profits, wages or salaries.

No person shall receive or pay a profit, wage or salary from any bingo game authorized by this chapter and by Section 19 of Article IV of the state Constitution. (Ord. 77-9 § 3, 1977)

5.28.050 No participation by minors.

No minor shall be allowed to participate in any manner whatsoever in any bingo game. (Ord. 77-9 § 4, 1977)

5.28.060 Location of games.

An organization authorized to conduct bingo games pursuant to Section 5.28.030 shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization. (Ord. 77-9 § 5, 1977)

5.28.070 Open to public.

All bingo games shall be open to the public, not just to the members of the authorized organization conducting same. (Ord. 77-9 § 6, 1977)

5.28.080 Limited to organization personnel.

A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage or salary from any bingo game. Only the organization authorized to conduct a bingo game pursuant to this chapter shall operate such game, or participate in the promotion, supervision or any other phase of such game. (Ord. 77-9 § 7, 1977)

5.28.090 No other financial interest.

No individual, corporation, partnership or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game. (Ord. 77-9 § 8, 1977)

5.28.100 Special fund for profits.

With respect to organizations exempt from payment of the bank and corporations tax by Section 23701(d) of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this chapter, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

- A. Such proceeds may be used for prizes;
- B. A portion of such proceeds, not to exceed twenty percent of the proceeds before deduction for prizes, or two thousand dollars per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, and administrative expenses, security equipment and security personnel;
- C. Such proceeds may be used to pay license fees. (Ord. 96-25 § 1(8), 1996; Ord. 80-1 § 1(a), 1980; Ord. 77-9 § 9, 1977)

5.28.110 Participants physically present.

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place at which the bingo game is being conducted. (Ord. 77-9 § 10, 1977)

5.28.120 Limit on prizes.

The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars in cash or kind, or both, for each separate game which is held. (Ord. 77-9 § 11, 1977)

5.28.130 Issuance of permits—Fees—Reporting—Revocation.

Any organization wishing to conduct bingo games shall first secure a permit from the finance director, which permit shall be issued as follows, in accordance with this section:

- A. Permits shall be valid for one year beginning July 1st and ending June 30th of each year, unless revoked by the city.
- B. A fee of fifty dollars shall be charged for each permit to cover the cost of issuance and review of the documents and information required. There shall be no proration of said fee if issued after July 1st. If an application for a permit is denied, one-half of the fee shall be refunded to the organization.
- C. Prior to the issuance of any permit, the permittee shall submit written evidence satisfactory to the finance director that the organization is qualified under the requirements of Section 5.28.030. If said documents are amended or revoked during the term of the permit, the permittee shall immediately notify the finance director in writing of same.
- D. On or before August 1st of each year, the permittee shall file with the finance director a report showing the income, disbursements and such other information as may be required by the finance director to show compliance with Sections 5.28.080, 5.28.090, 5.28.100 and 5.28.120 of this chapter. The report shall cover the twelve months preceding June 30th. The finance director may establish a different annual reporting date to coincide with the fiscal year of the reporting organization. This annual report shall be signed under penalty by the president and the secretary or treasurer of the organization submitting same, and shall have attached thereto the most recent state and federal informational tax returns filed by said organization.

E. If the permittee loses its exempt status during the term of the permit, the permit shall be immediately and automatically revoked. The permit may be reinstated without fee by the submission of the documents required for issuance.

F. The permit of any organization which fails to submit the required reports shall be immediately and automatically revoked. Said permit may be reinstated without additional fee upon the filing of the required report.

G. The city manager may revoke the permit of any organization that he finds has violated any of the terms, conditions or regulations imposed by this chapter or state law. The city manager shall notify the permittee in writing of said revocation and the grounds thereof. Said revocation shall become effective ten days after depositing the notice in the U.S. mail, postage prepaid, addressed to the organization at the address set forth on the permit.

H. The permittee may appeal the notice by requesting a hearing before the city manager in writing before the effective date of the notice. The city manager shall hold an informal hearing not less than five days nor more than thirty days after receiving the request for hearing. The city manager shall give not less than three days notice of the time and place of the hearing.

I. At the hearing, the city manager may consider such documentary or unsworn oral testimony as the permittee wishes to submit. He may also consider the fact of a conviction for violation of this chapter. Upon consideration of the information submitted, the city manager may uphold or withdraw the revocation, or may make reasonable rules for the conduct of the bingo games held by the permittee to avoid future violations. The city manager shall notify the permittee in writing of his decision and file a copy of said decision with the city clerk and finance director. The decision shall become final unless appealed to the city council within ten days of the written determination of the city manager.

J. The decision of the city manager may be appealed to the city council in the same form and manner as are set forth in the city zoning ordinance for appeals from the decisions of the planning commission.

K. A permittee may continue to conduct bingo games until the final determination is made on the appeal. (Ord. 82-13 § 1, 1982; Ord. 77-9 § 13, 1977)

5.28.140 Violation deemed public nuisance.

Any bingo game conducted or operated contrary to the terms and provisions of this chapter, or any participation therein contrary to the provisions of this chapter, is declared to be unlawful and a public nuisance, and the city attorney shall, upon order of the city council, immediately commence an action or proceeding for the abatement and enjoinder thereof in the manner provided by law. (Ord. 77-9 § 16, 1977)

5.28.150 Cumulative remedies.

The remedies provided for in this chapter shall be cumulative and not exclusive. (Ord. 77-9 § 17, 1977)

5.28.160 Violation of Section 5.28.040.

It shall be a misdemeanor for any person to violate the provisions of Section 5.28.040 of this chapter, and a conviction of such a violation shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the general fund of the city. (Ord. 77-9 § 14, 1977)

Chapter 5.32

CARDROOMS

Sections:

- 5.32.010 Purpose.
- 5.32.020 Cardroom defined.
- 5.32.030 Permit required.
- 5.32.040 Application for permit.
- 5.32.050 Issuance of permit.
- 5.32.060 Employee work permits.
- 5.32.070 Denial of employee work permit—Appeal.
- 5.32.080 Cardroom permit or employee work permit—Revocation.
- 5.32.090 Assignment of permit.
- 5.32.102 Prohibition of additional cardroom permits.
- 5.32.120 Cardroom regulations.
- 5.32.124 Gross revenue permit fees.

5.32.010 Purpose.

It is the intent and purpose of this chapter to provide for the orderly regulation of the business of operating cardrooms in the city by establishing certain minimum standards for the conduct of such businesses to protect the public safety and welfare of the residents of the city. (Ord. 79-7 § 1, 1979)

5.32.020 Cardroom defined.

For the purposes of this chapter a cardroom is defined to be any room, space or enclosure furnished or equipped with a table used or intended to be used for the playing of cards or similar games, and the use of which is available to the public, or any portion of the public; provided, however, that this chapter shall not apply to any bona fide nonprofit society, club, fraternal, labor or other organization as defined in Section 5.32.110. (Ord. 79-7 § 3, 1979)

5.32.030 Permit required.

No person, association, partnership or corporation shall engage in, carry on, maintain or conduct, or cause or permit to be engaged in, carried on, maintained or conducted, any cardroom in the city without first having obtained an annual permit from said city so to do, according to each and every requirement of this chapter, and without complying with each and every provision and regulation contained herein. The permit required hereby shall be in addition to any business license required by any other city ordinance. (Ord. 79-7 § 2, 1979)

5.32.040 Application for permit.

Every applicant for a cardroom permit pursuant to this chapter shall file an application with the chief of police or his designated representative upon a form provided by the public safety department and shall pay an annual nonrefundable application fee in an amount established by resolution of the city council, payable in advance with the application to defray in part the cost of investigation, inspection and enforcement of this chapter. The application shall specify:

- A. The address of the location for which the permit is required, together with the business name of such location;
- B. The name and proposed business address of the applicant. If the applicant is a corporation, the name of the corporation shall be stated exactly as shown in its articles of incorporation; and the applicant shall also state the date and place of incorporation, the true names and residence addresses of each of the officers and directors and of each stockholder

owning ten percent or more of the stock of the corporation. If the applicant is a partnership, the application shall set forth the true name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporation applicant apply as to such partner or partners;

C. Whether or not the applicant or any officer, director, member or stockholder of applicant, as the case may be, has ever been convicted of any crime except misdemeanor motor vehicle violations; if any person mentioned in this subsection has been so convicted, the place and court in which the conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as the result of said conviction. The application shall also be accompanied by specimen fingerprints of every person mentioned in this subsection, to be submitted on the standard fingerprint cards used by the police identification bureau, and by a recent photograph of every such person;

D. The names and addresses of the persons who have authority or control over the place for which the permit is requested, and a brief statement of the nature and extent of such authority and control;

E. The true name and address of each person, corporation, partnership, association or other entity whatsoever which has any interest, by way of financial participation or otherwise, in the ownership or operation of the cardroom or the cardroom permit;

F. Whether the application is for a new permit or for the renewal of an existing permit;

G. Such further information as may be deemed necessary by the chief of police. (Ord. 79-7 § 4, 1979)

5.32.050 Issuance of permit.

A cardroom permit may be issued for a period of one year upon the recommendation of the chief of police, subject to the following conditions and qualifications:

A. No applicant shall be recommended for a cardroom permit if:

1. The applicant has knowingly misstated, misrepresented, concealed or withheld any material fact on the application for permit; or

2. Such applicant has previously been convicted of a felony or of any narcotics violation; or

3. Any said cardroom is proposed to be located within any area of the city which is zoned residential; or if said cardroom location is adjacent to a residential area and, in the opinion of the chief of police, the operation of a cardroom in such location would tend to cause a public nuisance or a police problem; or

4. Said cardroom is proposed to be located within five hundred feet of a public school, church, hospital, children's playground or any other public facility where the presence of said cardroom might tend to promote a demoralizing effect or cause a police problem or create a public nuisance.

B. The action of the chief of police in recommending the denial of such a permit on the basis of any part of this section shall be subject to an appeal to the city council. Notice of such appeal shall be filed in writing with the city clerk within ten days after the denial of said permit. Upon failure to file such notice of appeal within the ten-day period, the action of the chief of police in denying such permit shall be final and conclusive. (Ord. 95-15 § 1, 1995; Ord. 79-7 § 5, 1979)

5.32.060 Employee work permits.

Cardroom employees must obtain a work permit from the chief of police. "Cardroom employees," for the purposes of this chapter, are defined as dealers, overseers and others directly connected with the operation and supervision of the card tables, and excluding waitresses, bartenders, culinary workers and others not directly connected with such operation and supervision. Applications for such work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the applicant and such information as may be deemed necessary by the chief of police to determine whether the applicant is a proper person to be is-

sued a cardroom work permit. The application shall also be accompanied by fingerprints and a recent photograph of the applicant. The chief of police shall deny to such applicant a work permit if:

A. Such applicant has previously been convicted of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California; or

B. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 11203.4a or 1203.45 of the Penal Code; provided, however, that the granting of relief pursuant to Section 1203.4, 1203.4a or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the chief of police to consider the factors set forth in Section 19847 or affect the applicant's burden under Section 19848 of the Business and Professions Code; or

C. Association of the applicant with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code; or

D. Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when the body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime as defined in Section 186.2 of the Penal Code; or

E. The applicant is less than twenty-one years of age.

F. The Division of Gambling Control of the Department of Justice, State of California, may object to the issuance of a work permit for any cause deemed reasonable by the Division. If the Division objects to the issuance of the work permit, the work permit shall be denied. Any person whose application for a work permit has been denied because of an objection by the Division may apply to the California Gambling Control Commission for an evidentiary hearing in accordance with regulations of the Commission.

Each application for a work permit shall be accompanied by an annual nonrefundable fee as established by resolution of the city council and the work permit shall be valid for a period of one year from date of issuance. The application fee shall not be returned in the event such work permit is refused, revoked or suspended as hereinafter provided. Only one such work permit shall be required each year, even though the holder of such work permit may change his or her place of employment within the city. (Ord. 99-20 § 1, 1999)

5.32.070 Denial of employee work permit—Appeal.

The action of the chief of police in denying such work permit shall be subject to an appeal to the city council. Notice of such appeal shall be filed with the city clerk within ten days after the denial of said work permit. Upon failure to file such notice within the ten-day period, the action of the chief of police in denying such work permit shall be final and conclusive. (Ord. 79-7 § 7, 1979)

5.32.080 Cardroom permit or employee work permit—Revocation.

The chief of police shall have the right for cause to revoke or suspend any cardroom permit or cardroom work permit issued hereunder and to take possession of such permits. Any of the grounds upon which the chief of police shall be required to refuse to issue a new cardroom permit or cardroom work permit shall also constitute grounds for such revocation or suspension. In addition, the failure of a holder of a cardroom permit or cardroom work permit to comply with the provisions set forth herein shall also constitute grounds for revocation or suspension of such cardroom permit or work permit. The action of the chief of police in this respect shall be subject to an appeal to the city council. Notice of such appeal shall be filed with the city clerk within ten days after the revocation or suspension. Upon failure to file such notice within the ten-day period, the action of the chief of police in revoking or suspending the cardroom permit or work permit shall be final and conclusive. (Ord. 79-7 § 8, 1979)

5.32.090 Assignment of permit.

No cardroom permit, or any interest therein, issued under the authority of this chapter, may be transferred from person to person, assigned, pledged or hypothecated in whole or in part, except as authorized by this chapter. Such permit shall not be subject to transfer to any other holder or operator through the levy of any execution by any judgment creditor or any judicial sale under any proceedings to enforce or collect any judgment, debt or obligation. The transfer of the cardroom activity to a different location may be approved by the chief of police provided the application or transfer fulfills all the conditions specified in Sections 5.32.040 and 5.32.050 for the issuance of cardroom permits and such location is allowed under Title 17 of this code (Zoning Ordinance). The transfer of a valid cardroom permit to another person may be allowed by the chief of police when the permittee is deceased and the executor or administrator of his estate has applied for such transfer within thirty days after the date of death, or when the permittee has become physically incapacitated so that he is unable to conduct his cardroom business and will be so incapacitated for a period of six months or more from the date of such application; provided further, that any such application for transfer of a cardroom permit to another person may only be made by or on behalf of a permittee holding a valid permit issued and unrevoked at the time of adoption of the ordinance codified in this chapter and not by the transferee or such permit or any other person; provided further, that any such transfer shall fulfill all the terms and conditions of this chapter for the issuance of any cardroom permit. (Ord. 96-18 § 1, 1996; Ord. 79-7 § 9, 1979)

5.32.102 Prohibition of additional cardroom permits.

Notwithstanding any other provision or section of this chapter, no cardroom permit for a cardroom not existing and legally permitted on the effective date of the ordinance codified in this section shall be issued by the city. (Ord. 96-6 § 1, 1996)

5.32.120 Cardroom regulations.

It is unlawful to operate a cardroom in violation of any of the following rules and regulations:

- A. Not more than one cardroom shall be located at any one address;
- B. No person shall deal, play or carry on, open, or cause to be opened, or conduct, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge-et-noir, rondo, tan, fantan, stud-horse poker, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, dominoes, or any other device, for money, chips, checks, credit or other representative of value, or bet at or against any of said prohibited games in any cardroom;
- C. Not more than seven tables shall be permitted in any cardroom;
- D. Not more than ten players shall be permitted at any one card table;
- E. Cardrooms shall be located on the ground floor of the licensed premises and arranged so that the card tables and the players at the tables shall be plainly visible and open to inspection by competent authorities at all times;
- F. No minor shall be permitted at any card table or shall participate in any game played thereat;
- G. Only the card games of draw poker, "Texas Hold 'Em," lowball draw poker, 21st Century Black Jack, panguingue (pan) and Pai Gow, and no other game or games shall be played or permitted to be played in a cardroom, all subject to the requirements and procedures of the California Gambling Control Act (Business & Professions Code §19800 et seq.) and to the approval of the Department of Justice Division of Gambling Control;

provided further that the game of Pai Gow may only be played in accordance with the specified rules for the playing hereof as may be adopted by resolution of the city council;

H. The chief of police may require, at his or her discretion, all permittees to implement reasonable security measures in and around any cardroom to insure the safety of patrons. A uniformed guard shall be employed by and be on duty at each cardroom from eight p.m. to two a.m. on Sunday through Thursday nights or to six a.m. on Friday nights (i.e., Saturday mornings) and Saturday nights (i.e., Sunday mornings) on each day that the cardroom is in operation. Such guard shall be considered a cardroom employee under the work provisions of Section 5.32.060;

I. All cardrooms subject to the provisions of this chapter may remain open for operations during such hours as the cardroom permittee shall determine, and the hours of operation shall be clearly posted;

J. There are no mandatory limits on the amount wagered in any permitted games. A cardroom permittee may impose wagering limits on any game, at his or her discretion. If wagering limits are established by the cardroom permittee for games, the limits for each game must be clearly posted;

K. The city council may by resolution, after a noticed public hearing, adopt such additional rules and regulations, not otherwise in conflict with this chapter, in furtherance of the purpose of this chapter. (Ord. 2002-02 § 1, 2002; Ord. 2000-08 §§ 2, 3, 2000; Ord. 99-20 §§ 2—5, 1999; Ord. 96-18 § 5, 1996; Ord. 96-6 § 2, 1996; Ord. 95-15 § 4, 1995; Ord. 86-12 § 1, 1986; Ord. 85-7 § 1, 1985; Ord. 85-1 § 2, 1985; Ord. 81-12 § 1, 1981; Ord. 79-7 § 12, 1979)

5.32.124 Gross revenue permit fees.

A. Monthly Fee. In addition to the basic fee prescribed by Section 5.32.040 of this chapter, each permittee, issued a permit pursuant to the provisions of this chapter, shall pay to the city a monthly fee, based upon the total monthly gross revenue of the card game business so permitted, according to the following schedule:

If the Monthly				
Gross Revenue is:				
But Not				
Over	Over	Computed Fee is:	Of Amount Over:	
\$ 0	\$10,000	\$ 500.00		
10,000	15,000	750.00 +5%	\$10,000	
15,000	20,000	1,200.00 +9%	15,000	
20,000	and over	1,850.00 +13%	20,000	

B. Statement of Revenue.

1. Each permittee shall file with the city manager before the fifteenth day of each calendar month a statement, under oath, showing the true and correct amount of gross revenue derived from the card game business permitted by the permit issued to or held by such permittee for the preceding calendar month. Such statement shall be accompanied by the payment of the correct amount of license fee due and owing in accordance with the provisions of subsection A of this section and such sums correctly reflecting the monthly fee payable for the preceding month shall be accepted by the city, subject, however, to the right of the city to audit the matters referred to in the statement and to determine the correctness of the figures set forth in such statement and the amount payable to the city pursuant to the provisions of subsection A of this section.

2. In addition to the foregoing, a certification or declaration signed under penalty of perjury by the permittee or the permittee's management shall be attached to the statement or included therein, which certification or declaration shall declare that the information provided is true and correct.

C. Audit of Reports. The books, records and accounts of any cardroom may be audited by the city. Such an audit to be performed by a qualified accountant or city official who shall be selected by the city council and/or city manager. Any information obtained pursuant to the provisions of this section or any statement filed by the permittee shall be deemed confidential in character and shall not be subject to public inspection but shall be available to those city officials having jurisdiction over the provisions of this chapter and to any court of competent jurisdiction where any matter relating thereto may be actively pending. If such an audit shall show that the permittee has understated the amount of gross revenue derived from the cardroom business by more than two percent, permittee shall immediately pay to city the cost of the audit as well as the additional fee.

D. Failure to Provide Records. Any failure or refusal of any such permittee to maintain sufficient records to allow for a meaningful audit, to make and file any statements as required within the time required, or to pay such sums by way of permit fees when the same are due and payable in accordance with the provisions of this chapter, or to permit such inspection of such books, records and accounts of such permittee shall be and constitute full and sufficient grounds for suspension and revocation of the license of any such permittee.

E. Effective Date for Permit Fee. This gross revenue fee shall become effective at the same time as the remainder of the ordinance codified in this section except if required by law to be approved by the voters, it shall become effective upon approval by a four-fifths vote of the city council and a majority of the voters in an election.

F. Existing Cardrooms. Existing cardrooms shall be exempt from payment of this fee for the first twelve months from its effective date, shall pay one-half of the above-described amount for the next twelve months and shall pay the full amount thereafter.

G. Use of Proceeds of Fees. All proceeds from this fee shall be deposited in the city's general fund with the city council reserving the right to budget and allocate those proceeds for any general fund purpose. In adopting this fee it shall be the policy of this council that the first priorities for allocation of these funds shall be for public safety enforcement and the city's fund for replacement of capital projects. (Ord. 95-15 § 5, 1995)

Chapter 5.36

MESSAGE BUSINESSES

Sections:

- 5.36.010 Purpose.
- 5.36.020 Statutory authority.
- 5.36.030 Definitions.
- 5.36.040 License required.
- 5.36.050 License—Application—Contents.
- 5.36.060 License required for off-premises business.
- 5.36.070 Off-premises massage business license—Application—Contents.
- 5.36.080 Massage technician—Permit required.
- 5.36.090 Massage technician—Permit contents.
- 5.36.100 Exemptions.
- 5.36.110 Operative date for massage technicians.
- 5.36.120 Operating requirements for massage establishments.

- 5.36.130 Operative date for massage business.
- 5.36.140 Name of business.
- 5.36.150 Change of business location.
- 5.36.160 Sale or transfer of business.
- 5.36.170 Inspection.
- 5.36.180 Suspension or revocation of license or permit.
- 5.36.190 Suspension hearing.
- 5.36.200 Stay of suspension or revocation.
- 5.36.210 Suspension appeal.

5.36.010 Purpose.

It is the purpose and intent of this chapter to provide for the orderly regulation of the business of massage and massage technicians in the city by establishing certain minimum standards for the conduct of this type of business to protect the public health and welfare of the residents of the city. (Ord. 78-2 § 1, 1978)

5.36.020 Statutory authority.

The ordinance codified in this chapter is adopted pursuant to Sections 51030 through 51034 of the California Government Code, and regulates the business and practice of massage to the extent authorized therein. (Ord. 78-2 § 2, 1978)

5.36.030 Definitions.

Whenever used in this chapter, the following words and phrases shall be defined as follows:

A. "License" means the business license to operate a massage establishment or off-premises massage business as required by this chapter.

B. "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as

rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in the practice of massage.

C. "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership or corporation engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for any form of consideration whatsoever, "massages" as defined in subsection B of this section.

D. "Massage technician" means any person who gives or administers to another person, for any form of consideration whatsoever, a "massage" as defined in subsection B of this section.

E. "Off-premises massage" means the activity of providing massage services for any form of consideration whatsoever, at a location other than premises licensed as a massage establishment.

F. "Permit" means the permit to engage in the activities of a massage technician as required by this chapter. (Ord. 78-2 § 3, 1978)

5.36.040 License required.

It is unlawful for any person, association, partnership or corporation to engage in, conduct, carry on or to permit to be engaged in, conducted or carried on, in or upon any premises within the city, the operation of a "massage establishment" as defined in Section 5.36.030 without a license issued pursuant to the provisions of

this chapter for each and every such massage establishment. The license required shall be in addition to any business tax license required by any other city ordinance. (Ord. 78-2 § 4, 1978)

5.36.050 License—Application—Contents.

A. Any person, association, partnership or corporation desiring to obtain a license to operate a massage establishment shall make an application to the chief of police or his designated representative. An annual nonrefundable fee established by resolution of the city council shall accompany the submission of each application to defray in part the cost of investigation, inspection and enforcement of this chapter.

B. Each applicant for a license to operate a massage establishment shall furnish the following information to the chief of police:

1. The full true name and any other names used by the applicant;
2. The present address and telephone number of the applicant;
3. The proposed name and address of the massage establishment;
4. Each residence and business address of applicant for the three years immediately preceding the date of the application, and the inclusive dates of applicant's use of each such address;
5. Written proof that the applicant is at least eighteen years of age;
6. Applicant's height, weight and color of eyes and hair;
7. Two photographs of applicant at least two inches by two inches taken within six months immediately preceding the date of application. One photograph shall be retained by the chief of police and one photograph shall be affixed to the license;
8. Applicant's business, occupation and employment history for the three years immediately preceding the date of application;
9. The business license or permit history of the applicant; whether such applicant has ever had any license or permit issued by any agency, board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefor;
10. All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions;
11. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply. The applicant, corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such person shall complete and sign all application forms required of an individual applicant under this subsection, but only one application fee shall be charged;
12. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted, and a copy of the lease or rental agreement;
13. Such other identification and information as may be required in order to discover the truth of the matters herein required to be set forth in the application;
14. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

C. The chief of police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A license shall be issued within thirty days of receipt of the application to any applicant who has furnished all of the information required by this section in the application for such license, provided:

1. The applicant has not knowingly made a material false statement in the application for the license;
2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent or more of the corporation's stock, or partners, has not within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:
 - a. Sections 266i, 315, 316, 318, or subdivision (b) of Section 647 of the Penal Code; or any offense which requires registration as a sex offender with the chief of police under Penal Code Section 290, or
 - b. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or
 - c. Any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses;
3. The massage establishment as proposed by the applicant would comply with all applicable laws, including but not limited to, health, zoning, fire and safety requirements and standards;
4. The applicant is at least eighteen years of age;
5. The applicant has fulfilled the requirements of Section 5.36.120. (Ord. 78-2 § 5, 1978)

5.36.060 License required for off-premises business.

It is unlawful for any person, association, partnership or corporation to engage in, conduct, carry on or to permit to be engaged in, conducted or carried on, any off-premises massage business within the city without a license issued pursuant to the provisions of this chapter for each and every such massage business. The license required by this section shall be in addition to any business tax license required by any other city ordinance. (Ord. 78-2 § 6, 1978)

5.36.070 Off-premises massage business license—Application—Contents.

A. Any person, association, partnership or corporation desiring to obtain a license to conduct an off-premises massage business shall make an application to the chief of police or his designated representative. An annual nonrefundable fee as established by resolution of the city council shall accompany the submission of each application to defray, in part, the cost of investigation, inspection and enforcement of this chapter.

B. Each applicant for a license to conduct an off-premises massage business shall furnish to the chief of police all the information required by Section 5.36.050B.

C. The chief of police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A license shall be issued within thirty days of receipt of the application to any applicant who has furnished all of the information required by this section in the application of such license, provided:

1. The applicant has not knowingly made a material false statement in the application for the license;
2. The applicant, if an individual, or in the case of an applicant which is a corporation or partnership, any of its officers, directors, holders of five percent or more of the corporation's stock, or partners, has not within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

- a. Sections 166i, 315, 316, 318, or subdivision (b) of Section 647 of the Penal Code; or any offense which required registration as a sex offender with the chief of police under Penal Code Section 290, or
- b. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or
- c. Any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses;
- 3. The applicant is at least eighteen years of age.
- E. Off-premises massage operations shall be carried on only between the hours of ten a.m. and twelve p.m. (Ord. 78-2 § 7, 1978)

5.36.080 Massage technician—Permit required.

It is unlawful for any person to engage in the business of acting or to act as a massage technician without a permit issued pursuant to the provisions of this chapter. (Ord. 78-2 § 8, 1978)

5.36.090 Massage technician—Permit contents.

A. Any person desiring to act as a massage technician shall make an application to the chief of police or his designated representative. An annual nonrefundable fee as established by resolution of the city council shall accompany the submission of each application to defray, in part, the cost of investigation and examination as required by this chapter.

B. Each applicant for a permit to act as a massage technician shall furnish the following information to the chief of police:

- 1. The full true name and any other names used by the applicant;
- 2. The present address and telephone number of the applicant;
- 3. Each residence and business address of applicant for the three years immediately preceding the date of the application, and the exclusive dates of the applicant's use of each such address;
- 4. Written proof that the applicant is at least eighteen years of age;
- 5. Applicant's height, weight and color of eyes and hair;
- 6. Two photographs of applicant at least two inches by two inches taken within six months immediately preceding the date of application. One photograph shall be retained by the chief of police and one photograph shall be affixed to the permit;
- 7. Applicant's business, occupation and employment history for the three years immediately preceding the date of application;
- 8. The business license or permit history of the applicant; whether such applicant has ever had any license or permit issued by any agency, board, city, county or state revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reason therefor;
- 9. All criminal convictions, except traffic violations, and a statement of the dates and places of such convictions;
- 10. The massage establishment, if any, at which the applicant expects to be employed;
- 11. A certificate from a medical doctor, licensed to practice in the state, stating that the applicant has within thirty days immediately preceding the date of application been examined and had no communicable disease on the date of examination;
- 12. Proof of graduation from a school or institution of learning which has for its purposes the teaching of the theory, method, profession or work of massage, which school requires a residence course study of not less

than one hundred hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning, following the successful completion of such course of study or learning, and which school has been approved by the state Superintendent of Public Instruction pursuant to Education Code Section 94311;

13. Such other identification and information as may be required in order to discover the truth of the matters herein specified as required to be set forth in the application;

14. The chief of police may require the applicant to furnish fingerprints when needed for the purpose of establishing identification.

C. The chief of police shall have a reasonable time, not to exceed thirty days, in which to investigate the application and background of the applicant.

D. A permit shall be issued within thirty days of receipt of the application to any applicant who has furnished all the information required by this section in the application for such permit, provided:

1. The applicant has not knowingly made a material false statement in the application for the permit;

2. The applicant has not within five years immediately preceding the date of the filing of the application been convicted in a court of competent jurisdiction of any of the following offenses:

a. Sections 266i, 315, 316, 318, or subdivision (b) of Section 647 of the Penal Code; or any offense which requires registration as a sex offender with the chief of police under Penal Code Section 290, or

b. Any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or

c. Any offense in another state which, if committed in this state would have been punishable as one or more of the heretofore mentioned offenses;

3. The applicant is at least eighteen years of age;

4. The applicant has furnished an acceptable medical certificate in compliance with this section;

5. The applicant has furnished proof of graduation from a school of massage as provided in this section.

E. A permit to act as a massage technician does not authorize the operation of a massage establishment.

Any person obtaining a permit to act as a massage technician who desires to operate a massage establishment must separately apply for a license therefor. A person who applies for a license to operate a massage establishment and who desires to act as a massage technician within said establishment and who pays the fee required by Section 5.36.050 shall not be required to pay the fee required herein. (Ord. 96-25 § 1(11), 1996; Ord. 83-16 § 1, 1983; Ord. 78-2 § 9, 1978)

5.36.100 Exemptions.

This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

A. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state;

B. Nurses who are registered as such under the laws of the state;

C. Barbershops and beauty parlors, barbers and beauticians who are duly licensed under the laws of the state; provided, that such massage is limited to the face and scalp;

D. Trainers of any amateur, semiprofessional or professional athlete or athletic teams;

E. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment;

F. Hospitals, nursing homes, sanatoriums or other health care facilities duly licensed by the state. (Ord. 78-2 § 10, 1978)

5.36.110 Operative date for massage technicians.

All persons operating or employed as massage technicians at the time the ordinance codified in this chapter becomes effective shall obtain a massage technician permit within ninety days of the effective date of the ordinance codified in this chapter. (Ord. 78-2 § 11, 1978)

5.36.120 Operating requirements for massage establishments.

No person, association, partnership or corporation, shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the operation of a massage establishment unless each and all of the following requirements are met:

A. Each person employed or acting as a massage technician shall have a valid permit issued pursuant to the provisions of this chapter, and it is unlawful for any owner, operator, responsible managing employee, manager or permittee, in charge of or in control of a massage establishment, to employ or permit any person to act as a massage technician who is not in possession of a valid, unrevoked massage technician permit.

B. The possession of a valid massage establishment business license does not authorize the possessor to perform work for which a massage technician permit is required.

C. Massage operations shall be carried on, and the premises shall be open, only between the hours of ten a.m. and twelve a.m. (midnight).

D. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No owner, operator, responsible managing employee, manager or permittee in charge of or in control of the massage establishment shall permit, and no massage technician shall offer to perform, any services other than those posted.

E. The massage establishment business license, and a copy of the permit of each and every massage technician employed or working in the establishment, shall be displayed in an open and conspicuous public place on the premises and shall be available at all times during regular business hours for inspection by the chief of police or his representative.

F. A minimum of one tub or shower and one toilet and washbasin shall be provided for the patrons in every massage establishment. Hot and cold running water under pressure shall be provided to all washbasins, bathtubs, showers and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in every toilet room.

G. The massage establishment shall provide each client or patron thereof with a separate locker which shall have a locking device of a type approved by the chief of police or his designee and to which each client or patron shall be given a key and be allowed to store therein any valuables which the client or patron may bring to the massage establishment. There shall be no duplicate keys to such lockers; however, the owner, manager or the operator of the premises may retain within his or her sole management or control, a master key which allows access to such lockers. Said master key may be utilized for emergency purposes only when a locker or lockers contain valuables belonging to a client or patron of the massage establishment.

H. Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets; provided, that such paper is used once for each person then discarded into a sanitary receptacle.

I. Disinfecting agents and sterilizing equipment sufficient to assure the cleanliness and safe condition thereof shall be provided for any instruments used in performing any massage. Instruments shall be disinfected after use on each patron.

J. Pads used on massage tables shall be covered in a workmanlike manner with durable, washable plastic or other waterproof material.

K. It is unlawful for any massage service to be carried on within any cubicle, room, booth or any area within a massage establishment unless such cubicle, room, booth or area has an unobstructed opening, as approved by the chief of police, capable of clear viewing into any such cubicle, room, booth or area. The opening may consist of a door view device. All such openings shall show the work area of the cubicle, room, booth or area. The opening shall be not less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth.

L. All employees shall wear nontransparent outer garments at all times while working, which garments shall fully clothe such employees. All clients or patrons of such massage service shall wear nontransparent outer garments completely covering their genital areas as defined hereinbelow.

M. No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

N. It is unlawful for any person in a massage parlor to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. "Sexual or genital parts" means the genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

O. No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage establishment.

P. No person shall enter, be or remain in, any part of a massage establishment while in the possession of or while consuming or using any alcoholic beverage or drugs, except pursuant to a prescription for such drugs. The owner, operator or manager shall not permit any such person to enter or remain upon such premises.

Q. It is unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee or any other person under his control or supervision to perform any acts or conduct prohibited herein or to fail to perform any acts required by this chapter. (Ord. 2000-05 § 1, 2000; Ord. 78-2 § 12, 1978)

5.36.130 Operative date for massage business.

Any person, association, partnership or corporation engaging in, conducting, or carrying on the operation of, a massage establishment or off-premises massage business on the effective date of the ordinance codified in this chapter shall, except as otherwise specifically provided herein, comply with all of the provisions of this chapter within ninety days of the effective date of the ordinance codified in this chapter. (Ord. 78-2 § 13, 1978)

5.36.140 Name of business.

No person, association, partnership or corporation licensed to do business as herein provided shall operate under any name or conduct his business under any designation not specified in his license. (Ord. 78-2 § 14, 1978)

5.36.150 Change of business location.

A change of location of a licensed massage establishment shall be approved by the chief of police, provided all applicable provisions of this chapter are complied with and a nonrefundable change of location fee as estab-

lished by resolution of the city council has been paid to the chief of police, and the county health department and the city building department have inspected the new location and have advised the chief of police that it complies with the requirements of this chapter. (Ord. 78-2 § 15, 1978)

5.36.160 Sale or transfer of business.

Upon the sale or transfer of any interest in a massage establishment or off-premises massage business including, in the case of a corporate owner, the sale or transfer of stock to a person who would hold more than five percent of the stock of the corporation, any license heretofore issued for such establishment or business shall be null and void. A new application shall be made in accordance with and subject to all the provisions of Sections 5.36.050 or 5.36.060 by any person, form or entity desiring to own or operate the massage establishment or off-premises massage business. The application shall be accompanied by payment of the respective annual nonrefundable fees specified in Section 5.36.050 or 5.36.060 in addition to the payment of a sale or transfer fee as specified by resolution of the city council. Any such sale or transfer of any interest in any existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with subsections A through K of Section 5.36.120. (Ord. 78-2 § 16, 1978)

5.36.170 Inspection.

The police department, building inspector, any other appropriate city official, and the county health department, shall make reasonable and periodic inspections of the records kept as required by this chapter, and of the foyer, hallways, restrooms and other areas used or intended for use in common by customers, rooms in which massages are given (whether occupied or unoccupied), and unoccupied rooms of each and every massage establishment in the city during hours of the business operation for the purpose of determining that there is compliance with the provisions of this chapter and the laws of the state. (Ord. 78-2 § 17, 1978)

5.36.180 Suspension or revocation of license or permit.

In the event that any person holding a license or permit issued pursuant to this chapter violates or causes or permits to be violated any of the provisions of this chapter or any provisions of any other ordinance or law relating to or regulating said business or occupation, or conducts or carries on such business or occupation in an unlawful manner, or is convicted of any of those crimes contained in Section 5.36.050(D)(3), the chief of police may, in addition to other penalties provided by ordinance, suspend or revoke the license or permit after the licensee or permittee has been given the opportunity for a hearing as set forth in Section 5.36.190. (Ord. 78-2 § 18, 1978)

5.36.190 Suspension hearing.

Any person who has been denied a license or permit, or any person whose license or permit issued pursuant to this chapter has been suspended or revoked, may request a hearing conducted by the city manager's office. The request for a hearing must be in writing and must be made within ten calendar days from the date of the decision denying, suspending or revoking the license or permit. Upon receiving a written request for a hearing, the city manager or his delegate shall call a hearing within fourteen days thereafter and shall set forth in writing and send to the applicant, licensee or permittee by means of registered mail, certified mail or hand delivery, notice of the date, time and place of the hearing at least five days before the hearing date. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The hearing shall be conducted by the city manager or by a hearing officer appointed by the

city manager. The applicant, licensee or permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant, licensee or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for denial, suspension or revocation of the license or permit shall be considered conclusively established. A copy of the decision of the hearing officer specifying in writing the reasons for the decision shall be furnished to the applicant or licensee. The hearing officer shall in

writing inform the party against whom the decision is rendered of his right to appeal pursuant to Section 5.36.210. (Ord. 78-2 § 19, 1978)

5.36.200 Stay of suspension or revocation.

The effect of a decision by the city manager or hearing officer shall be stayed while an appeal to the city council is pending or until the time for filing such appeal has expired. If an appeal is not timely filed, the decision of the hearing officer shall be final. (Ord. 78-2 § 20, 1978)

5.36.210 Suspension appeal.

Within ten days after receipt of the decision of the hearing officer, any party affected by the decision may file with the city clerk a written request for a public hearing before the city council. Upon the filing of such a request, the city clerk shall, within fourteen days thereafter, set the matter for a hearing and shall notify the appellant in writing of the date, time and place of such hearing at least five days before the hearing date. At the hearing, any person may present evidence in opposition to, or in support of, the appellant's case. At the conclusion of the hearing, the city council shall either grant or deny the appeal. The decision of the city council shall be final. (Ord. 78-2 § 21, 1978)

Chapter 5.40

PUBLIC DANCES

Sections:

- 5.40.010 Public dance defined.
- 5.40.020 Permit required—Exceptions.
- 5.40.030 Permit—Application.
- 5.40.040 Permit—Fee—Exceptions.
- 5.40.050 Investigation of application.
- 5.40.060 Issuance or denial of permit—Conditions.
- 5.40.070 Permit—Revocation or suspension.
- 5.40.080 Appeals.
- 5.40.090 Permit conditions.
- 5.40.100 Provisions regarding conduct of dance.
- 5.40.110 Teenage dance regulations.
- 5.40.120 Application for teenage dance permit.
- 5.40.130 Conduct of teenage dance.

5.40.010 Public dance defined.

For purposes of this chapter, the phrase “public dance” shall mean and include any place where dancing is participated in by one or more couples in any dance hall, place of business or other premises where dancing is allowed and which is open to the public, with or without an admission charge. (Ord. 78-4 § 2, 1978)

5.40.020 Permit required—Exceptions.

No person shall operate, sponsor, conduct, cause to be conducted or permit to be carried on any public dance or series of such dances within the city without having a dance permit issued by the chief of police pursuant to the provisions of this chapter; provided, however, that no such permit shall be required for any dance operated and conducted by a public school or any agency or department of the city. (Ord. 78-4 § 1, 1978)

5.40.030 Permit—Application.

Application for a permit under this chapter shall be made in writing at least ten days before any public dance is conducted to the chief of police and shall set forth the following:

- A. The name and address of the owner of the real property where the dance is to take place;
- B. The name and address of the applicant;
- C. The name and address of the person to be in immediate charge of the dance;
- D. The date, time and location of the dance;
- E. A statement as to whether admission will be charged;
- F. Whether applicant, or the person to be in immediate charge of the dance, has ever been convicted of felony;
- G. A statement as to whether the dance is for a charitable purpose or for a personal profit nature;
- H. The approximate attendance expected or to be allowed at the dance;
- I. Certification that the place or premises where the dance will be held is reasonably adequate for the use requested and conforms with the health, safety and fire laws and regulations of the city. Such certification shall specify the maximum number of persons who may safely be accommodated at the dance;
- J. Such other information as may be required by the chief of police in investigating for the permit. (Ord. 78-4 § 3, 1978)

5.40.040 Permit—Fee—Exceptions.

The fee for a public dance permit shall be either fifty dollars per year or ten dollars per dance, whichever the applicant designates when applying for a permit; provided, however, that no fee shall be charged for a permit if the applicant is a nonprofit organization exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) or 23701(i) of the California Revenue and Taxation Code. (Ord. 78-4 § 4, 1978)

5.40.050 Investigation of application.

It shall be the duty of the chief of police to refer the application to the fire chief and building inspector to investigate and approve or disapprove such premises for use in the proposed type of occupancy. (Ord. 78-4 § 5, 1978)

5.40.060 Issuance or denial of permit—Conditions.

If the chief of police finds, after receiving recommendations from both the fire chief and the building inspector, that the proposed location of the dance is not of such character as to disturb the public peace or be injurious to good morals, and that the conducting of the dance in the proposed location will not disturb the peace and

quiet of any considerable number of persons residing in the vicinity thereof, he shall issue the permit; otherwise the chief of police shall deny the permit. The chief of police is authorized and directed to attach such conditions to his issuance of the permit as he shall deem necessary to protect the health, safety and general welfare of the community and persons attending the dance. Such conditions may include the carrying of public liability insurance, employment of special police or security guards, and the deposit with the city clerk of a sum of money sufficient to guarantee the proper policing of the location of the dance. (Ord. 78-4 § 6, 1978)

5.40.070 Permit—Revocation or suspension.

The chief of police may revoke or suspend any public dance permit for any one of the following reasons:

- A. The premises where dancing is carried on is being operated in violation of a public statute or ordinance;
- B. Disturbances of the public peace or conduct offensive or contrary to the public morals takes place at such dance place;
- C. The applicant or person in immediate charge of such dance is convicted of a felony;
- D. The operation of such dance is contrary to the public interest;
- E. The falsity of any statement of the application. Such dance permit shall be and remain the property of the city, and on revocation or suspension the permit shall be surrendered to the chief of police. (Ord. 78-4 § 7, 1978)

5.40.080 Appeals.

Any person whose application for a public dance permit has been disapproved, suspended or revoked by the chief of police shall have the right to appeal to the city council by filing a written notice of appeal with the city clerk within five days after written disapproval, revocation or suspension is personally served upon him, and the city council shall, at its next regular meeting, set a time and place for the hearing of the appeal and the city clerk shall give at least ten days' written notice of such hearing to the applicant by mailing to his address, as given on the application for such permit. The decision of the city council at such hearing shall be final. (Ord. 78-4 § 8, 1978)

5.40.090 Permit conditions.

- A. Nontransferable. The permit for a public dance shall authorize the dance to be carried on only at the time and place set forth therein, and the permit shall not be transferable or assignable except upon a written application to, and the written approval of, the chief of police.
- B. Permit Available. The permit issued pursuant to the provisions of this chapter shall be available for inspection at all times while the dance is being conducted.
- C. Term. Every public dance permit issued pursuant hereto shall expire on the lapse of one year from the date of issuance, unless the permit specifies an earlier date for its expiration or unless the permit be sooner revoked or suspended as provided herein. (Ord. 78-4 § 9, 1978)

5.40.100 Provisions regarding conduct of dance.

- A. Hours of Operation. Public dances shall not be held between the hours of two a.m. and eight a.m. of any day, and no person in charge of any public dance premises shall permit any person, except the person in charge thereof or persons regularly employed in and about the premises, to remain therein between the aforesaid hours of any day; provided, however, that this section shall not apply to places of business regularly and daily

engaged in carrying on or conducting a bar, cafe or restaurant business and where such business constitutes the major portion or part of such enterprise.

B. Police Supervision. The place where such public dancing is to be conducted shall at all times while dancing is being conducted therein be subject to the supervision and control of the police department.

C. Prohibited Conduct. It is unlawful for any person to whom such permit has been issued, to permit, suffer or allow any loud, tumultuous, boisterous or offensive noise or conduct, or other disturbance of the public peace, upon the premises where the public dance is being conducted.

D. Prohibited Persons. It is unlawful for any person conducting a public dance to admit or permit to remain in or about the place where a public dance is being conducted any lewd, dissolute or boisterous person of either sex.

E. Orderly Conduct; Intoxicated Persons Prohibited. It shall be the duty of the person to whom such permit has been granted to conduct all dances in a quiet and orderly manner, and to permit no person under the influence of intoxicating liquors, narcotic, or restricted or dangerous drug or substance, or any combination thereof, to participate in any dance being conducted on the premises.

F. Minor Under Eighteen Prohibited. Except for teenage dances as provided for in Sections 5.40.110 through 5.40.130, no person under the age of eighteen years shall enter or remain in any place where a public dance is being conducted, nor shall any person in charge of a public dance permit any person under the age of eighteen years to enter or remain in any place where a public dance is being conducted, unless such person under the age of eighteen years is accompanied by his parent or legal guardian.

G. Adequate Lighting. All places where public dances are held shall be adequately lighted at all times when open for dancing so as to permit adequate supervision in all parts of the buildings and premises accessible to the participants or public, and all off-street parking facilities made available for those persons attending the dance shall be adequately lighted. (Ord. 78-4 § 10, 1978)

5.40.110 Teenage dance regulations.

In addition to the rules and regulations relating to public dances in general if the public dance in question is a teenage dance, as defined herein, the additional rules, regulations and requirements as set forth in Sections 5.40.120 and 5.40.130 shall also apply to such a dance. As used herein the phrase “teenage dance” means any public dance held or operated exclusively or primarily for minors under the age of eighteen years. (Ord. 78-4 § 11, 1978)

5.40.120 Application for teenage dance permit.

In addition to the information required by Section 5.40.030 in an application for a permit for a public dance, in an application for a teenage dance permit the following additional information will also be required:

A. The minimum number of, and the names and addresses of, the adult supervisors who will be in attendance at all times during the holding of the dance, as required by Section 5.40.130E.

B. The minimum number of law enforcement officers to be employed by the person or organization sponsoring or holding the teenage dance, as required by Section 5.40.130F. (Ord. 78-4 § 12, 1978)

5.40.130 Conduct of teenage dance.

A. Persons Over Age Twenty Prohibited. No person over the age of twenty years shall enter or remain, and no person in charge of a teenage dance shall permit any person over the age of twenty years to enter or remain, in any place where a teenage dance is being conducted; provided, however, that this provision shall not apply to or prohibit the attendance of chaperons, parents and sponsors of the dance who do not participate in the dancing.

B. Hours of Operation. No teenage dance shall be permitted or allowed to operate or continue after the hour of twelve midnight, unless the permit for a particular teenage dance specifically authorized the continuance to a later hour, but in no event later than the hour of one a.m.

C. Alcoholic Beverages Prohibited. No alcoholic beverages shall be sold or consumed or be available on the premises in or about which a teenage dance is held. Admission to a teenage dance shall be denied to any person showing evidence of being under the influence of, or having possession of, any alcoholic beverage or any narcotic or restricted or dangerous drug or substance.

D. Reentering and Loitering Prohibited. No person admitted to a teenage dance shall be permitted to leave and thereafter reenter the dancing premises during the course of a teenage dance, and no pass-out or reenter checks or stubs shall be issued unless required by the physical arrangement of the premises. No person shall be permitted to loiter in or about the immediate area where a teenage dance is being conducted, including the parking facilities used for such a dance.

E. Adult Supervisors. For each teenage dance there shall be not less than one adult supervisor for each twenty-five teenagers, or fraction of said number, in attendance, and in no event shall there be less than two adult supervisors for each teenage dance.

F. Law Enforcement Officers. For each teenage dance there shall be at least two law enforcement officers employed and present for the first two hundred fifty participants, with one additional officer for each one hundred additional participants in attendance. The chief of police may also require the employment of a larger number of law enforcement officers if he deems such necessary for proper and adequate law enforcement purposes. (Ord. 78-4 § 13, 1978)

Chapter 5.44

TAXICABS*

Sections:

5.44.010	Permit required.
5.44.020	Definitions.
5.44.030	Determination of number of taxicabs to be operated in the city.
5.44.040	Continued operation of authorized business required.
5.44.050	Vehicles to be licensed by state—Renting of vehicles by owners.
5.44.060	Liability insurance.
5.44.070	Rates and fares.
5.44.080	Condition of vehicles generally.
5.44.090	Requirements for signs and dome light on vehicles.
5.44.100	“For Hire” lights.
5.44.110	Illumination of passenger compartment required at certain times.
5.44.120	Inspection of vehicles by law enforcement officials.
5.44.130	Establishment and use of taxicab stands.
5.44.140	Solicitation of passengers prohibited—Exception.
5.44.150	Vehicles standing in streets—Prohibited—Exception.
5.44.160	Disorderly conduct by drivers prohibited.
5.44.170	Vehicles operating in city from other locations.
5.44.180	Records kept by owners.
5.44.190	Reports of lost property.
5.44.200	Owner’s permits.
5.44.210	Driver’s permits.
5.44.220	Mandatory controlled substance and alcohol testing program.
5.44.230	Taximeters.

* Prior ordinance history: Ords. 2002-05, 83-14, 79-18, 79-17, 79-4.

5.44.010 Permit required.

No person shall engage in the business of operating any taxicab within the city without first having obtained a permit from the city council, except as otherwise provided in this chapter. (Ord. 2003-10 § 1 (part), 2003)

5.44.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

“Driver” means every person in charge of driving/operating any motor vehicle, either as owner, agent, employee or otherwise.

“Motor vehicle” means every vehicle used for public hire propelled by mechanically produced power and intended for use on streets and highways, except street cars, interurban trains and motor or trolley buses.

“Owner” means every person having legal use, control, beneficial or registered title of any motor vehicle, whether as owner, leasee or otherwise.

“Taxicab” means a motor vehicle of distinctive color or combination of colors used in the transportation of passengers over the public streets and highways of the city operated at rates per mile, per destination, for the waiting time or for the a combination of any two, irrespective of whether or not the operations extended beyond the city, where transportation is not over affixed and defined route but is under the control, as to route, of the persons hiring the same.

“Taximeter” means a mechanical instrument or device by which the charge for hire of a taxicab is mechanically calculated, either for distance traveled, for waiting time or both, and upon which said charges are plainly registered by means of figures indicating dollars and cents.

“Taxistand” means a place of business designated on the operators permit and approved by the city council for the use, while awaiting employ, of any vehicle covered by this chapter. (Ord. 2003-10 § 1 (part), 2003)

5.44.030 Determination of number of taxicabs to be operated in the city.

A. The city council shall determine, after a public hearing, the number of taxicabs to be operated in the city. Such determination shall be subject to change at any time the city council may deem it appropriate.

B. Any hearing before the city council required pursuant to this chapter shall be had upon at least ten days written notice mailed to the applicant and all other taxicab companies then licensed to operate within the city. (Ord. 2003-10 § 1 (part), 2003)

5.44.040 Continued operation of authorized business required.

Every person holding an owner’s permit under the provisions of this chapter shall regularly and daily operate his or her motor vehicle business from a taxistand within the city to the extent reasonably necessary to meet public demand for such service. Operation of a taxistand to the extent reasonably necessary to meet public demand shall be considered to mean twenty-four hours a day. Upon abandonment of such motor vehicle service for a period of ten consecutive days by an owner, the city council may conduct a hearing upon five days written notice to the holder of such permit, and unless good and sufficient cause for such abandonment is evidenced, revoke the permit granted under the terms of this chapter. (Ord. 2003-10 § 1 (part), 2003)

5.44.050 Vehicles to be licensed by state—Renting of vehicles by owners.

A. All motor vehicles operated as taxicabs within the city shall be properly licensed with the California Department of Motor Vehicles and in the event that the laws governing the licensing of commercial vehicles shall apply, all such vehicles shall be so licensed before being used as taxicabs. All vehicles operated as taxicabs shall be registered under the name of the business or the name of the individual holding the owner’s permit.

B. No such vehicle used or intended to be used in taxicab service in the city shall be rented to any owner or driver unless such owner or driver shall have a permit issued pursuant to this chapter. (Ord. 2003-10 § 1 (part), 2003)

5.44.060 Liability insurance.

A. No person shall drive or operate or cause or permit to be driven or operated any taxicab in the city unless the owner thereof shall have obtained a motor vehicle liability insurance policy from a responsible and solvent corporation, authorized to issue such policies under the laws of the state, insuring such owner and covering such taxicab, and unless such owner shall file with the city clerk a certified copy of such policy or a certificate evidencing such insurance as the city may request, all as provided in this chapter. Additionally, self-insurance programs authorized by the state of California are acceptable in lieu of a motor vehicle insurance policy issued by a responsible and solvent corporation. The city may require an umbrella policy in an amount set forth by the city equal to the limits required for taxicab operations within the city.

B. The city manager may at any time require an owner to replace any such policy with another policy and if such owner fails to so replace such policy, within ten days from the date of any such notice, with a policy and certificate thereof, both in accordance with the provisions of this chapter, or at the termination of such ten days the owner's permit for the taxicab by such policy shall be, by such failure, automatically suspended until such time as such requirement is complied with, or such permit is revoked, whichever is sooner.

C. Policy Requirements. Each motor vehicle liability insurance policy required under the provisions of this Section shall comply with the laws of the state, shall be written on an occurrence basis, and shall also provide the following:

1. Such policy covers all taxicabs, which may be driven or operated by or for the owner insured under such policy, regardless of whether or not any permit has been granted such insured under the provisions of this chapter.

2. Such policy insures the owner and any other person driving, using or responsible for the use of any taxicab covered by such policy and the city, its officers, agents and employees against loss from any liability imposed on any of them by law for injury or death of any person, or damage to property, arising from or growing out of the maintenance, operation or ownership of any taxicab covered by the policy, in an amount set by resolution of the city council.

3. Such policy shall contain a provision that the policy shall not be canceled, non-renewed or materially changed without at least thirty days notice written notice to the city. (Ord. 2003-10 § 1 (part), 2003)

5.44.070 Rates and fares.

A. The city council, upon its own motion or upon application of an owner's permit holder, may set, establish, change, modify or amend the schedule of rates to be charged by all vehicles operated by each holder of an owner's permit under the provisions of this chapter. No rates shall be set, established, changed, modified or amended without a hearing before the city council. Notice of such hearing shall be given to each owner's permit holder, in writing, and by publication in the Monterey Herald by the city clerk at least fifteen days before such hearing, and the city council may give such other notice as it shall deem necessary.

1. Fares established under this section shall be conspicuously displayed in the passenger compartment of each taxicab.

2. The taxicab rate or fare shall be determined by a taximeter in accordance with the schedule established by the city council. Following public hearing as required herein, the city council shall establish the rate of fare by resolution.

B. No owner, agent or employee thereof, driver or operator of any vehicle covered by this chapter shall charge, collect, demand receive, arrange, solicit or bargain for any amount of compensation other than the rates or fares established and authorized by the city council.

C. No person shall refuse to pay the lawful fare as fixed in this chapter of any of the vehicles regulated by this chapter after employing or hiring same.

D. Every driver shall, if requested, give a correct receipt upon payment of the correct fare. (Ord. 2003-10 § 1 (part), 2003)

5.44.080 Condition of vehicles generally.

No owner or driver shall operate or cause to be operated any motor vehicle for hire while the same or any of the equipment used therein or therewith is in a defective, unsafe or unsanitary condition. (Ord. 2003-10 § 1 (part), 2003)

5.44.090 Requirements for signs and dome light on vehicles.

Every taxicab operated in the city shall have affixed thereto a sign visible upon each side or visible from the front and rear of such taxicab, which signs shall indicate the name of the owner or the fictitious name under which the owner operates, together with the owner's identification number. The lettering of the same, and all signs to be displayed on any taxicab, shall be subject at all times to the approval of the director of public safety. In addition thereto, every taxicab shall display a dome light. (Ord. 2003-10 § 1 (part), 2003)

5.44.100 "For Hire" lights.

Every taxicab equipped with a "For Hire" light attached to the top of the roof or to the top of the dome light shall have such light connected to a contact switch attached to the taximeter, and such contact switch shall operate automatically to illuminate the "For Hire" light when the taximeter is not in operation, indicating the cab is vacant and for hire, and to extinguish such light when the taximeter is in operation. No person shall drive or operate any taxicab with such light when the taximeter is in operation. No person shall drive or operate any taxicab with such a light illuminated while carrying passengers for compensation; or drive or operate any taxicab unless such a light is illuminated when such taxicab is for hire. (Ord. 2003-10 § 1 (part), 2003)

5.44.110 Illumination of passenger compartment required at certain times.

Every taxicab shall at times be equipped with a light of not less than two candlepower within such vehicle, so arranged as to illuminate the entire passenger compartment, which light shall be kept constantly lighted at all times while any passengers are being loaded into or from any such vehicle from one-half hour after sunset of any day until one-half hour before sunrise of the next day, and no window tinting shall be applied to the vehicle's windows and no shades or blinds shall be drawn over the windows of any such vehicle while the same is occupied. (Ord. 2003-10 § 1 (part), 2003)

5.44.120 Inspection of vehicles by law enforcement officials.

The director of public safety, or any member of the department of public safety under his direction, or any other law enforcement agency, shall have the right at any time, after displaying the proper identification, to enter into or upon any licensed motor vehicle for hire for the purpose of ascertaining whether or not any of the provisions of this chapter are being violated. (Ord. 2003-10 § 1 (part), 2003)

5.44.130 Establishment and use of taxicab stands.

A. The city council may, by resolution, locate and designate taxicab stands and their hours of operation on any public street in the city, which stands, when so established, shall be appropriately designated, "Taxis Only."

B. If such taxicab stands are designated, no owner, driver or operator of any taxicab shall allow such taxicab to remain parked, while awaiting employment, except in a regularly established taxicab stand; provided, that taxicabs may park in any available parking space when actually engaged in loading or unloading passengers. (Ord. 2003-10 § 1 (part), 2003)

5.44.140 Solicitation of passengers prohibited—Exception.

A. No taxicab driver shall solicit passengers except from a taxicab stand or while standing immediately adjacent thereto on the curbside thereof.

B. No driver of any taxicab shall at any time cruise in search of passengers. (Ord. 2003-10 § 1 (part), 2003)

5.44.150 Vehicles standing in streets—Prohibited—Exception.

No taxicab shall be allowed to remain standing on a public street or in a public place unless it is attended by a driver, except when the driver is assisting passengers to load or unload, is answering his telephone or, if so equipped, displays a sign reading “Not for Hire”. (Ord. 2003-10 § 1 (part), 2003)

5.44.160 Disorderly conduct by drivers prohibited.

No driver, solicitor or runner of any taxicab, at any time or place when waiting for or engaged in his employment shall obstruct any street or sidewalk, make any loud or unusual noises, disturbance or outcry; use any indecent, profane or obscene language; be guilty of any boisterous or loud talking, or any disorderly conduct; harass, vex, annoy or disturb any person; interfere with, obstruct or impede the free passage of passengers, or any other person to or from any depot, theater, hall, hotel, train or depot grounds, or seize, grasp or interfere with any person or any baggage carried by or belonging to such passengers or persons. (Ord. 2003-10 § 1 (part), 2003)

5.44.170 Vehicles operating in city from other locations.

A. The driver of a taxicab authorized to operate in any political subdivision or military installation other than the city may transport passengers from such political subdivision or military installation to a designation within or beyond the city; provided that the driver of such taxicab shall not seek or accept passengers within the city.

B. The requirements of this chapter shall not apply to the owner or driver of such taxicab while it is operated in compliance with the provisions of this section. (Ord. 2003-10 § 1 (part), 2003)

5.44.180 Records kept by owners.

A. For every taxicab the owner thereof shall keep a record of every service rendered by a driver of such a vehicle, which records shall include the following information.

1. The location where passengers entered the vehicle;
2. The number of passengers;
3. The location where passengers were discharged; and
4. The amount of fare collected.

B. The owner of every taxicab for hire shall keep such records for a period of ninety days after the date of service rendered, and the same shall at all convenient times be open to examination by any authorized representative of the department of public safety. The falsification of any record by any owner or driver shall be grounds for revocation of his permit. The owner of every taxicab for hire shall keep a dispatch sheet, which shall show the time of dispatch of every taxicab.

C. Every taxicab owner and every employer of taxicab drivers, including a self-employed independent driver, shall keep and maintain a complete and accurate record of all drivers employees, which record shall show the names and addresses and the dates of the beginning and termination of employment of such drivers, a complete record of each driver’s test results for controlled substances and alcohol pursuant to Section 5.44.220 from the date of employment, the motor vehicle driven by each such driver, the hours of employment for each driver, and a list of all days and nights on which each driver was absent from employment. Such records shall be released to any law enforcement agency at any time upon demand and shall not be destroyed without permission of the director of public safety.

D. Every taxicab owner and employee of taxicab drivers, including a self-employed independent driver, shall notify the director of public safety upon termination of employment of any driver. (Ord. 2003-10 § 1 (part), 2003)

5.44.190 Reports of lost property.

All property of value found by taxicab owners, or their employees, in the vehicle operated by such owners, or delivered to them by any person who has found such property, shall be reported to the department of public safety within seventy-two hours, unless such property has been claimed by and returned to the rightful owner within forty-eight hours. Every owner shall keep a record of all such property. (Ord. 2003-10 § 1 (part), 2003)

5.44.200 Owner's permits.

A. Requirements for Separate Vehicles.

1. A permit shall be required for each additional or different taxicab.
2. If a permittee wishes to substitute one vehicle for another, the permittee shall file an application with the city clerk as set forth in this section for an original permit. No fee shall be required for such application. The city clerk shall transmit such application to the director of public safety who shall cause such vehicle to be inspected. If such vehicle is mechanically sound and otherwise meets the requirements of this section, the director may grant the application for substitution of vehicles and shall so endorse the application. The authority of the director of public safety is limited to approval of the substitution of vehicles and shall not operate to increase or decrease the number of permitted vehicles as authorized by the city council.

B. Application and Application Fee. All persons applying for a permit under this article shall file with the city clerk's office a sworn application together with a copy thereof on forms provided by the city clerk's office.

1. There shall be a fee, in the amount to be set by resolution, for the filing of the application required by this section.
2. The application shall set forth the following information:
 - a. The name and address of the owner or person applying;
 - b. The number of vehicles actually owned and the number of vehicles actually operated in the city by such owner on the date of application, if any;
 - c. Verification of a mandatory controlled substance and alcohol testing certification program for drivers which shall meet the minimum requirements set forth in Section 5.44.220; and
 - d. Proof of owner's negative test result for controlled substances and alcohol as specified in Section 5.44.220.

C. Investigation by Director of Public Safety. Upon receipt of an application for an owner's permit under this article, the city clerk shall transmit a copy of the application to the director of public safety who shall make, or cause to be made, an investigation of the following:

1. The financial responsibility and experience of the applicant;
2. The number, kind and type of equipment and the color scheme to be used;
3. The moral character and reliability of the applicant; and
4. Such other relevant facts as the director of public safety may deem advisable or necessary.

D. Issuance or Denial. After investigation by the director of public safety, a copy of the application for a permit under this article shall be referred to the city manager for his recommendation to the city council.

1. The city council shall act on the owner's application by resolution, and may deny any such application if in its sound discretion it determines any of the following:
 - a. There is a reasonable cause rendering the proposed operation undesirable or inadequate to the city;
 - b. There is insufficient public need or demand for the proposed operation;
 - c. The vehicle proposed to be operated is inadequate or unsafe;

d. The applicant has been convicted of a felony or the violation of a narcotic law, or of any penal law involving moral turpitude; or

e. The applicant fails to perform controlled substance and alcohol testing of drivers in accordance with the requirements of Section 5.44.220.

2. If more owners are eligible for permits than can be issued because of limitations set by the city council as provided in Section 5.44.030, then the permits shall be granted in the order in which the applications were filed; except, that owners having existing permits shall be given preference.

3. The burden of establishing the existence of public convenience and necessity shall always be borne by the applicant for a permit, and no such permit shall be issued unless there has been an affirmative showing of the existence of such public convenience and necessity by such applicant.

E. Suspension or Revocation. The city council shall have the power to suspend or revoke any permit to operate a taxicab for a violation of any of the provisions of this chapter or any ordinance or law relating to traffic or use of streets; for failure to pay any judgment for damages arising from the unlawful or negligent operation of the public motor vehicle for which any owner's permit was issued; or for conduct on the part of any owner which is not conducive to proper service to the public; or to proper relationships with any competitive owner.

F. Cancellation. After the service for which a permit is granted under this article is discontinued, or if the owner sells or discontinues his business, the owner's permit shall be automatically and immediately canceled and shall be reissued only in accordance with the provisions of this chapter, except that if an owner transfers or sells his business the transferee shall have the same preference under subsection (D) of this section, as the owner would have. (Ord. 2003-10 § 1 (part), 2003)

5.44.210 Driver's permits.

A. Required. No driver shall operate any taxicab in the city unless there exists a valid permit to do so as provided in this article. Drivers who apply for a permit must meet all the permit requirements as set forth in this section including, but not limited to, testing negative for controlled substances and alcohol as set forth in Section 5.44.220.

B. Application.

1. Application for a driver's permit under this section shall be filed with the director of public safety, shall be in writing and shall be sworn to before someone lawfully authorized to administer oaths. Such application shall set forth the following information regarding the applicant:

a. Name, age and address;

b. Past experience in operating automobiles;

c. The names and addresses of applicant's employers during the preceding three year period;

d. Places of residence during the preceding two years;

e. Whether applicant has ever had a commercial or operator's license revoked;

f. The endorsement of the owner by whom the applicant is to be employed as a driver;

g. Proof of applicant's negative test result for controlled substances and alcohol as set forth in Section 5.44.020, herein;

h. Applicants race, weight, height and color of eyes and hair; and

i. Such additional information as may be required by the director of public safety.

2. Upon the request of an applicant, the city shall provide a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city knows offer controlled substance and alcohol tests in or near the city of Marina.

3. Upon satisfying the foregoing requirements, applicant shall be fingerprinted and shall provide two two and one-half inch by two and one-half inch photographs taken within thirty days of the date of the applica-

tion, one photograph to be filed with the application and one to be permanently attached to the driver's permit when issued.

C. Application Fee. An application for a driver's permit shall be made to the director of public safety, and at the time of filing such application, a fee in the amount to be set by resolution shall be paid to the city; provided that such fee shall include the amount set by the state to cover the cost of processing such applications. No permit fee shall be required of such person if such person has additional or other driver's permits issued by the city to such application during the twelve months immediately preceding.

D. Prerequisites to Issuance. Each applicant for a driver's permit shall meet the following requirements:

1. Be a citizen or legal resident of the United States of good moral character;
2. Be of the age twenty-one years or over, unless otherwise approved by the director of public safety;
3. Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of the body or mind, and not addicted to the use of intoxicating liquor or narcotics, which might render him or her unfit for the safe operation of a taxicab;

4. Be clean in dress and person;

5. Have a valid state chauffeur's license;

6. Show proof of employment, or written evidence of an offer of employment, as a taxicab driver in the city of Marina; and

7. Comply with the mandatory controlled substance and alcohol testing certification program as specified by Section 5.44.220 and shall provide evidence of a negative test result thereunder.

E. Issuance. The director of public safety shall investigate the applicant for a driver's permit under this section, and after such investigation shall either grant or deny the permit. Any person whose application has been denied may within ten days after such denial request that the denial of his application be reviewed by the city council. The city council shall investigate such applicant and may, after a hearing, either grant or deny such permit.

F. Contents. Every driver's permit issued pursuant to this section shall set forth the name of the owner or group of owners for whom such driver is authorized to operate a taxicab and shall be valid only so long as he continues in the employ of such owner.

G. Expiration, Renewal, Termination of Employment or Contracted Services.

1. All driver's permits issued pursuant to this section shall expire on the 31st day of December of each year. Unless earlier terminated, suspended or revoked pursuant to the provisions set forth herein.

2. Drivers who apply for renewal of a permit must meet all the permit requirements as set forth in this section including, but not limited to, testing negative for controlled substances and alcohol as set forth in Section 5.44.220.

3. Driver's permits shall become void upon termination of employment/contracted services with the employer indicated on their permit. Each driver shall return his or her permit to the director of public safety upon such termination.

H. Transferability. No driver's permit issued pursuant to this section shall be transferable to another person under any circumstances.

I. Exhibition and Display. Every driver's permit issued pursuant to this section shall be exhibited upon the request of any passenger or prospective passenger.

J. Suspension or Revocation.

1. The director of public safety shall have the power to temporarily, for a period not to exceed thirty days, and the city council shall have the power to revoke or suspend, any driver's permit issued pursuant to this section in the event the holder thereof is found guilty of a violation of any provisions of this chapter, is found guilty of reckless driving, for the violation of any provision of any other ordinances or other laws, which viola-

tion, in sound discretion of such officials, is deemed sufficient evidence of the fact that such driver is not a competent or desirable person to operate a taxicab; or in the event such driver is guilty of conduct which is not conducive to the property service to the public or the proper relationship with any competitive driver.

2. In the event of such revocation or suspension of a driver's permit, such certificate as may be issued in connection therewith shall be forthwith surrendered by the holder thereof to the director of public safety.

K. Temporary Permits. The city manager, in his discretion, may grant a temporary permit to drive or operate any taxicab, pending final action on any application for a permanent driver's permit as provided in this section, but no such temporary permit may be issued to any person who does not have a commercial driver's license issued by the state, who is not employed or possessing a written offer of employment as a taxicab driver in the city, or who has not provided evidence of negative controlled substance and alcohol testing as required by Section 5.44.220.

L. Records to Be Kept by the Director of Public Safety. The director of public safety shall keep a record of each person granted a driver's permit under the provisions of this section, which record shall contain the full name, age, residence, places of residence for two years next preceding the date of application, race, height, weight, color of eyes and hair, fingerprints, place of birth, places of previous employment covering three years next preceding the date of application, whether married or single, whether the person has ever been convicted of a felony or of a misdemeanor, and whether the person has ever been previously licensed as a driver, and if so, whether his or her license has ever been revoked and for what cause. (Ord. 2003-10 § 1 (part), 2003)

5.44.220 Mandatory controlled substance and alcohol testing program.

A. Each taxicab driver shall test negative for each of the controlled substance specified in Part 40 (commencing with Section 40) of Title 49 of the Code of Federal Regulations, before employment. Each driver shall test negative for these controlled substances and for alcohol as a condition of the driver's annual permit renewal. As used in this section, a negative test for alcohol means an alcohol-screening test showing a breath concentration of less than 0.02 percent.

B. Testing procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that each driver shall show a valid California Driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and return-to-duty and follow-up testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

C. A test in one jurisdiction shall be accepted as meeting the same requirements in the city or in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in the city or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirements for any subsequent employment, or any testing requirements under this program other than periodic testing.

D. In the case of a self-employed independent driver, the test results shall be reported directly to the city, and the city shall notify the taxicab leasing company of record, if any, of positive results.

E. All tests are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

F. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regards to themselves. In all other cases, taxicab owners and employers of drivers shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees, and

potential employees, except that an employer may require employees who test positive to pay the costs of rehabilitation and return-to-duty and follow-up testing.

G. Taxicab owners, employers of drivers, and self-employed independent drivers shall pay all service charges, fees, or assessments established by the city with respect to the owners employees and potential employees in an amount sufficient to pay for the city's costs of carrying out the mandates of this section.

H. No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

I. For purposes of this section, "employment" includes self-employment as an independent driver or owner/operator of a taxicab. (Ord. 2003-10 § 1 (part), 2003)

5.44.230 Taximeters.

A. Required in Taxicabs. No person shall operate any taxicab in the city until such taxicab is equipped with a taximeter of a type and design which has been approved by the State of California, Department of Food and Agriculture, Division of Measurement Standards and the city council.

B. Manner of Placement in Taxicabs. The taximeter required by this section shall be placed in each taxicab so that the reading dial showing the amount to be charged is well lighted and readily discernible to a passenger riding in any such taxicab.

C. Accurate Operation Required.

1. It shall be the duty of each person operating a taxicab, and the driver thereof, to keep the taximeter therein operating at all times within the established accuracy tolerance as prescribed by the State of California, Department of Food and Agriculture, Division of Measurement Standards. No taximeter may be used that is not currently sealed by the county sealer of weights and measures. Currently sealed shall mean a seal of accuracy from the county sealer of weights and measures placed on the meter, an intact security seal on the taximeter and possession of a certificate of inspection from the county sealer of weights and measures with an inspection date in the current or previous calendar year.

2. The operator of a taxicab shall also maintain the tire size and tire pressure as indicated on the certificate of inspection from the county sealer of weights and measures.

D. Use Required for All Passenger Services. No passenger shall be carried in any taxicab unless the taximeter in such taxicab is in operation. This section shall apply regardless of whether the taxicab is engaged for a trip entirely within the city or partially outside thereof, and such meter shall be kept operating continuously during the entire time that it is engaged in the transportation of passengers for compensation, regardless of the point of destination; except, that when the trip is in excess of fifteen miles a flat rate may be used for any part of the trip over the first fifteen miles.

E. All Charges to Be in Accordance with Meters. All charges for taxicab service shall be calculated and indicated by a taximeter, except as shown in this chapter, and at all times while the taxicab is engaged the "flag" of the taximeter shall be thrown into a position to register charges for mileage and time. No taximeter shall be so operated as to cause any charge to be registered thereon, except during the time while the taxicab is engaged by a passenger.

F. Splitting of Fares by Two or More. If two or more persons going in the same direction share a taxicab, the first party that is discharged from the taxicab shall pay the charge on the meter, and the meter shall then be "flagged" and a new fare started.

G. Proper Use of Taximeter Required. No driver of any taxicab, while carrying passengers, shall turn off the taximeter or otherwise indicate in any fashion that such taxicab is not employed.

H. Inspection Required—Removal of Vehicle with Inaccurate Meter from Service.

1. Every taximeter used in the operation of taxicabs shall be subject to inspection at any time by the director of public safety, or any other authorized persons. Upon discovery of any inaccuracy of such taximeter, the operator thereof shall remove, or cause to be removed, from service any vehicle equipped with such taximeter, until such taximeter has been repaired and adjusted.

2. Every taximeter shall be inspected for accuracy by the owner at least once every six months. (Ord. 2003-10 § 1 (part), 2003)

Chapter 5.48

TOWING VEHICLES FROM PRIVATE PROPERTY

Sections:

- 5.48.010 Legislative findings and determination.
- 5.48.020 Legislative purpose and intent.
- 5.48.030 Definitions.
- 5.48.040 Permit required.
- 5.48.050 Application for permit—Fee.
- 5.48.060 Denial of permit.
- 5.48.070 Notice of denial.
- 5.48.080 Permit suspension or revocation.
- 5.48.090 Grounds for suspension or revocation.
- 5.48.100 Denial, suspension or revocation hearing.
- 5.48.110 New application after denial or revocation.
- 5.48.120 Insurance required.
- 5.48.130 Business location.
- 5.48.140 Release of vehicle.
- 5.48.150 Rates and charges—Signs—Change of rates and charges.
- 5.48.160 Warning signs.
- 5.48.170 Notice of tows—Waiver of fees.
- 5.48.180 Vehicles not yet removed.
- 5.48.190 On scene dispute of tow.
- 5.48.200 Business license required.
- 5.48.210 Permits nontransferable.
- 5.48.220 Change of ownership.
- 5.48.230 Change of ownership—Application fee.
- 5.48.240 Change of ownership—Action on.
- 5.48.250 Permit for each location required.
- 5.48.260 Change of location.
- 5.48.270 Term of permits.

5.48.010 Legislative findings and determination.

The city council finds and determines that:

A. The operations of radio dispatched tow truck services that, on a contract basis, make periodic patrols of the parking facilities of large apartment and multifamily residential complexes to locate and tow away or impound illegally or improperly parked motor vehicles, while providing a useful service to the property owners or lessees in question and/or their apartment managers, have resulted in numerous complaints to the city from residents concerning the methods employed and the substantial fees charged, and have led to an inordinate number of public disturbances and serious altercations requiring the response of city public safety officers.

B. Many of the citizen complaints received by the city council at the several public hearings held concerning this matter have indicated that many of the problems from these contract-patrol tow truck operations have been caused in large part by:

1. The general lack of adequate notice or warning concerning parking regulations and the serious consequences of violation to vehicle drivers who may park in improper places;

2. The lack of personal involvement from the apartment owners or managers in connection with the vehicle impoundment so as to preclude any input concerning pertinent facts or variable situations which might affect the impound process; and

3. The apparent swiftness of the entire impoundment procedure which often results in the towing of vehicles parked improperly for only very brief periods and no effective process to dispute the towing of a vehicle, but only the remedy of an immediate large cash payment to retrieve one's vehicle and avoid an actual towing at considerable additional expense.

C. That prior to the commencement of such contract-patrol towing operations in the city, the public safety department had received few, if any, complaints concerning the towing of motor vehicles from private property. (Ord. 84-1 § 1 (part), 1984)

5.48.020 Legislative purpose and intent.

The purpose and intent of this chapter is to exercise the general police power of the city to provide for the orderly regulation of the business of tow truck operators that, pursuant to contract, patrol private parking facilities to impound and tow away illegally or improperly parked vehicles by establishing certain minimum standards for the conduct of such businesses to protect the public safety and welfare of the residents of the city. (Ord. 84-1 § 1 (part), 1984)

5.48.030 Definitions.

The following words and phrases shall be defined as follows in connection with the interpretation and construction of this chapter:

A. "Illegally parked vehicle" means any motor vehicle parked in violation of the laws of the city, the county of Monterey, the state of California, or the private parking regulations set forth in California Vehicle Code § 22658.

B. "Contract-patrol tow service" means any service whereby vehicles are towed or otherwise removed from one place to another pursuant to a contract with the owner of private property from which vehicles are removed, or his agent, and which service involves the periodic (i.e., at least five times per week) patrolling of the private property in question by the tow truck operator or his agents. "Tow service" includes the storing of vehicles and all other services performed incidental to the towing.

C. "Tow truck" means any vehicle or device used to tow or otherwise remove vehicles from one place to another.

D. "Public automobile storage facility" means any vehicle storage facility which provides to the public the service of storing or holding vehicles. (Ord. 84-1 § 1 (part), 1984)

5.48.040 Permit required.

No person, association, firm or corporation shall engage in, manage, conduct or operate a contract-patrol tow service or operation within the city without a written permit from the director of public safety pursuant to this chapter. An official public safety tow service may tow from private property under conditions established by the municipal code and shall be exempt from this requirement. (Ord. 84-1 § 1 (part), 1984)

5.48.050 Application for permit—Fee.

An application for a permit shall be filed with the director of public safety on forms furnished by him, shall be accompanied by a nonrefundable application fee in an amount established by resolution of the city council, and shall contain the following information:

A. The name, date of birth, driver's license number, business and residence address of the applicant, if a natural person; or if a corporation, its name, date and place of incorporation, address of its principal officers, together with their respective residence addresses; or if a partnership, association or unincorporated company, the names of the partners, or of the persons comprising such association or company, and the business and residence of each partner or person;

B. A description of each tow truck or other vehicle proposed to be used by the applicant, together with engine identification numbers and state vehicle license numbers thereof;

C. The names, dates of birth, addresses and driver's license numbers of all tow truck operators employed by the applicant;

D. The business, occupation, or employment history of the applicant for five years immediately preceding the date of the application, including, if applicable, the business license and permit history while operating as a tow service;

E. All criminal convictions of applicant or proceedings in which a plea of guilty or nolo contendere was entered, including vehicle code violations;

F. Such other identification and information as the director of public safety deems necessary to carry out the purposes of this chapter. (Ord. 84-1 § 1 (part), 1984)

5.48.060 Denial of permit.

The director of public safety, or his authorized representative, within thirty days from the date of application, or longer upon a showing of good cause, shall cause an investigation of the applicant, and the application for a permit may be denied on any of the following grounds:

A. The applicant is a person under the age of eighteen years;

B. The applicant, his agent or employee, or any person connected or associated with the applicant as a partner, officer, director, stockholder, associate or manager has committed or aided or abetted in the commission of any act or acts of omission which if committed by a permittee would be grounds for suspension or revocation of a permit (see Section 5.48.090); or

C. The applicant, his agent or employee, or any person connected or associated with the applicant as a partner, officer, director, stockholder, associate or manager has been refused a permit or had a permit revoked or has been an officer, director, member, partner or manager of any person who has been refused a permit or had a permit revoked;

D. The applicant has been convicted or entered a plea of guilty or nolo contendere to a misdemeanor or felony crime involving moral turpitude, theft, embezzlement or fraud;

E. The applicant does not possess the minimum amount of bodily injury and property damage insurance required by this chapter. (Ord. 84-1 § 1 (part), 1984)

5.48.070 Notice of denial.

The director of public safety, or his authorized representative, shall notify the applicant of this intention to deny an application for a permit. Service of such notice shall be made personally or by United States mail, first class postage prepaid, addressed to the applicant at the address set forth on the application. The notice shall include the reasons for denial and be accompanied by a statement that the applicant, within ten days from the date of mailing or service of such notice, may appeal such denial to the city manager, and thereafter to the city coun-

cil, under the procedures outlined in Section 5.48.100. Upon failure to file an appeal within such ten-day period, the action of the director in denying the permit shall be final and conclusive. (Ord. 84-1 § 1 (part), 1984)

5.48.080 Permit suspension or revocation.

The director of public safety may, in his discretion or upon the verified complaint in writing of any person, investigate the actions of any permittee and determine that in his opinion he has sufficient grounds upon which to temporarily suspend, for a period not exceeding one year, or revoke the permit of any permittee who commits any one or more of the acts or omissions constituting grounds for suspension or revocation as provided in this chapter. Written notice of the director's intent to suspend or revoke a permit shall be furnished to the permittee by personal service or by United States mail, first class postage prepaid, addressed to the permittee at the address on the permit, and said permittee, within ten days after the date of service or mailing of such notice of intended suspension or revocation, may request a hearing before the city manager, or his designee, as set forth in Section 5.48.100. Upon failure to file a request for a hearing within the ten-day period the intended action of the director shall become effective, final and conclusive. (Ord. 84-1 § 1 (part), 1984)

5.48.090 Grounds for suspension or revocation.

It shall be grounds for suspension or revocation of a permit if any permittee, his agent or employee or any person connected or associated with the permittee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permittee has:

- A. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the public safety department; or
- B. Violated any provision of this chapter or of any statute relating to his permitted activity; or
- C. Failed to obtain a current, valid license to do business in the city; or
- D. Been convicted of a felony or any crime involving moral turpitude, theft, fraud or embezzlement; or
- E. Committed any unlawful (not including traffic infractions or equipment violations), false, fraudulent, deceptive or dangerous (i.e., drunk driving or reckless driving) act while conducting a towing operation business; or
- F. Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of the towing service; or
- G. Wilfully violated any rule or regulation adopted by the city council relating to permittee's business; or
- H. Wilfully failed to comply with the terms of any contract made as a part of the exercise of the towing operation; or
- I. Conducted the towing operation in a manner contrary to the peace, health, safety and general welfare of the public; or
- J. Demonstrated that he is unfit to be trusted with the privileges granted by such permit; or
- K. Any one driver of permittee has been convicted of or pled guilty or nolo contendere to three or more hazardous moving violations in the conduct of the towing operations during any six-month period, or any tow truck used by permittee has had three or more equipment violations during any four-month period; or
- L. Failed or refused to satisfy any judgment awarded to the owner of a towed vehicle against the permittee, where such judgment arose out of the hooking up, removal, towing or storage of such vehicle; or
- M. Obtained a tow contract by use of fraud, trick, dishonesty or forgery; or
- N. Stopped and solicited on any street, highway or other public thoroughfare the rendering of assistance to a person or disabled vehicle without first being requested to do so, except to render emergency aid when there existed an imminent peril to life or property; or

O. Towed a vehicle to a location other than listed as the business address of such permittee or the nearest public automobile storage facility without first receiving authorization to do so by the person authorizing the tow; or

P. Conspired with any person to defraud any owner of any vehicle, or any insurance company, or any other person financially interested in the cost of the towing or storage of any vehicle, by making false or deceptive statements relating to the towing or storage of any vehicle; or

Q. Removed a vehicle involved in a collision prior to arrival of police, and a person, as a result of such collision, suffered death or injury; or the driver of an involved vehicle, or a party to such collision, was under the influence of any intoxicant of any nature; or there is evidence that such vehicle was involved in a hit-and-run collision; or

R. Charged for services not performed, equipment not employed or used, services or equipment not needed, or have otherwise materially misstated the nature of any service performed or equipment used. (Ord. 84-1 § 1 (part), 1984)

5.48.100 Denial, suspension or revocation hearing.

Upon receipt of a request for hearing by an applicant or permittee, as provided in this chapter, the city manager, or his designee, shall notify applicant or permittee by personal service or United States mail, first class postage prepaid, of the time and place of such hearing. Said hearing shall be held within fourteen days after receipt of the appeal or request for hearing, and the applicant or permittee shall be notified of said hearing at least five days prior to the hearing date.

The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a permit. The hearing shall be conducted by the city manager or by a hearing officer appointed by the city manager. The applicant or permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for denial, suspension or revocation of the license or permit shall be considered conclusively established.

At the conclusion of such hearing, the city manager, or his designee, may render a decision or, in the alternative, the city manager, or his designee, may elect to render a written decision, which shall be furnished the applicant or permittee by United States mail, first class postage prepaid, not less than two working days following the conclusion of the hearing. Such written decision shall become effective ten days after the date of decision or the date of the mailing of the notice of decision, unless within said ten-day period the decision is appealed in writing to the city council. Upon failure to file such an appeal within the ten-day period, the decision of the city manager, or his designee, shall be final and conclusive.

The decision of the city manager, or his designee, may be appealed to the city council in writing within ten days after the date of the decision, or the date of mailing of the notice of decision, stating reasons why the decision for denial, suspension or revocation should not have been made, and upon said appeal, applicant or permittee shall have the burden of proving that the decision rendered by the city manager, or his designee, was unreasonable, erroneous or a clear abuse of discretion. The appeal hearing before the city council shall be held within twenty-one days from the receipt of the written appeal, and applicant or permittee shall be notified by personal service or United States mail, first class postage prepaid, of the hearing at least seven days prior to the hearing date. The effect of the decision by the city manager, or hearing officer shall be stayed while an appeal to the city council is pending or until the time for filing such appeal has expired. If an appeal is not timely filed, the decision of the city manager or hearing officer shall be final and conclusive. (Ord. 84-1 § 1 (part), 1984)

5.48.110 New application after denial or revocation.

When the permit of any person is revoked for cause, no new or other application for a permit from the same person shall be accepted within one year after such revocation. When an application for a permit is denied for cause, no new or other application for a permit from the same person shall be accepted within one year after denial unless the applicant can show a material change in this situation which would justify the issuance of such permit. (Ord. 84-1 § 1 (part), 1984)

5.48.120 Insurance required.

Before an application for a permit to operate a contract-patrol towing operation will be received or acted upon, the applicant must furnish the director of public safety, or his designee, satisfactory evidence of insurance in such minimum amounts as from time to time are established by resolution of the city council issued by an insurance company authorized to do business in this state. (Ord. 84-1 § 1 (part), 1984)

5.48.130 Business location.

Any person conducting a contract-patrol towing operation or business shall maintain a physical location from which said business is conducted. Such physical location shall provide an office with an adjacent yard for vehicle storage. Such location shall be approved by the director of public safety, or his designee, prior to the permit being issued. (Ord. 84-1 § 1 (part), 1984)

5.48.140 Release of vehicle.

Permittees shall provide for release of vehicles from eight a.m. to six p.m. on Monday through Friday, and for four specified hours per day between said hours on Saturdays, Sundays and officially recognized holidays. Permittees shall additionally maintain a twenty-four-hour answering service and shall allow persons whose vehicles have been impounded to telephone and set up mutually convenient arrangements (i.e., within two hours of the telephone call) for the release of vehicles on other days and hours. Upon application to the director of public safety, or his designee, and a showing of hardship by the permittee, an adjustment in the days and hours during which vehicles may be released may be made. (Ord. 84-1 § 1 (part), 1984)

5.48.150 Rates and charges—Signs—Change of rates and charges.

A. Permittees shall maintain a sign listing the rates and charges of all impound, towing and storage services offered. Such sign shall be conspicuously placed in the office or other place where customer financial transactions take place. The letters on such sign shall be a minimum of one inch high with a one-quarter-inch stroke. The letters shall be a contrasting color from the background.

B. Applicants for contract-patrol towing operation permits shall file a schedule of rates and charges for each service offered with the director of public safety. No charge other than the rates and charges specified in such schedule shall be made except as herein provided.

C. Changes in rates and charges shall be made by written notice containing the new schedule of rates and charges to the director of public safety at least ten days prior to becoming effective. A duplicate copy of such notice shall be posted for a period of ten days in the office of the contract-patrol towing operation business next to the posted schedule of existing rates and charges. (Ord. 84-1 § 1 (part), 1984)

5.48.160 Warning signs.

A permittee hereunder shall not tow vehicles from private property unless the private property has displayed signs, in plain view at each vehicular entrance to and exit from the property, and with one additional sign, visible from twenty-five feet, for each thirty adjacent and contiguous parking spaces on the property, each sign

stating, in letters a minimum of three inches high, that public parking is prohibited, and further stating, in letters a minimum of two inches high, that unauthorized vehicles are subject to tow-away at the owner's expense, and setting forth the twenty-four-hour nonemergency telephone number of the Marina Department of Public Safety, the telephone number of the contract-patrol permittee authorized to tow vehicles from the property, and the applicable section (§ 22658) of the California Vehicle Code. Letters on such signs shall be with a minimum one-quarter-inch stroke. (Ord. 84-1 § 1 (part), 1984)

5.48.170 Notice of tows—Waiver of fees.

No permittee shall tow vehicles from private property unless and until the permittee's contract for service with the owner, manager or other agent for that property provides therein:

A. That the appropriate person, owner, manager or agent, shall be provided by permittee not less than weekly with a list of the owners whose vehicles have been impounded and towed from said property, with a copy of each such list or report also provided to the public safety department.

B. That the property owner, manager or agent, as designated in the contract, shall have the right to notify the permittee of special circumstances which in the opinion of said owner, manager or agent require the release by permittee of a certain vehicle without the charge of any impound, towing or storage fee, or the refund of a fee already charged, and permittee shall comply with such request.

C. That the contract contain the specific delegation of authority from the property owner, manager or agent to the permittee, if such is intended, to impound and tow from said private property and to make the prior notification to the Public Safety Department as required by California Vehicle Code § 22658. (Ord. 84-1 § 1 (part), 1984)

5.48.180 Vehicles not yet removed.

A permittee hereunder or his tow truck operator, in the process of impounding a vehicle from legally posted property, where such vehicle has not yet been removed from the property, and upon request of the vehicle's lawful owner, or the agent of the lawful owner as evidenced by keys which operate said vehicle and by the statement and driver's license of such agent, shall release the vehicle at the scene to the owner or his agent upon payment of the fee set forth in this section. If the vehicle is already "in tow" (i.e., completely secured in the raised position and ready to tow in compliance with the Vehicle Code) at the time of the request, then a let-down fee of not to exceed one-half of the regularly scheduled impound fee may be charged from the release of the vehicle. When the vehicle is not yet in tow at the time of the request, then a fee of not more than one-fourth of the regular impound fee may be charged for the release of the vehicle. (Ord. 84-1 § 1 (part), 1984)

5.48.190 On scene dispute of tow.

When the lawful owner of a vehicle or the lawful owner's agent (as identified in Section 5.48.180) arrives at the scene of the impoundment prior to the vehicle being removed from the property and disputes the tow truck operator's authority to impound and remove said vehicle and specifically notifies or indicates to the tow truck operator that he is summoning a public safety officer, it then shall be the duty of the tow truck operator to remain at the location of impoundment for a period of not less than fifteen minutes after he is so notified. If a public safety officer does not arrive within the fifteen-minute period, the operator may continue with the impoundment and towing of the vehicle. There shall be no additional charges levied for the time required for the arrival of the public safety officer or any additional time required by the officer to resolve the matter; provided, however, that nothing in this chapter shall prohibit the charge by a permittee for standby time caused by other than the dispute resolution process set forth in this section. (Ord. 84-1 § 1 (part), 1984)

5.48.200 Business license required.

Nothing in this chapter shall constitute a waiver of the requirements for the issuance and possession of a business license. (Ord. 84-1 § 1 (part), 1984)

5.48.210 Permits nontransferable.

Permits issued under this chapter shall not be transferable except as hereinafter provided. (Ord. 84-1 § 1 (part), 1984)

5.48.220 Change of ownership.

When a towing operation for which a permit has been issued, pursuant to this chapter, is sold or transferred to one of the transferees listed in this section, the director of public safety, or his designee, may endorse a change of ownership on such permit upon written application by the transferee. Only the following transferees or successors shall be entitled to such transfer of permit:

A. Duly qualified representatives of permittees regularly appointed by courts of competent jurisdiction, assignees for the benefit of creditors, and spouses or children of deceased permittees;

B. The surviving partner or partners of a dissolved partnership;

C. A new partnership consisting of the members of a predecessor partnership, plus their spouse or spouses of any such members;

D. A new corporation organized and controlled by an individual or unincorporated permittee for the purpose of acquiring, and which has acquired, the assets of the business previously owned and operated by such permittee;

E. Upon dissolution of a closely held corporation, the stockholders to whom the assets are distributed. (Ord. 84-1 § 1 (part), 1984)

5.48.230 Change of ownership—Application fee.

A transferee or successor entitled to a transfer of permit must file an application for such transfer with the director of public safety within thirty days after he assumes control of the towing operation. The director may require such evidence of the transfer of ownership or control as he deems necessary. A fee equal to twenty percent of the original fee for the permit shall accompany the application. (Ord. 84-1 § 1 (part), 1984)

5.48.240 Change of ownership—Action on.

The director of public safety shall transfer the permit to an applicant entitled to such transfer if he finds that the transfer will not adversely affect the peace, health, safety, convenience and general welfare of the public, and the transferee possesses the qualifications required of original applicant. (Ord. 84-1 § 1 (part), 1984)

5.48.250 Permit for each location required.

No permittee under this chapter shall conduct a towing operation at a location other than the location specified in the permit. (Ord. 84-1 § 1 (part), 1984)

5.48.260 Change of location.

Where no conflict exists with the city's zoning regulations or other provisions of this code, a change of location may be endorsed on a permit by the director of public safety, or his designee, upon written application by

a permittee, accompanied by a change of location fee as established by resolution of the city council. (Ord. 84-1 § 1 (part), 1984)

5.48.270 Term of permits.

Permits issued pursuant to the provisions of this chapter may be renewed every two years unless sooner revoked, suspended or cancelled. (Ord. 84-1 § 1 (part), 1984)

Chapter 5.52

CABLE ANTENNA TELEVISION SYSTEMS

Sections:

- 5.52.010 General.
- 5.52.020 Definitions.
- 5.52.030 Franchise terms and conditions.
- 5.52.040 Franchise applications and renewal.
- 5.52.050 Minimum consumer protection and service standards.
- 5.52.060 Franchise fee and financial requirements.
- 5.52.070 Construction requirements.
- 5.52.080 Technical standards.
- 5.52.090 Indemnification and insurance requirements.
- 5.52.100 Records and reports.
- 5.52.110 Review of system performance.
- 5.52.120 Franchise violations.
- 5.52.130 Force majeure; grantee's inability to perform.
- 5.52.140 Abandonment or removal of franchise property.
- 5.52.150 Grantor and subscriber rights.
- 5.52.160 Separability.

5.52.010 General.

A. Authority. The city, pursuant to applicable federal and state law, is authorized to grant one or more nonexclusive franchises to construct, operate, maintain and reconstruct cable systems within the city limits.

B. Findings. The city council finds that the development of cable systems has the potential of having great benefit and impact upon the residents of the city. Because of the complex and rapidly changing technology associated with cable systems, the city council further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the city or such persons as the city may designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible cable service to the public and any franchises issued pursuant to this chapter shall be deemed to include this as an integral finding thereof. It is the further intent of this chapter to establish regulatory provisions that permit the city to regulate cable system franchises to the extent permitted by federal and state law, including but not limited to the Federal Cable Communications Policy Act of 1984, the Federal Cable Television Consumer Protection and Competition Act of 1992, the Federal Telecommunications Act of 1996, applicable Federal Communications Commission regulations and applicable California law.

C. Short Title. This chapter shall constitute the Cable System Regulatory Ordinance of the city and may be referred to as such. (Ord. 98-9 § 1 (part), 1998)

5.52.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

“Basic cable service” means any service tier which includes the retransmission of local television broadcast signals.

“Cable operator” means any person or group of persons who:

1. Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or
2. Otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.

“Cable service” means:

1. The one-way transmission to subscribers of:
 - a. Video programming, or
 - b. Other programming service; and
2. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“Cable system” or “system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit television signals of one or more television broadcast stations;
2. A facility that serves subscribers without using any public rights-of-way;
3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Telecommunications Act of 1996, except that such facility shall be considered a cable system (other than for the purposes of Section 621(c)) to the extent such facility is used in the transmission of video programming directly subscribers; unless the extent of such use is solely to provide interactive on-demand services;
4. An open video system that complies with Section 653 of Title 6 of the Telecommunications Act of 1996; or
5. Any facilities of any electric utility used solely for operating its electric utility system.

“Channel” or “cable channel” means a portion or the electromagnetic frequency spectrum which is used in a cable system which is capable of delivering a television channel as defined by the Federal Communications Commission.

“Council” means the city council of the city of Marina.

“Franchise” means an initial authorization, or renewal thereof, issued by the council, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system. Any such authorization, in whatever form granted, shall not supersede the requirement to obtain any other license or permit required for the privilege of transacting business within the city as required by the other ordinances and laws of the city.

“Franchise agreement” means a franchise grant ordinance or a contractual agreement, containing the specific provisions of the franchise granted, including references, specifications, requirements and other related matters.

“Franchise fee” means any fee or assessment of any kind imposed by the city on a grantee as compensation for the grantee’s use of the public rights-of-way. The term “franchise fee” does not include:

1. Any tax, fee or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers);
2. Capital costs which are required by the franchise to be incurred by grantee for public, educational, or governmental access facilities;
3. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or
4. Any fee imposed under Title 17, United States Code.

“Grantee” means any person receiving a franchise pursuant to this chapter and under the granting franchise ordinance or agreement, and its lawful successor, transferee or assignee.

“Grantor” or “city” means the city of Marina as represented by the council or any delegate, acting within the scope of its jurisdiction.

“Gross annual cable service revenues” means the annual gross revenues received by a grantee from the operations of the cable system within the city to provide cable service utilizing the public rights-of-way for which a franchise is required, excluding refundable deposits, rebates or credits, and any sales, excise or other taxes or charges imposed externally to the franchise, and collected for direct pass-through to local, state or federal government.

“Installation” means the connection of the system to subscribers’ terminals, and the provision of service.

“Person” means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

“Public, educational or government access facilities” or “PEG access facilities” means the total of the following:

1. Channel capacity designated for noncommercial public, educational or government use; and
2. Facilities and equipment for the use of such channel capacity.

“Section” means any section, subsection or provision of this chapter.

“Service area” or “franchise area” means the entire geographic area within the municipal boundaries of the city as it is now constituted or may in the future be constituted, unless otherwise specified in the franchise.

“Service tier” means a category of cable service or other services provided by a cable operator and for which a separate rate is charged.

“State” means the state of California.

“Street” or “public way” or “public rights-of-way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the service area: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public property.

“Subscriber” or “customer” or “consumer” means any person who or which elects to subscribe to, for any purpose, cable service provided by the grantee by means of or in connection with the cable system, and who pays the charges therefor. (Ord. 98-9 § 1 (part), 1998)

5.52.030 Franchise terms and conditions.

A. Franchise Purposes. A franchise granted by the city under the provisions of this chapter shall encompass the following purposes:

1. To engage in the business of providing cable service, and such other services as may be permitted by law which grantee provides to subscribers within the designated service area;

2. To erect, install, construct, repair, rebuild, reconstruct, replace, maintain and retain, cable lines, related electronic equipment, supporting structures, appurtenances, and other property in connection with the operation of the cable system in, on, over, under, upon, along and across streets or other public places within the designated service area;

3. To maintain and operate the franchise properties for the origination, reception, transmission, amplification and distribution of television and radio signals and for the delivery of cable services, and such other services as may be permitted by law;

4. To set forth the obligations of a grantee under the franchise.

B. Franchise Required. It is unlawful for any person to construct, install or operate a cable system in the city within any public way without a properly granted franchise awarded pursuant to the provisions of this chapter.

C. Term of the Franchise.

1. A franchise granted hereunder shall be for a term established in the franchise agreement, commencing on the grantor's adoption of an ordinance or resolution authorizing the franchise.

2. A franchise granted hereunder may be renewed upon application by the grantee pursuant to the provisions of applicable state and federal law.

D. Franchise territory. Any franchise shall be valid within all the municipal limits of the city, and within any area added to the city during the term of the franchise, unless otherwise specified in the franchise agreement.

E. Federal or State Jurisdiction. This chapter shall be construed in a manner consistent with all applicable federal and state laws, and shall apply to all franchises granted or renewed after the effective date of this chapter* to the extent permitted by applicable law.

F. Franchise Nontransferable.

1. Grantee shall not sell, transfer, lease, assign or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the franchise or any of the rights or privileges therein granted, without the prior consent of the council, which consent shall not be unreasonably denied, withheld or delayed; provided, however, that the prior consent of the council shall not be required for an intracorporate or intracompany transfer from one wholly-owned subsidiary to another wholly-owned subsidiary. Any attempt to sell, transfer, lease, assign or otherwise dispose of the franchise without the consent of the council shall be null and void. The granting of a security interest in any grantee assets, or any mortgage or other hypothecation or by assignment of any right, title or interest in the cable system in order to secure indebtedness, shall not be considered a transfer for the purposes of this section.

2. The requirements of subsection F1 shall apply to any change in control of grantee. The word "control" as used in this chapter includes majority ownership, and actual working control in whatever manner exercised. In the event that grantee is a corporation, prior consent of the council shall be required where ownership or control of more than twenty percent of the voting stock of the grantee is acquired by a person or group of persons acting in concert, none of whom own or control the voting stock of the grantee as of the effective date of the franchise, singularly or collectively.

3. Grantee shall notify grantor in writing of any foreclosure or any other judicial sale of all or a substantial part of the franchise property of the grantee or upon the termination of any lease or interest covering all or a substantial part of the franchise property. Such notification shall be considered by grantor as notice that a change in control of ownership of the franchise has taken place and the provisions under this section governing the consent of grantor to such change in control of ownership shall apply.

4. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, grantor may inquire into the qualifications of the prospective transferee or controlling party, and grantee

shall assist grantor in such inquiry. In seeking grantor's consent to any change of ownership or control, grantee shall have the responsibility of insuring that the grantee and/or the proposed transferee complete an application in accordance with Federal Communications Commission Form 394 or equivalent. An application shall be submitted to grantor not less than one hundred twenty days prior to the proposed date of transfer. The transferee shall be required to establish that it possesses the qualifications and financial and technical capability to operate and maintain the system and comply with all franchise requirements for the remainder of the term of the franchise. If the legal, financial and technical qualifications of the applicant are satisfactory, the grantor shall consent to the transfer of the franchise. If the grantor has not taken action on the grantee's request for transfer within one hundred twenty days after receiving such request, grantor's consent to such transfer shall be deemed given. The consent of the grantor to such transfer shall not be unreasonably denied or delayed.

5. Any financial institution having a pledge of the grantee or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the grantor that it or its designee satisfactory to the grantor shall take control of and operate the cable system, in the event of a grantee default of its financial obligations. Further, such financial institution shall also agree in writing to continue cable service and comply with all franchise requirements during the term the financial institution exercises control over the system.

6. Upon transfer, grantee shall reimburse grantor for grantor's reasonable processing and review expenses in connection with the transfer or the franchise, up to a maximum of five thousand dollars, including without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee, consultants (including technical and legal experts and all costs incurred by such experts), notice and publication costs and document preparation expenses. Any such reimbursement shall not be charged against any franchise fee due to grantor during the term of the franchise.

G. Geographical Coverage.

1. Grantee shall design, construct and maintain the cable system to have the capability to pass every residential dwelling unit in the service area, subject to any service area line extension requirements of the franchise agreement.

2. After service has been established by activating trunk and/or distribution cables for any service area, grantee shall provide service to any requesting subscriber within that service area within thirty days from the date of request; provided, that the grantee is able to secure all rights-of-way necessary to extend service to such subscriber within such thirty day period on reasonable terms and conditions.

H. Nonexclusive Franchise. Any franchise granted pursuant to this chapter shall be nonexclusive. The grantor specifically reserves the right to grant, at any time, such additional franchises for a cable system, as it deems appropriate, subject to applicable state and federal law; provided, that if the grantor grants an additional franchise on terms more favorable to the second grantee (whether by the grant of greater benefits or the imposition of lesser obligations), or if another entity utilizing the public rights-of-way offers service competitive with grantee, then the material provisions of any such additional franchise shall be reasonably comparable to the terms and conditions contained in the initial grantee's franchise, so that all grantees are accorded competitively neutral and nondiscriminatory treatment and to provide all parties equal protection under the law.

I. Multiple Franchises.

1. Grantor may grant any number of franchises subject to applicable state or federal law. Grantor may limit the number of franchises granted, based upon, but not necessarily limited to, the requirements of applicable law and specific local considerations, such as:

a. The capacity of the public rights-of-way to accommodate multiple cables in addition to the cables, conduits and pipes of the utility systems, such as electrical power, telephone, gas and sewerage;

b. The benefits that may accrue to subscribers as a result of cable system competition, such as lower rates and improved service;

c. The disadvantages that may result from cable system competition, such as the requirement for multiple pedestals on residents' property, and the disruption arising from numerous excavations of the public rights-of-way.

2. Where electric and telephone utilities are to be placed underground in residential housing developments, grantor and the developer of such new residential housing shall give each grantee serving the franchise area within which the new residential housing development is located at least seventy-two hours prior written notice of the date on which open trenching will be available for the grantee's installation of conduit, pedestals and

vaults. On request of the grantor or developer, the grantee shall provide specifications needed for trenching. Developers of new residential housing with underground utilities shall provide conduit to accommodate cables for at least two new entrant cable systems and dedicate the use of such conduit to the city.

3. Grantor may require that any new entrant, nonincumbent grantee be responsible for its own underground trenching and the costs associated therewith, if, in grantor's opinion, the public rights-of-way in any particular area cannot feasibly and reasonably accommodate additional cables. (Ord. 98-9 § 1 (part), 1998)

***Editor's Note:** Ordinance 98-9, which enacted Ch. 5.52, is effective on August 20, 1998.

5.52.040 Franchise applications and renewal.

A. Filing of Applications. Any person desiring an initial franchise for a cable system shall file an application with the city. A reasonable nonrefundable initial application fee established by the city shall accompany the initial franchise application to cover all validly documented reasonable costs associated with processing and reviewing the application, including without limitation costs of administrative review, financial, legal and technical evaluation of the applicant, consultants (including technical and legal experts and all costs incurred by such experts), notice and publication requirements with respect to the consideration of the application and document preparation expenses. In the event such validly documented reasonable costs exceed the application fee, the selected applicant(s) shall pay the difference to the city within thirty days following receipt of an itemized statement of such costs.

B. Applications—Contents. An application for an initial franchise for a cable system shall contain, where applicable:

1. A statement as to the proposed franchise and service area;
 2. Resume of prior history of applicant, including the expertise of applicant in the cable television field;
 3. List of the partners, general and limited, of the applicant, if a partnership, or the percentage of stock owned or controlled by each stockholder, if a corporation;
 4. List of officers, directors and managing employees of applicant, together with a description of the background of each such person;
 5. The names and addresses of any parent or subsidiary of applicant or any other business entity owning or controlling applicant in whole or in part, or owned or controlled in whole or in part by applicant;
 6. A current financial statement of applicant verified by a certified public accountant audit or otherwise certified to be true, complete and correct to the reasonable satisfaction of the city;
 7. Proposed construction and service schedule;
 8. Any reasonable relevant additional information that the city deems applicable.
- C. Consideration of Initial Applications.

1. Upon receipt of any application for an initial franchise, the city manager or a delegate shall prepare a report and make recommendations respecting such application to the council.

2. A public hearing shall be set prior to any initial franchise grant, at a time and date approved by the council. Within thirty days after the close of the hearing, the council shall make a decision based upon the evidence received at the hearing as to whether or not the initial franchise(s) should be granted, and, if granted, subject to what conditions. The council may grant one or more franchises, or may decline to grant any franchise.

D. Franchise Renewal. Franchise renewals shall be in accordance with applicable law. Grantor and grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the franchise. (Ord. 98-9 § 1 (part), 1998)

5.52.050 Minimum consumer protection and service standards.

A. Operational Standards.

1. Except as otherwise provided in the franchise agreement, grantee shall maintain the necessary facilities, equipment and personnel to comply with the following consumer protection and service standards under normal conditions of operation:

a. Sufficient toll-free telephone line capacity during normal business hours to assure that telephone calls shall be answered before the fourth ring; telephone answer time by a customer service representative, including wait time, shall not exceed thirty seconds; and callers needing to be transferred shall not be required to wait more than thirty seconds before being connected to a service representative. Under normal operating conditions, a caller shall receive a busy signal less than three percent of the time.

b. Emergency toll-free telephone line capacity on a twenty-four hour basis, including weekends and holidays. After normal business hours, the telephone calls may be answered by a service or an automated response system, including an answering machine. Calls received after normal business hours must be responded to by a trained company representative on the next business day;

c. A conveniently located local business and service and/or payment office open during normal business hours at least eight hours daily, and at least four hours weekly on evenings or weekends, and adequately staffed to accept subscriber payments and respond to service requests and complaints. The grantee may petition the grantor to reduce its business hours if the extended hours are not justified by subscriber demand;

d. An emergency system maintenance and repair staff, capable of responding to and repairing major system malfunction on a twenty-four hour per day basis;

e. An installation staff, capable of installing service to any subscriber requiring a standard installation within seven days after receipt of a request, in all areas where trunk and feeder cable have been activated. "Standard installations" shall be those that are located up to one hundred twenty-five feet from the existing distribution system, unless otherwise defined in any franchise agreement;

f. Grantee shall schedule, within a specified four hour time period during normal business hours, all appointments with subscribers for installation of service, service calls and other activities at the subscriber location. Grantee may schedule installation and service calls outside of normal business hours for the express convenience of the customer. Grantee shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a grantee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted and the appointment rescheduled, as necessary, at a time which is convenient for the customer

2. The standards of subsections A1a through f above shall be met not less than ninety percent of the time measured on a quarterly basis.

B. Service Standards.

1. Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible, Scheduled interruptions, insofar as possible, shall be preceded by notice and shall occur during a period of minimum use of the cable system, preferably between midnight and six a.m. local time.

2. The grantee shall maintain a repair force of technicians normally capable of responding to subscriber requests for service within the following time frames:

a. For a system outage: within two hours, including weekends, of receiving subscriber calls or requests for service which by number identify a system outage of sound or picture of one or more channels, affecting at least ten percent of the subscribers of the system;

b. For an isolated outage: within twenty-four hours, including weekends, of receiving requests for service identifying an isolated outage of sound or picture for one or more channels that affects three or more subscribers. On weekends, an outage affecting fewer than three subscribers shall result in a service call no later than the next business day;

c. For inferior signal quality: within two business days of receiving a request for service identifying a problem concerning picture or sound quality.

3. Grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, the technician shall leave written notification of arrival.

4. Grantee shall not charge for the repair or replacement of defective or malfunctioning equipment provided by grantee to subscribers, unless the defect was caused by the subscriber.

5. Unless excused, grantee shall determine the nature of the problem within two business days of beginning work and resolve all cable system related problems within five business days unless technically infeasible.

C. Billing and Information Standards.

1. Subscriber bills shall be clear, concise and understandable. Bills shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

2. In case of a billing dispute, the grantee shall respond to a written complaint from a subscriber within thirty days.

3. Upon request, grantee shall provide credits or refunds to subscribers whose service has been interrupted for four or more hours. All credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted. For subscribers terminating service, refunds shall be issued promptly, but no later than thirty days after the return of any grantee-supplied equipment.

4. Grantee shall provide written information on each of the following areas (i) at the time of the installation of service, (ii) at least annually to all subscribers, and (iii) at any time upon request:

a. Products and services offered; and

b. Prices and options for programming services and conditions of subscription to programming and other services; and

c. Installation and service maintenance policies; and

d. Instructions on how to use the cable service; and

e. Channel positions of programming carried on the system; and

f. Billing and complaint procedures, including the address and telephone number of the grantor office designated for dealing with cable-related issues.

5. Subscribers shall be notified of any changes in rates, programming services or channel positions as soon as possible in writing and in accordance with state and federal law. Notice must be given to subscribers a

minimum of thirty days in advance of such changes if the change is within the control of the grantee. In addition, grantee shall notify subscribers thirty days in advance of any significant changes in the information required in Section 5.52.050C4 above.

D. Verification of Compliance with Standards.

1. Upon ten days prior written notice, grantee shall respond to a request for information made by grantor regarding grantee's compliance with any or all of the standards required in Section 5.52.050A, B and C above. Grantee shall provide sufficient documentation to permit grantor to verify grantee's compliance.

2. A repeated and verifiable pattern of noncompliance with the consumer protection standards of Sections 5.52.050A through C above, after grantee's receipt of due notice and a reasonable opportunity to cure, may be deemed a material breach of the franchise agreement.

E. Subscriber Complaints and Disputes.

1. Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the grantor. The written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing specifying the subscriber's grounds for dissatisfaction. Grantee shall file a copy of these procedures with grantor. The written procedures shall include a requirement that grantee respond to any written complaint from a subscriber within thirty days of receipt.

2. Upon prior written request, grantor shall have the right to review grantee's response to any subscriber complaints in order to determine grantee's compliance with the franchise requirements, subject to the subscriber's right to privacy.

3. Subject to applicable law, it shall be the right of all subscribers to continue receiving cable service insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to rebuild, modify or sell the system, or the grantor gives notice of intent to terminate or not to renew the franchise, the grantee shall act so as to ensure that all subscribers receive cable service so long as the franchise remains in force.

4. In the event of a change of control of grantee, or in the event a new operator acquires the system, the original grantee shall cooperate with the grantor, new grantee or operator in maintaining continuity of service to all subscribers. During such period, grantee shall be entitled to the revenues for any period during which it operates the system.

F. Other Requirements.

1. In the event grantee fails to operate the system for seven consecutive days other than for reasons beyond the control of grantee, without prior approval or subsequent excuse of the grantor, the grantor may, at its sole option, operate the system or designate an operator until such time as grantee restores service under conditions acceptable to the grantor or a permanent operator is selected. If the grantor should fulfill this obligation for the grantee, then during such period as the grantor fulfills such obligation, the grantor shall be entitled to collect all revenues from the system, and the grantee shall reimburse the grantor for all reasonable costs or damages in excess of the revenues collected by grantor that are the result of grantee's failure to perform.

2. All officers, agents or employees of grantee or its contractors or subcontractors who, in the normal course of work come into contact with members of the public or who require entry onto subscribers' premises shall carry a photo-identification card in a form approved by grantor. Grantee shall account for all identification cards at all times. Every vehicle of the grantee or its major subcontractors shall be clearly identified as working for grantee.

3. Additional service standards and standards governing consumer protection and response by grantee to subscriber complaints not otherwise provided for in this chapter may be established in the franchise agreement or by separate ordinance. A verified and continuing pattern of noncompliance may be deemed a material breach

of the franchise; provided, that grantee shall receive due process, including prior written notification and a reasonable opportunity to cure, prior to any sanction being imposed. (Ord. 98-9 § 1 (part), 1998)

5.52.060 Franchise fee and financial requirements.

A. Franchise Fee.

1. Following the issuance and acceptance of the franchise, the grantee shall pay to the grantor a franchise fee on gross annual revenues in the amount and at the times set forth in the franchise agreement.

2. The grantor, on an annual basis, shall be furnished a statement within ninety days of the close of the calendar year, either audited and certified by an independent certified public accountant or certified by an officer of the grantee, reflecting the total amounts of gross revenues and all payments, deductions and computations for the period covered by the payment. Upon thirty days prior written notice, grantor shall have the right to conduct an independent financial audit of grantee's gross annual revenue and franchise fee records, in accordance with generally accepted accounting procedures (GAAP), and if such audit indicates a franchise fee underpayment of three percent or more, the grantee shall assume all reasonable documented costs of such audit.

3. Except as otherwise provided by law, no acceptance of any payment by the grantor shall be construed as a release or as an accord and satisfaction of any claim the grantor may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

4. In the event that any franchise fee payment or payment of any adjustment to any franchise fee is not made on or before the dates specified in the franchise agreement, grantee shall pay:

a. An interest charge, computed from such due date, at an annual rate equal to the highest of the most recently published prime lending rates of any of the five largest member banks of the New York Clearing House Association, plus one percent during the period for which payment was due; and

b. If the payment is late by six months or more, a sum of money equal to five percent of the amount due in order to defray those additional expenses and costs incurred by the grantor due to grantee's delinquent payment.

5. Franchise fee payments shall be made in accordance with the schedule indicated in the franchise agreement.

B. Security Fund.

1. Grantor may require grantee to provide a security fund, in an amount and form established in the franchise agreement. The amount of the security fund shall be established based on the extent of the grantee's obligations under the terms of the franchise.

2. The security fund shall be available to grantor to satisfy all claims, liens and/or taxes due grantor from grantee which arise by reason of construction, operation, or maintenance of the system, and to satisfy any actual or liquidated damages arising out of a material breach of the franchise agreement, subject to the procedures and amounts designated in the franchise agreement.

3. If the security fund is drawn upon by grantor in accordance with the procedures established in this chapter and the franchise agreement, grantee shall cause the security fund to be replenished to the original amount no later than thirty days after receiving written confirmation from the bank where such security fund is deposited that grantor has made a draw against the security fund. Failure to replenish the security fund shall be deemed a material breach of the franchise. (Ord. 98-9 § 1 (part), 1998)

5.52.070 Construction requirements.

A. System Construction.

1. Grantee shall not construct, repair or maintain any cable system facilities until grantee has secured the necessary permits from grantor, or other responsible public agencies.

2. In those areas of the city where transmission lines or distribution facilities of the public utilities providing telephone and electric power service are underground, the grantee likewise shall construct, operate and maintain its transmission and distribution facilities underground.

3. In those areas of the city where the grantee's cables are located on the above-ground transmission or distribution facilities of the public and municipal utility providing telephone or electric power service, and in the event that the facilities of both such public and municipal utilities subsequently are placed underground, then the grantee likewise shall reconstruct, operate and maintain its transmission and distribution facilities underground, at grantee's cost. Certain of grantee's equipment, such as pedestals, amplifiers and power supplies, which normally are placed above ground, may continue to remain in above-ground enclosures, unless otherwise provided in the franchise agreement.

4. Any changes in or extensions of any poles, anchors, wires, cables, conduits, vaults, laterals or other fixtures and equipment (referred to in this chapter as "structures"), or the construction of any additional structures, in, upon, along, across, under or over the streets, alleys and public ways shall be made under the direction of public works director or a designee, who shall, if the proposed change, extension or construction conforms to the provisions hereof, issue written permits therefor. The height above public thoroughfares of all aerial wires shall conform to the requirements of the California regulatory body having jurisdiction therefor.

a. All transmission and distribution structures, lines and equipment erected by the grantee shall be located so as not to interfere with the proper use of the public rights-of-way, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the public rights-of-way, and not to materially interfere with existing public and municipal utility installations.

b. In the event that any property or improvement of the grantor in the public rights-of-way is disturbed or damaged by the grantee or any of its contractors, agents or employees in connection with undertaking any and all work

pursuant to the rights granted to the grantee pursuant to this chapter and the franchise agreement, the grantee shall promptly, at the grantee's sole cost and expense, restore as nearly as practicable to their former condition such property or improvement which was so disturbed or damaged. If such property or improvement shall within one year of the date the restoration was completed, become uneven, unsettled or otherwise require additional restorative work, repair or replacement because of the initial disturbance or damage to the property by the grantee, then the grantee, as soon as reasonably possible, shall, promptly upon receipt of written notice from the grantor and at the grantee's sole cost and expense, restore as nearly as practicable to their former condition such property or improvement which was disturbed or damaged. Any such restoration by the grantee shall be made in accordance with such materials and specifications as may, from time to time, be provided for by grantor ordinance.

c. Prior to commencing any work on the system in the public rights-of-way, the grantee shall obtain any and all permits, licenses and authorizations lawfully required for such work, and pay all applicable fees. If emergency work on the system in the public right-of-way is required, the grantee shall with all due diligence, seek to obtain any and all such required permits, licenses and authorizations within three working days after commencing such emergency work.

d. There shall be no unreasonable or unnecessary obstruction of the public rights-of-way by the grantee in connection with any of the work provided for in this chapter. The grantee shall maintain any barriers, signs and warning signals during any work performed on or about the public rights-of-way or adjacent thereto as may be necessary to reasonably avoid injury or damage to life and property.

e. If the grantor lawfully elects to alter or change the grade or location of any public right-of-way, the grantee shall, upon reasonable notice by the grantor, and in a timely manner, remove, relay and relocate its poles; wires, cables, underground conduits, manholes and other fixtures at its own expense. If, however, other similarly situated users of such public rights-of-way are compensated or reimbursed for any of the cost associated with the removal, relay or relocation of any equipment or facilities, grantee shall be entitled to compensation in kind.

f. The grantee shall not place poles, conduits or other fixtures above or below ground where the same will interfere with any gas, electric, telephone fixtures, water hydrants or other utility, and all such poles, conduits or other fixtures placed in any street shall be so placed as to comply with all ordinances of the grantor.

g. In accordance with applicable law, the grantee or any other utility user of the public rights-of-way may be required by the grantor to permit joint use of its poles and/or conduit located in the public rights-of-way, by any other user or utility insofar as such joint use may be reasonably practicable and upon payment of a reasonable rental fee for such usage. In the absence of agreement regarding such joint use, each party shall be entitled to exercise any rights and defenses provided by applicable law.

h. The grantee shall, on request of any person holding a moving permit issued by the grantor, temporarily raise or lower its wires or fixtures to permit the moving of buildings. The expense of such temporary raising or lowering of wires or fixtures shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than five business days prior written notice to arrange for the temporary wire or equipment changes.

i. The grantee shall have the authority to trim any trees or other natural growth overhanging the public rights-of-way so as to prevent the branches of such trees or other natural growth from coming in contact with the grantee's wires, cables and other equipment. The grantor may require all trimming of trees and natural growth to be done under its supervision and direction, at the expense of the grantee.

B. Multiple Franchises.

1. Subject to applicable law, in the event that more than one franchise is awarded, the grantor reserves the right to limit the number of drop cables per residence, or to require that the drop cable(s) be utilized only by the cable operator selected by the resident to provide service.

2. The grantor reserves the right to grant an encroachment permit to a cable franchisee applicant to install conduit and/or cable in anticipation of the granting of a franchise. Such installations shall be at the applicant's risk, with no recourse against the grantor in the event the pending franchise application is not granted. The grantor may require an applicant to provide a separate trench for its conduit and/or cable, at the applicant's cost.

3. If the grantor authorizes or permits another cable system to operate within the municipal limits of the city, it shall do so on conditions that such new cable system entrant indemnify and hold harmless the grantee from and against all costs and expenses incurred in strengthening poles, replacing poles, rearranging attachments, placing underground facilities and all other costs including those of grantee, the city and utilities, incident to inspections, make ready, and construction of an additional cable system in the franchise area; and grantee shall be designated a third party beneficiary of such conditions as are incorporated into the authorization(s) granted to such new entrant cable system. (Ord. 98-9 § 1 (part), 1998)

5.52.080 Technical standards.

A. Applicable Technical Standards. The grantee shall construct, install, operate and maintain its cable system in a manner consistent with all applicable laws, ordinances, construction standards, permits, governmental requirements, FCC technical standards, and any detailed standards set forth in its franchise agreement. In addition, the grantee shall provide to the grantor, upon written request, a written report of the results of the grantee's periodic proof of performance tests conducted pursuant to FCC and franchise standards and guidelines.

B. Noncompliance with Standards. Repeated and verified failure to maintain specified technical standards shall constitute a material breach of the franchise. (Ord. 98-9 § 1 (part), 1998)

5.52.090 Indemnification and insurance requirements.

A. Hold Harmless. Grantee shall indemnify, defend and hold grantor, its officers, agents and employees harmless from any liability, claims, damages, costs or expenses, to the extent provided in the franchise agreement.

B. Insurance.

1. On or before commencement of franchise operations, the grantee shall furnish to grantor certificates of insurance for liability, workers' compensation and property insurance from appropriately qualified insurance companies, which shall be admitted in the state of California. The certificates of insurance shall provide that the insurance is in force and will not be canceled or modified without thirty days prior written notice to grantor. The certificates of insurance shall be in a form satisfactory to grantor. The grantee shall maintain at its cost throughout the term of the franchise, the insurance described in this section and in the franchise agreement.

2. The policy of liability insurance shall:

a. Name grantor, its officers, agents and employees as additional insureds;

b. Indemnify all liability for personal and bodily injury, death and damage to property arising from activities conducted and premises used pursuant to this chapter by providing coverage therefor, including but not limited to:

i. Negligent acts or omissions of grantee, and its agents, servants and employees, committed in the conduct of franchise operations, and/or

ii. Use of motor vehicles;

c. Provide a combined single limit for comprehensive general liability and comprehensive automobile liability insurance in the amount provided for in the franchise agreement.

3. The policy of workers' compensation insurance shall comply with the laws of the state.

4. The policy of property insurance shall provide fire insurance with extended coverage on the franchise property used by grantee in the conduct of franchise operations in an amount adequate to enable grantee to resume franchise operations following the occurrence of any risk covered by this insurance.

The certificates of insurance shall indicate the following information:

a. The policy number;

b. The date upon which the policy will become effective and the date upon which it will expire;

c. The names of the named insureds and any additional insured required by the franchise agreement;

d. The subject of the insurance;

e. The type of coverage provided by the insurance; and

f. The amount or limit of coverage provided by the insurance.

If the certificates of insurance do not provide all of the above information, grantor reserves the right to inspect the relevant insurance policies.

5. The commencement of franchise operations shall not begin until grantee has complied with the aforementioned provisions of this section.

6. In the event grantee fails to maintain any of the above-described policies in full force and effect, grantor shall, upon forty-eight hours notice to grantee, have the right to procure the required insurance and recover the cost thereof from grantee. Grantor shall also have the right to suspend the franchise during any period that grantee fails to maintain such policies in full force and effect. In order to account for increases in consumer prices, no more than once during any five year period, grantor shall have the right to order grantee to increase the

amounts of the insurance provided in the franchise agreement. Such order may be made by grantor after conducting a duly noticed public hearing. Increases in insurance coverage shall be based upon current prudent business practices of like enterprises involving the same or similar risks. (Ord. 98-9 § 1 (part), 1998)

5.52.100 Records and reports.

A. Records Required.

1. Grantee shall at all times maintain:

a. A record of all service calls and interruptions or degradation of service experienced for the preceding two years; provided, that such complaints result in or require a service call, subject to the subscriber's right of privacy;

b. A full and complete set of plans, records and as-built maps showing the locations of the cable system installed or in use in the city, exclusive of subscriber service drops and equipment provided in subscriber's homes;

c. If requested by grantor, a summary of service calls, identifying the number, general nature and disposition of such calls, on a monthly basis. A summary of such service calls shall be submitted to the grantor within thirty days following any written request by grantor, in a form reasonably acceptable to the grantor.

2. The grantor may impose reasonable requests for additional information, records and documents from time to time, provided they reasonably relate to the scope of the city's rights under this chapter or the grantee's franchise agreement.

3. Upon reasonable notice, and during normal business hours, grantee shall permit examination by any duly authorized representative of the grantor of all:

a. Franchise property and facilities, together with any appurtenant property and facilities of grantee situated within the service area; and

b. All records relating to the franchise; provided they are necessary to enable the grantor to carry out its regulatory responsibilities under this chapter or the franchise agreement. Grantee shall have the right to be present at any such examination.

B. Annual Reports.

1. Within ninety days after the end of the calendar year, grantee shall, upon written request, submit a written report to grantor with respect to the preceding calendar year in a form approved by grantor, including, but not limited to, the following information:

a. A summary of the previous year's (or in the case of the initial reporting year, the initial year's) activities in development of the cable system, including but not limited to, services begun or discontinued during the reporting year;

b. A list of grantee's officers and members of its board of directors;

c. A list of stockholders or other equity investors holding five percent or more of the voting interest in grantee;

d. An indication of any residences in grantee's service area where service is not available, and a schedule for providing service;

e. Information as to:

(i) The number of homes passed,

(ii) Total subscribers, and

(iii) The number of basic and pay subscribers,

f. Any other information relevant to franchise regulation which the grantor shall reasonably request, and which is relevant to its regulatory responsibilities.

2. Upon request, grantee shall submit to grantor copies of all pleadings, applications and reports submitted by grantee to any federal, state or local court, regulatory agency, or other governmental body as well as copies of all decisions issued in response to such pleadings, applications and reports, which are nonroutine in nature and which will materially affect its cable system within the franchise area. Information otherwise confidential by law and so designated by grantee, which is submitted to grantor, shall be retained in confidence by grantor and its authorized agents and shall not be made available for public inspection. Notwithstanding the foregoing, grantee shall have no obligation to provide copies of documents to grantor which contain trade secrets of grantee or which are otherwise of a confidential or proprietary nature to grantee unless it receives satisfactory assurances from grantor that such information can and will be held in strictest confidence and protected by the grantor. To the extent possible, grantee will provide grantor with summaries of any required documents or copies thereof with trade secrets and proprietary matters deleted therefrom. The burden of proof shall be on grantee to establish the confidential nature of any information submitted, to the reasonable satisfaction of the grantor.

3. If grantee is publicly held, a copy of each grantee's annual and other periodic reports and those of its parent, shall be submitted to grantor within forty-five days of the publication of such reports.

4. Upon grantor's request, but no more than annually, grantee shall submit to grantor a privacy report indicating the degree of compliance with the provisions contained in Section 5.52.150C3, 4 and 5 and all steps taken to assure that the privacy rights of individuals have been protected.

5. All reports required under this chapter, except those required by law to be kept confidential, shall be available for public inspection in the grantor's offices during normal business hours.

6. All reports and records required to be delivered to grantor under this chapter shall be furnished at the sole expense of grantee, except as otherwise provided in the franchise agreement.

7. The wilful refusal, failure or wilful negligence of grantee to file any of the reports required as and when due under this chapter, may be deemed a material breach of the franchise agreement if such reports are not provided to grantor within thirty days after written request therefor, and may subject the grantee to all remedies, legal or equitable, which are available to grantor under this chapter or the franchise agreement.

8. Any materially false or misleading statement or representation made knowingly and wilfully by the grantee in any report required under this chapter or under the franchise agreement may be deemed a material breach of the franchise and may subject grantee to all remedies, legal or equitable, which are available to grantor.

C. Opinion Survey. Upon written request of the grantor, but not more than once every two years, the grantee shall conduct a subscriber satisfaction survey pertaining to quality of service, which may be transmitted to subscribers in grantee's invoice for cable services. The results of such survey shall be provided to the grantor on a timely basis. The cost of such survey shall be borne by the grantee. (Ord. 98-9 § 1 (part), 1998)

5.52.110 Review of system performance.

A. Biannual Review.

1. Every two years throughout the term of the franchise, if reasonably requested by prior written notice from the grantor, grantor and grantee shall meet publicly to review system performance and quality of service. The various reports

required pursuant to this chapter, results of technical performance tests, the record of subscriber complaints and grantee's response to those complaints, and the information acquired in any subscriber surveys, shall be utilized as the basis for review. In addition, any subscriber may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered. Within thirty days after the conclusion of such a review meeting, grantor may issue findings with respect to the cable system's franchise compliance and quality of service.

2. If grantor determines that grantee is not in compliance with the requirements of this chapter or the grantee's franchise agreement, grantor shall provide grantee, in the form of written findings, the specific details of each alleged noncompliance, grantor may then direct grantee to correct the areas of noncompliance within a reasonable period of time. Failure of the grantee, after due notice, to:

- a. Correct the area(s) of noncompliance within the period specified therefor; or
- b. Commence compliance within such period and diligently achieve compliance thereafter; or
- c. Demonstrate that the allegations of noncompliance are incorrect;

shall be considered a material breach of the franchise, and grantor may exercise any remedy within the scope of this chapter and the franchise agreement considered appropriate under the circumstances.

B. Special Review. When there have been extensive complaints made or where there exists other demonstrative evidence which, in the reasonable judgment of the grantor, casts reasonable doubt on the reliability or quality of cable service to the effect that the grantee is not in compliance with the requirements of this chapter or its franchise, the grantor shall have the right to compel the grantee to test, analyze and report on the performance of the cable system in order to protect the public against substandard cable service. Grantor may not compel grantee to provide such tests or reports unless and until grantor has provided grantee with at least thirty days prior written notice of its intention to exercise its rights under this section and has provided grantee with an opportunity to be heard prior to its exercise of such rights. Such test or tests shall be made and the report shall be delivered to the grantor no later than thirty days after the grantor notifies the grantee in writing that it is exercising such right, and shall be made at grantee's sole cost. Such report shall include the following information: the nature of the complaints which precipitated the special tests, what system component was tested, the equipment used and procedures employed in such testing, the results of such tests, and the method by which such complaints were resolved. Any other information pertinent to the special test shall be recorded. (Ord. 98-9 § 1 (part), 1998)

5.52.120 Franchise violations.

A. Remedies for Violations. If grantee fails to perform in a timely manner any material obligation required by this chapter or a franchise granted hereunder, following reasonable written notice from the grantor and a reasonable opportunity to cure such nonperformance in accordance with the provisions of Section 5.52.120 and the franchise, grantor may at its option and in its sole discretion:

1. Cure the violation and recover the actual cost thereof from the security fund established in this chapter if such violation is not cured within thirty days after written notice to the grantee of grantor's intention to cure and draw upon the security fund;

2. Assess against grantee liquidated damages in an amount set forth in the franchise agreement for any such violations(s) if such violation is not cured, or if grantee has not commenced a cure, on a schedule reasonably acceptable to grantor, within thirty days after written notice to the grantee of grantor's intention to assess liquidated damages. Such assessment may be withdrawn from the security fund, and shall not constitute a waiver by grantor of any other right or remedy it may have under the franchise or applicable law, including without limitation, its right to recover from grantee such additional damages, losses, costs and expenses, including actual attorney's fees, as may have been suffered or incurred by grantor by reason of or arising out of such material breach of the franchise.

B. Procedure for Remedying Franchise Violations. Prior to imposing any remedy or other sanction against grantee specified in this chapter, grantor shall give grantee notice and opportunity to be heard on the matter, in accordance with the following procedures:

1. Grantor shall first notify grantee of the alleged violation in writing by personal delivery or registered or certified mail, and demand correction, or evidence of non-violation, within a reasonable time, which shall not be less than fifteen business days in the case of the failure of the grantee to pay any sum or other amount due the grantor under this chapter or the grantee's franchise and thirty business days in all other cases. If grantee fails to:

- a. Correct the alleged violation within the time prescribed; or
- b. Commence correction of the alleged violation within the time prescribed and diligently remedy such alleged violation thereafter; or
- c. Provide evidence that there is no violation; the grantor shall then give, by personal delivery or registered or certified mail written notice of not less than thirty days of a public hearing to be held before the council. Such notice shall set forth in detail each of the violations alleged to have occurred.

2. Subsequent to the public hearing, the council shall hear and consider all other relevant evidence, and thereafter render findings and its decision.

3. If the council finds that:

- a. The grantee has corrected the alleged violation; or
- b. The grantee has diligently commenced correction of such alleged violation after notice thereof and is diligently proceeding to fully remedy such alleged violation; or

c. No material violation has occurred, the proceedings shall terminate and no penalty or other sanction shall be imposed.

4. If the council finds that material violations exist and that grantee:

- a. Has not corrected the same in a satisfactory manner; or
 - b. Has not diligently commenced correction of such violation after notice thereof and is not diligently proceeding to fully remedy such violation;
- then the council may impose one or more of the remedies provided in this chapter and the franchise agreement as it, in its discretion, deems appropriate under the circumstances.

C. Grantor's Power to Revoke.

1. Grantor may revoke any franchise granted pursuant to this chapter and rescind all rights and privileges associated with it in the following circumstances, each of which shall represent a default by grantee and a material breach under the franchise:

- a. If grantee fails to perform any of its material obligations under this chapter or the franchise agreement and continues such failure to perform after receipt of due notice and a reasonable opportunity to cure;
- b. If grantee fails to provide or maintain in full force and effect the insurance coverage or security fund as required in the franchise agreement;
- c. If grantee violates any order or ruling of any regulatory body having jurisdiction over the grantee relative to the grantee's franchise, unless such order or ruling is being contested by grantee in good faith in an appropriate proceeding;

d. If grantee knowingly practices any material fraud or deceit upon grantor;

e. If grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.

2. After completing the procedures set forth in Section 5.52.120B above, the grantor may make a formal request before the council that the grantee's franchise be revoked. The council shall cause to be served on the grantee written notice of its intent to consider revoking grantee's franchise. Such notice shall be served on grantee at least thirty days prior to the date of the hearing on the issue. The notice shall contain the time and place of the hearing and shall be published at least once in a newspaper of general circulation within the franchise area ten days prior to the hearing date.

3. The council shall hear any person(s) interested in the revocation and within ninety days after the date of the hearing shall make its determination, based on a preponderance of the evidence, whether the grantee has committed a material breach of the franchise.

4. If the grantor determines that the grantee has committed a material breach then the grantor may:

a. Declare the franchise revoked and the security fund and bonds forfeited; or

b. If the material breach is curable by the grantee, direct the grantee to take appropriate remedial action within the time and manner and under the terms and conditions reasonably specified by the grantor.

The termination and forfeiture of the grantee's franchise shall in no way affect any right of grantor to pursue any remedy under the franchise or any provision of law.

D. Appeal of Finding of Revocation. The grantee may appeal a finding of revocation made pursuant to Section 5.52.120C to an appropriate court of jurisdiction, which shall have the power to review "de novo." Any such appeal must be taken by the grantee within sixty days of the issuance of the grantor's decision to revoke the franchise. (Ord. 98-9 § 1 (part), 1998)

5.52.130 Force majeure; grantee's inability to perform.

In the event grantee's performance of any of the terms, conditions or obligations required by this chapter or a franchise granted hereunder is prevented by a cause or event not within grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that such inability to perform shall not relieve a grantee from the obligations imposed by Section 5.52.050C3 pertaining to refunds and credits for interruptions in service. For the purpose of this section, causes or events not within the control of grantee shall include without limitation acts of God, war, strikes, sabotage, riots or civil disturbances, labor disputes, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides and fires, but shall not include financial inability of the grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of grantee, or the failure of the grantee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment. (Ord. 98-9 § 1 (part), 1998)

5.52.140 Abandonment or removal of franchise property.

A. Abandonment or Removal.

1. If the grantee discontinues the use of any of its property within the public rights-of-way for a continuous period of twelve months, such property shall be deemed to have been abandoned by grantee. Any part of the cable system that is parallel or redundant to other parts of the system and is intended for use only when needed as a backup for the system or a part thereof, shall not be deemed to have been abandoned because of its lack of use.

2. Grantor, upon such reasonable terms as grantor may lawfully impose, may give grantee permission to abandon, without removing, any system facility or equipment laid, directly constructed, operated or maintained under the franchise. Unless such permission is granted or unless otherwise provided in this chapter, the grantee shall remove all abandoned above-ground facilities and equipment upon receipt of written notice from grantor and shall restore any affected public right-of-way to its former state at the time such facilities and equipment were installed. In removing its plant, structures and equipment, grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public rights-of-way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires,

poles or attachments. Grantor shall have the right to inspect and approve the condition of the public rights-of-way, cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this chapter and the security fund as provided in this chapter shall continue in full force and effect during the period of removal and until full compliance by grantee with the terms and conditions of this section.

3. Upon the approved abandonment of any franchise property, the grantee, if required by the grantor, shall submit to the grantor an instrument, satisfactory in form to the grantor, transferring to the grantor the ownership of the abandoned franchise property.

4. At the expiration of the term for which the franchise is granted, or upon its revocation or earlier expiration, as provided in this chapter, in any such case without renewal, the grantor shall have the right to require grantee to remove, at its own expense, all above-ground portions of the cable system from all streets and public ways within the service area within a reasonable period of time, which shall not be less than one hundred eighty days.

5. Notwithstanding anything to the contrary set forth in this chapter, the grantee may abandon any underground franchise property in place so long as it does not materially interfere with the use of the public rights-of-way in which such property is located or with the use thereof by any public utility or other franchise holder.

B. Restoration by Grantor—Reimbursement of Costs. Upon reasonable written notice and upon the failure of the grantee to commence, pursue or complete any work to be done in any public right-of-way required by law or by the provisions of this chapter or the franchise agreement, within the time prescribed and to the reasonable satisfaction of the grantor, the grantor may cause the work to be commenced and/or completed. The grantor shall provide to the grantee an itemized work order setting forth in detail the exact nature of the work completed and the supplies used in such work. The grantee shall pay to the grantor the reasonable costs for such work no later than thirty days after receipt of the itemized work order.

C. Extended Operation and Continuity of Services. Upon expiration or revocation of the franchise, the grantor shall have the discretion to permit grantee to continue to operate the cable system for an extended period of time. Grantee shall continue to operate the system under the terms and conditions of this chapter and the franchise and to provide the regular subscriber service and any and all of the services that may be provided at that time. It shall be the right of all subscribers to continue to receive all available services provided that financial and other obligations to grantee are honored. The grantee shall use reasonable efforts to provide continuous, uninterrupted service to its subscribers, including operation of the system during transition periods following franchise expiration or termination.

D. Receivership and Foreclosure.

1. At the option of the grantor and subject to applicable law, a franchise granted hereunder may be revoked one hundred twenty days after appointment of a receiver(s) or trustee(s) to take over and conduct the business of grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

- a. The receivership or trusteeship shall have been vacated within one hundred twenty days; or
- b. Such receivers or trustees within one hundred twenty days shall have remedied all the defaults under the franchise or provided a plan for the remedy of such defaults which is satisfactory to the grantor; or
- c. Such receivers or trustees shall, within one hundred twenty days, have executed an agreement duly approved by the court having jurisdiction whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the franchise.

2. In the case of a foreclosure or other judicial sale of the cable system, in whole or in part, the grantor may serve notice of revocation upon grantee and the successful bidder at such sale, and all rights and privileges of the grantee hereunder shall be revoked thirty days after service of such notice, unless:

- a. Grantor shall have approved the transfer of the franchise, in the manner provided by law; and

b. The successful bidder shall have covenanted and agreed with grantor to assume and be bound by all terms and conditions of the franchise. (Ord. 98-9 § 1 (part), 1998)

5.52.150 Grantor and subscriber rights.

A. Reservation of Grantor Rights. In addition to any rights specifically reserved to the grantor by this chapter, the grantor reserves to itself every right and power which is required to be reserved by a provision of any ordinance or under the franchise.

B. Waiver. The grantor shall have the right to waive any provision of the franchise, except those required by federal or state regulation, if the grantor determines (1) that it is in the public interest to do so; and (2) that the enforcement of such provision will impose an undue hardship on the grantee or on the subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the grantor. Waiver of any provision in one instance shall not be deemed a waiver or such provision subsequent to such instance nor be deemed a waiver of any other provision of the franchise unless the statement so recites.

C. Rights of Individuals.

1. Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Grantee shall comply at all times with all other applicable federal, state and local laws and regulations relating to nondiscrimination.

2. Grantee shall adhere to the applicable equal employment opportunity requirements of federal, state and local regulations, as now written or as amended from time to time.

3. Neither grantee, nor any person, agency or entity shall, without the subscriber's consent, tap, or arrange for the tapping, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose except routine maintenance of the system, detection of unauthorized service, polling with audience participation, or audience viewing surveys to support advertising research regarding viewers where individual viewing behavior cannot be identified.

4. In the conduct of providing its cable services or in pursuit of any collateral commercial enterprise resulting therefrom, grantee shall take reasonable steps to prevent the invasion of a subscriber's or general citizen's right of privacy or other personal rights through the use of the system as such rights are delineated or defined by applicable law. The grantee shall not without lawful court order or other applicable valid legal authority utilize the system's interactive two-way equipment or capability, if such equipment or capability exists, for unauthorized personal surveillance of any subscriber or general citizen.

5. No cable line, wire amplifier, converter, or other piece of equipment owned by grantee shall be installed by grantee in the subscriber's premises, other than in appropriate easements, without first securing any required consent. If a subscriber requests service, permission to install upon subscriber's property shall be deemed granted.

6. The grantee, or any of its agents or employees, shall not sell, or otherwise make available to any party without consent of the subscriber pursuant to state and federal privacy laws:

a. Any list of the names and addresses of subscribers containing the names and addresses of subscribers who request in writing to be removed from such list; and

b. Any list which identifies the viewing habits of individual subscribers, without the prior written consent of such subscribers. This does not prohibit the grantee from providing composite ratings of subscriber viewing to any party. (Ord. 98-9 § 1 (part), 1998)

5.52.160 Separability.

If any provision of this chapter is held by any court or by any federal or state agency of competent jurisdiction, to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, such provision shall thereupon return to full force and effect and shall thereafter be binding on grantor and grantee, provided that grantor shall give grantee thirty days written notice of such change before requiring compliance with such provision or such longer period of time as may be reasonably required for grantee to comply with such provision. (Ord. 98-9 § 1 (part), 1998)

Chapter 5.64

JUNK DEALERS

Sections:

- 5.64.010 Permission—Required.
- 5.64.020 Permission—Application and investigation.
- 5.64.030 Permission—Revocation.
- 5.64.040 Junk shop or junkyard—License required.
- 5.64.050 Junk shop or junkyard—License fee.
- 5.64.060 Junk wagon—License required—Fee.
- 5.64.070 Junk wagon—License tag.
- 5.64.080 Junk peddler—Badge.
- 5.64.090 Junk peddler—License tag.
- 5.64.100 Records.
- 5.64.110 Junk required to be held five days before sale.
- 5.64.120 Pawnbroking prohibited.
- 5.64.130 Hours of purchasing or collection.
- 5.64.140 Penalty for violation.

5.64.010 Permission—Required.

Before any person, firm or corporation engages in the business of buying or selling old rope, iron, brass, copper, tin, lead, rags, slush, empty bottles, paper, bagging or other junk, whether at a fixed place of business or as an itinerant peddler, within any portion of the county of Monterey, subject to the police power of the county, he or it shall make an application to the board of supervisors of the county, for permission to engage in such business. (Ord. 76-5 § 1 (part), 1976)

5.64.020 Permission—Application and investigation.

The application provided for in Section 7.24.010 shall be referred to the sheriff of the county, who shall make an investigation concerning the character of the applicant, and within seven days shall report thereon to the board of supervisors of the county. Upon receiving the report, the board of supervisors shall grant or deny the applicant permission to engage in such business; and permission shall be granted unless it appears from the re-

port of the sheriff that the applicant is not a person of good moral character or has not a good character in respect to honest and integrity. (Ord. 76-5 § 1 (part), 1976)

5.64.030 Permission—Revocation.

Any person, firm or corporation who or which fails to obey the provisions of this chapter, or who or which conducts his or its business in an unlawful manner, may have the permission to conduct such business revoked by the board of supervisors. (Ord. 76-5 § 1 (part), 1976)

5.64.040 Junk shop or junkyard—License required.

No person, firm or corporation engaged in the business of maintaining or operating a junk shop or junkyard shall engage in business as an itinerant junk peddler without paying a separate license therefor. (Ord. 76-5 § 1 (part), 1976)

5.64.050 Junk shop or junkyard—License fee.

Every person, firm or corporation engaged in the business of maintaining or operating a junk shop or junkyard shall pay a license to the county of Monterey in the sum of fifty dollars per year, payable quarterly in advance, and in addition thereto the sum of one dollar per year, payable in advance, for every wagon or other vehicle used in connection with the junk shop or junkyard. (Ord. 76-5 § 1 (part), 1976)

5.64.060 Junk wagon—License required—Fee.

Every person, firm or corporation engaged in the business of peddling junk as an itinerant peddler shall pay a license to the county of Monterey in the sum of ten dollars per year, payable in advance, for every wagon and other vehicle used in the business of junk peddling. (Ord. 76-5 § 1 (part), 1976)

5.64.070 Junk wagon—License tag.

All wagons used in connection with junk shops or junkyards shall be provided with a round metal license tag containing a number and the date of issuance of the license tag. The tag shall be issued by the tax collector of the county of Monterey upon payment of the license fee prescribed by Section 7.24.060, and shall be attached to the body of the wagon in a conspicuous place. The license tag shall not be transferable. (Ord. 76-5 § 1 (part), 1976)

5.64.080 Junk peddler—Badge.

Junk peddlers shall receive from the tax collector, upon payment of the license provided for in this chapter, a circular metal badge, containing a number and the date upon which the same was issued, which badge shall be worn on the outermost garment of the junk peddler's clothes. (Ord. 76-5 § 1 (part), 1976)

5.64.090 Junk peddler—License tag.

Junk peddlers shall also receive from the tax collector upon payment of the license provided for in this chapter, a circular metal license tag for each wagon or other vehicle used by him in his business, containing a number and the date of issuance. The numbers shall be the same as that upon the badge issued to the junk peddler, one of which tags shall be attached to the body of each wagon or other vehicle in a conspicuous place. Neither the badge nor the tag shall be transferable. (Ord. 76-5 § 1 (part), 1976)

5.64.100 Records.

Every person, firm or corporation maintaining or operating a junk shop or junkyard shall keep at his or its place of business a substantial, well-bound book, and shall promptly enter in the book an exact description of all personal property purchased by him or it, the date of purchase, the name and address or place of business of the person from whom purchased, and all particular or prominent marks of identification that may be found on such property. The book shall be kept neat and clean, and all entries made in the book shall be neatly and legibly written in ink. The book shall at all times during the ordinary hours of business be open to the inspection of the sheriff, district attorney, or any peace officer of the county. (Ord. 76-5 § 1 (part), 1976)

5.64.110 Junk required to be held five days before sale.

All junk purchased by owners or keepers of junk shops or junkyards shall be held for a period of at least five days before the same shall be sold. (Ord. 76-5 § 1 (part), 1976)

5.64.120 Pawnbroking prohibited.

No owner or keeper of a junk shop or junkyard shall receive any personal property by way of pledge or pawn, nor shall any owner or keeper of a junk shop or junkyard engage in the business of pawnbroking on the same premises on which a junk shop or junkyard is located. (Ord. 76-5 § 1 (part), 1976)

5.64.130 Hours of purchasing or collection.

No junk peddler shall purchase or collect any junk in any portion of the county of Monterey, state of California, subject to the police power of the county, between the hours of six p.m. and six a.m. (Ord. 76-5 § 1 (part), 1976)

5.64.140 Penalty for violation.

Any person, firm or corporation violating any of the terms of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed three hundred dollars or by imprisonment in the county jail of the county at the rate of one day for each two dollars of such fine, or by both such fine and imprisonment. (Ord. 76-5 § 1 (part), 1976)

Chapter 5.68

FORTUNETELLING AND RELATED PRACTICES

Sections:

- 5.68.010 Permit—Required.
- 5.68.020 Intent and purpose.
- 5.68.030 Definitions.
- 5.68.040 Permit—Application.
- 5.68.050 Permit—Investigation.
- 5.68.060 Appeal procedure.
- 5.68.070 Permit—Nontransferable.
- 5.68.080 Term of permit.
- 5.68.090 Permit—Fee.
- 5.68.100 Renewal of permit.
- 5.68.110 Permit exhibiting requirements and posting of fees.

- 5.68.120 Receipts.
- 5.68.130 Clients record of consultation.
- 5.68.140 Exception—Entertainment.
- 5.68.150 Exception—Religious practice.

5.68.010 Permit—Required.

It is unlawful for any person to engage in, carry on or practice fortunetelling for pay within the city without first having been issued a permit as described in this chapter. (Ord. 95-9 § 1 (part), 1995)

5.68.020 Intent and purpose.

A. It is the purpose and intent of this chapter to regulate the practice of fortunetelling and related practices in such manner as to reduce the risks to clients while allowing fortunetellers and related practitioners to provide their services to clients with only minimal restrictions.

B. The provisions of this chapter requiring a permit, posting of fees, providing receipts and allowing client recordation of the consultation, will make it more difficult for an unscrupulous fortuneteller to commit fraud or larceny, and yet, as informal regulations, will not affect the nature of the information conveyed by the fortuneteller nor the manner in which it is conveyed. These regulations require only minimal expense and effort on the part of the fortuneteller and related practitioner and will not, therefore, impose any undue burden on such practices.

C. The provisions of this chapter are necessary to protect the health, safety and welfare of the community. (Ord. 95-9 § 1 (part), 1995)

5.68.030 Definitions.

As used in this chapter, the following words, phrases or terms shall have the meanings set forth in this section.

“Director” shall mean the city director of public safety.

“For pay” shall mean for a fee, reward, donation, loan or receipt of anything of value.

“Fortunetelling” shall mean and include telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including, but not limited to, clairvoyance, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telepathy, or other craft, art cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature. (Ord. 95-9 § 1 (part), 1995)

5.68.040 Permit—Application.

Every natural person who, for pay, conducts, engages in, carries on or practices fortunetelling shall submit an application to the director on forms provided by the director. The application shall include the following:

- A. The date of the application;
- B. The true name of the applicant;
- C. The status of the applicant as being an individual, firm, association, co-partnership, joint venture, corporation or religious institution;
- D. Full and complete description of the applicant, including age, sex, height, weight, color of hair and eyes. If the applicant is an individual, the residence and business address of the applicant, including telephone number of the applicant;

E. If the applicant is other than an individual, the name, residence and business address of each of the copartners or members of the firm, copartnership, joint venture or religious institution and the name, residence and business address, including telephone number of:

1. Each of the principal officers and directors of the association or corporate applicant, and
2. Each shareholder thereof;

F. Four photographs in duplicate of the applicant, taken within sixty days immediately prior to the date of the filing of the application, which photographs shall be two inches by two inches, showing head and shoulders of the applicant in a clear distinguishing manner;

G. The location of the business for which the permit is sought;

H. The fingerprints of the applicant, taken by the director;

I. All criminal convictions within five years immediately preceding the filing of the application, of offenses related to:

1. Fraud or deceit,
2. Any gambling offense,
3. Any felony, or
4. Any other crime involving moral turpitude;

J. A statement that the applicant understands and agrees that any business or activity conducted or operated under any permit issued under such application shall be operated in full conformity with all laws of the state and the laws and regulations of the city applicable thereto, and that any violation of any such laws or regulations in such place of business, or in connection therewith, shall render any permit subject to immediate revocation;

K. Any application filed on behalf of a partnership shall be signed by each of the partners and any application filed on behalf of a corporation or religious institution shall be signed by the chairperson and secretary of the board of directors of the body or the equivalent thereof. (Ord. 95-9 § 1 (part), 1995)

5.68.050 Permit—Investigation.

A. Upon receipt of the application provided for in Section 5.68.040, in duplicate, the director shall cause such investigation of the applicant's business and moral character to be made as the director deems necessary for the protection of the public good.

B. All property owners within three hundred feet of any proposed fortunetelling operation shall be given notice in writing of an application. Within fifteen days after receipt of such notice, any property owner or tenant within three hundred feet of a proposed fortunetelling operation may protest to the director the proposed application for a fortunetelling operation stating the reasons therefor.

C. If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the director shall endorse on the application his disapproval and his reasons for same, and return the application to the applicant with the notification that his application is disapproved and that no permit will be issued.

D. If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the director shall endorse on the application his approval and return the application to the applicant. Upon payment of the permit fees prescribed by this chapter, the director shall issue and deliver to the applicant a serially numbered permit. The permit shall contain the signature of the director, or his designee thereof, issuing the same, the name, address and photograph of the permittee, a description of the permittee, including age, sex, height, weight, and color of hair and eyes, and the name of the organization or entity which has applied for said permit, the amount of the fee paid, the date of the issuance, and the length of time the same shall

be operative. If the permittee is other than self-employed, the name and address, both permanent and temporary, of the firm, person, corporation or association by which he/she is employed, or which he/she represents shall also be listed on the permit. The permit shall also be signed by the permittee in ink. The director shall keep a record of all permits issued.

E. If the director has not either approved or disapproved the application as provided in this section within forty-five days of his receipt of the application, he shall forthwith report in duplicate his reasons for the delay to the applicant. The applicant shall thereupon have the right to appeal to the city council as provided in Section 5.68.060.

F. The director may deny the application if the director makes any of the following determinations:

1. The applicant has knowingly misstated, misrepresented, concealed or withheld any material fact on the application for the permit.

2. The applicant, or any of them, within five years immediately preceding the date of filing the application, has been convicted in a court of competent jurisdiction of any offense:

a. Which relates to the applicant, within five years from the date of the application, being convicted of any violation of this chapter or crimes, involving prediction of future by the occult arts, larceny, perjury, bribery, extortion, fraud or other similar crimes involving moral turpitude;

b. Which is a felony; or

c. Any other crime involving moral turpitude.

3. The applicant, or any of them, within five years immediately preceding the date of filing of the application, has had any fortunetelling permit or permit issued within the state, United States of America or any of its territories, suspended or revoked.

4. The applicant, or any of them, is not a fit and proper person to engage in the operation of a fortunetelling operation, taking into consideration the financial stability of the applicant and personal history including business experience and reputation for habits and character traits.

5. The fortunetelling operation is to be located within any area of the city which is wholly residential; or if the fortunetelling operation location is adjacent to a residential area and, in the opinion of the director, the operation of a fortunetelling operation in such location would tend to cause a public nuisance or law enforcement problem.

6. The fortunetelling operation is to be located within two thousand feet of a public school, church, hospital, children's playground, or any other public facility where the presence of the fortunetelling operation might tend to cause a law enforcement problem, or create a public nuisance, or where the granting of the permit would be contrary to the public interest.

7. The fortunetelling operation is to be located in an area not zoned for such activities as determined by the appropriate planning administrator or commission. (Ord. 95-9 § 1 (part), 1995)

5.68.060 Appeal procedure.

A. Any applicant or person claiming to be affected by the proposed fortunetelling permit and dissatisfied with the action of the director in approving or disapproving an application shall have the right of appeal to the city council.

B. An appeal from the action of the director in approving or disapproving an application shall be taken by filing with the city clerk, within ten days after notice of the action of the director has been mailed to the applicant at the address shown on the application, a written statement setting forth fully the grounds for appeal.

C. The clerk shall set a time for hearing on an appeal before the city council and written notice of the time and place of the hearing shall be given to the applicant at least five days prior to the hearing.

D. The city council shall either affirm or reverse the action of the director. Should the city council approve the issuance of a permit, notice thereof shall be given to the director, who shall, upon payment of the required fee, issue the permit. (Ord. 95-9 § 1 (part), 1995)

5.68.070 Permit—Nontransferable.

No permit issued under this chapter is transferable, and such permit shall be used only by the person under whom it has been issued. If the permittee is the employee of another, the permit shall be valid only so long as the permittee continues in the employ of such employer. Upon termination of the employment of the permittee, the employer shall immediately give the city clerk notice of such termination, and the permittee shall forthwith surrender the permit to the city clerk. (Ord. 95-9 § 1 (part), 1995)

5.68.080 Term of permit.

A. The term of the permit shall be for a period of one year from July 1st to June 30th. The initial permit shall be for one year or portion of such year.

B. For the purposes of clarification, the permit fee set forth in this section is for regulation purposes to reimburse the city for its costs and not for revenue purposes. (Ord. 95-9 § 1 (part), 1995)

5.68.090 Permit—Fee.

The permit fee for fortunetelling for pay, as defined in this chapter, shall be determined by resolution of the city council. (Ord. 95-9 § 1 (part), 1995)

5.68.100 Renewal of permit.

On July 1, 1996 and on July 1st of each succeeding calendar year, the holder of any existing fortunetelling or related practice permit shall apply for renewal of such permit and shall pay such fees as required by this chapter. The director shall notify in writing all existing permit holders of the requirement of this subsection no later than fifteen days following the effective date of this section. Such notices may be given at any time following the adoption of this section by the city council. The notice may be hand delivered or mailed by first class mail to the permittee at an address of the permittee as shown on the application for permit or to the business location of the permittee. (Ord. 95-9 § 1 (part), 1995)

5.68.110 Permit exhibiting requirements and posting of fees.

A. Every person issued a permit under this chapter shall, while engaged in any business for which he/she is a permittee, keep his/her permit in his/her possession at all times, and shall, upon demand by any peace officer, exhibit such permit. The permittee shall also exhibit his/her permit upon request to any person who enters the premises of the fortunetelling or related practices operation.

B. Each person required to obtain a permit shall post on his or her business premises a sign containing the following information:

1. The true name of the fortunetelling practitioner;
2. Each service provided by the fortunetelling practitioner;
3. The fees charged for each service charged by the fortunetelling practitioner; and
4. The statement, "by law, this business is prohibited from charging or soliciting any fee, payment or remuneration beyond these established rates."

C. The sign required by this section shall be prominently posted in the interior of the business premises at a point near the entry and shall be conspicuously visible to every person seeking the services of the fortuneteller. The sign lettering shall be of uniform size with each letter at least one-half inch in height.

D. If the fortunetelling services are provided at a location other than the fortuneteller's permanent place of business, the fortuneteller shall provide the information required by this section on eight and one-half by eleven-inch paper and legibly printed or typewritten. The paper shall also include the name and permanent address of the person providing the fortunetelling services. A true, correct and complete copy of such paper shall be given to each client prior to providing any fortunetelling services.

E. No person shall charge any fee, payment, remuneration or item of value for fortunetelling services in excess of the fee set forth on the sign or paper required by this section. (Ord. 95-9 § 1 (part), 1995)

5.68.120 Receipts.

Prior to the acceptance of any money or item of value from a client, other than the acceptance of a gratuitous tip given voluntarily by the client, the fortuneteller shall issue a written receipt to the client, clearing showing the:

- A. Date;
- B. Name of client;
- C. Amount of money received; and
- D. Purpose for which the money or item of value was received. (Ord. 95-9 § 1 (part), 1995)

5.68.130 Clients record of consultation.

No person engaging in fortunetelling services shall prohibit a client from making an audio recording or taking written notices of the information conveyed by the fortuneteller. (Ord. 95-9 § 1 (part), 1995)

5.68.140 Exception—Entertainment.

The provisions of this chapter shall not apply to any person engaged solely in the business of entertaining the public by demonstrations of fortunetelling and in the presence of and within the hearing of all other persons in attendance, and in which no questions are answered as part of such entertainment except in a manner to permit all persons present at such public place to hear such answers. (Ord. 95-9 § 1 (part), 1995)

5.68.150 Exception—Religious practice.

The provisions of this chapter shall not be applicable to any person conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, clairvoyant, or similar position from any bona fide church or religious association having a creed or set of religious principles that is recognized by all churches of like faith which provides for fortunetelling. (Ord. 95-9 § 1 (part), 1995)

Title 6

ANIMALS

Chapters:

6.04 Animal Control

**6.08 Animals—Prohibited
Practices**

Chapter 6.04

ANIMAL CONTROL

Sections:

6.04.001	Purpose.
6.04.010	Definitions.
6.04.020	License and vaccination requirements—Generally.
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6.04.050	Animal care.
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6.04.240	Breeding.
6.04.250	Animals creating disturbing noises.

6.04.001 Purpose.

A. The purpose of this chapter is to provide for the control of animals within the city and to encourage responsible pet ownership.

B. Control of animals shall be accomplished by setting minimum standards of animal care and providing for the enforcement of this chapter.

C. Responsible pet ownership shall be encouraged by providing incentives for spaying and neutering pets, a permit system for the breeding of cats and dogs and increased education on the benefits of these programs. (Ord. 93-11 § 1, 1993)

6.04.010 Definitions.

As used in this chapter, the following terms mean:

“Animal” means any live, vertebrate creature, domestic or wild.

“Animal shelter” means any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

“Auctions” means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

“Circus” means a commercial variety show featuring animal acts for public entertainment.

“Commercial animal establishment” means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel.

“Grooming shop” means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

“Humane officer” means any person designated by the county, the city, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

“Kennel” means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

“Owner” means any person, partnership, or corporation owning, keeping or harboring one or more animals.

An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

“Performing animal exhibition” means any spectacle, display, act or event other than circuses, in which performing animals are used.

“Pet” means any animal kept for pleasure rather than utility.

“Pet shop” means any person, partnership or corporation, whether operated separately or in connection with another business enterprise except for a licensed kennel, that buys, sells or boards any species of animal.

“Public nuisance” means any animal or animals which:

1. Molests passersby or passing vehicles;
2. Attacks other animals;
3. Trespasses on school grounds;
4. Is repeatedly at large;
5. Barks, whines or howls in an excessive, continuous, or untimely fashion.

“Restraint” means secured by a leash or lead, or within the real property limits of its owner.

“Riding school or stable” means any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro.

“Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

“Vicious animal” means any animal or animals that constitute a physical threat to human beings or other animals.

“Wild animal” means any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state.

“Zoological park” means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals operated by a person, partnership, corporation or government agency. (Ord. 90-4 § 1, 1990; Ord. 76-8 § 1, 1976)

6.04.020 License and vaccination requirements—Generally.

A. Every person owning or having charge, care or control over any dog shall, after his dog attains the age of four months, annually secure from the city clerk a license and tag for said dog. Said tag shall be attached to a collar or harness upon such dog and during the term of said license shall remain so attached.

B. Every person owning or having charge, care or control over any dog shall, immediately after his dog attains the age of four months and at intervals of not less than twenty-four months thereafter secure the vaccination of said dog by a licensed veterinarian with a canine antirabies vaccine of a type approved by the state Department of Public Health.

C. All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the person owning or having charge, care or control of said dog; provided, however, that this subsection shall not be construed to prevent the sale or transportation of a puppy four months old or younger.

D. The city clerk shall not issue a license to any person for any dog until such person has submitted evidence in writing that the dog has been vaccinated in accordance with the provision of this section. (Ord. 76-8 § 2, 1976)

6.04.030 Dogs running at large.

It is unlawful for any person owning or having charge, care or control of any dog, whether licensed and vaccinated or not, to suffer or permit any such dog to run at large on any public street, road, alley, park, square or place, or on any vacant or unenclosed lots or land within the incorporated area of the city. (Ord. 76-8 § 3, 1976)

6.04.040 Restraint.

A. All dogs shall be kept under restraint.

B. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

C. Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

D. Every vicious animal, as determined by the animal control officer, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. (Ord. 76-8 § 4, 1976)

6.04.050 Animal care.

It is unlawful for any person to:

A. Fail to provide to animals owned by that person sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment;

B. Feed feral or abandoned nonspayed/nonneutered cats, except to trap such cat for purposes of having spayed or neutered or for proper disposal. Any person feeding any feral or abandoned cat shall be responsible for such cat in the same manner as though such person owns such cat;

C. Beat, treat cruelly, ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans;

D. Abandon an animal owned or cared for by that person;

E. Crop a dog's ear, except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation;

F. Sell chickens or ducklings younger than eight weeks of age in a quantity of less than twenty-five to a single purchaser;

G. Give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement; or offer such vertebrae as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade;

H. Expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substances for the purpose of exterminating rodents;

I. Attempt to dispose of any animal or to dispose of any animal in any of the following manners:

1. Where it is reasonably likely that a violation of California Penal Code Section 597, relating to the humane treatment of animals, will occur,

2. Sell, offer for sale, barter, give away or exchange in a public place any dog, cat, fish, reptile, bird or other animals. "Public place" shall include, without limitation, streets, highways, fronts of places of businesses, carnivals, sidewalks and flea markets. (Ord. 93-11 § 2, 1993)

6.04.054 Motor vehicle striking animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society. (Ord. 93-11 § 3, 1993)

6.04.060 Keeping of wild animals.

A. No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

B. No person shall keep or permit to be kept any wild animal as a pet.

C. The licensing authority may issue a temporary permit for the keeping, care, and protection of an infant animal native to this area which has been deemed to be homeless.

D. The animal control officer shall have the power to release or order the release of any infant wild animal kept under temporary permit which is deemed capable of survival. (Ord. 76-8 § 6, 1976)

6.04.070 Performing animal exhibitions.

A. No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

B. All equipment used on a performing animal shall fit properly and be in good working condition. (Ord. 76-8 § 7, 1976)

6.04.080 Animal waste.

A. It is unlawful for any person having ownership, custody or control of a dog to fail promptly to remove and clean up excrement deposited by the dog on public property or the property of any other person.

B. It is unlawful for any person having ownership, custody or control of a dog which is upon public property or the property of any other person, to not have in his or her possession material and/or a container with which to clean up promptly and remove any excrement which might be deposited by such dog. (Ord. 90-3 § 1, 1990)

6.04.090 Sterilization.

No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized. (Ord. 76-8 § 9, 1976)

6.04.100 Licenses—When due—Application.

All licenses shall be due on the first day of May of each year, except as hereinafter provided. Each application shall state the age, sex, color and breed of the dog for which the license is desired and the name and address of the owner. (Ord. 98-13 § 1, 1998)

6.04.110 Licenses—Fee and tag.

A. Every person owning or having charge, care or control over a spayed female or neutered male dog of the age of four months or over shall pay an annual license fee as established by resolution of the city council for each dog, if paid between May 1st and May 31st, inclusive, of each year or within thirty days after the owner of such dog established residence in Monterey County, or within thirty days after such dog established residence in the city, or within thirty days after such dog reached the age of four months; provided further, however, that such fee shall be as established by resolution of the city council if the owner acquired ownership, or such dog reached the age of four months on or after the first of January of each year, and the fee is paid within thirty days after residence is established, or ownership is acquired or age is reached.

B. Every person owning or having charge, care or control over an unspayed female or unneutered male dog of the age of four months or over shall pay an annual license fee as established by resolution of the city council for each dog, if paid between May 1st and May 31st, inclusive, of each year or within thirty days after the owner of such dog established residence in the city, or within thirty days after such dog reached the age of four months, on or after the first of January of each year, and the fee is paid within thirty days after residence is established or ownership is acquired or age is reached.

C. If the license fees set forth in subsections A or B of this section are not paid between May 1st and May 31st, inclusive, or within thirty days after the owner establishes residence within the city, or within thirty days after the dog reaches four months of age, as the case may be, a penalty as established by resolution of the city council shall be imposed and shall be paid by the owner in addition to the license fees so imposed. (Ord. 98-13 § 2, 1998)

6.04.120 Kennel and dog hospital licenses.

A. Notwithstanding provisions in this chapter to the contrary, any person owning, or having charge, care or control over five or more dogs, which dogs have been vaccinated as hereinabove required, may obtain a kennel license at an annual license fee of fifteen dollars as established by resolution of the city council, in lieu of a license for each dog.

B. Each commercial kennel or dog hospital shall pay a license fee of five dollars per year as established by resolution of the city council, which license fee shall be in lieu of licenses for all dogs temporarily in such kennel and not owned by the person or persons operating such kennel or hospital.

C. Kennel licenses shall be issued for an annual period commencing on May 1st of each year and ending April 30th of the following year.

D. No dog licensed under a kennel license shall be permitted to run at large except:

1. While participating in hunting, dog shows, exhibitions or field trials, while under the control of the owner or handler; or
2. While on agricultural lands owned or operated by the person obtaining the kennel license. (Ord. 98-13 § 3, 1998)

6.04.130 Lost, destroyed or mutilated tags—Duplicate tags.

In the event any tag issued hereunder is lost, destroyed or mutilated, the owner of the dog for whom it was issued may obtain a duplicate thereof upon the payment of a fee as established by resolution of the city council. (Ord. 98-13 § 4, 1998)

6.04.140 Register of tags.

The city clerk shall keep a register wherein shall be kept the name with the address of the owner to whom the tag is issued, a description of the dog, the number of the tag given, and the date thereof. (Ord. 76-8 § 14, 1976)

6.04.150 Duties of chief of police.

It shall be the duty of the chief of police of the city and such deputies as he may appoint for purpose, or any such agency designated so to do by an agreement or contract entered into by the city council pursuant to Government Code Section 6500, et seq., to seize or impound all dogs and other animals, whether licensed or unlicensed, found running at large on any public street, alley, park, square or place, or on any vacant or unenclosed lots of land within the corporate limits of the city. (Ord. 76-8 § 15, 1976)

6.04.154 Impoundment or citation—Procedures.

A. Prior to any seizure or impoundment pursuant to Section 6.04.150 or Section 6.04.180 or citation for violation of Section 6.04.110, Licenses, or Section 6.04.240, Breeding, the city manager or designee shall:

1. Provide the owner of the animal, if known, a copy of this chapter and schedule of fines for violation thereof;
2. Provide the owner, if known, with written materials concerning responsible pet ownership, the extent of animal problems within the city, and a description of the incentives for owners for spaying or neutering pets;
3. Issue a warning citation for the appropriate municipal code violation.

B. For any second or subsequent violation of this chapter, the city manager or designee shall seize or impound the animal and issue any appropriate citation. (Ord. 93-11 § 4, 1993)

6.04.160 Destruction of unredeemed animals.

All dogs or other animals not reclaimed or redeemed within seventy-two hours may be destroyed in some humane manner after said dog is impounded seventy-two hours, place the same with some responsible person and convey a valid title thereto. Said seventy-two-hour period shall start to run on a currently licensed dog having thereon a license tag only after notice by first class mail shall have been mailed to the owner at the address given on his application for said license. (Ord. 76-8 § 16, 1976)

6.04.170 Exemptions from dog license requirements.

The provisions of this chapter requiring dog licenses shall not apply to:

A. Any dog owned by or in the charge or care of a nonresident of the city traveling through the city, or temporarily sojourning therein for a period not exceeding thirty days, nor to any dog brought to the city

exclusively for the purpose of entering the same in a dog show or dog exhibition, and entered for, and kept at any dog show or dog exhibition; provided, said dogs are not permitted to run at large;

B. Any dog owned by a person moving into the incorporated area of the city which dog has been currently licensed by any of the cities of Monterey County, during such time said person was a resident of the city and shall have attached to its collar or harness a tag evidencing the existing unexpired license for such dog issued by said city; provided, such dog has been vaccinated with a canine antirabies vaccine of a type approved by the state Department of Public Health within the previous twenty-four months. (Ord. 76-8 § 17, 1976)

6.04.180 Impoundment and recovery of dogs at large—Fees and charges.

A. Fees for impounding, boarding, dog-at-large, breeding permits and as otherwise provided for in this chapter shall be as established by resolution of the city council and updated periodically. Any such fees may provide for reduced fees where appropriate for example for low income households.

B. Initial Impoundments.

1. Licensed Sterilized Dogs. For a currently licensed dog that has been spayed or neutered, the reclaiming owner may be cited for dog-at-large fee, boarding and impounding fees.

2. Licensed Unsterilized Dogs. For a license but unsterilized dog, the first-time impounding fee may be waived at the request of the reclaiming owner provided that, prior to the release of the dog, the “delivery to veterinarian” procedure, as defined below, is followed. An owner refusing to follow the “delivery to veterinarian” procedure shall pay all fees in full before release of the dog.

3. Delivery to Veterinarian.

a. The owner shall deposit the requisite spay neuter fee with a licensed veterinarian. In return, the veterinarian shall provide the owner with a receipt certifying that sterilization of the animal has been paid for and scheduled, or that health-related considerations preclude sterilization in which case any deposit shall be returned to the owner.

b. Sterilization under this procedure shall take place no later than ten days after release of a dog of age six months or older. For younger animals, sterilization shall take place within ten days after reaching the appropriate age (six months). In the event of failure to meet the appropriate deadline, the deposit shall be forfeited and, after

deducting reasonable costs, the veterinarian shall return the remainder to the city or its designee to be used for animal-related purposes.

4. **Unlicensed Dogs.** There shall be one fee for spayed or neutered dogs at large and one fee for unspayed or unneutered dogs at large. Before release of an unlicensed dog, the reclaiming owner shall be required to obtain a valid dog license, pay all fees in full and, in cases of unsterilized animals, follow the “delivery to veterinarian” procedure or pay the dog-at-large fee.

C. **Subsequent Impoundments.** Prior to release of any dog impounded for a subsequent time, a current license shall be required and all impoundment and boarding fees shall be paid. If the dog is unsterilized, the “delivery to veterinarian” procedure set forth above shall be followed, unless the dog-at-large fee is paid by the owner.

D. If the owner of an impounded dog elects to abandon the dog, the owner shall be responsible for and shall pay the city or its designee impoundment and boarding costs, dog-at-large fees, euthanasia fee and all fees associated with the disposal of the animal. (Ord. 93-11 § 5 (part), 1993)

6.04.190 Dogs suspected of having rabies.

Whenever the owner or person having the custody or possession of a dog observes or learns that such dog shows symptoms of rabies, or acts in a manner which would lead to a reasonable suspicion that it may have rabies, or if such dog bites any person, such owner or person having the custody or possession of such dog shall immediately notify the county director of public health or his representative, to make an inspection or examination of such dog until it is established to the satisfaction of said official that such dog has or has not rabies. (Ord. 76-8 § 19, 1976)

6.04.200 Confinement of biting animals.

Whenever it is shown that any dog has bitten any person, or whenever any dog has shown symptoms of rabies, or acts in such manner as to lead the county director of public health to believe that such might have rabies, the owner or person having possession of such dog shall, upon order of the director of public health, quarantine it and keep it tied up or confined for a period of fourteen days, and shall allow the director of public health, or his representative, to make an inspection or examination thereof at any time during such period, or in lieu of said confinement said owner or person having possession of such dog may have said dog confined in an establishment controlled and supervised by a licensed veterinarian for a period of not less than five days, after which said dog may be released from said veterinary establishment upon the certification of the veterinarian controlling or supervising said establishment that said dog displays no symptoms whatsoever of rabies, and upon vaccination and licensing if subject to vaccination and licensing under the provisions of this chapter. (Ord. 76-8 § 20, 1976)

6.04.210 Destruction of rabid animals.

If it appears to the director of public health, or his representative, upon the aforesaid examination that a dog or other animal has rabies, he may kill and destroy such animal forthwith. (Ord. 76-8 § 21, 1976)

6.04.220 Quarantine of bitten animals.

Whenever any animal is bitten by another animal having rabies, the owner or person having the custody or possession of the animal so bitten shall, upon being informed thereof, either destroy such animal or quarantine it, and keep it confined or tied up for a period of six months, and the director of public health or his representative shall have power in his discretion, to destroy or quarantine the animal so bitten, in case the owner or person having custody or possession thereof fails to do so immediately, or in case the owner or person having the custody or possession thereof is not readily accessible. (Ord. 76-8 § 22, 1976)

6.04.230 Quarantine because of rabies.

Whenever the disease known as rabies is developed in any dog or other animal in the incorporated area in the city, or whenever such dog or other animal is imported into or enters any portion of said incorporated area affected with rabies, the director of public health is authorized to declare a quarantine in a specified area in such incorporated territory which shall include the location where said animal or animals so affected with rabies are found and a sufficient area contiguous thereto to safeguard against the spread of said disease in said areas. Quarantine shall be defined for the purpose of this chapter as meaning the strict confinement, upon the private premises of the owners or an establishment controlled and supervised by a licensed veterinary, under restraint by a chain leash and chain collar or closed cage or paddock, of all animals specified by the quarantine order. The quarantine shall take effect from the date so declared by the director of public health and a notice shall be published at least once in the official newspaper of Monterey County and in any additional publication where it may appear to be in the interests of the public. Forthwith upon the declaration of such quarantine by the director of public health, he shall give notice in writing to the Marina police department and they shall cause to be gathered in and promptly destroyed all dogs which they or any of them may find other than those securely confined in such quarantined area as hereinabove described. (Ord. 76-8 § 23, 1976)

6.04.240 Breeding.

A. For the purposes of this chapter, “breeding” is defined as sexual intercourse or artificial insemination of dogs or cats (and other animals), the result of which may be offspring.

B. The breeding of dogs or cats within the city shall be discouraged. For the purpose of determining if the number of cats and/or dogs exceeds the number allowed under the appropriate zoning classification pursuant to the Zoning Ordinance (Title 17 of this code) any kitten or puppy more than two weeks old shall count as a cat or dog, as appropriate, making the owner in violation of this code, except as follows:

1. If the owner is advised by a veterinarian, in writing, to allow the pet to breed for medical or health reasons;

2. If the owner applies for and receives a breeding permit from the city, as described herein. The requirement for a breeding permit may be waived if, on the first occasion of such birth, satisfactory arrangements are made for the delivery of the litter to the city for humane disposition, the owner has the parent animal sterilized and proof of such actions is provided to the city or its designated representative.

C. Upon completion of the appropriate application and payment of the fee established by resolution of the city council, a permit valid for one year may be issued pursuant to the following procedures and conditions:

1. Animal housing and care provisions shall be in compliance with the State Humane Code.
2. Any animal four months or older in the possession of permittee shall be maintained in a current status with respect to vaccination and license requirements.

3. Permits shall apply to no more than one litter per adult female per year, regardless of litter size, except as provided in subdivision 4 of this subsection.

4. Owners wishing to produce litters at a rate of higher than one per year may be issued a commercial breeding permit, upon completion of the appropriate application and payment of the fee established by resolution of the city council. The commercial breeding permit is not subject to the single litter limitation.

D. The following requirements shall apply to the sale, adoption, giving away or other release of any puppy or kitten, or other animal within the city:

1. Animals shall be seven weeks of age or older.

2. Upon transfer of ownership, an animal shall have its health checked by a licensed veterinarian and will have received all appropriate vaccinations.

3. Advertisements for the sale or giving away of animals from litters permitted under the provisions of this section shall show the seller's breeding permit number, if any, as part of the advertisement.

E. Notwithstanding the payment of fees and the obtaining of a breeding permit, no person shall be permitted to exceed the maximum number of pets set forth in the Zoning Ordinance. (Ord. 93-11 § 5 (part), 1993)

6.04.250 Animals creating disturbing noises.

A. It is unlawful for any person to keep, maintain or permit on any lot or parcel of land, any dogs, cats, household pets, or any other animal which by any sound or cry shall habitually disturb the peace and comfort of any neighborhood.

B. Whenever it shall be affirmed in writing by three or more adult persons living in separate dwelling units in the neighborhood that any dog, cat, household pet, or any other animal is a habitual nuisance by reason of howling, barking, or other noise, or is in any other manner causing undue annoyance, that shall constitute a violation of this section and a public nuisance. (Ord. 94-13 § 1, 1994)

Chapter 6.08

ANIMALS—PROHIBITED PRACTICES

Sections:

6.08.010	Definitions.
6.08.020	Keeping of animals.
6.08.030	Slaughtering of animals.
6.08.040	Cooking meat for consumption.
6.08.050	Conflict with other laws.

6.08.010 Definitions.

As used in this chapter the term "animal" shall include cows, pigs, sheep, goats, horses, mules and other mammals and fowl defined to include chickens, turkeys, ducks, geese and other domesticated birds.(Ord. 97-7 § 1 (part), 1997)

6.08.020 Keeping of animals.

It is unlawful for any person to keep any animal within the city except as may be permitted by Title 17 of the municipal code (the “zoning ordinance”). (Ord. 97-7 § 1 (part), 1997)

6.08.030 Slaughtering of animals.

It is unlawful for any person to slaughter or otherwise kill any animal for food purposes within the city except as may be permitted by the zoning ordinance. (Ord. 97-7 § 1 (part), 1997)

6.08.040 Cooking meat for consumption.

Without a written special permit first obtained from the public safety department it is unlawful to cook any animal or animals or parts thereof weighing in excess of thirty-five pounds over or under an outdoor fire, including but not limited to a fire pit, gas or charcoal grill at residential uses within residential zones as defined by the zoning ordinance. (Ord. 97-7 § 1 (part), 1997)

6.08.050 Conflict with other laws.

The practices prohibited by this chapter are intended to supplement any state or other laws or statutes and in cases where such laws are deemed to either conflict with this chapter or to have occupied the area of regulation, those laws shall prevail. (Ord. 97-7 § 1 (part), 1997)

Title 7

(Reserved)

Title 8

HEALTH AND SAFETY

Chapters:

- 8.04 Garbage Disposal**
- 8.08 Smoking in City Facilities**
- 8.10 Smoking and Littering Aboard Buses**
- 8.12 Hazardous Materials Storage and
Registration**
- 8.20 Abandoned Vehicles**
- 8.22 Parking and Storage of Vehicles, Boats
and Parts in Residential Areas**
- 8.24 Security and Fire Alarm Systems**
- 8.30 Parades and Assemblies**

Chapter 8.04

GARBAGE DISPOSAL

Sections:

8.04.010	Definitions.
8.04.020	Keeping of garbage and rubbish.
8.04.030	Garbage and rubbish receptacles—Required.
8.04.040	Garbage and rubbish receptacles—Specifications.
8.04.050	Rubbish too large to be placed in containers.
8.04.060	Garden refuse.
8.04.070	Accumulation unlawful.
8.04.080	Burning of garbage or manure prohibited.
8.04.090	Burning of rubbish.
8.04.100	Unlawful dumping.
8.04.110	Collection.
8.04.120	Location of receptacles and containers.
8.04.130	Garbage and rubbish removal—Restricted to contractors.
8.04.140	Weekly removal.
8.04.150	Service to all occupied premises.
8.04.160	Collection rates and charges.
8.04.170	Billing.
8.04.180	Liability for payment.
8.04.190	Rules and regulations.
8.04.200	Method of transportation of garbage, rubbish and refuse.
8.04.210	Contract.

8.04.010 Definitions.

The following words, when used in this chapter, shall have the meanings respectively ascribed to them as follows:

- A. “City” means the city of Marina.
- B. “Contractor” means any person with whom the city has duly contracted under the terms hereinafter set out in this chapter to collect and transport garbage and rubbish through, in and from the city and dispose of same.
- C. “Council” means the city council of Marina.
- D. “Garbage” means all animal, vegetable or fruit waste or matter that results from or attends the preparation, consumption, use, cooking, dealing in or storage of meat, fish, fowl, fruits or vegetables.
- E. “Garden refuse” means and includes trimmings from lawns, shrubberies, trees, and flower and vegetable gardens.
- F. “Person” means every natural person and every company, firm, copartnership, association or corporation.
- G. “Premises” means any dwelling, place of residence, roominghouse, hotel, motel, apartment, court, trailer camp, boardinghouse, eating place, shop and place of business, or any other housing accommodation, building, grounds, or location, where garbage or rubbish is or may be produced or accumulated, including all sidewalk, curb, gutter, and street and alley areas adjacent thereto.
- H. “Rubbish” means all matters and materials not defined as garbage but which are rejected by the owners or producers thereof as useless, and shall include crockery, bottles, tin cans, metal vessels or containers, pasteboard

boxes or cartons, wooden boxes or containers, rags, paper, straw, sawdust, packing materials, ashes, metals and boards, but shall include “garden refuse,” as that term is defined herein.

I. “Trash hauler” or “yard cleaner” means any person who cleans up, collects, transports and disposes of rubbish or garden refuse, but not garbage, all as herein defined, within the city. (Ord. 76-11 § 1, 1976)

8.04.020 Keeping of garbage and rubbish.

It is unlawful for any person to place, deposit, keep, or bury any rubbish or garbage on, in, or under any premises, except in containers, or as otherwise hereinafter provided. It is unlawful for any person to deposit any garbage in any city sewer or plumbing fixture or pipe connected thereto, except through a mechanical device which shreds and grinds garbage. (Ord. 76-11 § 2, 1976)

8.04.030 Garbage and rubbish receptacles—Required.

It shall be the duty of every occupant or person in possession, charge or control of any premises, and every other person having garbage and rubbish in the city, to provide or cause to be provided and at all times keep, or cause to be kept in a sanitary condition suitable and sufficient watertight cans or receptacles, adequate to contain without leakage or escape of odors, the amount of garbage and rubbish ordinarily accumulated at such place during the intervals of collection provided hereunder. (Ord. 76-11 § 3, 1976)

8.04.040 Garbage and rubbish receptacles—Specifications.

Each garbage and rubbish receptacle shall be constructed of galvanized iron or heavy plastic and shall have a tight-fitting cover, suitable bales or handles on the outside, and a capacity of not less than fifteen gallons or more than thirty-two gallons; provided, however, that garbage and rubbish receptacles for commercial or industrial establishments may be of such specifications as shall meet with the approval of the city official assigned to supervise the work of garbage collection and disposal, or the contractor if the work is being done under contract with the city. If the city’s garbage franchisee provides garbage and rubbish receptacles or containers, every occupant or person in possession, charge or control of any premises, and every other person having garbage or rubbish, shall use the provided receptacles or containers. All persons occupying multiple dwellings must plainly mark their receptacles so that the ownership thereof will be known. (Ord. 2003-07 § 1, 2003; Ord. 76-11 § 4, 1976)

8.04.050 Rubbish too large to be placed in containers.

Items of rubbish which are too bulky to fit into the prescribed receptacle, such as refrigerators, sofas, etc., shall be stored within a building on the premises until special collection service is provided. (Ord. 76-11 § 5, 1976)

8.04.060 Garden refuse.

Garden refuse and similar waste material (other than grass clippings, leaves and twigs) shall be securely tied in bundles not over four feet long and twelve inches across, weighing less than fifty pounds. Grass clippings, leaves and twigs shall be stored in securely tied plastic bags or in cardboard boxes or similar receptacles secured with tape or twine. (Ord. 76-11 § 6, 1976)

8.04.070 Accumulation unlawful.

It is unlawful for the occupant, or person in possession, charge or control of any place or premises to allow, cause or permit the accumulation of any garbage or rubbish in, on, or under any premises, at any time which is, or may become, a menace to health and sanitation or a fire hazard. It is unlawful for the occupant, or person in possession, charge or control of any place or premises ever to cause, suffer, permit, or allow any garbage or rubbish to remain, in, on, or under such premises for a period in excess of seven days. (Ord. 76-11 § 7, 1976)

8.04.080 Burning of garbage or manure prohibited.

No garbage or manure shall be burned in the open air within the corporate limits of the city. (Ord. 76-11 § 8, 1976)

8.04.090 Burning of rubbish.

No rubbish shall be burned in, on, upon or under any business, commercial or industrial establishment or premises, nor upon any street, gutter, alley or highway, and no rubbish shall be burned anywhere within the city which causes or creates dense or offensive smoke or odor or be a menace to health or a fire hazard. (Ord. 76-11 § 9, 1976)

8.04.100 Unlawful dumping.

It is unlawful for any person to place or deposit any garbage, rubbish, cans, dead animals, offensive animal or vegetable matter or waste matter upon the surface of the ground or upon any premises, lot or building, or in any water or excavation, or in any public street or public place, except at such places or dumps as may be designated by resolution of the city council. The provisions of this chapter shall not apply to small amounts of material used for composting or gardening upon premises by the owner or occupant thereof in such a manner so that same is not deemed to be a public nuisance or a hazard to the public health and safety. It is unlawful for any person having control thereof to permit any of the foregoing materials to remain in places wherein such placing or depositing is prohibited by this section. (Ord. 76-11 § 10, 1976)

8.04.110 Collection.

The city shall provide for the collection and removal by a contractor of all garbage and rubbish within the city not less often than once every seven days and the contractor shall collect and remove all garbage and rubbish from all places or premises within the city as provided herein. (Ord. 76-11 § 11, 1976)

8.04.120 Location of receptacles and containers.

Garbage and rubbish receptacles, and garden refuse bags or containers, shall be located in such place on the premises as to be readily accessible for removal and emptying the same, but shall not be placed within the limits of any street or other public place in said city, or in such a place or manner as to constitute a nuisance. (Ord. 76-11 § 12, 1976)

8.04.130 Garbage and rubbish removal—Restricted to contractors.

A. It is unlawful for any person to collect or remove, or to cause or permit to be collected or removed, any garbage within the city, or to transport or cause or permit to be transported, any garbage on or along any public street or alley or other public place in the city; provided, however, that the provisions of this section shall not apply to any person in the employ of the city who shall be assigned by the city to the work of garbage disposal, or to any person with whom the city has entered into or may hereafter enter into a contract for the collection, transportation and disposal of garbage or to any employee for such time as such contract shall be in force.

B. It is unlawful for any person other than an employee of the city or a contractor working for the city to engage in the collection, removal or disposal of rubbish in the city; provided, however, that the provisions of this section shall not preclude the occupant or person in possession, charge or control of the premises upon which such rubbish is accumulated from removing his own rubbish to a public dump, or to engage the occasional services of a trash hauler or yard cleaner who would perform such tasks under the direction of said occupant or person.

C. It is unlawful for any person in any manner to interfere with the collection, removal or disposal of garbage or rubbish by the city or by a contractor working under contract with the city. (Ord. 76-11 § 13, 1976)

8.04.140 Weekly removal.

Garbage and rubbish shall be removed not less often than once every seven days. (Ord. 76-11 § 14, 1976)

8.04.150 Service to all occupied premises.

All occupied premises within the city shall have garbage and rubbish service as provided by this chapter. (Ord. 76-11 § 15, 1976)

8.04.160 Collection rates and charges.

The rates for collection of garbage, rubbish and garden refuse in the city shall be such as are established by resolution of the city council or, if the work is being done by a contractor, by contract between the city and the contractor. Fees for services not covered by a contract between the contractor and the city shall be established by the contractor, and disagreements with respect thereto shall be resolved by the city council. (Ord. 76-11 § 16, 1976)

8.04.170 Billing.

Fees for collection of garbage, rubbish and garden refuse shall be billed by the city or by its contractor and shall be payable on a monthly or quarterly basis as determined by the city council. (Ord. 76-11 § 17, 1976)

8.04.180 Liability for payment.

The city council finds that the periodic collection of garbage, rubbish and garden refuse benefits the occupants of all places and premises in the city and therefore all such occupants are made liable for the collection fees specified in this chapter. In the case of premises containing more than one dwelling unit or place of business, or both, such fees may be billed to the landlord, who shall collect such fees levied against the occupants of the dwelling units or places of business located on the premises and shall transmit the amount so collected to the city. In the event the landlord fails to collect such fees from any such occupant and remit the same to the city, the landlord shall be liable to the city for the payment of such fees. Fees imposed by this chapter shall be a civil debt to the city from the person or persons who are liable for payment of the same. (Ord. 76-11 § 18, 1976)

8.04.190 Rules and regulations.

The council may make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expedient, economical and efficient collection and removal of garbage and rubbish by the contractor, but in no case shall collection services less often than once every seven days be permitted. The time for collection shall be between the hours of six a.m. and six p.m. in the residential district and before ten a.m. in commercial and industrial districts. (Ord. 76-11 § 19, 1976)

8.04.200 Method of transportation of garbage, rubbish and refuse.

A. If garbage service is provided by a contractor, the contractor shall remove garbage or carry it through the streets of the city only in vehicles having metallic or metal lined beds, with proper covers, to protect against the garbage being offensive. The garbage must be protected from wind and rain and be loaded in such a manner that none of it shall drop or spill upon the ground. Such conveyance shall be so constructed as to be absolutely dust-proof and so arranged as to not permit dust or other matter to sift through or fall upon said streets or alleys. Such vehicles must comply with all health and sanitary laws of the city and of the state.

B. It is unlawful for any rubbish or other refuse to be removed and carried on or along the streets and alleys of the city except that the same shall be carried, conveyed or hauled in a conveyance so constructed as to prevent dust or other matter from sifting through or falling upon the streets and alleys. The contents of such conveyance must be further protected as to prevent the same from being blown upon the streets, alleys and adjacent lands. (Ord. 76-11 § 20, 1976)

8.04.210 Contract.

A. For the collection and disposal of garbage and rubbish a contract for a period of not to exceed fifteen years, with an option period not to exceed ten years, may be entered into by the city in accordance with and subject to the terms and conditions of this chapter. Such contract shall be awarded after notice calling for sealed proposals therefor by publication in the Marina Tribune, a newspaper of general circulation printed, published and circulated in the city, which publication shall be at least ten days prior to the day fixed for opening bids. A contract shall be awarded to the responsible bidder who bids therefor the lowest rate to the people of the city and the highest consideration to the city. The council shall have the right to reject any and all bids and to readvertise for bids or negotiate a contract therefor.

B. Such contract shall contain a schedule of monthly or quarterly rates.

C. Such contract shall provide that the contractor shall collect and dispose of the garbage and rubbish in the city in the manner provided in this chapter. Such contractor may be required to furnish a cash or surety bond to the city in the sum of ten thousand dollars, conditioned upon the faithful performance of the contract and the provisions of this chapter. Such contractor shall have the sole and exclusive right to collect all garbage and rubbish in the city and transport the same through the public ways and streets of the city and to dispose of same, and it is unlawful for any person other than the contractor to collect, remove or dispose of garbage and rubbish in the city except as otherwise provided herein.

D. Such contract may further provide that the contractor shall be required to dispose of all such garbage and rubbish so collected at such disposal sites as directed by the city.

E. Such contract shall also require that said contractor procure for the term of the contract workmen’s compensation insurance in accordance with the provisions of the Labor Code of the state.

F. Such contract shall also require that such contractor carry public liability insurance with policy limits of not less than three hundred thousand dollars for the death of or injury to one person, and one million dollars for the death of or injury to more than one person arising out of a single occurrence, and property damage insurance with policy limits of not less than fifty thousand dollars upon each of the trucks or other vehicles used by him in carrying out the work called for in the contract. Such insurance shall cover both the city and the contractor. (Ord. 95-3 § 1, 1995; Ord. 80-11 § 1, 1980; Ord. 76-11 § 21, 1976)

Chapter 8.08

SMOKING IN CITY FACILITIES

Sections:

- 8.08.010 Purpose.**
- 8.08.020 Smoking prohibited in city facilities.**
- 8.08.030 Posting of signs.**
- 8.08.040 Conflict with other laws.**

8.08.010 Purpose.

The purpose of this chapter is to implement Section 6404.5 of the California Labor Code. All city employees shall comply with this chapter and inform visitors in a courteous, diplomatic manner of the provisions of this policy. (Ord. 95-7 § 1 (part), 1995)

8.08.020 Smoking prohibited in city facilities.

Pursuant to state law, smoking of tobacco products is prohibited at all times in all enclosed city facilities including but not limited to all buildings, all rooms thereof and all enclosed vehicles. (Ord. 95-7 § 1 (part), 1995)

8.08.030 Posting of signs.

Clear and prominent signs stating "No Smoking" shall be posted at each entrance to all city buildings by the director of public works. (Ord. 95-7 § 1 (part), 1995)

8.08.040 Conflict with other laws.

In case of any conflict between this chapter and any law, the more restrictive standard shall apply. (Ord. 95-7 § 1 (part), 1995)

Chapter 8.10**SMOKING AND LITTERING ABOARD BUSES****Sections:**

8.10.010 Definitions.

8.10.020 Prohibited.

8.10.010 Definitions.

As used in this chapter:

"Revenue service" means those periods of time when the vehicle is in operation for the purpose of transportation of passengers or when parked at terminal points prior to departure.

"Transit bus" means any vehicle designed to carry fifteen or more passengers, transporting the general public in urban, suburban or interurban service. It excludes intercity passenger state corporation vehicles regulated by the California Public Utilities Commission or the Interstate Commerce Commission, and chartered buses which are not available to the general public. (Ord. 76-5 § 1 (part), 1976)

8.10.020 Prohibited.

No person aboard any transit bus in revenue service, shall:

A. Smoke or possess any smoldering or lighted substance; or

B. Place, deposit, throw or leave any refuse in such bus, except in designated containers. (Ord. 76-5 § 1 (part), 1976)

Chapter 8.12

HAZARDOUS MATERIALS STORAGE AND REGISTRATION

Sections:

8.12.010	Findings and purpose.
8.12.020	Definitions.
8.12.030	Underground storage tanks.
8.12.040	Underground storage tank permit.
8.12.050	Hazardous material registration form.
8.12.060	Contents of registration form.
8.12.070	Exemptions to disclosure.
8.12.080	Trade secrets.
8.12.090	Enforcement.
8.12.100	Maintenance of files.
8.12.110	Fees.

8.12.010 Findings and purpose.

The city council finds and declares:

A. Purpose.

1. The purpose of this chapter is to provide a continuing source of current information concerning hazardous substances and chemicals being utilized in the city to protect the general health and safety of the public and to enable emergency personnel to respond safely and speedily to emergency situations which may arise.

2. The city council declares that it is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground. It is the intent of the council, in enacting this chapter, to establish orderly procedures that will insure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, and tested so that the health, property, and resources of the people of the city will be protected.

B. Findings.

1. Essential information of the location, type, quantity and the health risks of hazardous materials used, stored or disposed of in the city is not now available to fire fighters, health officials, health care providers, law enforcement agencies and emergency communications officers.

2. Hazardous substance and chemical information disclosure is necessary so that the city and other affected public agencies may respond effectively to fire or other emergency involving materials that exhibit hazardous characteristics and may pose hazards to the community.

3. Substances hazardous to the public health and safety, and to the environment, are stored prior to use or disposal in thousands of underground locations in the state.

4. Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

5. It is not the intent of this chapter to regulate the handling, storage, use, processing or disposal of hazardous substances and chemicals.

6. It is the intent of the city council that this chapter establish an orderly system by which establishments that contain materials which may be hazardous are identified, and information regarding these materials is made available to fire fighters, health officials, health care providers, law enforcement agencies and emergency commu-

nications officers in such a way that the statutory privilege of trade secrecy is not abridged. (Ord. 83-18 § 1 (part), 1983)

8.12.020 Definitions.

For purposes of this chapter, the following definitions apply:

“Abandoned tank” means a tank that is not in use and not monitored and/or safeguarded in compliance with regulations promulgated by the department of health pursuant to this chapter.

“Business” means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, association, city, county, district, and the state, or any department or agency thereof. For purposes of this chapter, a business shall include both profit and nonprofit business.

“CAS number” means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances.

“Chemical name” means the scientific designation of a substance in accordance with the system developed by the Chemical Abstracts Service.

“Common name” means any designation or identification such as code name, code number, trade name or brand name used to identify a substance other than by its chemical name.

“Establishment” means the physical premises of a business.

“Handle” or “handling” means to use, store, treat or generate a hazardous material in any fashion.

“Hazardous material” means any material or substance in “The Director’s List of Hazardous Substance” developed by the director of the Department of Industrial Relations pursuant to the provisions of the Hazardous Substances Information and Training Act (SB 1874) or cited in Article 9, Division 4, Title 22 of the California Administrative Code or is classified by the National Fire Protection Association as either flammable liquid, a Class II combustible liquid or a Class III-A combustible liquid.

“Hazardous materials registration form” means the form required to be filed with the county health department by every person who owns or operates an establishment which uses hazardous materials.

“Hazardous substance,” see hazardous material.

“Hazardous waste,” see hazardous material.

“Health officer” means the health officer of Monterey County or his authorized representative, acting on behalf of the city.

“Laboratory” means a place equipped for testing, analyses or experimental study in a science; utilizing hazardous materials as defined in this section in any amount.

“Person” means an individual, trust, firm, joint stock company, corporation, partnership, association, city, county, state or district.

“Primary containment” means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

“Product-tight” means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance which it contains over the useful life of the tank.

“Secondary containment” means the level of containment external to, and separate from, the primary containment.

“SIC code” means the identification code to specific types of businesses.

“Single-walled” means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials shall be considered single-walled.

“Storage” or “store” means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. “Storage” or “store” does not mean the storage of hazardous wastes in an un-

derground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the California Department of Health Service.

“Substantial modification” means any changes to an underground storage tank facility which include, but are not limited to, one or more of the following: replacement of a tank, repairing a tank, installation of new pipeline, and installation or replacement of monitoring devices.

“Unauthorized release” means any release or emission of any hazardous substance which does not conform to the provisions of this chapter, unless such release is authorized by the State Water Resources Control Board pursuant to Division 7 of the California Water Code.

“Underground storage tank” means any one of combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. “Underground storage tank” does not include any of the following:

1. Tanks which are located on a farm and store motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes;

2. Tanks used for aviation or motor vehicle fuel located within one mile of a farm and the tank is used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

“Use” includes the handling, processing, or storage of hazardous materials.

“User” means any person who uses or handles a hazardous material. (Ord. 84-10 §§ 1—4, 1984; Ord. 83-18 § 1 (part), 1983)

8.12.030 Underground storage tanks.

A. Every underground storage tank installed after January 1, 1984, shall meet the following requirements and no person, firm or corporation shall construct or install any new underground storage tank or facility until a permit has been issued pursuant to this chapter.

1. Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:

- a. Primary containment shall be product-tight;

- b. Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also be capable of storing, for the maximum anticipated period of time necessary for the recovery of any released hazardous substance;

- c. In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least one hundred percent of the volume of the primary tank;

- d. In the case of multiple primary tanks, the secondary container shall be large enough to contain one hundred fifty percent of the volume of the largest primary tank placed in it, or ten percent of the aggregate internal volume of all primary tanks, whichever is greater;

- e. If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a twenty-four-hour rainfall as determined by a one-hundred-year storm history;

- f. Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment;

- g. The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of subsection (A)(1)(a) though (f) of this section, inclusive, if the primary containment construction is of glass fibre, reinforced plastic, cathodically protected steel, or steel-clad with glass fibre reinforced plastic any such alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank and which is designed to provide early leak detection, response, and to protect groundwater from releases, and if

the monitoring is in accordance with the alternative method identified in subsection (C)(3) of this section. Pressurized piping systems connection to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with subsection (C)(3) of this section shall also be deemed to meet the requirements of this subdivision.

2. Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous material stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

3. When required by the county department of health, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

4. Different substances that in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary and secondary container, shall be separated in both the primary and secondary containment, so as to avoid potential intermixing.

5. If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

B. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances the following actions shall be taken:

1. On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed;

2. Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subsection (B)(1) of this section. Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the department of health.

C. The alternative monitoring methods include, but are not limited to, the following methods:

1. Pressure testing, vacuum testing or hydrostatic testing of the piping systems or underground storage tanks;

2. A groundwater monitoring well or wells which are down gradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well. The department of health shall develop regulations specifying monitoring alternatives. Further, the department of health shall approve the location and number of wells, the depth of wells and the sampling frequency, pursuant to these regulations;

3. For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if inventory records are kept on file for one year and are reviewed quarterly, the tank is tested for tightness hydrostatically or, when appropriate with pressure between three and five pounds, inclusive, per square inch at time intervals specified by the department of health and whenever any pressurized system has a leak detection device to monitor for leaks in the piping. The tank shall also be tested for tightness hydrostatically or where appropriate, with pressure between three and five pounds, inclusive, per square inch whenever there is a shortage greater than the amount which the department of health shall specify by regulation.

D. Abandonment, Closure or Temporary Closure of Underground Storage Tanks.

1. No tank shall be abandoned unless properly monitored and safeguarded in accordance with regulations promulgated by the department of health.

2. Tanks which are temporarily out of service and are intended to be returned to use must continue to be monitored and inspected.

3. Any tank which is not being monitored and inspected in accordance with this section must be closed or removed in accordance with regulations promulgated by the department of health.

4. Whenever an abandoned tank is located, a plan for the closing or removing or the upgrading and permitting of such tank and permit application therefor shall be filed within ninety days of its discovery.

E. Maintenance, Repair or Replacement.

1. Permittee will carry out regular maintenance, and upkeep, in a careful and safe manner.

2. Any substantial modification or repair of a facility other than minor, maintenance or emergency repairs shall be in accordance with plans to be submitted to the department of health and a permit to repair shall first be obtained prior to commencement of any such substantial modification or repair.

3. Permittee may make emergency repairs to a facility in advance of seeking an additional permit approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. However, within five working days after such emergency repairs have been started, permittee shall seek approval pursuant to this chapter by submitting drawings or other information adequate to describe the repairs to the department of health.

F. Unauthorized Discharge of Hazardous Materials.

1. Any unauthorized release from the primary containment which the operator is able to clean up within eight hours and which does not escape from the secondary containment, nor cause any deterioration of the secondary containment of the underground storage tank, shall be recorded on the operator's monitoring reports.

2. Any unauthorized release which escapes from the secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank shall be reported by the operator to the department of health within twenty-four hours after the release has been detected or should have been detected. A full written report shall be transmitted by the owner or operator of the underground storage tanks within five working days of the occurrence of the release.

3. The department of health shall review the operating permit whenever there has been an unauthorized release or when it determines that the underground storage tank is unsafe. The department may terminate a permit for a facility when it has been determined that the operation of the facility would pose a threat to public health. (Ord. 84-10 §§ 5, 6, 1984: Ord. 83-18 § 1 (part), 1983)

8.12.040 Underground storage tank permit.

Any person, firm or corporation which stores any hazardous material in an underground storage tank shall obtain and keep current, an underground storage tank permit issued pursuant to this chapter. One such permit shall be issued for a single facility. Additional approvals shall be obtained for any underground storage tank thereafter connected, installed, constructed, substantially modified, replaced, closed or removed.

A. No person, firm or corporation shall cause, suffer or permit the storage of hazardous materials in underground tanks:

1. In a manner which violates a provision of this division or any other local, federal or state statute, code or regulation relating to hazardous materials; or

2. In a manner which causes an unauthorized discharge of hazardous materials or poses a significant risk of such unauthorized discharge.

B. Application for Permit. Application for a new, amended or renewed permit or any additional approval shall be made to the health department on the form provided by the county.

C. Approval of Permit. A permit shall not be approved until the department of health is satisfied that the storage approved adequately conforms to the provisions of this chapter.

D. Provisional Permit. If the department of health finds that the proposal does not completely conform to the provisions of this chapter, it may approve a provisional permit, subject to conditions to be imposed by the department when such a provisional permit is feasible and does not appear to be detrimental to the public interest. The applicant must be informed in writing of the reasons why a full-term permit was not issued.

E. Temporary Permit. A temporary permit for storage may be issued where storage does not exceed thirty days and occurs no more frequently than every six months.

F. Issuance of Permits.

1. Upon the approval of a provisional, or full-term permit by the department of health and upon the payment of any applicable fee, the department shall issue and deliver the permit to the applicant. Such permit shall contain the following information:

- a. The name and address of the permittee for purposes of notice and service of process;
 - b. The address of the facility for which the permit is issued;
 - c. Authorization of the storage facility(s) approved under the permit, the permit quantity limit(s) and the approved hazard class or classes for the storage facility(s);
 - d. The date the permit is effective;
 - e. The date of expiration;
 - f. When applicable, a designation that the permit is provisional;
 - g. Any special conditions of the permit.
2. The department of health shall keep a record of all permits issued and all conditions attached thereto.

G. Terms. A permit may be issued for a term of three years, excepting provisional permits and construction and abandonment permits which may be issued for any period of time up to six months and temporary permits which may be issued for no longer than thirty days.

H. Fees.

1. Operating Permits.

a. Base fee per facility (1—5 tanks)	\$125.00/year
b. Fee for each additional tank over 5	40.00/year

This fee covers the permit to operate the tank and the registration of the hazardous materials in the tank.

2. Permit to Construct or Modify.

a. Base plan check fee (includes 1 tank)	\$125.00
b. Fee for each additional tank	40.00

3. Permit to Abandon.

a. Base fee for 1 tank	\$100.00
b. Each additional tank	30.00

I. Civil and Criminal Penalties.

1. Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars or more than five thousand dollars per day for any of the following:

- a. Operates an underground storage tank which has not been issued a permit;
- b. Fails to monitor the underground storage tank, as required by the permit;
- c. Fails to maintain records;
- d. Fails to report an unauthorized release;
- e. Fails to abandon an underground storage tank in accordance with this chapter.

2. Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars or more than five thousand dollars per day for any of the following:

- a. Failure to obtain a permit as specified by this chapter;

- b. Failure to repair an underground tank in accordance with the provisions of this chapter;
- c. Failure to construct an underground storage tank in accordance with the provisions of this chapter;
- d. Abandonment or improper closure of any underground tank subject to the provisions of this chapter;
- e. Failure to outfit a facility with a monitoring system capable of detecting an unauthorized release of any hazardous substance stored in the facility as required by the department of health;

- f. Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.

3. Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars or more than ten thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

4. In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

5. Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws. (Ord. 84-10 §§ 7—10, 1984; Ord. 83-18 § 1 (part), 1983)

8.12.050 Hazardous material registration form.

Any person who owns or operates an establishment that contains at any one time during the year, hazardous materials as defined in Section 8.12.020 shall file a completed hazardous material registration form with the health department within ninety days of the effective date of this chapter. (Ord. 83-18 § 1 (part), 1983)

8.12.060 Contents of registration form.

A. Hazardous material registration forms shall be prepared by the health department and made available to persons who use hazardous materials.

B. The hazardous material registration form shall include requests for the following information:

- 1. Identification information including but not limited to name, address, phone number and assessor's parcel number;

- 2. The names and phone numbers of at least two people representing the business able to assist agency personnel in the event of an emergency during nonbusiness hours;

- 3. The SIC code of the business if applicable;

- 4. A list of the hazardous materials at the establishment designated by CAS number, chemical name and common name as well as the form in which the material is stored and the maximum amount present during a thirty-day period;

- 5. Each business shall designate in the appropriate box if there is a laboratory at its establishment;

- 6. A sketch showing the location of any laboratory at the establishment;

- 7. For businesses consisting of more than one building, a sketch showing where the hazardous material is stored. (Ord. 83-18 § 1 (part), 1983)

8.12.070 Exemptions to disclosure.

The following shall be exempt from the disclosure requirements of this chapter:

A. Any person who handles radioactive materials that are exempt under Sections 30180 and 30345 of Title 17 of the California Administrative Code or licensed with the Department of Health Services;

B. Hazardous substances contained only in consumer products packaged for distribution to, and use by, the general public;

C. Any person using, handling, or storing less than five hundred pounds or fifty-five gallons a month, whichever is less, of a hazardous material. The exemption of this subsection C shall not apply to the use, handling, or storage of known carcinogens except to the extent that such carcinogens are used or intended to be used for medical or therapeutic purposes;

D. Any person, while engaged in the transportation of hazardous materials, including storage directly incident to transportation, provided that such materials are accompanied by shipping papers prepared in accordance with the provisions of the Federal Hazardous Materials Regulations (40 C.F.R., Subchapter C). (Ord. 83-18 § 1 (part), 1983)

8.12.080 Trade secrets.

A. If a person believes that a request for information made by the disclosure form involves the release of a trade secret or proprietary information, the person shall submit to the health officer, adequate information and substantiation of the claim of trade secrecy.

B. The health officer and the proper public agencies shall protect from disclosure any and all trade secrets and proprietary information coming into his or her possession, as defined in subsection (d) of Section 6245.7 of the California Government Code and Section 1060 of the California Evidence Code, when requested in writing by the user.

C. Any trade secret or proprietary information reported to or otherwise obtained by the health officer shall not be disclosed to anyone except an officer or employee of the city, the county, the state or the Federal Government who demonstrate a need to know the information in connection with their official duties.

D. For the purposes of this section, fire and emergency response personnel and health personnel operating within the jurisdiction of the city shall be considered employees of the city.

E. The health officer, with the city attorney, upon receipt of a request for his designation of information submitted as a trade secret by a user, shall determine whether any or all of the information so submitted is properly designated as a trade secret or proprietary information. No information will be disclosed until a final determination of trade secret is made.

F. If the health officer and city attorney determine that the submitted information should be designated as trade secret or proprietary information, then the materials involved will be identified only by the properties and returned to the appropriate agencies.

G. If the health officer and city attorney determine that the information is not a trade secret:

1. The city attorney shall notify the person by certified mail;
2. The person shall have thirty days after receipt of notification to request reconsideration of the city attorney's determination and to provide the city attorney with any further data supporting the claim of trade secrecy privilege;

3. The city attorney shall determine whether such information is protected as a trade secret or proprietary information within fifteen days after receipt of the additional data supporting the claim of trade secrecy or, if no additional data is submitted, within thirty days of the original notice. The city attorney shall notify the person and any party who has requested the information that it is not protected as a trade secret. The final notice shall also specify a date, not sooner than fifteen days after the date of mailing of the final notice, when the information may be made available to the appropriate public agencies;

4. Prior to the date specified in the final notice, the person may institute an action in the Superior Court for a declaratory judgment as to whether such information is subject to protection under subsection A of this section.

H. The provisions of this section shall not permit a person to refuse to file a disclosure information form with the city attorney except under the conditions set forth in subsection E of this section. (Ord. 83-18 § 1 (part), 1983)

8.12.090 Enforcement.

A. The health officer is authorized and empowered to enforce the provisions of this chapter. The enforcement shall include the inspection of facilities and other activities directly related to the enforcement of this chapter. No person shall obstruct or interfere with the health officer in the performance of these duties.

B. Any person who violates any provision of this chapter shall be deemed guilty of an infraction. (Ord. 83-18 § 1 (part), 1983)

8.12.100 Maintenance of files.

A. The health officer shall maintain active files of all registration forms received for a period of three years. Registration forms which are more than three years old shall be placed in inactive files and retained for a period of thirty years.

B. The health officer shall index registration forms by street addresses and parcel numbers, and shall cross reference them by business name, and by the SIC code numbers and the CAS numbers listed on the registration forms. (Ord. 83-18 § 1 (part), 1983)

8.12.110 Fees.

Each initial registration of a hazardous material disclosure form shall be accompanied by a filing fee of seventy-five dollars and thereafter an annual renewal filing fee of thirty-five dollars per year. (Ord. 84-10 § 11, 1984; Ord. 83-18 § 1 (part), 1983)

Chapter 8.20

ABANDONED VEHICLES

Sections:

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8.20.020	Definitions.
8.20.030	Regulations not exclusive.
8.20.040	Authority of public safety director to abate and remove.
8.20.050	Exemptions.
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8.20.110	Abatement—Authorized.
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8.20.130	Abatement—Penalty for refusal.
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8.20.160	Enforcement—Right of entry of enforcing officer.

- 8.20.170 Right of entry of those franchised to abate nuisance.**
- 8.20.180 Authority of franchisee to remove abandoned vehicles.**
- 8.20.190 Authority to immediately remove from highway vehicles which lack necessary equipment.**
- 8.20.200 Removal—Notice to Department of Justice.**
- 8.20.210 Costs of removal and disposition.**

8.20.010 Findings of fact—Nuisance declared.

In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the city council makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property including highways is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private or public property including highways, except as expressly permitted in this chapter is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 93-3 § 1(A), 1993; Ord. 84-6 § 1 (part), 1984)

8.20.020 Definitions.

As used in this chapter:

“Director of public safety” includes any officer or employee of the city designated by the director to enforce this chapter, including the execution of notices, holding of hearings and making of findings.

“Highway” means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

“Owner of land” means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

“Owner of the vehicle” means the last registered owner and legal owner of record.

“Public property” does not include highway.

“Vehicle” means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. (Ord. 84-6 § 1 (part), 1984)

8.20.030 Regulations not exclusive.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the city, the state, or any other legal entity or agency having jurisdiction. (Ord. 84-6 § 1 (part), 1984)

8.20.040 Authority of public safety director to abate and remove.

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the public safety director shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. (Ord. 84-6 § 1 (part), 1984)

8.20.050 Exemptions.

A. This chapter shall not apply to:

1. A vehicle or part thereof in an enclosed building or outside an enclosed building in an area of private property not visible from the street or other public or private property; provided, however, that this exclusion shall not apply to abandoned, wrecked, dismantled or inoperative vehicles on private property without the permission of the person having lawful custody or control of such property;

2. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

B. Nothing in this chapter shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10, commencing with Section 22650, of Division II of the Vehicle Code and this chapter. (Ord. 84-6 § 1 (part), 1984)

8.20.060 Notice of intention to abate and remove.

A ten-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN
ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at _____

_____,
you are hereby notified that the undersigned, pursuant to Marina Municipal Code Section 8.20.010 et seq., has determined that there exists upon said land an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of Chapter 8.20 of the Marina Municipal Code.

You are hereby notified to abate said nuisance by removal of said vehicle, or said parts of a vehicle within ten (10) days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the city and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle, or said parts thereof, is located.

As owner of the land on which said vehicle, or said parts thereof, is located, you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the public safety director within such (10) day period, the public safety director shall have the authority to abate and remove said vehicle, or said parts thereof, as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of such vehicle, or said parts thereof, on said land, with your reasons for denial, and such statement shall be construed as a request for hearing, which does not require the presence of the owner submitting such request. You may

appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed: _____ (date)

NOTICE OF INTENTION TO ABATE AND REMOVE AN
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or
legal owner of record of vehicle-notice
should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle-make, model, license, etc.), you are hereby notified that the undersigned, pursuant to Marina Municipal Code Section 8.20.010 et seq., has determined that said vehicle, or said parts thereof, exists as an abandoned, wrecked, dismantled, or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 8.20 of the Marina Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle, or said parts thereof, within ten (10) days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle, or said parts thereof, you are hereby notified that you may within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the public safety director within such ten (10) day period, the public safety director shall have the authority to abate and remove said vehicle, or said parts thereof, without a hearing.

Notice mailed: _____ (date)

(Ord. 84-6 § 1 (part), 1984)

8.20.070 Public hearing upon request of owner of land or vehicle—Notice.

A. Upon request by the owner of the vehicle or owner of the land, received by the public safety director within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the public safety director on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle, or parts thereof, against the property on which it is located.

B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such ten-day period, such statement shall be construed as a request for a hearing which does not require the presence of the owner submitting the request. Notice of the hearing shall be mailed by certified mail at least ten days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within such ten days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing. (Ord. 84-6 § 1 (part), 1984)

8.20.080 Disposal of personal property found in vehicle.

A. Personal property, including boats, found within or upon an abandoned vehicle may be disposed of as part of the proceedings for abatement and removal of the vehicle in which the personal property is found.

B. Notices to property owners and vehicle owners required in this chapter shall contain a description of such property. In the case of a boat bearing California registration numbers, the department of harbors and watercraft shall be notified in the same manner as notice to the department of motor vehicles.

C. At the time of the hearing, the public safety director shall order any personal property found in or upon an abandoned vehicle, destroyed, junked, sold or other property disposition considering its nature and value. (Ord. 84-6 § 1 (part), 1984)

8.20.090 Conduct of hearing.

A. All hearings under this chapter shall be held before the public safety director who shall hear all facts and testimony he deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle, or part thereof, and the circumstances concerning its location on the private property or public property. The public safety director shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

B. The public safety director may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purposes of this chapter. He may delay the time for removal of the vehicle, or part thereof, if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the public safety director may find that a vehicle, or part thereof, has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance disposed of as provided in this chapter and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle, or part thereof, is located. The order requiring removal shall include a description of the vehicle, or part thereof, and the correct identification number and license number of the vehicle, if available at the site.

C. If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the public safety director shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

D. If the land owner submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the public safety director but does not appear, he shall be notified in writing of the decision. (Ord. 84-6 § 1 (part), 1984)

8.20.100 Appeals to city manager and council.

A. Any interested party may appeal the decision of the public safety director by filing a written notice of appeal with the city manager within five days after his decision.

B. Such appeal shall be heard by the city manager, who may affirm, amend or reverse the order to take other action deemed appropriate.

C. The city manager shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 8.20.090.

D. In conducting the hearing, the city manager shall not be limited by the rules of evidence.

E. Any interested party may further appeal the decision of the city manager to the city council, under the same rules and procedures set forth hereinabove regarding an appeal to the city manager. (Ord. 84-6 § 1 (part), 1984)

8.20.110 Abatement—Authorized.

Five days after adoption of the order declaring the vehicle, or parts thereof, to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 8.20.090, or fifteen days after such action of the governing body authorizing removal following appeal, the vehicle, or parts thereof, may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates pursuant to Section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable. (Ord. 84-6 § 1 (part), 1984)

8.20.120 Abatement—Notice to Department of Motor Vehicles.

Within five days after the date of removal of the vehicle, or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle, or parts thereof, removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Ord. 84-6 § 1 (part), 1984)

8.20.130 Abatement—Penalty for refusal.

It is unlawful and an infraction for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where such state law is applicable. (Ord. 84-6 § 1 (part), 1984)

8.20.140 Assessment of costs.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 8.20.090 are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Such assessment shall have the same priority as other city taxes. (Ord. 84-6 § 1 (part), 1984)

8.20.150 Council to fix administrative costs.

The city council shall from time to time determine and fix by resolution an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle, or parts thereof, under this chapter. Administrative costs shall include any administrative, hearing and appeal costs, the salary and overhead of a vehicle abatement officer and secretary, vehicle mileage, postage and any necessary photographs. These costs are independent of those costs which might be assessed pursuant to Section 22523(c) of the California Vehicle Code. (Ord. 93-3 § 1(B), 1993; Ord. 84-6 § 1 (part), 1984)

8.20.160 Enforcement—Right of entry of enforcing officer.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the public safety director. In the enforcement of this chapter, such officer and his deputies may enter upon private or public property to examine a vehicle, or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this chapter. (Ord. 84-6 § 1 (part), 1984)

8.20.170 Right of entry of those franchised to abate nuisance.

When the city council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this chapter. (Ord. 84-6 § 1 (part), 1984)

8.20.180 Authority of franchisee to remove abandoned vehicles.

When the city council has contracted with or granted a franchise to any person or persons pursuant to subdivision (a) of Vehicle Code Section 22710, such person or persons may remove a vehicle or parts thereof from a highway or may enter upon private property or public property to remove or cause the removal of a vehicle or part thereof, after a determination and authorization by a peace officer or vehicle abatement officer that the vehicle is abandoned. (Ord. 93-3 § 1(C) (part), 1993)

8.20.190 Authority to immediately remove from highway vehicles which lack necessary equipment.

Motor vehicles which are abandoned, parked, resting or otherwise immobilized on any highway or public right-of-way and which lack an engine, or transmission, or wheels, or tires, or doors, or windshield, or any part or equipment necessary to operate safely on the highways of this state, are a public nuisance and may be removed immediately upon discovery by a peace officer or employee. (Ord. 93-3 § 1(C) (part), 1993)

8.20.200 Removal—Notice to Department of Justice.

A. Whenever an officer or an employee removing a California registered vehicle from a highway or from public property for storage under this chapter does not know or is not able to ascertain the name of the owner or for any other reason is unable to give notice to the owner as required by Vehicle Code Section 22852, the officer or employee shall immediately notify, or cause to be notified, the Department of Justice, Stolen Vehicle System, of its removal. The officer or employee shall file a notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time and place from which removed, the amount of mileage on the vehicle at the time of removal, and the name of the garage or place where the vehicle is stored.

B. Whenever an officer or an employee removing a vehicle not registered in California from a highway or from public property for storage under this chapter does not know or is not able to ascertain the owner or for any other reason is unable to give the notice to the owner as required by Vehicle Code Section 22852, the officer or employee shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice in Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal and the name of the garage or place where the vehicle is stored.

C. Whenever an officer or employee or private party removing a vehicle from private property for storage under this chapter does not know or is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as required by Vehicle Code Section 22852 and if the vehicle is not returned to the owner within a period of one hundred twenty hours, the officer or employee or private party shall immediately send, or cause to be sent, a written report of the removal by mail to the Department of Justice in Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of mileage on the

vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored. (Ord. 93-3 § 1(C) (part), 1993)

8.20.210 Costs of removal and disposition.

The costs required to be paid for the removal and disposition of any vehicle determined to be abandoned pursuant to this chapter shall not exceed those for towing and seven days of storage. This section shall not apply if the registered owner or legal owner has completed and returned to the lienholder a Declaration of Opposition form within the time specified in Vehicle Code Section 22851.8. (Ord. 93-3 § 1(C) (part), 1993)

Chapter 8.22

PARKING AND STORAGE OF VEHICLES, BOATS AND PARTS IN RESIDENTIAL AREAS

Sections:

- 8.22.010 Findings and purpose.**
- 8.22.015 Definitions.**
- 8.22.020 Prohibited parking of vehicles and boats.**
- 8.22.030 Prohibited storage of parts.**
- 8.22.040 Exceptions.**
- 8.22.050 Abatement of public nuisance.**
- 8.22.060 Vehicle repair.**

* Prior ordinance history: Ords. 84-4, 95-6 and 97-5.

8.22.010 Findings and purpose.

It is found and determined that the parking and storage of vehicles, motor vehicles, trailers and boats and the parts thereof within the front and side yards of premises in residential areas within the city creates a condition which detracts from the appearance of residential neighborhoods and reduces the value of private property, promotes blight and deterioration, creates fire hazards, constitutes an attractive nuisance which creates a hazard to the health and safety of minors, and is injurious to the health, safety and general welfare. (Ord. 2006-10 § 1 (part), 2006)

8.22.015 Definitions.

As used in this chapter:

“Boat” means the same as “vessel” in the Vehicle Code.

“Driveway” means a paved or surfaced way designed for vehicular ingress and egress and which is not in excess of twenty-four feet in width or thirty-six feet for properties which front on the bulb area of a cul-de-sac street.

“Residential areas” means an area located in a residential zoning district (R-1, R-2, R-3, R-4, C-R, R-HM, and ST), an area identified for exclusive residential use in approved specific plan, and the privately owned parcels on the east side of Lake Court identified in the local coastal land use plan for continued residential use.

“Vehicle,” “motor vehicle” and “trailer” shall be as defined in the California Vehicle Code.
(Ord. 2006-10 § 1 (part), 2006)

8.22.020 Prohibited parking of vehicles and boats.

No vehicles, including motor vehicles and trailers, and no boats shall be parked or stored in a residential area on the improved or unimproved portion of a front yard, including the lawn area, or on an exterior side yard (i.e., on the side street side of a corner lot), except on an improved driveway or in an approved garage or carport. (Ord. 2006-10 § 1 (part), 2006)

8.22.030 Prohibited storage of parts.

No vehicle or boat parts shall be stored in a residential area except in an approved garage, carport or a backyard area not visible from a public street. (Ord. 2006-10 § 1 (part), 2006)

8.22.040 Exceptions.

The prohibitions imposed in Section 8.22.020 shall not be deemed to apply to paved or surfaced parking areas or driveways in excess of the width specified in Section 8.22.020 and which were in existence on the date this chapter was first introduced by council reading of the ordinance. (Ord. 2006-10 § 1 (part), 2006)

8.22.050 Abatement of public nuisance.

The violation of the provisions of this chapter is declared to be a public nuisance, and in addition to any other remedy available, including criminal prosecution as an infraction, may be abated as such in accordance with the provisions of Chapter 8.20 relating to abandoned vehicles, with the administrative costs and the costs of removal charged against the person in control of the premises and/or the owner of the land in the same manner as specified in Sections 8.20.130 through 8.20.150. (Ord. 2006-10 § 1 (part), 2006)

8.22.060 Vehicle repair.

Unauthorized Vehicle Repair. No person, firm or corporation shall repair, assemble or disassemble any vehicle upon any property within the city, unless such property is properly zoned for uses which include the repair, assembly or disassembly of vehicles and unless such person has received all city approvals, licenses and permits required by law prior to repairing, assembling or disassembling any vehicle, except that on property in residential areas only, vehicular repairs shall be permitted, provided that all of the following conditions are met:

- A. The repair, assembly or disassembly of vehicles, and all parts shall be located, within the garage or carport of the residence.
- B. Such repairs shall be conducted in compliance with Chapter 9.24 relating to noise regulations.
- C. The vehicle in question must be owned by a resident of the property upon which the repairs are being done.
- D. Current registration for the vehicle shall be available for inspection on the premises at all times while the vehicle is under repair. (Ord. 2006-10 § 1 (part), 2006)

Chapter 8.24

SECURITY AND FIRE ALARM SYSTEMS

Sections:

- 8.24.010 Purpose.**
- 8.24.020 Definitions.**
- 8.24.030 Alarm business registration.**

- 8.24.040 Alarm agent registration.**
- 8.24.050 Notification of change.**
- 8.24.060 Alarm user's permit.**
- 8.24.070 Alarm system standards.**
- 8.24.080 Telephone device prohibited.**
- 8.24.090 Monitoring services.**
- 8.24.100 Disconnection of audible alarms.**
- 8.24.110 Registration, permit and service fees.**
- 8.24.120 Nuisance alarms.**

8.24.010 Purpose.

The purpose of this chapter is to establish standards and controls for the various types of intrusion, hold-up, smoke, fire and other emergency signals from alarm systems that require police or fire department response or investigation, and for the businesses and persons installing and servicing said systems in order to protect the public health, welfare and safety and control the excessive number of false alarms. (Ord. 88-5 § 1 (part), 1988)

8.24.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Alarm agent” means any person who is self-employed or employed either directly or indirectly by an alarm business whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, altering, replacing, moving or installing an alarm system in or on any building, place or premises.

“Alarm business” means any person, firm or corporation conducting or engaged in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system in or on any building, place or premises.

“Alarm system” is any device designed for the detection of an unauthorized entry, smoke or fire on premises or for alerting others of the commission of an unlawful act, and which, when actuated, emits a sound or transmits a signal to indicate that an emergency situation exists, and to which public safety personnel are expected to respond.

“Alarm user” means any person using an alarm system at his place of business or residence.

“Audible alarm” is a device designed for the detection of smoke, fire or the unauthorized entry on or attempted entry into a premises or structure or for alerting others of the commission of an unlawful act, and which, when actuated, generates an audible sound on the premises.

“Director” means the director of public safety of the city of Marina, or his designated representative.

“False alarm” means the activation of an alarm system necessitating response by the public safety department when an emergency does not exist; provided, however, alarms generated by earthquakes, or unusual weather conditions will not be considered as false alarms.

“Nonpriority” means that public safety department response to the activation of an alarm will not be given precedence over other calls and will be predicated upon availability of public safety units and other service needs. (Ord. 88-5 § 1 (part), 1988)

8.24.030 Alarm business registration.

A. It is unlawful for any person, partnership, corporation or firm to own, manage, conduct or carry on the business of selling, leasing, installing, servicing, maintaining, repairing, replacing, moving, removing or monitoring an alarm system in or on any building, place or premises within the city without first having registered with the public safety department; provided, however, such registration shall not be required for any business which only sells or leases said alarm systems from a fixed location, unless such business services, installs, monitors or responds to alarm systems at the protected premises.

B. Registration shall be accomplished by furnishing such information as may be required by the public safety department, including, but not limited to, the full name of the business, the number of the license issued pursuant to Section 7582 of the Business and Professions Code for the alarm business, and the name and business address of the manager of operations for the area which includes the city. (Ord. 96-25 § 1(18), 1996; Ord. 88-5 § 1 (part), 1988)

8.24.040 Alarm agent registration.

A. It is unlawful for any person, including the owners of an alarm business, to engage directly in the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing of an alarm system in or on any building, place or premises within the city without first having registered his or her name and filed with the director of public safety a copy of the alarm agent registration card issued pursuant to the provisions of Section 7582.13 of the California Business and Professions Code.

B. Nothing herein shall require a person to so register in order to install, service, repair, alter, replace or move an alarm system on the premises owned or occupied by that person.

C. Nothing herein shall require a person to so register who is merely a salesman for any business not required to obtain an alarm business permit under the provisions of Section 8.24.030 if such salesman does not engage in any other activities related to alarm systems apart from selling.

D. Every person engaged in installing, repairing, servicing, altering, replacing, moving or removing an alarm system as defined herein on any premises within the city, other than premises owned or occupied by said person, shall carry on his person at all times while so engaged a valid state alarm agents' registration card and shall display such card to any public safety officer upon request. (Ord. 96-25 § 1(19), 1996; Ord. 88-5 § 1 (part), 1988)

8.24.050 Notification of change.

A. Any alarm business registered with the public safety department shall immediately report to the director any change of address or ownership of the business or the name or area which includes the city.

B. Any person registered as an alarm agent shall immediately report to the director any change of address. (Ord. 88-5 § 1 (part), 1988)

8.24.060 Alarm user's permit.

A. No person shall install, or cause to be installed, use, maintain or possess an alarm system on premises owned or in the possession or control of such person within the city without first having obtained an alarm user's permit from the director in accordance with this section.

B. Owners of existing alarm systems will be notified of these permit requirements as discovered. In such cases, permit applications shall be made within thirty days of notification.

C. The application for an alarm user's permit shall be submitted on a form as prescribed by the director and shall include the address of the premises wherein the system is to be located and the name, address and telephone number of the applicant and persons who will render service or repairs during any hour of the day and night. It shall be the duty of the alarm user to keep this information current.

D. The permit shall be denied by the director if the alarm system does not comply with this chapter or standards adopted pursuant to Section 8.24.070.

E. The appeal process shall be as follows:

1. Upon denial, the party whose application has been denied may request a hearing before the director or his designate.

2. At said hearing, the party who requested the hearing shall be entitled to present evidence on his own behalf.

3. If the application is denied after said hearing, the director or his designated hearing officer shall state in writing the reasons for the denial.

4. The decision of the director or his designated hearing officer shall be final. (Ord. 88-5 § 1 (part), 1988)

8.24.070 Alarm system standards.

The director may adopt standards and regulations for the operation of alarm systems. Any such standards and regulations shall be available to the public for distribution in written form at a reasonable fee. (Ord. 88-5 § 1 (part), 1988)

8.24.080 Telephone device prohibited.

Except as provided in this chapter, no person shall use or cause to be used any telephone device or telephone attachment that automatically selects a public telephone trunk line to the city public safety department, the Monterey County communications center, or to any other telephone number without the agency director's or owner's permission, and then reproduces any prerecorded message to report any burglary or other emergency. (Ord. 88-5 § 1 (part), 1988)

8.24.090 Monitoring services.

Every alarm business which monitors an alarm system located within the city shall maintain on file a current listing of all such alarm systems, including the name, address and telephone number of the individual or individuals from whom entry to the premises may be obtained. Said information shall be available to the public safety department upon request. (Ord. 88-5 § 1 (part), 1988)

8.24.100 Disconnection of audible alarms.

If service is unavailable, audible alarms which have emitted an alarm signal in excess of thirty minutes are declared to be a nuisance, and the public safety department may cause such alarm to be disconnected by a registered alarm agent, with the cost therefor to be a charge payable by the alarm user. This charge will be separate and apart from all other charges. (Ord. 88-5 § 1 (part), 1988)

8.24.110 Registration, permit and service fees.

A. Fees and charges for services provided by the city in connection with this chapter shall be charged, and in connection therewith the director and the city manager may establish, pursuant to the city's fee and service charge revenue-to-cost determination system, as set forth in Chapter 3.24, the following fees:

1. Alarm business registration fee;
2. Alarm agent registration fee;
3. Alarm user's permit fee; and
4. False alarm service fee, for both false fire alarms and for false burglary, robbery and other similar security alarms.

B. All registration and permit fees shall be due and payable at the time of obtaining a permit or registering with the city hereunder, and all false alarm service fees shall be due and payable within thirty days after an invoice or bill is mailed for same.

C. The amount of all fees shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent service or other fee, and in any such action the city shall be entitled to an award of attorney's fees and costs. (Ord. 88-5 § 1 (part), 1988)

8.24.120 Nuisance alarms.

A. The director may designate an alarm system at a specific location as a nuisance if such alarm system actuates excessive false alarms.

B. It is found and determined that four false fire or burglary alarms within any three consecutive calendar month period or two false robbery alarms within any three consecutive calendar month period is excessive and thereby constitutes a public nuisance. The director shall not consider any alarm in his computation of nuisance alarms if such alarm was generated by earthquakes, or unusual weather conditions, and not the result of the negligence of the alarm user, his agents or employees.

C. The permit of an alarm user shall be automatically suspended if in violation of standards established by subsection B of this section. The director or his designate shall serve the permittee with a written order of suspension, which shall state the reason for such suspension. The order shall be effective immediately if personally served or forty-eight hours after the same has been deposited with postage prepaid in the United States mail.

D. Immediately upon such order of suspension becoming effective, the alarm system shall receive nonpriority response from the public safety department.

E. The suspension of the alarm user's permit shall become a revocation fifteen days after the suspension becomes effective unless the permittee requests a hearing.

F. The permittee may request a hearing from the director. While the hearing is pending, the revocation shall be stayed.

G. At the hearing, the permittee may present evidence on his own behalf. The permittee may also present written verification that the alarm system has been completely evaluated and the problem located and corrected.

H. If the revocation is ordered after the hearing, the director or his designated hearing officer shall state in writing the reasons for the revocation.

I. The decision of the director or designated hearing officer shall be final. (Ord. 88-5 § 1 (part), 1988)

Chapter 8.30

PARADES AND ASSEMBLIES

Sections:

8.30.010	Definitions.
8.30.020	Parades and assemblies—Permit required.
8.30.030	Issuance of permits—Procedure.
8.30.040	Permit.
8.30.050	Appeals.

8.30.060 Revocation of permit.

8.30.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

“Assembly” means any meeting, gathering, or group of twenty-five or more persons, animals or vehicles, or a combination thereof, having a common purpose, design or goal, upon any public street, sidewalk, alley, park, or other public place, which assembly substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any public area, other than a parade, as defined in this section.

“Parade” means any march, procession, motorcade or promenade consisting of persons, animals or vehicles, or a combination thereof, having a common purpose, design, destination, or goal, upon any public street or place, which parade, march, procession, motorcade or promenade does not comply with normal and usual traffic regulation or control, or which by its nature will impede or delay normal and usual vehicular or pedestrian traffic. (Ord. 91-3 § 1 (part), 1991)

8.30.020 Parades and assemblies—Permit required.

A. No person shall conduct, manage or participate in any parade or assembly for which a written permit has not been issued in accordance with the provisions of this chapter. The provisions of this section shall not apply to or affect funeral processions.

B. No person shall engage in any parade or assembly activity which would constitute a substantial hazard to public safety or which would materially interfere with or endanger the public peace or rights of residents to the quiet, peaceful and unmolested enjoyment of their property. (Ord. 91-3 § 1 (part), 1991)

8.30.030 Issuance of permits—Procedure.

A. The issuing authority shall be the director of public safety.

B. The approving authority shall be the director of public safety. Disapproval by the approving authority shall constitute disapproval of the permit. The director of public safety shall conduct an investigation into the nature of the proposed parade or assembly considering:

1. Whether the time, duration, route, location and size of the parade or assembly will unreasonably disrupt the movement of traffic;
2. Whether the parade or assembly is of a size and nature such that it would require the diversion of so great a number of public safety officers of the city to properly police the line of movement or assembly area and the areas contiguous thereto as to prevent reasonable police protection to the city;
3. Whether the permittee has the ability and resources to provide for the services of monitors to control the orderly conduct of the parade or assembly in conformity with conditions that may be required by such permit;
4. Whether the permittee has provided reasonable means for informing all the persons participating therein of the terms and conditions of such permit;
5. Whether the concentration of persons, animals or vehicles, or a combination thereof, is such as to prevent proper police, fire and ambulance services;
6. Whether the parade will move from its assembly area to its disbanding area expeditiously or not without stopping en route except when reasonably required for the safe and orderly conduct of the parade;
7. Whether the parade or assembly will interfere with another parade or assembly for which a permit has been granted;
8. Whether the parade or assembly will result in harm to persons or property.

C. Any person desiring to conduct a parade or assembly shall make a written application to the director of public safety at least fourteen days in advance of the proposed parade or assembly. Such application shall include the following information:

1. The name, address and telephone number of the person requesting the permit;
2. The name and address of any organization or group he/she is representing;
3. The name, address and telephone number of the person who will act as parade or assembly chairman, who will be responsible for the conduct of the parade or assembly;
4. The number of monitors provided by the permittee and the identifying marks, badges or symbols to be worn or used by such monitors;
5. The purpose of the parade or assembly, the estimated number of persons to participate and to otherwise attend, and the number and types of vehicles and animals to participate;
6. The method of notifying the participants of the terms and conditions of the permit prior to the parade or assembly;
7. The date the assembly or parade is to be conducted and the hours the assembly or parade will commence and terminate;
8. If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;
9. Whether any costumes, masks or unusual attire will be worn;
10. Whether any music will be provided, either live or recorded;
11. The number, types and locations of all loudspeakers and amplifying devices to be used;
12. Such other information as the director of public safety may deem necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and the protection of the public health, safety and welfare.

D. The director of public safety shall deny the application for the permit if any information supplied by the applicant is false or intentionally misleading, or if the director of public safety determines that the parade or assembly will endanger the public health, welfare or safety by applying the criteria set forth in subsection B of this section, and if he determines that reasonable adjustments to the community traffic control, street and property maintenance, and police, fire and ambulance protection would not alleviate such danger. Nothing in this chapter shall allow the director of public safety to deny a permit based upon political or religious grounds or reasons.

E. The director of public safety shall uniformly consider each application upon its facts and shall not discriminate in granting or denying applications.

F. The director of public safety shall notify the applicant within five days of receipt of the application, as follows, that:

1. The permit shall be issued subject to any conditions for the conduct of its parade or assembly; or
2. The permit is to be denied together with the reasons therefor. (Ord. 91-3 § 1 (part), 1991)

8.30.040 Permit.

Any permit issued pursuant to this chapter shall be subject to the following:

A. Such reasonable conditions as are deemed necessary by the city to protect the health, welfare and safety of the community and the participants in such parade or assembly, including, but not limited to, furnishing of traffic-control devices such as signs and barricades, and providing for cleanup and trash removal related to the activity itself.

B. The applicant executing an indemnity and hold harmless certificate as provided by the city and furnishing proof of insurance naming the city as an additional insured in the amount and form prescribed by the city. (Ord. 91-3 § 1 (part), 1991)

8.30.050 Appeals.

The granting or denial of a permit by the director of public safety pursuant to this chapter may be appealed, as follows:

A. Informal Procedure. The applicant or permittee may request an informal meeting with the city manager and director of public safety to discuss denial of a permit or, if a permit is granted, to discuss any objectionable condition thereof. At such meeting the city manager may request input from other parties as required in order to make every effort to resolve the applicant's objections. At the end of the meeting, the city manager shall announce his decision.

B. Formal Procedure. An applicant, permittee or any person affected by issuance of a permit may appeal the matter to the city council. Such appeal shall be in writing and shall be filed with the city clerk within three days of the decision of the director of public safety or the decision of the city manager, if applicable. The city council shall act upon the appeal within five normal work days of the filing of the appeal. If a regular city council meeting is not scheduled within said five normal work days after the filing of the appeal, the mayor shall call a special city council meeting to consider such appeal. (Ord. 91-3 § 1 (part), 1991)

8.30.060 Revocation of permit.

The director of public safety shall have the authority to revoke a parade permit issued under this chapter in the event that he finds and determines that any term, condition, restriction or limitation of such permit has been violated or is being violated, or if he should find that, due to changed circumstances, any one or more of the standards specified in Section 8.30.030 has not been satisfied. Appeal to the city council from any such revocation may be taken as specified in Section 8.30.050. (Ord. 91-3 § 1 (part), 1991)

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.04	Drive-In Theaters
9.06	Regulation of Display of Reading Material
9.08	Dogs Used by Public Safety Department
9.10	Discharge of Firearms
9.12	Drinking in Public
9.13	Urination and Defecation in Public
9.14	Curfew for Minors
9.24	Noise Regulations

Chapter 9.04

DRIVE-IN THEATERS

Sections:

- 9.04.010 Legislative findings and determination.**
- 9.04.020 Legislative purpose and intent.**
- 9.04.030 Definitions.**
- 9.04.040 Prohibition of certain motion pictures.**
- 9.04.050 Exemptions and exclusions.**
- 9.04.060 Penalty for violation.**

9.04.010 Legislative findings and determination.

The city council finds and determines that:

A. The presentation and exhibition of X-rated movies or motion pictures depicting offensive nudity or sexually explicit conduct, which are objectionable for persons under the age of eighteen years and to which such persons should not be admitted to premises for the viewing of same, can in fact be seen and viewed by minors from public and private property outside the premises of drive-in theaters located within the city.

B. Because of the tremendous size of the drive-in theater screens upon which movies are projected for viewing, and because of the nearby location of single-family residences, the presentation of such offensive motion pictures are so visually apparent and obtrusive as to make it virtually impossible for an unwilling individual, adult or minor, to avoid exposure to such movies.

C. Such exposure to these X-rated or otherwise offensive movies is even thrust and forced upon persons while they are inside their private residences or in the yards outside their homes, and such visibility and exposure can and does constitute an unreasonable interference with the right of privacy of the residents of Marina inhabiting such private property.

D. Regardless of whether public presentations or exhibitions of such movies are “obscene” or constitute “pornography” within the meaning of the penal law or constitutional law, they are not constitutionally protected to an unlimited degree because, as in the present circumstances, they are thrust indiscriminately upon audiences of minors and unwilling adults and therefore constitute assaults upon individual privacy.

E. The visible presence of these offensive motion pictures can impair the value and enjoyment of public and private property in this city which is adjacent to such theaters.

F. Existing legal remedies are inadequate to correct this situation so as to prevent the exhibition of such movies from being indiscriminately forced upon unwilling and captive audiences of adults and children, so as to constitute an assault upon the individual privacy of such persons, and therefore the provisions of this chapter relating to the regulation of motion pictures shown at drive-in theaters are necessary to secure and promote the public health, morals and general welfare of persons in the city. (Ord. 77-3 § 1, 1977)

9.04.020 Legislative purpose and intent.

The city council declares that the purpose and intent of this chapter is to exercise the general police power in order to protect the enjoyment of public and private property, to protect the right of individual privacy, to preserve and protect property values, and to protect the morals of minors, all in the best interests of the public peace, safety, morals, welfare, convenience and good order of the city and its residents. This chapter is intended to regulate and restrict only the exhibition and presentation of X-rated movies or motion pictures depicting offensive nudity or sexually explicit acts so that same may only be viewed by those persons who desire to see such movies and have actually paid for and been admitted to the drive-in theater premises for such purpose, and to prevent the visibility of such motion pictures from public and private property outside the premises upon which the theater is located. (Ord. 77-3 § 2, 1977)

9.04.030 Definitions.

The following words and phrases shall be defined as follows in connection with the interpretation and construction of this chapter:

A. "Drive-in theater" means a place where motion pictures or movies are presented outdoors to an audience which may and is intended to view the motion picture while in their automobile or other motor vehicle.

B. "Nudity" means the showing with less than a fully opaque covering of the genitals, pubic hair, buttocks, natal cleft, perineum, or anus of the person, other than a child under the age of puberty, or any portion of the breast at or below the areola thereof of any female person, other than a child under the age of puberty, or the showing of covered male genitals in a discernibly aroused or turgid state.

C. "Offensive" means that the motion picture or movie in which the nudity or sexually explicit act appears or is shown, taken as a whole, appeals to the prurient interest and patently depicts or shows such nudity or sexually explicit act in a manner which, taken as a whole, lacks serious literary, artistic, political or scientific value.

D. "Screen" means any surface in a drive-in theater whereon a picture or other medium of expression is projected for the viewing of an audience.

E. "Sexually explicit acts" means acts or simulated acts of sexual intercourse, masturbation, oral copulation, anal or rectal intercourse, fellatio, cunnilingus, annilingus, sodomy, bestiality, direct physical stimulation, fondling or touching of uncovered or unclothed genitals or pubic regions of a male or female person, and flagellation or torture by or upon a person in the context of a sexual relationship or sexual stimulation.

F. "X-rated motion picture" means motion picture or movie which has received and had imposed upon it a rating or designation of "X" by the Motion Picture Association of America, Inc., or any similar successor organization; or which has had a rating or designation of "X" or "for adults only" imposed upon it by the producer, distributor or exhibitor of such motion picture or movie; or which is advertised by the exhibitor or operator of a theater showing such movie as being "X-rated," "for adults only" or any other designation or rating of a like nature. (Ord. 77-3 § 3, 1977)

9.04.040 Prohibition of certain motion pictures.

It is unlawful and is declared to be a public nuisance for any owner, operator, lessee, tenant, manager or any other person possessing or occupying a drive-in theater in the city to present, project, exhibit or show either an X-rated motion picture or a motion picture or movie which contains, depicts or portrays offensive nudity or offensive sexually explicit acts, if the screen upon which such motion picture or movie is projected is visible and can be viewed in whole or in part from any private residential real property (that is, which is zoned R-1, for single-family residences) or from any other private property or public property, including public streets and highways, within one thousand yards of the screen of said drive-in theater. (Ord. 77-3 § 4, 1977)

9.04.050 Exemptions and exclusions.

Nothing in this chapter shall be construed as limiting the right of an owner, operator, lessee, tenant, manager or other person possessing or occupying a drive-in theater in the city to show otherwise lawful presentations in such a manner as not to conflict with the provisions of this chapter. Specifically, this chapter shall not be construed or interpreted to apply to the following:

A. Motion pictures which have been submitted to the Motion Picture Association of America, Inc., and which have received a rating or designation of “G,” “PG” (formerly “GP”), or “R” by the Code and Rating Administration of that organization, and which have thus received and are entitled to exhibit the Seal of the Motion Picture Code of Self Regulation;

B. Motion pictures or movies in which the nudity or sexually explicit acts are not offensive, as defined hereinabove, but are innocent and nonerotic, such as, for example (and not by way of limitation), works of art or anthropological significance, scenes from a culture in which nudity is indigenous, or newsreel scenes of the opening of an art exhibit, or bathers on a beach, or the nude body of a war victim. (Ord. 77-3 § 5, 1977)

9.04.060 Penalty for violation.

A public nuisance maintained or existing in violation of this chapter may be enjoined, abated and prevented by action of the city attorney in the manner provided for the abatement of a public nuisance by the applicable laws of the state. (Ord. 77-3 § 6, 1977)

Chapter 9.06

REGULATION OF DISPLAY OF READING MATERIAL

Sections:

- 9.06.010 Purpose.**
- 9.06.020 Definitions.**
- 9.06.030 Display prohibited.**
- 9.06.040 Establishments with “Adults Only” areas.**
- 9.06.050 Opaque displays.**

9.06.010 Purpose.

A. The city council finds and declares that there exists in the city a tendency toward a display of adult magazines, books and videocassette tapes in liquor stores, grocery stores, drugstores and other retail outlets in such a manner that children, often of tender years, are exposed to videocassettes, book and magazine covers depicting explicit sexual activity and showing human genitals and pubic regions in a sexually explicit manner. The city council finds that such exposure establishes a tone in the community inconsistent with morality and good order and creates a public nuisance.

B. The council finds that it is in the best interest of public health, safety and welfare to restrict the display of reading material with sexually explicit covers and to adopt the regulations set out in this chapter so that the adverse impacts of such material on children and the community as a whole will be kept to a minimum. (Ord. 89-5 § 1 (part), 1989)

9.06.020 Definitions.

The following words and phrases used in this chapter shall be defined, as follows:

“Commercial establishment” means any place of business in which minors are permitted in the city.

“Explicit sexual depictions” means any picture, photograph, drawing, decoration, or other illustration depicting:

1. Stimulation of human genitals, or otherwise emphasizing the genitals;
2. Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sadomasochism or similar acts;
3. Fondling or other erotic touching of human genitals, pubic regions or female breasts.

“Person” means any individual, partnership, firm, association, corporation or other legal entity.

“Reading material” means any book, magazine, pamphlet, film, videocassette or newspaper offered for sale or rent in a commercial establishment. (Ord. 89-5 § 1 (part), 1989)

9.06.030 Display prohibited.

No person shall display reading material having covers with explicit sexual depictions in any commercial establishment in the city except as provided in this chapter. (Ord. 89-5 § 1 (part), 1989)

9.06.040 Establishments with “Adults Only” areas.

Reading material having covers with explicit sexual depictions may be displayed in a commercial establishment in an area set aside and clearly posted for adults only. “Adults Only” areas shall be visible from the cash register or sales center of the store. No items frequently purchased by children shall be located in the vicinity of the “Adults Only” area, and the material with sexually explicit depictions are not readily visible to patrons in the other areas of the store. Minors shall not be permitted to enter an “Adults Only” area. (Ord. 89-5 § 1 (part), 1989)

9.06.050 Opaque displays.

Reading materials having covers with explicit sexual depictions may be displayed in an area open to the general public in a commercial establishment only if the cover depictions are not visible. Opaque display units showing only the top two inches of magazine covers shall be deemed to comply with this section. (Ord. 89-5 § 1 (part), 1989)

Chapter 9.08

DOGS USED BY PUBLIC SAFETY DEPARTMENT

Sections:

9.08.010 Dogs used by public safety department; injury or interference prohibited.

9.08.010 Dogs used by public safety department; injury or interference prohibited.

It is unlawful for any person to injure, tease, torture, torment, beat, kick, strike, mutilate, disable or kill any dog used by the public safety department or any officer thereof in the performance of the functions or duties of such department, whether or not the dog is being so utilized at the time, or interfere or meddle with any such dog while being used in the performance of any such functions or duties. (Ord. 80-3 § 1, 1980)

Chapter 9.10

DISCHARGE OF FIREARMS

Sections:

9.10.010 Discharge of weapons prohibited in city.

9.10.010 Discharge of weapons prohibited in city.

It is unlawful for any person to fire or discharge any pistol, gun, rifle, firearm, bow, air gun, slingshot or other device whereby shot, bullet, or other dangerous missile is discharged or projected within the corporate limits of the city. (Ord. 96-25 § 1(20), 1996)

Chapter 9.12

DRINKING IN PUBLIC

Sections:

9.12.010 Drinking alcoholic beverages prohibited in designated public places.
9.12.020 Penalty for violation.

9.12.010 Drinking alcoholic beverages prohibited in designated public places.

No person shall drink any beer, wine or other alcoholic or intoxicating beverage on any public street, highway, alley, sidewalk or parking lot within the city. This section is not intended to make punishable any act or acts which are prohibited by any law of the state of California. (Ord. 80-5 § 1 (part), 1980)

9.12.020 Penalty for violation.

Any person who violates the provisions of this chapter shall be guilty of an infraction. (Ord. 80-5 § 1 (part), 1980)

Chapter 9.13

URINATION AND DEFECATION IN PUBLIC

Sections:

9.13.010 Urination and defecation in public is unlawful.

9.13.010 Urination and defecation in public is unlawful.

No person shall urinate or defecate in a public place or a place open to public view in the city of Marina, and incorporated in this chapter by this reference thereto. (Ord. 2005-03 § 1, 2005)

Chapter 9.14

CURFEW FOR MINORS

Sections:

9.14.010	Loitering during certain hours prohibited—Exceptions.
9.14.020	Parents permitting loitering during certain hours prohibited—
Exceptions.	

9.14.010 Loitering during certain hours prohibited—Exceptions.

It is unlawful for any minor under the age of eighteen years to loiter, idle, wander or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, boat landings or other public grounds, public places, public buildings or vacant lots, either on foot or in a vehicle, between the hours of eleven p.m. and five a.m. of the following day, Pacific Standard or Pacific Daylight Time; provided, however, that the provisions of this section shall not apply to a minor accompanied by his or her parent, guardian, or other adult person having the lawful care and custody of the minor, or where the minor is on an emergency errand or legitimate business directed by his parent, guardian, or other adult person having the lawful care and custody of the minor. (Ord. 96-25 § 1(21) (part), 1996)

9.14.020 Parents permitting loitering during certain hours prohibited—Exceptions.

It is unlawful for the parent, guardian, or other adult person having the care, custody or control of a minor under the age of eighteen years to permit such minor to loiter, idle or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, boat landings or other public grounds, public places, public buildings or vacant lots, either on foot or in a vehicle, between the hours of eleven p.m. and five a.m. of the following day; provided, however, that the provisions of this section shall not apply to a minor accompanied by his or her parent, guardian, or other adult person having the lawful care and custody of the minor, or where the minor is on an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the lawful care and custody of the minor. (Ord. 96-25 § 1(21) (part), 1996)

Chapter 9.24

NOISE REGULATIONS

Sections:

9.24.010	Declaration of policy.
9.24.020	Definition.
9.24.030	Prohibited generally.
9.24.040	Public nuisance declared.
9.24.050	Exemptions.
9.24.060	Violations.

9.24.010 Declaration of policy.

It is declared to be the policy of the city that the peace, health, comfort, safety and welfare of its citizens require protection from excessive, unnecessary or unusually loud noises and vibrations from any and all sources in the community. (Ord. 94-12 § 1 (part), 1994)

9.24.020 Definition.

The term “excessive, unnecessary or unusually loud noise” means a noise disturbance which, because of its volume level, duration or character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of Marina residents, businesses or education facilities. (Ord. 94-12 § 1 (part), 1994)

9.24.030 Prohibited generally.

It is unlawful for any person to knowingly make, continue, or cause to be made or continued, any excessive, unnecessary or unusually loud noise. In addition to those activities described in Section 9.24.040, a violation may be determined based upon but not limited to the following criteria:

- A. Citizen complaints;
- B. Volume, intensity and duration of the noise;
- C. Proximity of the noise to residential area;
- D. Nature and zoning of area where noise emanates;
- E. Whether the noise is recurrent, intermittent or constant;
- F. Time and day of the week noise occurs. (Ord. 94-12 § 1 (part), 1994)

9.24.040 Public nuisance declared.

The following specific acts, subject to the exemptions provided in Section 9.24.050, are declared to be violations of this chapter and public nuisances:

A. Using or operating out of doors, for any purpose, any loudspeaker, loudspeaker system, amplification device including a boom box, radio, amplifier, phonograph, stereo, compact disc or tape player, musical instrument or other device for the producing or reproducing of sound, between the hours of ten p.m. and seven a.m., or at any time when such loudspeaker or amplification or similar device described herein is operated in such a manner, whether indoors or outdoors, that it constitutes an excessive, unnecessary or unusually loud noise at a place two hundred feet distant or across a residential or commercial real property line;

B. Excessive, unnecessary or unusually loud yelling, shouting, talking, whistling or singing out of doors between the hours of ten p.m. and seven a.m. on any day;

C. Excessive, unnecessary or unusually loud noise emanating from vehicle radios or other sound device, whether the vehicle is on private or public property. The operation of any such radio or sound device in such a manner as to be plainly audible at a distance fifty feet from the vehicle in which it is located or to which it is connected shall be prima facie evidence of a violation of this section. It is expressly stated that this violation is in addition to any similar prohibition found in the California Vehicle Code related to sound amplification systems in vehicles being operated upon a highway;

D. Operation or use of any of the following, before seven a.m. or after seven p.m. daily, except Sundays and holidays when the prohibited time shall be before ten a.m. and after seven p.m. and when daylight savings time is in effect the hours of permitted operation shall be extended one hour to eight p.m. in such a manner as to create excessive, unnecessary or unusually loud noise: hammers, hand-powered saws, or similar implements; impact

wrenches or similar equipment powered by compressed air; tools or pieces of equipment powered by an internal combustion engine such as, but not limited to, chain saws, blowers, and lawn mowers; electrically powered tools or equipment such as, but not limited to, saws, drills, lathes or routers; portable power generators or pumps; or similar noise-producing implements. The above prohibitions are in addition to any similar prohibitions which are found in Section 15.04.070 relating to construction hours and noise related to activities requiring a building, grading, demolition or similar permit;

E. Excessive, unnecessary or unusually loud noise due to construction, demolition, excavation, erection, alteration or repair activity that disturbs the peace, comfort and tranquility of the occupants of residential property unless it is due to an emergency or properly authorized by the Marina department of public safety or public works department. (Ord. 94-12 § 1 (part), 1994)

9.24.050 Exemptions.

Excessive, unnecessary or unusually loud noise as used in this chapter does not include noise or sound generated by the following:

- A. Cries for emergency assistance and warning signals;
- B. Radios, sirens, horns and bells on police, fire, and other emergency response vehicles;
- C. Parades, rallies, and other special events for which a permit has been obtained from the city are exempted provided there is compliance with all conditions which have been noted in writing on the permit. Excessive, unnecessary or unusually loud noise produced as a result of noncompliance with any condition specified on the permit is not exempt from the requirements of this chapter;
- D. Refuse collection pursuant to city franchise;
- E. Activities on or in publicly owned property and facilities, or by public employees or city franchisees, while in the authorized discharge of their responsibilities, are exempt provided that such activities have been authorized by the owner of such property or facilities or its agent. (Ord. 94-12 § 1 (part), 1994)

9.24.060 Violations.

Any person, operator, driver, owner, agent or manager operating, ordering, directing or allowing the operation or maintenance of any device, object or machine, which produces excessive, unnecessary or unusually loud noise or who otherwise violates this chapter shall be deemed guilty of violating this code and shall be punished as provided by Sections 1.08.010 and 1.08.030. (Ord. 94-12 § 1 (part), 1994)

Title 10

VEHICLES AND TRAFFIC

Chapters:

10.04	Definitions
10.08	Traffic Administration
10.12	Enforcement and Obedience to Traffic Regulations
10.16	Traffic-Control Devices
10.20	Turning Movements
10.24	One-Way Streets and Alleys
10.28	Special Stops
10.32	Miscellaneous Driving Rules
10.36	Pedestrians
10.40	Stopping, Standing and Parking For Certain Purposes
10.42	Residential Parking Permit Program
10.44	Stopping, Standing and Parking Restrictions
10.48	Loading and Unloading
10.52	Commercial Vehicle Restrictions
10.56	Trains
10.60	Speed Limits
10.70	Visibility at Intersections

Chapter 10.04

DEFINITIONS

Sections:

10.04.010	Definitions generally.
10.04.020	Motor Vehicle Code definitions.
10.04.030	Coach.
10.04.040	Curb.
10.04.050	Divisional island.
10.04.060	Holidays.
10.04.070	Loading zone.
10.04.080	Official time standard.
10.04.090	Park.
10.04.100	Parkway.
10.04.110	Parking meter.
10.04.120	Passenger loading zone.
10.04.130	Pedestrian.
10.04.140	Public safety officer.
10.04.150	Stop.
10.04.160	Stop or stand.
10.04.170	Vehicle code.

10.04.010 Definitions generally.

The following words and phrases, when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter. (Ord. 79-15 § 10.04.010, 1979)

10.04.020 Motor Vehicle Code definitions.

Whenever any words or phrases used in this title are not defined in this chapter, but are defined in the Vehicle Code of the State of California, such definitions shall apply. (Ord. 79-15 § 10.04.020, 1979)

10.04.030 Coach.

“Coach” means motor bus, motor coach or passenger stage used as a common carrier of passengers. (Ord. 79-15 § 10.04.030, 1979)

10.04.040 Curb.

“Curb” means the lateral boundary of the roadway, whether such curb is marked by curbing construction, or not so marked; the word “curb” as herein used shall not include the line dividing the roadway of a street from parking strips in the center of a street, nor from tracks or rights-of-way of public utility companies. (Ord. 79-15 § 10.04.040, 1979)

10.04.050 Divisional island.

“Divisional island” means a raised island located in the roadway and separating opposing or conflicting streams of traffic. (Ord. 79-15 § 10.04.050, 1979)

10.04.060 Holidays.

Within the meaning of this title, holiday are the first day of January, the twelfth day of February, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the ninth day of September, the twelfth day of October, the eleventh day of November, the twenty-fifth day of December, and Thanksgiving Day. If the first day of January, twelfth day of February, twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, the twelfth day of October, the eleventh day of November or the twenty-fifth day of December falls upon a Sunday, the following Monday is a holiday. (Ord. 79-15 § 10.04.060, 1979)

10.04.070 Loading zone.

“Loading zone” means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials. (Ord. 79-15 § 10.04.070, 1979)

10.04.080 Official time standard.

Whenever certain hours are named in this title, they shall mean standard time or daylight saving time, whichever is in current use in this city. (Ord. 79-15 § 10.04.080, 1979)

10.04.090 Park.

“Park” means to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of passengers or material. (Ord. 79-15 § 10.04.090, 1979)

10.04.100 Parkway.

“Parkway” means that portion of a street other than a roadway or a sidewalk. (Ord. 79-15 § 10.04.100, 1979)

10.04.110 Parking meter.

“Parking meter” means a mechanical device installed within or upon the curb or sidewalk area, immediately adjacent to a parking space, for the purpose of controlling the period of time for occupancy of such parking meter space by any vehicle. (Ord. 79-15 § 10.04.110, 1979)

10.04.120 Passenger loading zone.

“Passenger loading zone” means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers. (Ord. 79-15 § 10.04.120, 1979)

10.04.130 Pedestrian.

“Pedestrian” means any person afoot. (Ord. 79-15 § 10.04.130, 1979)

10.04.140 Public safety officer.

“Public safety officer” means every officer of the public safety department of this city or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (Ord. 79-15 § 10.04.140, 1979)

10.04.150 Stop.

“Stop,” when required, means complete cessation of movement. (Ord. 79-15 § 10.04.150, 1979)

10.04.160 Stop or stand.

“Stop or stand,” when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a public safety officer or official traffic-control device. (Ord. 79-15 § 10.04.160, 1979)

10.04.170 Vehicle code.

“Vehicle code” means the Vehicle Code of the State of California. (Ord. 79-15 § 10.04.170, 1979)

Chapter 10.08**TRAFFIC ADMINISTRATION****Sections:**

- 10.08.010 Traffic division established.**
- 10.08.020 Duty of traffic division.**
- 10.08.030 Traffic accident studies.**
- 10.08.040 Traffic accident reports.**
- 10.08.050 Annual traffic safety report.**
- 10.08.060 City traffic engineer—Office established.**
- 10.08.070 City traffic engineer—Powers and duties.**
- 10.08.080 Traffic committee—Established.**
- 10.08.090 Duties of traffic committee.**

10.08.010 Traffic division established.

There is established in the public safety department of this city a traffic division to be under the control of a public safety officer appointed by and directly responsible to the director of public safety. (Ord. 79-15 § 10.08.010, 1979)

10.08.020 Duty of traffic division.

It shall be the duty of the traffic division, with such aid as may be rendered by other members of the public safety department, to enforce the street traffic regulations of this city and all of the state vehicle laws applicable to street traffic in this city, to make arrests for traffic violations, to investigate traffic accidents and to cooperate with the city traffic engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon said division by this title and the traffic ordinances of this city. (Ord. 79-15 § 10.08.020, 1979)

10.08.030 Traffic accident studies.

Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures. (Ord. 79-15 § 10.08.030, 1979)

10.08.040 Traffic accident reports.

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer. (Ord. 79-15 § 10.08.040, 1979)

10.08.050 Annual traffic safety report.

The traffic division shall annually prepare a traffic report which shall be filed with the city council. Such a report shall contain information on traffic matters in this city as follows:

A. The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;

B. The number of traffic accidents investigated and other pertinent data on the safety activities of the police; and

C. The plans and recommendations of the division for future traffic safety activities. (Ord. 79-15 § 10.08.050, 1979)

10.08.060 City traffic engineer—Office established.

The office of city traffic engineer is established. The city engineer shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties as provided in this title and in the traffic ordinances of this city. Whenever the city traffic engineer is required or authorized to place or maintain official traffic-control devices or signals, he may cause such devices or signals to be placed or maintained. (Ord. 79-15 § 10.08.060, 1979)

10.08.070 City traffic engineer—Powers and duties.

It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices and signals, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering and traffic investigations of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city. Whenever, by the provisions of this title, a power is granted to the city traffic engineer or a duty imposed upon him, the power may be exercised or the duty performed by his deputy or by a person authorized in writing by him. (Ord. 79-15 § 10.08.070, 1979)

10.08.080 Traffic committee—Established.

There is established an advisory traffic committee to serve without compensation, consisting of the city traffic engineer, the director of public safety or in his discretion as his representative the chief of the traffic division, and the planning director. (Ord. 79-15 § 10.08.080, 1979)

10.08.090 Duties of traffic committee.

It shall be the duty of the traffic committee to suggest the most practicable means for coordinating the activities of all officers and agencies of this city having authority with respect to the administration or enforcement of traffic regulations; to stimulate and assist in the preparation and publication of traffic reports; to receive complaints having to do with traffic matters; and to recommend to the city council ways and means for improving traffic conditions and the administration and enforcement of traffic regulations. (Ord. 79-15 § 10.08.090, 1979)

Chapter 10.12

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

Sections:

- 10.12.010 Authority of public safety department officials.**
- 10.12.020 Unauthorized persons shall not direct traffic.**
- 10.12.030 Obedience to public safety or authorized officers.**
- 10.12.040 Application to persons riding bicycles or animals.**
- 10.12.050 Interference with officers.**
- 10.12.060 Public employees.**
- 10.12.070 Exemption of certain vehicles.**
- 10.12.080 Report of damage to certain property.**
- 10.12.090 Removal of vehicles.**

10.12.010 Authority of public safety department officials.

Officers of the public safety department and such officers as are assigned by the director of public safety are authorized to direct all traffic by voice, hand, audible or other signal in conformance with traffic laws. (Ord. 79-15 § 10.12.010, 1979)

10.12.020 Unauthorized persons shall not direct traffic.

No person other than an officer of the public safety department, or a person authorized by the director of public safety, or a person authorized by law shall direct or attempt to direct traffic by voice, hand or other signal, except that persons may operate, when and as herein provided, any mechanical pushbutton signal erected by order of the city traffic engineer. (Ord. 79-15 § 10.12.020, 1979)

10.12.030 Obedience to public safety or authorized officers.

No person shall fail or refuse to comply with or to perform any act forbidden by any lawful order, signal, or direction of a traffic or public safety officer, or a person authorized by the public safety director by law. (Ord. 79-15 § 10.12.030, 1979)

10.12.040 Application to persons riding bicycles or animals.

Every person riding a bicycle or riding or driving an animal upon a highway or street has all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions which by their very nature can have no application. (Ord. 79-15 § 10.12.040, 1979)

10.12.050 Interference with officers.

No person shall interfere with or obstruct in any way any public safety officer or other officer or employee of this city in their enforcement of the provisions of this title. The removal, obliteration or concealment of any chalk mark or other distinguishing mark used by any public safety officer or other employee or officer of this city in connection with the enforcement of the parking regulations of this title shall, if done for the purpose of evading the provisions of this title, constitute such interference or obstruction. (Ord. 79-15 § 10.12.050, 1979)

10.12.060 Public employees.

The provisions of this title shall apply to the operator of any vehicle owned by or used in the service of the United States Government, this state, any county or city, and it shall be unlawful for any said operator to violate any of the provisions of this title except as otherwise permitted in this title or by the Vehicle Code. (Ord. 79-15 § 10.12.060, 1979)

10.12.070 Exemption of certain vehicles.

A. The provisions of this title regulating the operation, parking and standing of vehicles shall not apply to vehicles operated by the public safety department, any public ambulance or any public utility vehicle or any private ambulance, which public utility vehicle or private ambulance has qualified as an authorized emergency vehicle, when any vehicle mentioned in this section is operated in the manner specified by the Vehicle Code in response to an emergency call.

B. The foregoing exemptions shall not, however, relieve the operator of any such vehicle from obligation to exercise due care for the safety of others or the consequences of his wilful disregard of the safety of others.

C. The provisions of this title regulating the parking or standing of vehicles shall not apply to any vehicle of a city department or public utility while necessarily in use for construction or repair work or any vehicle owned or operated by the United States Post Office Department while in use for the collection, transportation or delivery of United States mail. (Ord. 79-15 § 10.12.070, 1979)

10.12.080 Report of damage to certain property.

A. The operator of a vehicle or the person in charge of any animal involved in any accident resulting in damage to any property publicly owned or owned by a public utility, including, but not limited to, any fire hydrant, parking meter, lighting post, telephone pole, electric light or power pole, or resulting in damage to any tree, traffic-control device or other property of a like nature located in or along any street, shall within twenty-four hours after such accident make a written report of such accident to the police department of this city.

B. Every such report shall state the time when and the place where the accident took place, the name and address of the person owning and of the person operating or in charge of such vehicle or animal, the license number of every such vehicle, and shall briefly describe the property damage in such accident.

C. The operator of any vehicle involved in an accident shall not be subject to the requirements or penalties of this section if and during the time he is physically incapable of making a report, but in such event he shall make a report as required in subsection A of this section within twenty-four hours after regaining ability to make such report. (Ord. 79-15 § 10.12.080, 1979)

10.12.090 Removal of vehicles.

Any regularly employed and salaried officer of the public safety department of this city may remove or cause to be removed:

A. Any vehicle that has been parked or left standing upon a street or highway for seventy-two or more consecutive hours;

B. Any vehicle which is parked or left standing upon a street or highway between the hours of seven a.m. and seven p.m. when such parking or standing is prohibited by ordinance or resolution of this city and signs are posted giving notice of such removal;

C. Any vehicle which is parked or left standing upon a street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or for the installation of underground utilities or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic or where the use of the street or highway or any portion thereof

is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided, that signs giving notice that such vehicle may be removed are erected or placed at least twenty-four hours prior to the removal. (Ord. 79-15 § 10.12.090, 1979)

Chapter 10.16

TRAFFIC-CONTROL DEVICES

Sections:

- 10.16.010 Authority to install traffic-control devices.**
- 10.16.020 Traffic-control signs required when.**
- 10.16.030 Obedience to traffic-control devices.**
- 10.16.040 Installation of traffic signals.**
- 10.16.050 Lane marking.**
- 10.16.060 Distinctive roadway markings.**
- 10.16.070 Removal, relocation or discontinuance of traffic-control devices.**
- 10.16.080 Hours of operation.**
- 10.16.090 Unauthorized painting of curbs.**

10.16.010 Authority to install traffic-control devices.

A. The city traffic engineer shall have the power and duty to place and maintain or cause to be placed and maintained official traffic-control devices when and as required to make effective the provisions of this title.

B. Whenever the vehicle code requires for the effectiveness of any provision thereof that traffic-control devices be installed to give notice to the public of the application of such law, the city traffic engineer is authorized to install or cause to be installed the necessary devices subject to any limitations or restrictions set forth in the law applicable thereto.

C. The city traffic engineer may also place and maintain or cause to place and maintain such additional traffic-control devices as he may deem necessary or proper to regulate traffic or to guide or warn traffic, but he shall make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such standards, limitations, and rules as may be set forth in this title or as may be determined by ordinance or resolution of the city council. (Ord. 79-15 § 10.16.010, 1979)

10.16.020 Traffic-control signs required when.

No provision of the vehicle code or of this title for which signs are required shall be enforced against an alleged violator unless appropriate legible signs are in place giving notice of such provisions of the traffic laws. (Ord. 79-15 § 10.16.020, 1979)

10.16.030 Obedience to traffic-control devices.

The operator of any vehicle or train shall obey the instructions of any official traffic-control device placed in accordance with this title unless otherwise directed by a public safety officer or other authorized person, subject to the exceptions granted the operator of an authorized emergency vehicle when responding to emergency calls. (Ord. 79-15 § 10.16.030, 1979)

10.16.040 Installation of traffic signals.

A. The city traffic engineer is directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.

B. The city traffic engineer shall ascertain and determine the locations where such signals are required by field investigation, traffic counts and other traffic information as may be pertinent and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the California Traffic Manual issued by the state Department of Transportation.

C. Whenever the city traffic engineer installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection street name signs clearly visible to traffic approaching from all directions, unless such street name signs have previously been placed and are maintained at any said intersection. (Ord. 79-15 § 10.16.040, 1979)

10.16.050 Lane marking.

The city traffic engineer is authorized to make centerlines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway. (Ord. 79-15 § 10.16.050, 1979)

10.16.060 Distinctive roadway markings.

The city traffic engineer is authorized to place and maintain distinctive roadway markings as described in the vehicle code on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such marking or signs and marking shall have the same effect as similar markings placed by the state Department of Transportation pursuant to provisions of the vehicle code. (Ord. 79-15 § 10.16.060, 1979)

10.16.070 Removal, relocation or discontinuance of traffic-control devices.

The city traffic engineer is authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by the vehicle code or this title whenever he determines in any particular case that the conditions which warranted or required the installation no longer exist or obtain. (Ord. 79-15 § 10.16.070, 1979)

10.16.080 Hours of operation.

The city traffic engineer shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this title. (Ord. 79-15 § 10.16.080, 1979)

10.16.090 Unauthorized painting of curbs.

No person, unless authorized by this city, shall paint any street or curb surface; provided, however, that this section shall not apply to the painting of numbers on a curb surface by any person who has complied with the provisions of any resolution or ordinance of this city pertaining thereto. (Ord. 79-15 § 10.16.090, 1979)

Chapter 10.20

TURNING MOVEMENTS

Sections:

- 10.20.010 Authority to place turning markers.**
- 10.20.020 Authority to place restricted turn signs.**
- 10.20.030 Signal controlled intersections—Right turns.**

10.20.010 Authority to place turning markers.

The city traffic engineer is authorized to place official traffic-control devices within or adjacent to intersections and indicating the course to be traveled by vehicles turning at such intersections, and the city traffic engineer is authorized to locate and indicate more than one lane of traffic from which drivers of vehicles may make right or left hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance. (Ord. 79-15 § 10.20.010, 1979)

10.20.020 Authority to place restricted turn signs.

The city traffic engineer is authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. (Ord. 79-15 § 10.20.020, 1979)

10.20.030 Signal controlled intersections—Right turns.

A. No driver of a vehicle shall make a right turn against a red or stop signal at any intersection which is signposted giving notice of such restriction as hereinafter provided in this section.

B. The city traffic engineer shall post appropriate signs giving effect to this section where he determines that the making of right turns against traffic signal “stop” indication would seriously interfere with the safe and orderly flow of traffic. (Ord. 79-15 § 10.20.030, 1979)

Chapter 10.24

ONE-WAY STREETS AND ALLEYS

Sections:

- 10.24.010 Signs for one-way streets and alleys.**

10.24.010 Signs for one-way streets and alleys.

Whenever any ordinance or resolution of this city designates any one-way street or alley, the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Ord. 79-15 § 10.24.010, 1979)

Chapter 10.28

SPECIAL STOPS

Sections:

- 10.28.010 Erection of stop signs.**
- 10.28.020 Stops at through streets or stop signs.**
- 10.28.030 Emerging from alley, driveway or building.**

10.28.010 Erection of stop signs.

Whenever any ordinance or resolution of this city designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one or more entrances thereto, or any railroad grade crossing at which vehicles are required to stop, the city traffic engineer shall erect and maintain stop signs as follows: A stop sign shall be erected on each and every street intersecting such through street or portion thereof so designated and at those entrances to other intersections where a stop is required and at any railroad grade crossing so designated; provided, however, stop signs shall not be erected or maintained at any entrance to an intersection when such entrance is controlled by an official traffic-control signal. Every such sign shall conform with, and shall be placed as provided in, the vehicle code. (Ord. 79-15 § 10.28.010, 1979)

10.28.020 Stops at through streets or stop signs.

A. Those streets and parts of streets established by resolution or ordinance of the council are declared to be through streets for the purposes of this section.

B. The provisions of this section shall also apply at one or more entrances to the intersections as such entrances and intersections are established by resolution or ordinance of the council.

C. The provisions of this section shall apply at those highway railway grade crossings as established by resolution or ordinance of the council. (Ord. 79-15 § 10.28.020, 1979)

10.28.030 Emerging from alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alley way or driveway. (Ord. 79-15 § 10.28.030, 1979)

Chapter 10.32

MISCELLANEOUS DRIVING RULES

Sections:

- 10.32.010 Driving through funeral procession or parade.**
- 10.32.020 Clinging to moving vehicle.**
- 10.32.030 Commercial vehicles using private driveways.**
- 10.32.040 Riding or driving on sidewalk.**
- 10.32.050 New pavement and markings.**
- 10.32.060 Obedience to barriers and signs.**
- 10.32.070 Obstructing intersections.**
- 10.32.080 Limited access.**
- 10.32.090 Restrictions on use of freeways.**

10.32.010 Driving through funeral procession or parade.

No operator of any vehicle shall drive between the vehicles comprising a funeral procession or a parade; provided, that such vehicles are in motion and are conspicuously so designated. The directing of all vehicles and traffic on any street over which such funeral procession or parade wishes to pass shall be subject to the orders of the public safety department. (Ord. 79-15 § 10.32.010, 1979)

10.32.020 Clinging to moving vehicle.

No person shall attach himself with his hands, or catch on or hold on with his hands or by other means to any moving vehicle or train for the purpose of receiving motive power therefrom. (Ord. 79-15 § 10.32.020, 1979)

10.32.030 Commercial vehicles using private driveways.

No person shall operate or drive a commercial vehicle in, on or across any private driveway approach or sidewalk area or the driveway itself without the consent of the owner or occupant of the property, if a sign or markings are in place indicating that the use of such driveway is prohibited. For the purpose of this section a "commercial vehicle" means a vehicle having a rated capacity in excess of one-half ton. (Ord. 79-15 § 10.32.030, 1979)

10.32.040 Riding or driving on sidewalk.

No person shall drive any vehicle, or ride, drive or lead any horse, mule, cow or similar animal, across, upon any sidewalk or clearly marked pathway or walkway intended for the use of pedestrians, or any parkway, which is defined for purposes of this chapter as that unpaved portion of a street right-of-way between the roadway curbline and the adjacent property line, excepting over any sidewalk adjacent to a freeway underpass and permanently constructed driveways and excepting, in the case of motor vehicles, when it is necessary for any temporary purpose to drive a loaded vehicle across a sidewalk; provided further, that in such latter instance the sidewalk area is substantially protected by wooden planks two inches thick, and written permission is previously obtained from the city traffic engineer. Such wooden planks shall not be permitted to remain upon such sidewalk area during the hours from six p.m. to six a.m. (Ord. 80-7 § 1, 1980)

10.32.050 New pavement and markings.

No person shall drive any vehicle over or across any newly made pavement or freshly painted marking in any street when a barrier sign, cone marker or other warning device is in place warning persons not to drive over or across such pavement or marking, or when any such device is in place indicating that the street or any portion thereof is closed. (Ord. 79-15 § 10.32.050, 1979)

10.32.060 Obedience to barriers and signs.

No person, public utility or department in the city shall erect or place any barrier or sign on any street unless of a type approved by the city traffic engineer, or disobey the instructions, remove, tamper with or destroy any barrier or sign lawfully placed on any street by any person, public utility or by any department of this city. (Ord. 79-15 § 10.32.060, 1979)

10.32.070 Obstructing intersections.

No operator of any vehicle shall enter any intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (Ord. 79-15 § 10.32.070, 1979)

10.32.080 Limited access.

No person shall drive a vehicle onto or from any limited access roadway except at such entrances and exits as are lawfully established. (Ord. 79-15 § 10.32.080, 1979)

10.32.090 Restrictions on use of freeways.

No person shall drive or operate any bicycle, motor-driven cycle, or any vehicle which is not drawn by a motor vehicle upon any street established as a freeway, as defined by the vehicle code, nor shall any pedestrian walk across or along any such street so designated and described except in space set aside for the use of pedestrians, provided official signs are in place giving notice of such restrictions. (Ord. 79-15 § 10.32.090, 1979)

Chapter 10.36**PEDESTRIANS****Sections:**

10.36.010 Traffic engineer to establish crosswalks.

10.36.020 Pedestrians must use crosswalks.

10.36.010 Traffic engineer to establish crosswalks.

A. The city traffic engineer shall establish, designate and maintain crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway as follows: Crosswalks shall be established and maintained at all intersections where the city traffic engineer determines that there is particular hazard to pedestrians crossing the roadway subject to the limitation contained in subsection B of this section.

B. Other than crosswalks at intersections, no crosswalk shall be established in any block which is less than four hundred feet in length, and such crosswalk shall be located as nearly as practicable at midblock.

C. The city traffic engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross except in the crosswalk so indicated. (Ord. 79-15 § 10.36.010, 1979)

10.36.020 Pedestrians must use crosswalks.

No pedestrian shall cross a street or roadway other than by a crosswalk where signs as provided for in subsection C of Section 10.36.010 are posted. (Ord. 79-15 § 10.36.020, 1979)

Chapter 10.40

STOPPING, STANDING AND PARKING—FOR CERTAIN PURPOSES

Sections:

- 10.40.010 Application of regulations.**
- 10.40.020 Stopping or standing in parkways prohibited.**
- 10.40.030 Maintenance of no stopping zones and no parking areas.**
- 10.40.040 No parking areas.**
- 10.40.050 Use of streets for vehicle storage.**
- 10.40.060 Parking for sale purposes.**
- 10.40.070 Repairing or greasing vehicles on streets.**
- 10.40.080 Washing or polishing vehicles.**
- 10.40.090 Parking adjacent to schools.**
- 10.40.100 Parking prohibited on narrow streets.**
- 10.40.110 Parking on grades.**
- 10.40.120 Unlawful parking—Peddlers or vendors.**
- 10.40.130 Emergency parking signs.**
- 10.40.140 Display of warning devices on commercial vehicles.**
- 10.40.150 Parking or camping prohibited.**
- 10.40.160 Private parking lots—Unauthorized parking unlawful.**
- 10.40.170 Private parking lots—Placement of signs by owners.**
- 10.40.180 Designation of handicapped parking spaces.**

10.40.010 Application of regulations.

A. The provisions of this title prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a public safety officer or official traffic-control device.

B. The provisions of this title imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the vehicle code or the ordinances of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times. (Ord. 79-15 § 10.40.010, 1979)

10.40.020 Stopping or standing in parkways prohibited.

No person shall stop, stand or park within any parkway. (Ord. 79-15 § 10.40.020, 1979)

10.40.030 Maintenance of no stopping zones and no parking areas.

The city traffic engineer is authorized to maintain, by appropriate signs or by paint upon the curb surface, all no stopping zones, no parking areas, and restricted parking areas, as defined and described in this title. When said curb markings or signs are in place no operator of any vehicle shall stop, stand or park such vehicle adjacent to any such legible curb marking or sign in violation of any of the provisions of this title. (Ord. 79-15 § 10.40.030, 1979)

10.40.040 No parking areas.

No operator of any vehicle shall stop, stand, park, or leave standing such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a public safety officer or other authorized officer, or traffic sign or signal:

- A. Within any divisional island unless authorized and clearly indicated with appropriate signs or markings;
- B. On either side of any street between the projected property lines of any public walk, public steps, street, or thoroughfare terminating at such street, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- C. In any area where the city traffic engineer determines that the parking or stopping of a vehicle would constitute a traffic hazard or would endanger life or property, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- D. In any area established by resolution or ordinance of the council as a no-parking area, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- E. Upon, along or across any railway track in such manner as to hinder, delay, or obstruct the movement of any car traveling upon such track;
- F. In any area where the parking or stopping of any vehicle would constitute a traffic hazard or would endanger life or property;
- G. On any street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or the installation of underground utilities, or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided, that signs giving notice of such no parking are erected or placed at least twenty-four hours prior to the effective time of such no parking;
- H. At any place within twenty feet of a point on the curb immediately opposite the midblock end of a safety zone, when such place is indicated by appropriate signs or by red paint upon the curb surface;
- I. At any place within twenty feet of a crosswalk at an intersection in any business district when such place is indicated by appropriate signs or by red paint upon the curb surface except that a bus may stop at a designated bus stop;
- J. Within twenty feet of the approach to any traffic signal, boulevard stop sign, or official electric flashing device. (Ord. 79-15 § 10.40.040, 1979)

10.40.050 Use of streets for vehicle storage.

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of seventy-two hours. (Ord. 79-15 § 10.40.050, 1979)

10.40.060 Parking for sale purposes.

No operator of any vehicle shall park said vehicle upon any street in this city for the principal purpose of advertising or displaying it for sale, unless authorized by resolution of the city council. (Ord. 79-15 § 10.40.060, 1979)

10.40.070 Repairing or greasing vehicles on public streets.

No person shall construct or cause to be constructed, repair or cause to be repaired, grease or cause to be greased, dismantle or cause to be dismantled any vehicle or any part thereof upon any public street in this city. Temporary emergency repairs may be made upon a public street. (Ord. 79-15 § 10.40.070, 1979)

10.40.080 Washing or polishing vehicles.

No person shall wash or cause to be washed or polish or cause to be polished any vehicle or any part thereof upon any public street in this city, when a charge is made for such service. (Ord. 79-15 § 10.40.080, 1979)

10.40.090 Parking adjacent to schools.

A. The city traffic engineer is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected prohibiting parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place. (Ord. 79-15 § 10.40.090, 1979)

10.40.100 Parking prohibited on narrow streets.

A. The city traffic engineer is authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed twenty feet, or upon one side of a street as indicated by such signs or markings when the width of the roadway does not exceed thirty feet.

B. When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking. (Ord. 79-15 § 10.40.100, 1979)

10.40.110 Parking on grades.

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three percent (within any business or residence district) without blocking the wheels of said vehicle by turning them against the curb or by other means. (Ord. 79-15 § 10.40.110, 1979)

10.40.120 Unlawful parking—Peddlers or vendors.

A. Except as otherwise provided in this section no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunchwagon or eating car or vehicle, on any portion of any street within this city except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.

B. No person shall park or stand on any street any lunchwagon, eating cart or vehicle, or pushcart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the city traffic engineer which shall designate the specific location in which such cart shall stand.

C. No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the city traffic engineer which shall designate the specific location where such vehicle may stand.

D. Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the city

traffic engineer upon the filing of the record of such conviction with such officer, and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation. (Ord. 79-15 § 10.40.120, 1979)

10.40.130 Emergency parking signs.

A. Whenever the city traffic engineer determines that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings, or functions, or for other reasons, the city traffic engineer shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the city traffic engineer shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the city traffic engineer shall cause such signs to be removed promptly thereafter.

B. When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions and provisions of such signs. (Ord. 79-15 § 10.40.130, 1979)

10.40.140 Display of warning devices on commercial vehicles.

Every motor truck having an unladen weight of four thousand pounds or more, and every truck tractor, irrespective of weight, when operated upon any street or highway during darkness shall be equipped with and carry at least two flares or two red lanterns or two warning lights or reflectors, which reflectors shall be of a type approved by the Department of California Highway Patrol. When any vehicle above mentioned or any trailer or semitrailer is disabled upon streets or highways outside of any business or residence district within this city and upon which street or highway there is insufficient street lighting to reveal a vehicle at a distance of two hundred feet during darkness, a warning signal of the character indicated above shall be immediately placed at a distance of approximately one hundred feet in advance of, and one hundred feet to the rear of, such disabled vehicle by the driver thereof. The continuous flashing of at least four approved Class A, Type I turn signal lamps, at least two toward the front and at least two toward the rear of the vehicle, shall be considered to meet the requirements of this section until the devices mentioned above can be placed in the required locations. The warning signals herein mentioned shall be displayed continuously during darkness while such vehicle remains disabled upon such street or highway. (Ord. 79-15 § 10.40.140, 1979)

10.40.150 Parking or camping prohibited.

No person shall stop, stand, park or leave stored any vehicle or camp in any vehicle of any type between the hours of one a.m. and six a.m. of any day of the week in areas designated by resolution of the city council and appropriate signs are emplaced by the city traffic engineer. (Ord. 91-8 § 1, 1991)

10.40.160 Private parking lots—Unauthorized parking unlawful.

Whenever a private parking lot is posted and signed in accordance with Section 10.40.170, it is unlawful for any person to stop, stand or park any motor vehicle in such parking lot without permission or authorization from the owner of such lot. For the purposes of this section, the term “owner” includes tenant, lessee, agent or other person having lawful control or possession of the premises. (Ord. 93-13 § 1 (part), 1993)

10.40.170 Private parking lots—Placement of signs by owners.

An owner of a premises on which motor vehicles may be parked may avail himself of the provisions of Section 10.40.160 by placing signs on such property, giving notice that only certain persons or class of persons may park on such property. Such signs shall be not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height and clearly state the parking restrictions of said premises. Such signs shall also clearly state that violators may be subject to the provisions of Section 10.40.160. (Ord. 93-13 § 1 (part), 1993)

10.40.180 Designation of handicapped parking spaces.

No person shall establish or otherwise designate a parking space on a city street for the exclusive use of vehicles displaying a handicap license plate or placard (“handicapped parking space”) except upon approval by the traffic committee pursuant to the following guidelines:

A. The applicant has submitted a written request for a handicapped parking space in front of or near the applicant’s primary residence accompanied by payment of annual permit fee to be determined pursuant to Chapter 3.24.

B. The applicant must submit proof that the Department of Motor Vehicles has issued a disabled person placard or license plate pursuant to Vehicle Code Section 22511.5.

C. There is no parking available, such as in the applicant’s driveway or garage, from which to gain access or egress from a vehicle equipped for the handicapped or there are other circumstances that warrant issuance of such a permit.

D. At least one member of the traffic committee has inspected the proposed site in order to make a recommendation for the approval or denial of the request.

E. Payment of a fee to be determined pursuant to Chapter 3.24 for painting the curb and street to designate the handicapped parking space. (Ord. 96-5 § 1, 1996; Ord. 96-2 § 1, 1996)

Chapter 10.42

RESIDENTIAL PARKING PERMIT PROGRAM

Sections:

10.42.010	Definitions.
10.42.020	Designation of parking district.
10.42.030	Designation process and criteria.
10.42.040	Issuance and display of permits.
10.42.050	Establishment of initial charge and annual fee.
10.42.060	Parking permits issued.
10.42.070	Guest permits.
10.42.080	Temporary parking permits.
10.42.090	Replacement of permits destroyed, lost or stolen.
10.42.100	Posting permit area.
10.42.110	Restrictions on parking permit.
10.42.120	Exemptions.
10.42.130	Revocation of permit.
10.42.140	Violations.
10.42.150	Penalty.

10.42.010 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as set out in this section unless it shall be apparent from the context that they have a different meaning:

“Commuter vehicle” means a motor vehicle owned or controlled by a person who is not a resident of a residential parking permit area and is parked in a residential parking permit area.

“Director” refers to the director of public works or his or her designee.

“Resident” means a person who lives in a dwelling unit fronting a residential parking permit area.

“Residential parking permit area” means a street segment between intersections, designated by resolution of the city council, wherein vehicles displaying a valid parking permit shall be exempt from parking restrictions established pursuant to the provisions of this chapter. All applicable California Vehicle Code and Marina Municipal Code sections shall be observed. (Ord. 99-02 § 1 (part), 1999)

10.42.020 Designation of parking district.

The city council of the city may designate, by resolution, upon the streets thereof, the residential parking districts and the director is authorized to establish parking restrictions. The resolution shall establish the streets and boundaries of such districts. (Ord. 99-02 § 1 (part), 1999)

10.42.030 Designation process and criteria.

A. Petition of Residents. The director is authorized to establish districts upon the following criteria:

1. Upon receipt of a written request for a permit parking district, the director shall create a petition with all the addresses of the affected properties. The petition shall be circulated by the requesting party to obtain the signatures, phone numbers and any other data requested by the director of the residents of the affected properties. A letter shall be sent to all the affected properties notifying the residents that a permit parking district is being considered and shall list the requester’s name and phone number. Upon receipt and verification of the petition signed by persons occupying dwelling units comprising not less than seventy-five percent of the developed frontage of the street proposed for designation, the director shall undertake such surveys or studies as are deemed necessary to determine whether a street should be designated as a residential parking district.

2. Findings of Need and Necessity. Each permit parking zone shall be designated only upon findings by the director that such zone: (1) is necessary to provide reasonably available and convenient parking for the benefit of the adjacent residents; (2) that the proposed zone is desirable to encourage the use of car pooling; (3) enhances or protects the quality of life in the area of the proposed zone threatened by litter, noise, traffic hazards, environmental pollution or devaluation of real property resulting from commuter vehicular traffic and parking; and (4) encourages commuter vehicles to park in designated off-street parking facilities. The director may recommend to the city council that the street be designated as a residential parking district. The proposed parking district shall consider surrounding streets that could be affected if the requested street becomes a permit parking district. If it is determined that the surrounding streets will be affected such streets shall be included as part of the proposed permit parking district. The residents of the streets proposed for addition to the district shall be notified and their responses counted and included in the calculations of subsection (A)(1) of this section.

B. Factors to Be Considered. In determining whether a street identified as eligible for designation as a residential parking area may be so designated, the director shall consider factors and criteria that include, but are not limited to, the following:

1. The extent to which the residents desire and need permit parking and their willingness to bear the administrative and all permit costs in connection therewith (Chapter 3.24, Section 3.24.040 item numbers 60.5 and 60.6);

2. The extent to which legal on-street parking spaces are not available for the use of residents and their guests because they are occupied by commuter vehicles;

3. Whether other regulatory measures would better solve the problem, e.g., parking restrictions and strict enforcement of such restrictions. (Ord. 99-02 § 1 (part), 1999)

10.42.040 Issuance and display of permits.

Parking permits for residential parking permit areas, valid for one calendar year, shall be issued by the director. Permits may be renewed annually upon reapplication in the manner required by the director. Each application or reapplication for a parking permit shall contain information sufficient to identify the applicant, his or her residence address or address of real property owned or leased within a residential permit parking area, the license number(s) of the motor vehicle(s) for which application is made, and such other information as may be deemed relevant by the director or chief of police, or his or her designee(s). Permittees shall display the residential parking permit as follows:

A. The permit may be hung on the rear view mirror so that it is plainly visible through the windshield from the exterior to the vehicle while the vehicle is parked; or

B. The permit may be placed upon the dashboard of the vehicle so that it is plainly visible through the windshield from the exterior of the vehicle; or

C. The permit may be attached to the left rear portion of the vehicle so as to be plainly visible from the street.

D. Motorcycles shall display the permit on the front fender or front fork. (Ord. 99-02 § 1 (part), 1999)

10.42.050 Establishment of initial charge and annual fee.

An initial charge shall be established for each dwelling unit with frontage within the designated street, and shall be based on the costs to establish the district. Such costs shall include, but are not limited to, installation of signs, curb markings and other devices to define the district. The initial charge shall be equal for each dwelling unit included in the district and shall be paid only one time for each such dwelling unit. The department of public works shall maintain a record of each unit and payment therefrom.

A permit fee shall be set by resolution of the city council for issuance of annual permits and renewal. The following shall require a permit fee;

A. Issuance of initial permit(s);

B. Renewal of an existing permit;

C. Obtaining an additional permit for an additional vehicle, nor to exceed four (4) resident permits per dwelling unit;

D. New resident of a dwelling unit for which the initial charge has been paid. The permit fee shall be established by resolution of the city council and shall be prorated in two six-month increments. The full fee shall be paid if a permit is requested any time within the first six months of the permit issuance period. A resident requesting a permit in the second six months of the permit issuance period shall pay one-half of the established fee. (Ord. 99-02 § 1 (part), 1999)

10.42.060 Parking permits issued.

Upon receipt of appropriate fees and application, the director shall issue one parking permit for each resident vehicle applied for, up to a maximum of four resident permits per dwelling unit. If the vehicle for which a permit has been issued has been sold or otherwise disposed of, and a substitute vehicle acquired, the permit may be used in the substitute vehicle provided the director is informed in writing of the change and given the necessary information regarding the substitute vehicle. If the existing permit is destroyed or is unusable for the new vehicle a new permit shall be purchased. (Ord. 99-02 § 1 (part), 1999)

10.42.070 Guest permits.

In addition to the regular resident permits issued for each dwelling unit, two guest permits will be issued to the permittee free of charge. These guest permits shall be valid for the same period as the annual permit and shall be reissued in the same manner. A minimum of one resident permit shall be purchased to obtain the guest permits. (Ord. 99-02 § 1 (part), 1999)

10.42.080 Temporary parking permits.

In addition to the regular resident permits and the guest permits, and upon receipt of appropriate fees and application, temporary parking permits may be issued for a one-time special event. After receiving a written request with at least ten working days advance notice, permits may be issued to the permittee if the permittee is on file as a current parking permit holder. All applicable California Vehicle Code and Marina Municipal Code sections shall be observed. (Ord. 99-02 § 1 (part), 1999)

10.42.090 Replacement of permits destroyed, lost or stolen.

Upon payment of a fee established by resolution of the city council, a residential parking permit or a guest permit that has been destroyed, lost or stolen may be replaced with a new permit. The destroyed, lost or stolen permit shall be considered void. Use of any such voided permit is prohibited. (Ord. 99-02 § 1 (part), 1999)

10.42.100 Posting permit area.

Upon adoption by the city council of a resolution designating a residential parking permit area, the department of public works shall cause appropriate signs to be erected, indicating prominently thereon the parking limitation(s), period(s) of the day for its application and the fact that motor vehicles with valid permits shall be exempt therefrom. (Ord. 99-02 § 1 (part), 1999)

10.42.110 Restrictions on parking permit.

Notwithstanding other provisions of this chapter, the following restrictions shall apply:

- A. A residential parking permit shall not guarantee or reserve to the holder thereof an on-street parking space in a designated residential parking permit area.
- B. All applicable California Vehicle Code sections and the Marina Municipal Code shall be observed. (Ord. 99-02 § 1 (part), 1999)

10.42.120 Exemptions.

The following vehicles shall be exempt from the parking restrictions imposed by this chapter:

- A. A motor vehicle owned by or operated under contract to a utility, whether privately or publicly owned, when used in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work in the designated residential parking permit area;
- B. A motor vehicle identified as owned by or operated under contract to a governmental agency and being used in the course of official government business;
- C. A commercial vehicle, private vehicle or trailer while loading or unloading property, or when such vehicle is parked in connection with or in aid of the performance of a service to or on real property in the residential parking permit area in which such commercial vehicle, private vehicle or trailer is parked;
- D. Any authorized emergency vehicle as defined by California Vehicle Code Section 165.

The curb parking area within the boundaries of any public facility shall be exempt from the provisions of this chapter. The director shall install signs indicating the limits of such areas. (Ord. 99-02 § 1 (part), 1999)

10.42.130 Revocation of permit.

The director may revoke a residential parking permit for one (1) year if a permittee has:

A. Falsely represented himself as eligible for a parking permit or furnished false information in an application for a parking permit;

B. Copied, reproduced or created a facsimile or counterfeit parking permit, or used, displayed or permitted use or display of a facsimile or counterfeit residential parking permit.

When a parking permit is to be revoked, the director or his or her designee, shall give the permittee fifteen days' notice of his or her intention to do so by mail, postage prepaid, addressed to the permittee at the address shown on the permit application. The permittee shall immediately surrender such permit to the director unless he or she files an appeal prior to the expiration of the fifteen-day period with the city manager for an administrative review. The city manager may confirm, overrule or modify the decision of the director to revoke such permit, and the decision of the city manager shall be final. (Ord. 99-02 § 1 (part), 1999)

10.42.140 Violations.

A. No vehicle shall be parked or stopped adjacent to any curb in a permit parking zone in violation of any posted or noticed prohibitions or restrictions, posted or noticed under the provisions of this chapter, unless such vehicle shall have prominently displayed on a designated location upon such vehicle, a permit indicating an exemption from such restriction or prohibition.

B. It is unlawful for any person to allow the use of, transfer, sell, rent or lease, or cause to be used, transferred, sold, rented or leased for or without any value or consideration any parking permit. Upon conviction of a violation of this subsection, all permit parking permits issued to or for the benefit of the dwelling unit for which the used, transferred, sold, rented or leased permit was authorized shall be void.

C. It is unlawful for any person to borrow, buy or otherwise acquire for value or use any permit parking permit, except as provided for in this section. (Ord. 99-02 § 1 (part), 1999)

10.42.150 Penalty.

Any person violating any of the provisions of this chapter shall be deemed to be guilty of an infraction, and upon conviction thereof under the provisions of this section shall be punished by (1) a fine of not more than twenty-five dollars for the first violation; (2) a fine of not more than fifty dollars for a second violation; and (3) a fine not exceeding one hundred dollars for each additional violation of the same section within one year. Each such person shall be guilty of a separate offense for each and every day during which any violation of any provision of this chapter is committed, continued, or permitted by such person, and shall be punished accordingly. (Ord. 99-02 § 1 (part), 1999)

Chapter 10.44

STOPPING, STANDING AND PARKING—RESTRICTIONS

Sections:

- 10.44.010 Twenty-four-minute parking.**
- 10.44.020 Forty-minute parking.**
- 10.44.030 One-hour parking.**
- 10.44.040 Two-hour parking.**
- 10.44.042 Four-hour parking.**

- 10.44.050 Parking parallel on one-way streets.**
- 10.44.060 Diagonal parking.**
- 10.44.070 Parking space markings.**
- 10.44.080 No stopping zones.**

10.44.010 Twenty-four-minute parking.

Green curb marking shall mean no standing or parking for a period of time longer than twenty-four minutes at any time between nine a.m. and six p.m. on any day except Sundays and holidays. When authorized signs, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle adjacent to any such legible curb marking or sign or parking meter in violation thereof. (Ord. 79-15 § 10.44.010, 1979)

10.44.020 Forty-minute parking.

When authorized signs, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle between the hours of nine a.m. and six p.m. of any day except Sundays and holidays, for a period of time longer than forty minutes. (Ord. 79-15 § 10.44.020, 1979)

10.44.030 One-hour parking.

When authorized signs, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle between the hours of nine a.m. and six p.m. of any day except Sundays and holidays for a period of time longer than one hour. (Ord. 79-15 § 10.44.030, 1979)

10.44.040 Two-hour parking.

When authorized signs, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle between the hours of nine a.m. and six p.m. of any day except Sundays and holidays for a period of time longer than two hours. (Ord. 79-15 § 10.44.040, 1979)

10.44.042 Four-hour parking.

When authorized signed, parking meters or curb markings have been determined by the city traffic engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park said vehicle for a period of time longer than four hours. (Ord. 2001-09 § 1, 2001)

10.44.050 Parking parallel on one-way streets.

A. Subject to other and more restrictive limitations, a vehicle may be stopped or parked within eighteen inches of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing.

B. In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are in place permitting such standing or parking.

C. The city traffic engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street or when standing or parking may be permitted upon the left-hand side of any one-way roadway of a highway having two or more separate roadways and shall erect signs giving notice thereof.

D. The requirement of parallel parking imposed by this section shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case such vehicle may be backed up to the curb; provided, that such vehicle does not extend beyond the centerline of the street and does not block traffic thereby. (Ord. 79-15 § 10.44.040, 1979)

10.44.060 Diagonal parking.

On any of the streets or portions of streets established by resolution of the council as diagonal parking zones, when signs or pavement markings are in place indicating such diagonal parking, it is unlawful for the operator of any vehicle to park said vehicle except:

A. At the angle to the curb indicated by signs or pavement markings allotting space to parked vehicles and entirely within the limits of said allotted space;

B. With the front wheel nearest the curb within six inches of said curb.

The provisions of this section shall not apply when such vehicle is actually engaged in the process of loading or unloading passengers, freight or goods, in which event the provisions applicable in Section 10.44.050 of this chapter shall be complied with. (Ord. 79-15 § 10.44.060, 1979)

10.44.070 Parking space markings.

The city traffic engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbs where authorized parking is permitted.

When such parking space markings are placed on the highway, subject to other and more restrictive limitations, no vehicle shall be stopped, left standing or parked other than within a single space unless the size or shape of such vehicle makes compliance impossible. (Ord. 79-15 § 10.44.070, 1979)

10.44.080 No stopping zones.

The city traffic engineer shall designate established no stopping zones by placing and maintaining appropriate signs indicating that stopping of vehicles is prohibited and indicating the hours and day when stopping is prohibited. During the hours and on the days designated on the signs, it is unlawful for the operator of any vehicle to stop said vehicle on any of the streets or parts of streets established by resolution of the council as no stopping zones. (Ord. 79-15 § 10.44.080, 1979)

Chapter 10.48

LOADING AND UNLOADING

Sections:

- 10.48.010 Authority to establish loading zones.**
- 10.48.020 Curb markings to indicate no stopping and parking regulations.**
- 10.48.030 Effect of permission to load or unload.**
- 10.48.040 Standing for loading or unloading only.**
- 10.48.050 Standing in passenger loading zone.**
- 10.48.060 Standing in alleys.**
- 10.48.070 Bus zones.**

10.48.010 Authority to establish loading zones.

A. The city traffic engineer is authorized to determine and to mark loading zones and passenger loading zones as follows:

1. At any place in any business district;
2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.

B. In no event shall more than one-half of the total curb length in any block be reserved for loading zone purposes.

C. Loading zones shall be indicated by yellow paint upon the top of all curbs within such zones.

D. Passenger loading zones shall be indicated by white paint upon the top of all curbs in said zones. (Ord. 79-15 § 10.48.010, 1979)

10.48.020 Curb markings to indicate no stopping and parking regulations.

The city traffic engineer is authorized, subject to the provisions and limitations of this title, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and said curb markings shall have the meanings as herein set forth:

A. Red means no stopping, standing or parking at any time except as permitted by the vehicle code, and except that a bus may stop in a red zone marked or signed as a bus zone.

B. Yellow means no stopping, standing or parking at any time between seven a.m. and six p.m. of any day except Sundays and holidays for any purpose other than the loading or unloading of passengers or materials; provided, that the loading or unloading of passengers shall not consume more than three minutes nor the loading or unloading of materials more than twenty minutes.

C. White means no stopping, standing or parking for any purpose other than loading or unloading of passengers, or for the purpose of depositing mail in an adjacent mail box, which shall not exceed three minutes and such restrictions shall apply between seven a.m. and six p.m. of any day except Sundays and holidays and except as follows:

1. When such zone is in front of a hotel or in front of a mailbox the restrictions shall apply at all times;
2. When such zone is in front of a theater the restrictions shall apply at all times except when such theater is closed.

D. When the city traffic engineer as authorized under this title has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section. (Ord. 79-15 § 10.48.020, 1979)

10.48.030 Effect of permission to load or unload.

A. Permission herein granted to stop or stand a vehicle for purposes of loading or unloading of materials shall apply only to commercial vehicles and shall not extend beyond the time necessary therefor, and in no event for more than twenty minutes.

B. The loading or unloading of materials shall apply only to commercial deliveries, also the delivery or pickup of express and parcel post packages and United States mail.

C. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage but shall not extend beyond the time necessary therefor and in no event for more than three minutes.

D. Within the total time limits above specified the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading but without permitting abuse of the privileges hereby granted. (Ord. 79-15 § 10.48.030, 1979)

10.48.040 Standing for loading or unloading only.

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.48.030. (Ord. 79-15 § 10.48.040, 1979)

10.48.050 Standing in passenger loading zone.

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.48.030. (Ord. 79-15 § 10.48.050, 1979)

10.48.060 Standing in alleys.

No person shall stop, stand or park a vehicle in any alley for any purpose other than the loading or unloading of persons or materials. (Ord. 79-15 § 10.48.060, 1979)

10.48.070 Bus zones.

A. The city traffic engineer is authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers and to determine the location thereof.

B. Bus zones shall normally be established on the far side of an intersection. (Ord. 79-15 § 10.48.070, 1979)

Chapter 10.52

COMMERCIAL VEHICLE RESTRICTIONS

Sections:

10.52.010 Street prohibitions.

10.52.020 Commercial vehicle parking—Prohibited on public property.

10.52.030 Parking permits.

10.52.040 Designation of commercial parking areas.

10.52.050 Signs authorized.

10.52.010 Street prohibitions.

A. Whenever any resolution or ordinance of this city designates and describes any street or portion thereof as a street the use of which is prohibited by any commercial vehicle, the city traffic engineer shall erect and maintain appropriate signs on those streets affected by such ordinance.

B. Those streets and parts of streets established by resolution of the council are declared to be streets, the use of which is prohibited by any commercial vehicle. The provisions of this section shall not apply to passenger buses under the jurisdiction of the Public Utilities Commission. (Ord. 79-15 § 10.52.010, 1979)

10.52.020 Commercial vehicle parking—Prohibited on public property.

No registered owner shall leave, park or allow to be parked any commercial vehicle, as defined in Vehicle Code Section 260, or transport trailer having a manufacturer's gross vehicle weight rating of ten thousand pounds or more, upon any street, alley, right-of-way or publicly owned lot in the city except as follows:

A. When making pickups or deliveries of goods, wares and merchandise from or to any building or structure or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure for which a building permit has been obtained;

B. When such parking is permitted by virtue of signs posted in such area which signs contain substantially the following language: "Commercial Vehicle Parking Permitted";

C. When a permit has been issued pursuant to Section 10.52.030. (Ord. 97-6 § 1, 1997)

10.52.030 Parking permits.

Notwithstanding the provisions of Section 10.52.020, any person wishing to park a restricted commercial vehicle owned by him on the street immediately in front of his own residence may do so after first obtaining an annual permit for such use from the director of public safety after receiving an application therefor, accompanied by an annual nonrefundable fee as established by resolution of the city council to defray in part of cost of investigation, inspection and enforcement of this title, and upon determining:

A. That the parking of the vehicle in question in the area specified at the applicant's residence shall not constitute a safety hazard for other persons using said street; and

B. That all adjacent neighbors of the applicant, residing on the same street as applicant and within three hundred feet of the proposed parking area in front of said applicant's residence, do not object to the issuance of such permit for a one year period and have so indicated by signing a statement to that effect on a form provided by the department of public safety. (Ord. 79-15 § 10.52.030, 1979)

10.52.040 Designation of commercial parking areas.

The city council by resolution may designate such areas as it deems appropriate where commercial vehicles may be parked on public streets, alleys, rights-of way or publicly owned lots such designation to be effective upon the director of public works posting the signs as described in Section 10.52.20B as are appropriate. (Ord. 97-6 § 2, 1997)

10.52.050 Signs authorized.

Signs shall be conspicuously posted and maintained at all street entrances to the city in at least one and one-half inch high letters containing the following language: "Commercial vehicle and transport trailer parking prohibited on streets of Marina except as posted." (Ord. 97-6 § 3, 1997)

Chapter 10.56

TRAINS

Sections:

10.56.010 Railway gates.

10.56.020 Trains not to block crossings.

10.56.010 Railway gates.

No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed. (Ord. 79-15 § 10.56.010, 1979)

10.56.020 Trains not to block crossings.

No person shall cause or permit any railway train or railway cars or similar vehicle on rails to stop or stand or to be operated in such a manner as to prevent the use of any street for the purposes of travel for a period of time longer than ten minutes, except that this provision shall not apply to railway trains, cars or similar vehicles on rails while blocking or obstructing a crossing because of an accident which requires the operator of the train, car or similar vehicle on rails to stop at or near the scene of the accident. (Ord. 79-15 § 10.56.020, 1979)

Chapter 10.60

SPEED LIMITS

Sections:

10.60.010 Speed limits established.

10.60.020 Public works department to erect signs.

10.60.010 Speed limits established.

Pursuant to the provisions of the California Vehicle Code, the city council determines that on the streets listed below a speed greater than twenty-five miles per hour would facilitate the orderly movement of vehicular traffic and that the speeds indicated would be reasonable and safe. The council declares that the prima facie speed limits on those streets shall be as follows:

A. Reservation Road, as follows:

1. Thirty-five miles per hour from Dunes Drive to five hundred feet east of Crescent Avenue.

B. Del Monte Boulevard, as follows: thirty-five miles per hour from six hundred feet south of Reindollar Avenue to the northern city limit on said street.

C. The prima facie speed limit on Cardoza Avenue from Reservation Road to the end thereof, which is approximately six hundred feet north of Lakewood Drive, shall be twenty-five miles per hour.

D. The prima facie speed limit on Carmel Avenue from California Avenue to Bostick Avenue shall be fifteen miles per hour when children are present. (Ord. 98-7 § 5, 1998; Ord. 91-5 § 1 (part), 1991; Ord. 89-11 § 2, 1989)

10.60.020 Public works department to erect signs.

The public works department shall erect and maintain appropriate signs along the above streets to give notice of the requirements of this section. (Ord. 91-5 § 1 (part), 1991; Ord. 89-11 § 2, 1989)

Chapter 10.70

VISIBILITY AT INTERSECTIONS

Sections:

- 10.70.010 Area of unrestricted visibility.**
- 10.70.020 No structure, etc., in specified area.**
- 10.70.030 Exceptions.**

10.70.010 Area of unrestricted visibility.

The following described area at the intersection of any two public streets is declared to be an area of unrestricted visibility: that area which has a minimum height of two and one-half feet above the adjacent curb, which area lies between the intersecting street right-of-way lines twenty-five feet from the point of their intersection or the intersection of the prolongation of such right-of-way lines. As used herein, the term “intersection” shall include the corner area of any turn of approximately a right angle by a single public street. (Ord. 95-1 § 1 (part), 1995; Ord. 94-10 § 1 (part), 1994; Ord. 84-8 § 1 (part), 1984)

10.70.020 No structure, etc., in specified area.

No structure, fence, hedge, landscaping, sign, sign structure, advertising matter, storage area, merchandise display area or other visual obstruction shall be located in such area of unrestricted visibility, except as provided by Section 10.70.030 of this chapter. (Ord. 95-1 § 1 (part), 1995; Ord. 94-10 § 1 (part), 1994; Ord. 84-8 § 1 (part), 1984)

10.70.030 Exceptions.

The following described visual obstructions are exempted from the limitations described in Section 10.70.020 of this chapter and may be placed in such area of unrestricted visibility in the following circumstances:

- A. Visual obstruction does not have an aggregate horizontal cross-section in excess of one and one-half feet.
- B. Visual obstruction is located at the intersection of two public streets where one or both of said streets are controlled by a stop sign or a traffic light.
- C. Visual obstruction is a building which is located in accordance with the setback or yard requirements of Title 17 of this code or in accordance with a variance granted pursuant to Chapter 17.46 of said title.
- D. Visual obstruction is approved by the city engineer following review and recommendation by the traffic committee. Any aggrieved person may, within ten calendar days of the city engineer’s action, appeal in writing the decision of the city engineer to the city council. (Ord. 95-1 § 1 (part), 1995; Ord. 94-10 § 1 (part), 1994; Ord. 84-8 § 1 (part), 1984)

Title 11

(Reserved)

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

- 12.12 City Parks and Playgrounds**
- 12.16 Street Improvement Reimbursement Fees**
- 12.20 Excavations and Encroachments**
- 12.24 Bicycles and Skateboards**
- 12.25 Skate Park Rules and Regulations**
- 12.28 Graffiti**

Chapter 12.12

CITY PARKS AND PLAYGROUNDS

Sections:

- 12.12.010 Hours.**
- 12.12.020 Motorized vehicles prohibited.**
- 12.12.030 Animals.**
- 12.12.040 Bicycles.**
- 12.12.050 Permits.**

12.12.010 Hours.

It is unlawful for any person to use or be present upon any city park grounds or playgrounds during the period of time between one hour after sunset and sunrise (current local time); provided, however, that this section shall not apply to any person who has obtained the prior authorization or permit of the parks and recreation director. (Ord. 82-1 § 1 (part), 1982)

12.12.020 Motorized vehicles prohibited.

It is unlawful for any person to drive a motorized vehicle in or upon any city park grounds or playgrounds; provided, however, that this section shall not apply to any person who has obtained the prior authorization or permit of the parks and recreation director. (Ord. 82-1 § 1 (part), 1982)

12.12.030 Animals.

It is unlawful for any person to bring any animal, other than a dog on a leash or a cat, in or upon any city park, or to bring any animal in or upon any playground, including schoolyards when such areas are under the control of the city parks and recreation department. The parks and recreation director shall post or cause to be posted signs at or near the entrances to the above-mentioned areas giving notice of this provision. (Ord. 90-3 § 2, 1990)

12.12.040 Bicycles.

It is unlawful for any person to drive or ride a bicycle in or upon any city park grounds or playgrounds other than on designated pathways. (Ord. 82-1 § 1 (part), 1982)

12.12.050 Permits.

A. It is unlawful for any organized group to use any park, playground or recreation area without authorization or permit issued by the city manager or his or her designee.

B. For the purpose of this section an “organized group” shall include any team, league or group consisting of six or more individuals who participate together in recreation, sport or similar activity two or more times in a thirty-day period.

C. Permit Procedure.

1. Application for said authorization or permit shall be on a form provided by the city manager or his or her designee accompanied by the fee established by the city manager pursuant to Chapter 3.24.

2. The city manager or designee shall issue a permit hereunder if it is found that:

a. The proposed activity is consistent with the recreational needs of the community;

- b. The proposed activity will not unreasonably interfere with or detract from the general public enjoyment of the park or the surrounding neighborhood. In case of a conflict in requests or schedules, preference shall be given to Marina-based youth organizations to the extent possible;
 - c. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
 - d. The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - e. The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;
 - f. The facilities desired have not been reserved for other use at the day and hour required in the application.
3. Exemptions. No permit shall be required for city employees utilizing or participating in city-sponsored wellness program activities or for volunteer firefighters and public safety reserve officers when exercising or practicing for traditional fire muster or police or fire Olympic events; provided, however, that such activities shall be coordinated so as not to interfere with previously scheduled organized group activities at a park, playground or recreation area.
4. Appeal. Within ten days after receipt of an application, the city manager or designee shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within thirty days to the city council, which shall consider the application under the standards set forth in subdivision 2 of this subsection and sustain or overrule the city manager's or designee's decision within thirty days. The decision of the city council shall be final.
5. Effect of Permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.
6. Liability of Permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever resulting from the use allowed by such permit.
7. Subject to Conditions. Any such permit shall be issued subject to such conditions as the city manager or designee deems appropriate including but not limited to the following:
- a. Proof of insurance;
 - b. Indemnification of the city;
 - c. Damage deposit;
 - d. Security requirements;
 - e. No alcoholic beverages including beer;
 - f. Requirement that all participants are aware of the conditions of the permit and all park rules and regulations.
8. Revocation. The city manager or designee shall have the authority to revoke a permit upon finding a violation of any rule or ordinance or condition, that the facts leading to the findings in subdivision 2 of this subsection are no longer present or upon any other good cause shown. Upon such revocation, the permit shall no longer be valid and all members of the organized group must immediately cease use of the facility.
- D. The parks and recreation director shall post or cause to be posted signs at conspicuous places at all parks, playgrounds and recreation areas giving notice of the provisions of this section. (Ord. 94-14 § 1, 1994)

Chapter 12.16

STREET IMPROVEMENT REIMBURSEMENT FEES

Sections:

- 12.16.010 Purpose and intent.**
- 12.16.020 Street improvement reimbursement fee.**
- 12.16.030 Exception—No fee required.**
- 12.16.040 Determination of fee amount.**
- 12.16.050 Street improvement fund.**
- 12.16.060 Notice of liability for fee.**
- 12.16.070 Public improvement obligations.**

12.16.010 Purpose and intent.

As new land development and construction takes place in the city, additional traffic is generated in the vicinity that contributes to the degradation of traffic safety and mobility. Conversely, the construction of new and the improvement of existing streets can provide for increased traffic safety and mobility. The city council has determined that said street construction and improvements must be provided for in a timely manner, in the interests of the safety and welfare of the citizens of Marina, and that real property that is newly developed or constructed upon shall pay its fair share of said street improvement costs. Since new development most often does not occur in a timely manner so as to insure the construction of street improvements which provide the most safe and efficient traffic circulation pattern for the city, the purpose and intent of this chapter is to permit the city to construct street improvements as reasonably necessary in advance of new development which will be served thereby, and to thereafter recover the cost of said improvements from said new developments and land construction as they occur. The requirements and fees set forth herein are enacted pursuant to constitutional and statutory authority including, but not limited to, the municipal police power, the Subdivision Map Act (Government Code Section 66410 et seq.) and Chapter 15.36 of this code. (Ord. 82-3 § 1 (part), 1982)

12.16.020 Street improvement reimbursement fee.

If any streets have been previously constructed or improved by or on behalf of the city (since the date of its incorporation) adjacent to any land upon which new development or construction is proposed, then prior to the issuance of a building permit the owner or developer of such land, except as provided for in Section 12.16.030, shall pay a street improvement reimbursement fee to reimburse the city for that owner's or developer's share of the costs; as determined by Section 12.16.040, incurred by the city, directly or indirectly, in constructing said street improvements, including, but not limited to, paving, curbs, gutters, sidewalks, and storm drainage control facilities and streetlights. The costs for which the city is to be reimbursed shall include all construction, design and construction engineering costs and, if the construction or development is likely to contribute to the degradation of traffic flow and safety, the cost of land acquisition. The city engineer shall determine if streets shall be considered to be adjacent to new development or construction and the degree, if any, said development or construction is likely to contribute to the degradation of traffic flow and safety. (Ord. 96-25 § 1(22), 1996: Ord. 82-3 § 1 (part), 1982)

12.16.030 Exception—No fee required.

No street improvement reimbursement fee shall be required in any case where the valuation of the proposed new construction, as determined by the building director, pursuant to guidelines set forth in the Uniform Building Code, does not exceed the sum of ten thousand dollars as adjusted by dividing said sum by the February 1982 Building Cost Index of 2200, as published in the "Engineering News Record," and then multiplying same by the latest building cost index published at the time a building permit is issued. (Ord. 82-3 § 1 (part), 1982)

12.16.040 Determination of fee amount.

The street improvement reimbursement fee shall be that amount that equals the costs incurred by the city, divided by the project length, multiplied by the front footage of the adjacent proposed new development, and adjusted, by an amount equal to the change in the construction cost index published in the "Engineering News Record," to the current value at the time of issuance of the building permit; or stated otherwise as the following formula:

$$F = C \times \frac{A}{L} \times \frac{P}{B}$$

where

F = Street improvement reimbursement fee

C = Total cost of the street improvements incurred by the city

L = Project length (total front footages adjacent to the street improvements)

A = Front footage of the new development adjacent to the street improvements

B = Construction cost index as published by the "Engineering News Record" at the time of completion of the street improvements

P = Construction cost index at the time of issuance of the building permit
(Ord. 82-3 § 1 (part), 1982)

12.16.050 Street improvement fund.

The street improvement reimbursement fee paid by the land owner or developer prior to the issuance of a building permit, as provided for in Section 12.16.020, shall be deposited into a special city-wide street improvement fund. (Ord. 82-3 § 1 (part), 1982)

12.16.060 Notice of liability for fee.

A written notice, sent by certified mail, shall be sent to the current owners, as shown on the latest Monterey County assessor's roll prior to the date of written notice, of any parcel of real property that may be subject to a reimbursement fee pursuant hereto, indicating the possible liability for said fee and advising the owners that they should inform any prospective purchasers of their property of the potential fee liability hereunder. The failure of any owners to so notify purchasers of their property of the fee liability under this chapter shall not invalidate the obligation of the property owner provided for herein, but shall be a matter to be resolved separately between the buyer and seller of the property. (Ord. 86-5 § 1, 1986)

12.16.070 Public improvement obligations.

Payment of the fee provided for in this chapter shall not relieve any land owner or developer from the obligation to provide necessary public improvements pursuant to Chapter 15.36 of this code. (Ord. 82-3 § 1 (part), 1982)

Chapter 12.20

EXCAVATIONS AND ENCROACHMENTS

Sections:

- 12.20.010 Definitions.**
- 12.20.020 Permit—Required for designated acts.**
- 12.20.030 Permit—Late issuance fee.**
- 12.20.040 Permit—Blanket.**
- 12.20.050 Permit—Not required for designated acts.**
- 12.20.060 Exemptions.**
- 12.20.070 Permit—Special terms and conditions.**
- 12.20.080 Supervision of work.**
- 12.20.090 Duties of permittees.**
- 12.20.100 Construction requirements.**
- 12.20.110 Bond.**
- 12.20.120 Insurance.**
- 12.20.130 Emergency excavations.**
- 12.20.140 Permit—Application.**
- 12.20.150 Permit revocation—Interference with county highway improvement.**
- 12.20.160 Permit revocation—Removal of encroachments.**
- 12.20.170 Penalty for violation of Sections 12.20.020 and 12.20.070.**

12.20.010 Definitions.

A. As used in this chapter, unless otherwise apparent from the context:

1. Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural and the plural the singular.
2. “County highway” includes all or any part of the entire width of right-of-way of any road, street, lane, alley, way or place, maintained by the county and open to the use of the public for purposes of travel, whether or not such entire width is actually used for highway purposes, and whether or not it has been accepted into the county road system by resolution of the county board of supervisors. It also includes bridges, culverts, curbs, drains, ditches, and all works incidental to county highway construction, improvement, and maintenance.
3. “Encroachment” includes any structure or object of any kind or character placed, without the authority of law.
4. “Person” means any individual, firm, partnership, association, corporation, organization, or business trust. It also includes any city, county, state, public corporation, public district, and the United States.
5. “Road commissioner” means the road commissioner of the county.
6. “Shall” is mandatory, and “may” is permissive.

B. Section headings, when contained in this chapter, shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section. (Ord. 76-5 § 1 (part), 1976)

12.20.020 Permit—Required for designated acts.

A. When satisfied of an applicant’s right or necessity, the road commissioner may issue to him a written permit, which shall not be transferable, authorizing him to do any of the following acts:

1. Make an opening or excavation for any purpose in any county highway;

2. Place, change or renew an encroachment;
3. Construct, grade, or place any driveway within a county highway; but no driveway shall be located within any portion of the normal curve returns of any intersection;
4. Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any county highway.

B. Any person who does any of the acts specified in this section, without the authority of such a permit, is guilty of a misdemeanor. (Ord. 76-5 § 1 (part), 1976)

12.20.030 Permit—Late issuance fee.

Any person who, having violated any of the provisions of Section 12.20.020, thereafter applies for a permit pursuant to this chapter to do the act which constituted such violation shall pay a late issuance fee, in addition to the regular required fee, in such amount as may be fixed by resolution of the board of supervisors of the county. (Ord. 76-5 § 1 (part), 1976)

12.20.040 Permit—Blanket.

A. The road commissioner may issue to any electric, telephone or telegraph public utility holding a valid franchise a blanket permit which shall authorize all of the following, and which shall be valid until revoked:

1. Installation of aerial service wires necessary to provide service to the public utility's customer;
2. Construction of minor pole extensions, not to exceed five poles, necessary to provide service to the public utility's customers;
3. Placing aerial wire or cable, together with anchors and guys, on existing poles or on new poles placed pursuant to subdivision 2, above;
4. Normal maintenance, repairs and replacement of all types of utility facilities, except where excavation within a county highway, other than for pole and anchor installations, would be involved.

B. Such a blanket permit may be revoked by the road commissioner for good cause. (Ord. 76-5 § 1 (part), 1976)

12.20.050 Permit—Not required for designated acts.

A. When so placed or done as not to constitute a traffic hazard nor interfere with normal highway maintenance, the following things are authorized in a county highway without a permit:

1. Rural mail boxes of a type approved by the Postmaster, with or without a sign attached thereto, or to the mail box support, designating only the name and address in letters and figures not exceeding four inches in height, of the person served by such mailbox;
2. Signs erected by public agencies and public utilities when reasonably required to designate the location of a public facility, or a public utility facility, or to promote public safety or other public purpose;
3. Historical markers, signs, or monuments, the erection of which has been first approved by the board of supervisors of the county;
4. Planting in a parkway area behind a curb or flow line, when so maintained as not to hinder or impede pedestrian traffic;
5. Planting of crops when such crops are separated from the maintained portion of the highway by a fence for which a permit has been issued under the ordinance codified in this chapter.

B. The road commissioner may, in the manner provided in Section 12.20.160, require and enforce the removal of any of the things authorized by subsection A of this section, when, in his opinion, any of said things are so placed or done as to constitute a traffic hazard, or to interfere with normal highway maintenance, or otherwise to violate any of the conditions under which said things are authorized. (Ord. 76-5 § 1 (part), 1976)

12.20.060 Exemptions.

This chapter shall not apply to:

- A. Any officer or employee of the county in the discharge of his official duties;
- B. Any person performing construction work under contract with the county, or with the state, for work upon a county highway. (Ord. 76-5 § 1 (part), 1976)

12.20.070 Permit—Special terms and conditions.

A. Any permit issued under the provisions of this chapter may provide such terms and conditions as to the duration of the permitted encroachment and the location and manner and time in which any permit work is to be done as the road commissioner finds necessary for the protection of the county highways and the safety of the traveling public.

B. Work performed under a permit involving an excavation or fill or roadway or driveway surfacing shall be maintained by the permittee for at least six months after completion, or for such longer period, up to one year after completion, as the road commissioner may specify. (Ord. 76-5 § 1 (part), 1976)

12.20.080 Supervision of work.

The road commissioner may, but is not required to, supervise any work done under any permit issued under the provisions of this chapter, in which event the permittee may be required to pay the reasonable cost of such supervision to the county, but no cost of supervision shall be charged by the road commissioner to any public agency. (Ord. 76-5 § 1 (part), 1976)

12.20.090 Duties of permittees.

A. Every permittee shall:

1. Notify the road commissioner at least forty-eight hours, exclusive of Saturdays, Sundays and legal holidays, before starting any permit work;
2. Keep his permit, or a copy thereof, at the site of the permit work at all times when he is actually engaged in work thereat, and exhibit it to the road commissioner, or his representative, or any peace officer, upon demand;
3. Promptly remove all refuse, debris, equipment and excess material from the site of the permit work upon its completion, and leave the premises in as presentable a condition as before the work started;
4. Place and maintain suitable warning lights, signs, barriers, devices or flagmen, which shall be of the types specified pursuant to Section 21400 of the California Vehicle Code;
5. Deliver to the road commissioner, upon his demand, after the completion of any permit work, a plan or drawing showing locations and details of permitted encroachments and connections, if any, to existing structures where such encroachments and connections differ substantially from any plats and diagrams submitted with the application for a permit;
6. In all cases where he has disturbed the existing surface of a county highway, replace, repair or restore such highway in accordance with the terms of his permit. In case his permit contains no such terms, then he shall do such replacing, repairing or restoring at his own expense promptly upon completion of his permit work, in a good and workmanlike manner as directed by the applicable provisions of this chapter, to as good condition as before the permit work started; provided, however, that if the surface which was disturbed was a bituminous-surfaced roadway, such surface shall be replaced, repaired or restored with not less than one and one-half inches, compacted, in thickness, of asphaltic concrete surfacing, over a minimum of six inches, compacted, in depth, of aggregate base material of a type approved by the road commissioner;
7. Comply with all of the terms and conditions of his permit;

8. Comply with all construction standards and methods specified in this chapter;

9. Store, place or deposit no material within five feet from the edge of the pavement or traveled way or within the shoulder line, where the shoulders are wider than five feet, of any county highway, without the prior approval of the road commissioner;

10. Diligently pursue the permit work in such a way as not to cause an unreasonable interference or inconvenience to the traveling public.

B. The road commissioner may revoke any permit issued pursuant to this chapter whenever he finds that the permittee has violated any of the provisions of subsection A of this section. (Ord. 96-25 § 1(23), 1996; Ord. 76-5 § 1 (part), 1976)

12.20.100 Construction requirements.

Unless the permit provides otherwise:

A. All permit work shall conform to such of the following specifications as may be designated by the permit:

1. The Standard Specifications of the Department of Public Works of the state of California;
2. The Special Provisions for Encroachment Work, on file in the office of the road commissioner.

B. No tunneling, ponding or jetting shall be done.

C. With the exception of television cables laid in the highway pavement, no underground conduit, pipe, structure, or device shall be installed closer than two feet from the finished grade of any portion of the highway cross section.

D. Whenever, in the opinion of the road commissioner, an open excavation for a facility crossing a county highway transversely would unduly restrict the public use of such highway, such facility shall be jacked or otherwise forced beneath the highway improvements without disturbing the surface of the highway, and in no case shall the excavation for jacking devices be closer than five feet from the edge of any highway improvement, or lie within a prism formed by one-to-one slopes from said improvement to the bottom of the excavation. (Ord. 76-5 § 1 (part), 1976)

12.20.110 Bond.

A. Before granting a permit under any provision of this chapter, the road commissioner may require the applicant to file with him a satisfactory bond, payable to the county of Monterey, in such amount as the road commissioner deems sufficient, conditioned on the proper completion of the permit work in compliance with the provisions of this chapter. In lieu of a bond, the road commissioner may accept a cash deposit, conditioned as in the case of a bond. When this chapter, or the terms of any permit issued under it, requires that the permittee guarantee and maintain the permit work for a period of time after the completion of such work, such bond shall be deemed to be and remain in effect for such period of time. When a cash deposit has been accepted by the road commissioner, in lieu of a bond, it, or such part of it as the road commissioner may deem sufficient, shall be held as security for the performance of such guarantee and maintenance for such period of time.

B. Except as otherwise provided in this section, such a bond shall not be required of any public agency which is authorized by law to establish or maintain any works or facilities in, under or over any public highway, nor shall the application of any such public agency for a permit be denied. Every such applicant is entitled as a matter of right to a permit, but is otherwise subject to the provisions of this chapter and to all reasonable conditions and provisions made by the road commissioner in any such permit.

C. The road commissioner may require of any such public agency applicant a bond in a sum not to exceed twenty thousand dollars, if such applicant has in fact prior to such application failed to comply with the provisions of this chapter or with all of the provisions of a previous permit. (Ord. 76-5 § 1 (part), 1976)

12.20.120 Insurance.

If, in the opinion of the road commissioner, the work proposed in any permit application entails any undue risk of injury, death or damage to any member of the public, he shall, prior to issuing such permit, require the applicant to file with him satisfactory evidence that the applicant is insured against all such risks, with such limits of coverage as the road commissioner may direct. This section shall not apply to any public agency authorized by law to establish or maintain any works or facilities in, under or over any public highway, nor to any public utility holding a valid franchise. (Ord. 76-5 § 1 (part), 1976)

12.20.130 Emergency excavations.

A. This chapter shall not be construed to prohibit any act for which a permit is required when the performance of such act is reasonably necessary for the preservation of life or property in an emergency. In all such cases, however, the person performing such act shall apply for a permit therefor at the earliest practicable time thereafter, in any event not later than the next succeeding day during which the office of the road commissioner is open.

B. Any person who violates any of the provisions of this section is guilty of a misdemeanor. (Ord. 76-5 § 1 (part), 1976)

12.20.140 Permit—Application.

Application for a permit pursuant to this chapter shall be:

A. Made in writing to the road commissioner, in such form as he may prescribe, and shall, in addition to such other information as he may reasonably require to secure the purposes of this chapter, set forth the name, address and principal place of business of the applicant, and, in detail, the exact location, dimensions and purpose of the proposed act or thing;

B. Signed by the applicant;

C. Accompanied by such plats or diagrams as the road commissioner may require to secure the purposes of this chapter;

D. Accompanied by evidence satisfactory to the road commissioner that all necessary permits from other public agencies have been or will be obtained by the applicant;

E. Accompanied by evidence satisfactory to the road commissioner that all necessary permission from abutting, or other, property owners has been obtained by the applicant;

F. Accompanied by the required fees, in such amount as may be fixed by resolution of the board of supervisors of the county. (Ord. 76-5 § 1 (part), 1976)

12.20.150 Permit revocation—Interference with county highway improvement.

A. Every permit issued pursuant to this chapter is issued subject to the right of the county, to be exercised through the road commissioner, to revoke the same whenever any contemplated governmental use of a county highway, including the improvement, reconstruction, or repair thereof, necessitates the removal or relocation of any encroachment authorized by such permit. When the road commissioner orders revocation in such cases, the permittee is required to remove such encroachment at his own expense.

B. The duty to remove or relocate any encroachment under this section shall not run in favor of the state in the event that the highway involved becomes a state freeway. (Ord. 76-5 § 1 (part), 1976)

12.20.160 Permit revocation—Removal of encroachments.

When, pursuant to this chapter, the road commissioner determine that any permit should be revoked, any encroachment which was authorized thereby shall thereupon be deemed to be one without the authority of law, and the road commissioner may require and enforce its removal by giving the notice and taking the action specified in those sections of Chapter 6, Division 2, of the Streets and Highways Code of the state of California which deal with encroachments. (Ord. 76-5 § 1 (part), 1976)

12.20.170 Penalty for violation of Sections 12.20.020 and 12.20.070.

Every offense declared to be a misdemeanor by Sections 12.20.020 and 12.20.070 is punishable by imprisonment in the city jail not exceeding six months, or by fine not exceeding five hundred dollars, or by both. (Ord. 76-5 § 1 (part), 1976)

Chapter 12.24

BICYCLES AND SKATEBOARDS

Sections:

- 12.24.010 Purpose.**
- 12.24.020 Definitions.**
- 12.24.030 Prohibitions.**
- 12.24.040 Designation of areas of private property.**
- 12.24.050 Exemptions.**

12.24.010 Purpose.

The city council finds the operation of bicycles, skateboards and similar nonmotorized vehicles upon certain public property and upon private property used for public purposes to be hazardous to pedestrians, motorists and the riders of the above-listed vehicles. (Ord. 87-8 § 1 (part), 1987)

12.24.020 Definitions.

As used in this chapter the following words and phrases shall have the meanings ascribed to them in this section:

“Motorized skateboard” means the same as a skateboard in all respects except that it is designed to be or can be self-propelled by motorized power.

“Private roads and parking lots” means those privately owned and maintained roads and parking lots which are generally open to the public for purposes of vehicular traffic to serve commercial establishments.

“Skateboard” means a vehicle, device or conveyance with any number of wheels, with a riding surface of any design, and specifically includes roller skates, upon which a person may place one or more feet, and which is designed to be or can be propelled by a human, and which is not classified as a bicycle. (Ord. 87-8 § 1 (part), 1987)

12.24.030 Prohibitions.

A. In any area designated by resolution of the city council, it is unlawful to ride a bicycle or to ride or propel a skateboard or other similar nonmotorized vehicle on any sidewalk, street, park, shopping center, private road or parking lot or other place open to the public.

B. It is unlawful, while riding any bicycle, skateboard or roller skates for any person to attach the same or himself to any moving vehicle upon any roadway in the city or within any area designated in subsection A of this section, and no person driving any vehicle shall permit same to be done.

C. It is unlawful for any person, while riding a bicycle or skateboard upon a sidewalk or other public place, to fail to yield the right-of-way to any pedestrian. (Ord. 87-8 § 1 (part), 1987)

12.24.040 Designation of areas of private property.

The provisions of this section shall not apply to areas or private property until the following have occurred:

A. The owner or operator has requested the city council to so designate the area for applicability.

B. The owner or operator of each commercial establishment has caused to be posted in a conspicuous place, a notice made of or painted upon solid, permanent material, not less than seventeen by twenty-two inches in size, or larger than twenty-four by thirty inches, with lettering not less than one inch in height to the effect that riding bicycles and/or skateboards (as applicable) is prohibited. (Ord. 87-8 § 1 (part), 1987)

12.24.050 Exemptions.

This chapter shall not apply to the following:

A. Wheelchairs and other similar vehicles for the transportation of the handicapped, baby carriages and strollers for transportation of young persons, and handcarts and other similar vehicles used for the delivery of personal property or used in construction are excluded from this prohibition.

B. Any person who has obtained an authorization or a permit from the parks and recreation director or director of public safety. (Ord. 87-8 § 1 (part), 1987)

Chapter 12.25

SKATE PARK RULES AND REGULATION

Sections:

12.25.010	Hours.
12.25.020	Definitions.
12.25.030	Vehicles prohibited.
12.25.040	Vehicles allowed.
12.25.050	Skate park rules.
12.25.060	Unsupervised skating venue—Wavier of liability.
12.25.070	Permits.

12.25.010 Hours.

It is unlawful for any person to use or be present upon the skate park between one hour after sunset and nine a.m. (current local time); provided, however, that this section shall not apply to any person who has obtained the prior authorization or permit from the city manager or his or her designee. (Ord. 2004-07 § 1 (part), 2004)

12.25.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Bicycle” means a vehicle with two wheels in tandem, propelled by pedals and having handlebars for steering and a saddle-like seat.

“In-line skates/roller blades” means a form of skate with skate wheels mounted to the bottom of each boot one in front of the other running down the center of the boot.

“Roller skates” means a form of skate with four wheels affixed to the bottom of each boot with a wheel situated at the outer four corners of each boot.

“Scooter” means a vehicle that typically has one front and one rear wheel with a low footboard between, is steered by a handlebar, and is propelled by pushing one foot against the ground while resting the other on the footboard.

“Skateboard” means a device for riding upon with an oblong rigid material mounted on four skate wheels.

“Unicycle” means a one-wheeled vehicle usually pedal driven.

(Ord. 2004-07 § 1 (part), 2004)

12.25.030 Vehicles prohibited.

It is unlawful for any person to use any bicycle, tricycle, unicycle, scooter, motorized bicycle, motorized unicycle, motorized tricycle, motorized skateboard, motorized scooter or any vehicle not listed in Section 12.25.040 within the confines of the skating area of the skate park. (Ord. 2004-07 § 1 (part), 2004)

12.25.040 Vehicles allowed.

All vehicles classified as skateboards, roller blades/in-line skates and skates that are propelled by human power and meet the definitions as prescribed in Section 12.25.020 of the Marina Municipal Code are allowable for usage in the skate park. (Ord. 2004-07 § 1 (part), 2004)

12.25.050 Skate park rules.

It is unlawful for any person within the skate park facility, to include parking areas and those areas not specifically designed for skating, to be in violation of the following rules of conduct and such persons shall be subject to expulsion from the park and or criminal prosecution pursuant to the Marina Municipal Code or the state of California Penal Code:

1. Skaters under eight years of age shall be accompanied by an adult at least eighteen years of age;
2. All skaters shall wear a helmet, knee pads and elbow pads at all times when skating. All safety equipment shall be in good repair and fit the skater properly. Use of nonfitting, worn out or unsafe equipment will disqualify the person from skating;
3. All skateboards, in-line skates and skates must be in good working order and safe for operation. Use of unsafe equipment will disqualify the person from skating;
4. Graffiti, damage and defacing city property is prohibited. Such activity may result in park closure, expulsion from the facility of the offender(s) and prosecution of the responsible pursuant to the Marina Municipal Code or the California Penal Code;
5. Use of amplified music is prohibited unless by permit issued by the Marina director of public safety, recreation and community services (“Director”) or his or her designee;
6. Use of profanity and or gestures or verbiage that would elicit a violent response is prohibited;
7. All scooters, bicycles, motorized bicycles or any other motorized vehicle is prohibited in the facility;
8. Food and drink is prohibited on the skating surface;
9. Glass containers are also prohibited in the skate park facility;
10. Smoking or alcoholic beverages are prohibited anywhere at the skate park;
11. No additional skating obstacles or materials may be brought into the skate park;

12. All skaters must wear shirts while on the skate park property;
 13. Organized events must be approved via use permit issued by the director of public safety or his or her designee;
 14. Any activity that constitutes dangerous or reckless behavior that has the potential of injuring another skater is prohibited;
 15. Animals are prohibited inside the skate park facility.
- (Ord. 2004-07 § 1 (part), 2004)

12.25.060 Unsupervised skating venue—Wavier of liability.

The city of Marina Skate Park is an unsupervised skating venue. The director of public safety, recreation and community services shall cause to be posted a sign stating “Skateboarding and skating are hazardous recreational activities. Use of this facility may result in minor or major injuries that could result in death. Any use of this facility is at your own risk. The City of Marina does not assume any responsibility for injuries. All skaters shall wear a helmet, knee pads and elbow pads that are in good working order and fit the skater properly.” (Ord. 2004-07 § 1 (part), 2004)

12.25.070 Permits.

A. It is unlawful for any organized group to use the skate park without authorization or permit issued by the Marina director of public safety, recreation and community services (“Director”) or his or her designee.

B. For purpose of this section an “organized group” shall include any team, league, club or group consisting of six or more individuals who participate together in recreation, sport or similar activity two or more times in a thirty-day period or for groups holding tournaments, meets or any other organized competition.

C. Permit Procedure.

1. Application for said authorization or permit shall be on a form provided by the director or his or her designee accompanied by the fee established by the city manager pursuant to Chapter 3.24.

2. The director or designee may issue a permit hereunder if it is found that:

a. The proposed activity is consistent with the recreational needs of the community;

b. The proposed activity will not unreasonably interfere with or detract from the general public enjoyment of the park or the surrounding neighborhood. In case of a conflict in requests or schedules, preference shall be given to Marina-based youth organizations to the extent possible;

c. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

d. The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

e. The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city;

f. The facilities have not been reserved for other use at the day and hour required in the application.

3. Exemptions. No permit shall be required for city sponsored events.

4. Appeal. Within ten days after receipt of an application, the director or designee shall apprise an applicant in writing of his or her reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within thirty days to the city council, which shall consider the application under the standards set forth in subsection (C)(2) of this section and sustain or overrule the director’s or designee’s decision within thirty days. The decision of the city council shall be final.

5. Effect of Permit. A permittee shall be bound by all skate park and city park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.

6. Liability of Permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever the resulting from the use of the allowed by such permit.

7. Subject to Conditions. Any such permit shall be issued subject to such conditions as the director or designee deems appropriate, including but not limited to the following:

- a. Proof of insurance;
- b. Indemnification of the city;
- c. Damage deposit;
- d. Security requirements;
- e. No alcoholic beverages including beer;
- f. Requirement that all participants are aware of the conditions of the permit and all park rules and regulations.

8. Revocation. The director or designee shall have the authority to revoke a permit upon finding a violation of any rule or ordinance or condition, that the facts leading to the findings in subsection (C)(2) of this section are no longer present or upon any other good cause shown. Upon such revocation, the permit shall no longer be valid and all members of the organized group must immediately cease use of the facility.

D. The director of public safety, recreation and community services shall post or cause to be posted signs at conspicuous places at the skate park giving notice of the provisions of this section. (Ord. 2004-07 § 1 (part), 2004)

Chapter 12.28

GRAFFITI

Sections:

12.28.010	Purpose.
12.28.020	Graffiti declared a public nuisance.
12.28.030	Graffiti defined.
12.28.040	Graffiti prohibited.
12.28.050	Graffiti prevention.
12.28.060	Removal of graffiti.
12.28.070	Objections to removal of graffiti by city.
12.28.080	Unoccupied property and utility structures.
12.28.090	Abatement process after an objection.
12.28.100	Abatement procedures and costs—No objection filed.
12.28.110	Violations—Penalties.

12.28.010 Purpose.

The purpose of this chapter is to provide regulations designed to prevent and control the spread of graffiti in the city and to provide a program for removal of graffiti from walls and structures on both public and private property in a timely manner. The city council adopts this chapter pursuant to Government Code Section 53069.3 which authorizes cities to use public funds to remove graffiti from public and private property. (Ord. 94-8 § 1 (part), 1994)

12.28.020 Graffiti declared a public nuisance.

A. Graffiti on public or private property is a blighting factor which both depreciates the value of the property which has been the target of such vandalism and also depreciates the value of adjacent and surrounding properties. In so doing, graffiti has a negative impact upon the entire community.

B. Further, the existence of graffiti tends to encourage other acts of malicious vandalism and may breed community discontent leading to other forms of criminal activity. The council finds and determines the graffiti is obnoxious and a public nuisance and that unless it is removed expeditiously from public and private property, it tends to remain. Other properties then become the target of graffiti with the result that entire neighborhoods are affected and the entire community depreciates in value and becomes a less desirable place to live. (Ord. 94-8 § 1 (part), 1994)

12.28.030 Graffiti defined.

As used in this chapter, "graffiti" means any unauthorized form of painting, scratching, writing or inscription, regardless of the content or nature of the material used, which is placed upon any private or public structure, fixture, sign or sidewalk in any location where it can be viewed from any public street, walkway, building, park or facility, or upon any public structure, fixture, sign or sidewalk, and which is without the authorization of the owner or the other person in control of the property. (Ord. 94-8 § 1 (part), 1994)

12.28.040 Graffiti prohibited.

A. It is unlawful for any person to apply graffiti on any public or privately owned buildings, fixtures or structures or vehicles located on public or privately owned real property within the city.

B. It is unlawful for the owner or manager or person in control of a lot or parcel to (1) permit graffiti to remain upon a structure upon such lot or parcel of land, or (2) maintain any structure affixed to such lot or parcel of land with graffiti on such structure for a period in excess of those prescribed in this chapter. (Ord. 94-8 § 1 (part), 1994)

12.28.050 Graffiti prevention.

A. It is unlawful for any person to sell or give to any individual under the age of eighteen years who is not accompanied by a responsible adult any aerosol container of paint or other liquid substance capable of defacing property.

B. Any person engaged in the retail sale of aerosol containers of paint and liquid substances capable of defacing property shall display at the location of such retail sales a sign clearly visible and legible to employees and customers which states as follows:

It is unlawful for any person to sell or give any individual under the age of 18 years, who is not accompanied by a responsible adult, any aerosol container of paint or other liquid substance capable of defacing property.

C. It is unlawful for any individual under the age of eighteen years, who is in a public place or upon private property without the consent of the owner or tenant thereof, to possess an aerosol container of paint or other liquid substance capable of defacing property. (Ord. 94-8 § 1 (part), 1994)

12.28.060 Removal of graffiti.

A. Whenever graffiti is located on public or privately owned structures or fixtures, or on public or privately owned real property within the city, which is open to view from any public or private property, the city manager, or his designee, is authorized to provide for the removal of the graffiti in accordance with state law and this chapter.

B. Graffiti found on property owned by a public entity other than the city may be removed after securing consent from the public agency having jurisdiction over the structure or real property on which the graffiti is located.

C. Prior to removal of graffiti from private property, written notice shall be personally delivered to and posted on the property. The notice shall include the following:

1. That the graffiti exists and that, within five calendar days the owner or occupant must abate the graffiti or the city will enter the property and abate the graffiti by cleaning, painting or otherwise removing the graffiti;
2. That if the owner or occupant objects to the city entering the property and removing the graffiti, the owner or occupant must notify the city of that objection within seventy-two hours of the posting of the notice but that such notification does not relieve the owner or occupant of the responsibility for removing the graffiti;
3. The procedure for filing an objection and a copy of this section;
4. That if the graffiti is not removed and no objection is filed in a timely manner, it shall be conclusively presumed that the owner's and occupant's consent to enter the property and remove the graffiti has been given;
5. That if the graffiti is not removed and no objection is filed, the city may enter the property and remove the graffiti;
6. That if the property is occupied by other than the owner of record, the occupant of the premises posted shall immediately notify the owner and forward the posted notice to the owner.

D. Any owner of public or private property may consent to removal of graffiti by the city as and when graffiti may appear on said property by filing a letter with the city giving such consent. (Ord. 94-8 § 1 (part), 1994)

12.28.070 Objections to removal of graffiti by city.

A. Any objection to the graffiti being removed by the city shall be filed with the city manager or his or her designee. Upon receipt of such an objection, the city manager shall notify the appropriate staff of the objection and the fact that the city is not to commence removal except as provided in Section 12.28.090 of this chapter.

B. The city manager shall review the objection and schedule a meeting with the owner or occupant to determine the validity of the objection. Upon completion of that meeting the city manager shall announce his decision and set the time for removal of the graffiti. (Ord. 94-8 § 1 (part), 1994)

12.28.080 Unoccupied property and utility structures.

A. In the event the real property upon which the graffiti is located is unoccupied or is upon a public street, sidewalk or right-of-way, or consists of a structure, pole or object owned by a private or public utility company, the same graffiti removal procedures as set forth in Section 12.28.060 of this chapter shall apply except that the removal notice will be sent by registered mail to the property owner and the removal period will be ten calendar days from the date of the mailed notice.

B. If the graffiti is not removed as required, no further notification will be required and removal will occur as set forth in this chapter. (Ord. 94-8 § 1 (part), 1994)

12.28.090 Abatement process after an objection.

In the event the property owner, occupant, manager or other person in control of the property fails to remove graffiti within the period set by the city manager pursuant to Section 12.28.070 of this chapter, the city may proceed to abate the graffiti as a public nuisance at private expense as provided in Chapter 1.10 of this code. (Ord. 94-8 § 1 (part), 1994)

12.28.100 Abatement procedures and costs—No objection filed.

Upon failure of persons notified to comply with a notice to remove graffiti, within the time limits specified in this chapter, city personnel or volunteers working at the city's direction, may cause the graffiti to be removed or painted over and the costs thereof recovered as follows:

A. Upon completion of the work, the city manager shall file a report with the city council advising that the removal was required and has been done, the cost of doing such work and the name of the owner(s) of the property upon which the work was required and from whom the cost of the work is to be recovered.

B. The city council shall conduct a hearing upon the report for the purpose of hearing all protests and objections to same, the work done thereunder and the costs contained therein. At least ten days in advance of such hearing, the city clerk shall notify the persons owning property upon which work was performed of the date, time and place of such hearing and the total cost to be charged against such person and property, which total cost shall include such charges as the city council, by resolution, has determined for administrative expenses connected with the removal and the collection of costs therefor.

C. At the public hearing, the city council shall hear and determine all protests and objections to the report and the work done thereunder and costs contained therein, and shall, by resolution, confirm, amend or reject the report, either in whole or in part.

D. The council shall, after such hearing, forward its confirmed report to the director of finance, with instructions to collect the total costs of the work of removal by billing the property owner(s). If such costs are not paid within thirty days, the director of finance shall have the costs entered upon the assessment roll, to be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure for sale and in case of delinquency as provided for in ordinary municipal taxes. (Ord. 94-8 § 1 (part), 1994)

12.28.110 Violations—Penalties.

A. Any person knowingly and wilfully violating the provisions of Section 12.28.040A shall be deemed guilty of a misdemeanor and shall be punished in accordance with Chapter 1.08 of this code.

B. Except as provided in subsection A of this section, any person violating, or causing or permitting the violation of, this chapter shall be deemed guilty of an infraction and shall be punished by a fine in accordance with Chapter 1.08 of this code; provided, however, that any offense which would otherwise be an infraction shall be a misdemeanor if a defendant has been convicted of three or more violations of this chapter within the twelve-month period preceding the commission of the offense alleged in the accusatory pleading.

C. Any individual found guilty of a violation of this chapter shall reimburse the city or the property owner, as appropriate, for any and all costs incurred in removing the graffiti. Such reimbursement shall be in addition to any other penalties imposed by the court pursuant to this section. If the violator is a minor, the parent or guardian shall also be responsible for such reimbursement. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

D. If a minor is personally unable to pay any fine, levied for violation of this chapter, or reimbursement of costs incurred in removal, the parent or legal guardian of the minor shall be liable for payment of the fine or costs.

In lieu of any such payment, the minor may be ordered to participate in community service in the form of removal of graffiti within the city.

E. In addition to any other available remedies and penalties, any violation(s) shall also be subject to the remedies and penalties provided in Chapter 1.10 of this code. (Ord. 94-8 § 1 (part), 1994)

Title 13

PUBLIC SERVICES

Chapters:

13.02	Local Hiring for Public Works
13.04	Specifications for Public Works
13.06	County Sewer Ordinance Adopted
13.08	Underground Utility Districts
13.12	Water Wells
13.16	Franchises
13.18	Protection of Contract Revenues— Hospitality Operations

Chapter 13.02

LOCAL HIRING FOR PUBLIC WORKS

Sections:

13.02.010	Local hiring for public works.
13.02.020	Required documentation.
13.02.030	Forms submitted under penalty of perjury.
13.02.040	Binding on subcontractors.
13.02.050	Declaration of nonresponsive bidder.
13.02.060	Declaration of irresponsibility.
13.02.070	Finding of noncompliance.
13.02.080	Disqualification.
13.02.090	City attorney prosecution.
13.02.100	Contracts—Bid documents—Subcontracts.
13.02.110	Bid protests.
13.02.120	Appeals.
13.02.130	Appeal time limits.
13.02.140	Initiation of appeals.
13.02.150	Appeal procedure.
13.02.160	Rules and regulations.
13.02.170	Definitions.

13.02.010 Local hiring for public works.

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for public works or improvement, all city contracts for public works or improvement subject to competitive bidding requirements shall contain provisions pursuant to which the contractor promises to make a good faith effort, to include but not limited to requesting the assistance of local labor union hiring halls or other community resources designated by the city, to hire qualified individuals who are residents of the Monterey Bay area in sufficient numbers so that no less than eighty percent of the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is composed of Monterey Bay area residents. (Ord. 99-08 § 1 (part), 1999)

13.02.020 Required documentation.

A. The contractor shall keep an accurate record on a standardized form showing the name, place of residence, type classification, hours employed, proof of journey person or apprenticeship status, per diem wages and benefits of each person employed by the contractor, and the contractor's subcontractors, on the specific public works project, including full-time, part-time, permanent and temporary employees and make such records available to the city, upon request, within five working days.

B. The contractor shall keep, and provide to the city, on forms acceptable to the city, an accurate record documenting compliance with this chapter. Such records shall include: a listing by name and business address of all local recruitment sources contacted by the contractor, the date of the local recruitment contact and the identity of the person contacted, the trade and classification and number of hire referrals requested, the number of local hires

made as a result of the contact, the identity and business address of the person(s) hired pursuant to the contact. (Ord. 99-08 § 1 (part), 1999)

13.02.030 Forms submitted under penalty of perjury.

All forms required under this chapter shall be attested to as true as to the information set forth therein and shall be submitted under penalty of perjury. (Ord. 99-08 § 1 (part), 1999)

13.02.040 Binding on subcontractors.

A. The good-faith local hiring provisions of this chapter shall bind the contractor both with respect to persons hired directly by the contractor and to all persons hired by the contractor's subcontractors. The contractor shall be responsible for assuring that all subcontractors document such compliance by submitting the forms required by Section 13.02.020 to the city.

B. The contractor shall include the following language and a copy of this chapter as may be amended from time-to-time in all contracts with contractor's subcontractors:

"This contract is for labor or materials for a City of Marina public works project. As a subcontractor on a City project, you are required to comply with all of the requirements of the Marina local hiring preference ordinance, Marina Municipal Code, Chapter 13.02, attached hereto and incorporated herein by reference. Failure to comply with the provisions of the local hiring preference ordinance may subject the contractor and/or subcontractor to criminal prosecution and shall subject the contractor and/or subcontractor to disqualification from eligibility for City of Marina contracts."

(Ord. 99-08 § 1 (part), 1999)

13.02.050 Declaration of nonresponsive bidder.

Should any bidder or its subcontractor fail to comply with the good-faith local hiring provisions of this chapter, in its bid submissions prior to awards, the bidder shall be declared by the city to be a nonresponsive bidder. (Ord. 99-08 § 1 (part), 1999)

13.02.060 Declaration of irresponsibility.

Where a city contractor or subcontractor has failed, or the city has cause to believe a bidder shall fail, to abide by a material term or the city contract, applicable prevailing wage laws called for by the contract, other applicable laws governing labor standards or working conditions, any of the provisions of this chapter applicable to contractors or subcontractors, or any of the other provisions of this code which expressly reference the sanctions provided for in this chapter, such contractor, subcontractor or bidder pursuant to procedures outlined in Section 13.02.070, shall be declared an irresponsible contractor. (Ord. 99-08 § 1 (part), 1999)

13.02.070 Finding of noncompliance.

If the city department head with responsibility for contract administration has cause to believe that any contractor or subcontractor has violated this chapter or that any bidder shall not perform the contract in compliance with this chapter, the department head may conduct an investigation. If, upon investigation, the department head determines that evidence exists to conclude that a violation of this chapter has occurred, or that cause exists to indicate a bidder will fail to perform the contract, the department head, after consultation with the city manager or city manager's designee, shall make a written finding of noncompliance which shall include a declaration of irresponsibility. The written finding of noncompliance shall provide the contractor, subcontractor or bidder with an opportunity to appeal the finding of noncompliance to the city council in accordance with Section 13.02.120. If the council concurs with the finding of noncompliance, it shall affirm that finding along with the declaration of irresponsibility contained therein. The decision of the city council shall be final. (Ord. 99-08 § 1 (part), 1999)

13.02.080 Disqualification.

Any contractor, subcontractor or bidder declared to be irresponsible pursuant to the provisions of this chapter shall be disqualified from eligibility for providing goods, labor, materials or services to the city for a period of one year for the first violation and three years for a second, with a right of review and reconsideration by the city council after two years upon a showing of corrective action indicating violations are not likely to recur. (Ord. 99-08 § 1 (part), 1999)

13.02.090 City attorney prosecution.

If the city attorney has reasonable cause to believe that any contractor or subcontractor has knowingly committed any of the acts or omissions set forth in this chapter, the city attorney may prosecute such contractor or subcontractor for violating the provisions of this chapter. Any such violation shall constitute an infraction. If the violation in question causes a loss to the city in excess of five thousand dollars, the city attorney may prosecute such violation as a misdemeanor. (Ord. 99-08 § 1 (part), 1999)

13.02.100 Contracts—Bid documents—Subcontracts.

A. Contracts and bid documents shall incorporate this chapter by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of contract or subcontract.

B. Contracts and bid documents shall require bidders, contractors and subcontractors to maintain and submit records necessary for monitoring their compliance with this chapter. (Ord. 99-08 § 1 (part), 1999)

13.02.110 Bid protests.

Any contractor or trade association representative on behalf of potential workers of a contractor who has submitted a bid but is not the apparent lowest responsible bidder on a city contract may file a protest. The bid protest shall be filed with the city clerk within three working days of the bid opening. The city council shall hear the bid protest prior to adopting a resolution authorizing the bid award and execution of the contract. In cases where the contract is not executed by the city pursuant to city council resolution, the bid protest shall be heard by the city council prior to the time the city issues a notice to proceed or the appropriate city official executes the contract on behalf of the city. The protesting party may protest the bid award for the city's or successful bidder's failure to comply with the requirements of this chapter, the bid documents or any other applicable provision of this chapter. The city council shall sustain a bid process only if it finds evidence that award of the bid would violate the chapter or other applicable law. The decision of the council shall be final. (Ord. 99-08 § 1 (part), 1999)

13.02.120 Appeals.

To avoid results inconsistent with the purposes of this chapter, decisions of the department head or city manager, other than bid protests which are heard separately under Section 13.02.110, may be appealed by the affected contractor or association representative to the city council. (Ord. 99-08 § 1 (part), 1999)

13.02.130 Appeal time limits.

A. Appeals by Contractor. Appeals of decisions shall be initiated within ten days of the decision. The city shall be considered an interested party.

B. Time Limits. When the appeal period ends on a day when the city offices are not open to the public for business, the time limits shall be extended to the next full working day. (Ord. 99-08 § 1 (part), 1999)

13.02.140 Initiation of appeals.

A. Filing of Appeals. An appeal shall be filed with the city clerk on a form provided and shall state, as appropriate, any of the following:

1. A determination or interpretation is not in accord with the purposes of this chapter;
2. There was an error or abuse of discretion;
3. The record includes inaccurate information; or
4. A decision is not supported by the record.

B. Effect on Decisions. Decisions that are appealed shall not become effective until the appeal is resolved. (Ord. 99-08 § 1 (part), 1999)

13.02.150 Appeal procedure.

A. Appeal Hearing Date. An appeal shall be scheduled for a hearing before the council within thirty days of the city's receipt of an appeal unless the contractor and city consent to a later date.

B. Notice and Public Hearing. An appeal hearing shall be a public hearing. Notice of the public hearing shall be mailed or delivered to the contractor within ten days.

C. Hearing. At the hearing, the council shall review the record of the decision and hear testimony of the contractor and any other interested party.

D. Decision and Notice. After the hearing, the council shall affirm, modify or reverse the original decision. When a decision is modified or reversed, the council shall state the specific reasons for modification or reversal. The city clerk shall mail notice of a city council decision. Such notice shall be mailed to the contractor within five working days after the date of the decision and to any other party requesting such notice.

E. A decision by the council regarding an appeal shall become final on the date the decision is announced to the public. (Ord. 99-08 § 1 (part), 1999)

13.02.160 Rules and regulations.

The city manager shall adopt an administrative memoranda relating to rules, regulations and procedures to implement this chapter. The administrative memoranda shall be consistent with the provisions of this chapter. (Ord. 99-08 § 1 (part), 1999)

13.02.170 Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

“Contractor” means any person or entity which, pursuant to a written agreement or purchase order, provides labor or materials on public works projects for the city.

“Monterey Bay Area” means Monterey County, San Benito County and Santa Cruz County.

“Qualified individual” means an individual who is in a certified state or federally approved apprenticeship program in an applicable trade or has become a journey person in his or her applicable trade.

“Resident of the Monterey Bay area” means an individual who is domiciled within the boundaries of the Monterey Bay area immediately preceding the date of the bid advertisement by the city and who can verify his or her domicile upon request of the contractor or city by producing documentation such as rent/lease agreement, telephone and utility bills or payment bills, a valid California driver’s license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within the Monterey Bay area. A worker who is a building trade journeyman or building trade apprentice whose local hiring hall has jurisdiction over the Monterey Bay area is also deemed a resident of the Monterey Bay area.

“Subcontractor” means any person or entity which, pursuant to an agreement or purchase order with a city contractor or another subcontractor, participates in the provision of labor or materials on public works projects for the city. (Ord. 99-08 § 1 (part), 1999)

Chapter 13.04

SPECIFICATIONS FOR PUBLIC WORKS

Sections:

- 13.04.010 Definitions.**
- 13.04.020 Purpose.**
- 13.04.030 Compliance required.**
- 13.04.040 Authorization to adopt standards.**
- 13.04.050 Adoption by reference.**
- 13.04.060 Alternate specifications—Authorized.**
- 13.04.070 Alternate specifications—Findings required.**
- 13.04.080 Alternate specifications—Appeal.**
- 13.04.090 Violation—Penalty.**
- 13.04.100 Specified volunteer projects—No bidding or prevailing wages.**

13.04.010 Definitions.

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

“Design standards” means drawings, method of design, shapes, and sizes, for public works facilities as defined herein and as adopted by the city as provided in this chapter.

“Public works facilities” means all street pavement, curbs, gutters, sidewalks, driveways, sanitary sewers, storm sewers, industrial waste sewers, stormwater inlets, manholes, flushing inlets, permanent survey monuments, street lights, street signs, traffic signs and signals, and all other publicly owned facilities, located within public streets, easements, or rights-of-way, or located on, under or above land owned by the city.

“Standard specifications” means the directions, provisions and requirements for construction, alterations, repair, removal, conversion, lengthening, widening and maintenance of public works facilities as defined herein and as adopted by the city as provided in this chapter. (Ord. 78-3 § 1, 1978)

13.04.020 Purpose.

The purpose of this chapter and any rules, regulations and specifications adopted pursuant thereto is to establish Standard Specifications and Design Standards for regulating the construction, alteration, repair, removal, conversion, lengthening, widening and maintenance of all public works facilities. (Ord. 78-3 § 2, 1978)

13.04.030 Compliance required.

It is unlawful for any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity, as a principal, agent or otherwise, to construct or have constructed public works facilities which do not conform to the Standard Specifications and Design Standards established in accordance with the terms of this chapter. (Ord. 78-3 § 3, 1978)

13.04.040 Authorization to adopt standards.

The city council is authorized to adopt Standard Specifications and Design Standards for the construction of public works facilities within the city by resolution. (Ord. 78-3 § 4, 1978)

13.04.050 Adoption by reference.

The adoption of Standard Specifications and Design Standards for public works facilities may be by reference; provided, that three copies of each document so adopted shall be kept on file in the office of the city clerk for the period said document is in effect, plus one year. (Ord. 78-3 § 5, 1978)

13.04.060 Alternate specifications—Authorized.

The director of public works is authorized to approve and report to the city council alternate construction specifications or design standards for the construction of public works facilities when adherence to the specifications and standards adopted pursuant hereto would be unreasonable and not in the best interest of the city. (Ord. 78-3 § 6, 1978)

13.04.070 Alternate specifications—Findings required.

Before giving approval to any alternate construction specifications or design standards under Section 13.04.060, the director of public works must examine the facts in each case and make one or more of the following findings:

A. That because of the particular shape or topography of the land adjacent to that upon which the public works facility is to be constructed, substantial damage or harm will be done to that land by the strict application of the city's Standard Specifications and Design Standards;

B. That it is not practically feasible to construct the improvements according to the adopted standards due to the peculiar shape or topography of adjacent streets or other existing public works facilities;

C. That adequate provision has been made for the replacement or improvement, according to adopted specifications and standards, within a reasonable period of time of the public works facility for which alternate specifications and design standards are sought. Said replacement or improvement shall be at the expense of the person or entity seeking the variance from the adopted specifications and/or standards and shall be guaranteed by a sufficient bond. (Ord. 78-3 § 7, 1978)

13.04.080 Alternate specifications—Appeal.

Any person aggrieved by the decision of the director of public works to approve alternate construction specifications and/or design standards may appeal said decision to the city council. The city council shall then hear the appeal and may affirm, modify or reverse the decision of the director of public works. The decision of the city council shall be final. (Ord. 78-3 § 8, 1978)

13.04.090 Violation—Penalty.

Any person violating any of the provisions of this chapter shall be guilty of an infraction. (Ord. 78-3 § 9, 1978)

13.04.100 Specified volunteer projects—No bidding or prevailing wages.

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for public works or improvement, any city contract for a public works or improvement which (a) does not exceed eighty thousand dollars for the engineer's estimated bid price, (b) is done in conjunction or partnership with a nonprofit corporation or community-based organization or committee and (c) for which at least fifty-one percent of the total construction labor hours (based on the engineer's estimate) for the project are provided by volunteer unpaid workers, shall not be subject to the city's competitive bidding requirements nor to the payment of otherwise required prevailing wages to the balance of the paid labor force. (Ord. 99-10 § 1, 1999)

Chapter 13.06

COUNTY SEWER ORDINANCE ADOPTED

Sections:

13.06.010 Adoption of county ordinance by reference.

13.06.020 Changes in terminology.

13.06.010 Adoption of county ordinance by reference.

Ordinance No. 1836, relating to health and sanitation (sewers, septic tanks, etc.) of the county of Monterey, state of California, is adopted by reference pursuant to the authority of Government Code Section 50020 et seq. (Ord. 96-25 § 1(24) (part), 1996)

13.06.020 Changes in terminology.

In the Monterey County ordinance, adopted by reference by this chapter, any reference to "planning commission," "board of zoning adjustment," "board of appeals" or "zoning administrator" shall mean the planning commission of the city of Marina; references to "board of supervisors" shall mean the city council of the city of Marina; and references to an office, official title, or other designation means that office, title or designation in the government structure of the city, or if there is none, the official or title holder in the city who performs the function or duty referred to. (Ord. 96-25 § 1(24) (part), 1996)

Chapter 13.08

UNDERGROUND UTILITY DISTRICTS

Sections:

13.08.010	Definitions.
13.08.020	Public hearing by council.
13.08.030	Designation by resolution.
13.08.040	Unlawful acts.
13.08.050	Exceptions—Emergency or unusual circumstances.
13.08.060	Exceptions—Specific facilities.
13.08.070	Notice to property owners and utility companies.
13.08.080	Responsibility of utility companies.
13.08.090	Responsibility of property owners.
13.08.100	Responsibility of city.
13.08.110	Extension of time.
13.08.120	Violation—Penalty.

13.08.010 Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

“Commission” means the Public Utilities Commission of the state.

“Person” means individuals, firms, corporations, partnerships, and their agents and employees.

“Poles, overhead wires and associated overhead structures” means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service.

“Underground utility district” or “district” means that area in the city within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 13.08.030.

“Utility” means all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 78-15 § 1, 1978)

13.08.020 Pubic hearing by council.

The council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The city clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of such hearings at least fifteen days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive. (Ord. 96-25 § 1(25), 1996: Ord. 78-15 § 2, 1978)

13.08.030 Designation by resolution.

If, after any such public hearing, the council finds that the public necessity, health, safety or welfare requires such removal and such underground installations within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby. (Ord. 78-15 § 3, 1978)

13.08.040 Unlawful acts.

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 13.08.030, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when said overhead facilities are required to be removed by such resolution, except as said overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 13.08.090, and for such reasonable time required to remove said facilities after said work as been performed, and except as otherwise provided in this chapter. (Ord. 78-15 § 4, 1978)

13.08.050 Exceptions—Emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten days, without authority of the council in order to provide emergency service. The council may grant special permission, on such terms as the council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Ord. 78-15 § 5, 1978)

13.08.060 Exceptions—Specific facilities.

This chapter and any resolution adopted pursuant to Section 13.08.030 shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;
- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred volts;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

F. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;

G. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts;

H. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 78-15 § 6, 1978)

13.08.070 Notice to property owners and utility companies.

Within ten days after the effective date of a resolution adopted pursuant to Section 13.08.030, the city clerk shall notify all affected utilities and all persons owning real property within the district created by said resolution of the adoption thereof. Said city clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission.

Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 13.08.030, together with a copy of the ordinance codified in this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities. (Ord. 78-15 § 7, 1978)

13.08.080 Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 13.08.030, the supplying utility shall furnish that, portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the commission. (Ord. 78-15 § 8, 1978)

13.08.090 Responsibility of property owners.

A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 13.08.080 and the termination facility on or within said building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 13.08.030, the city engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten days after receipt of such notice.

B. The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, City of Marina. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the city engineer shall, within forty-eight hours after the

mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place on said premises.

C. The notice given by the city engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty days after receipt of such notice, the city engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

D. If upon the expiration of the thirty-day period, the required underground facilities have not been provided, the city engineer shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the city engineer shall, in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the city engineer, he shall file a written report with the city council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than ten days thereafter.

E. The city engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

F. Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

G. If any assessment is not paid within five days after its confirmation by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the city engineer, and the city engineer is directed to turn over to the assessor and tax collector and record with the county recorder a notice of lien on each of said properties on which the assessment has not been paid. Said assessment shall be due and payable at the same time as said property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year. (Ord. 78-15 § 9, 1978)

13.08.100 Responsibility of city.

The city shall remove, at its own expense, all city-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 13.08.030. (Ord. 78-15 § 10, 1978)

13.08.110 Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 13.08.030 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. 78-15 § 11, 1978)

13.08.120 Violation—Penalty.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of an infraction and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, and shall be punishable therefor as provided for in this chapter. (Ord. 78-15 § 12, 1978)

Chapter 13.12

WATER WELLS

Sections:

- 13.12.010 Purpose.**
- 13.12.020 Definitions and interpretation.**
- 13.12.030 Permit—Required.**
- 13.12.040 Permit—Compliance with conditions.**
- 13.12.050 Permit—Application.**
- 13.12.060 Permit—Issuance or denial.**
- 13.12.070 Permit—Expiration.**
- 13.12.080 Permit—Suspension and revocation.**
- 13.12.090 Variances.**
- 13.12.100 Standards adopted by reference—Modification.**
- 13.12.110 State reporting.**
- 13.12.120 Appeals.**
- 13.12.130 Right of entry and inspection.**

13.12.010 Purpose.

The purposes of this chapter are:

- A. To regulate the construction, maintenance, repair, reconstruction, abandonment and destruction of wells so as to protect the quality of underground waters by preventing or minimizing the pollution or contamination thereof, thereby promoting the public health, safety and welfare; and
- B. To comply with Article 4 (commencing at Section 13800) of Chapter 10, Division 7 of the Water Code, relating to well standards. (Ord. 76-5 § 1 (part), 1976)

13.12.020 Definitions and interpretation.

- A. As used in this chapter, unless otherwise apparent from the context:
 - 1. “Contamination,” “pollution” and “nuisance” have the meanings ascribed to them by Section 13050 of the Water Code.
 - 2. “Health officer” means the health officer or the director of health services of the county of Monterey, or the authorized representative of either of them.
 - 3. “Person” means any individual, firm, partnership, association, corporation or governmental agency.

4. "Shall" is mandatory, and "may" is permissive.
5. "Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. This definition shall not include:
 - a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or
 - b. Wells used for the purpose of dewatering excavation during construction, or stabilization hillsides or earth embankments.
- B. Words used in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
- C. Section headings, when contained in this chapter, shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section. (Ord. 76-5 § 1 (part), 1976)

13.12.030 Permit—Required.

No person shall construct, repair, reconstruct, abandon, or destroy any well unless a written permit has first been obtained from the health officer pursuant to this chapter. (Ord. 76-5 § 1 (part), 1976)

13.12.040 Permit—Compliance with conditions.

- A. No person to whom such a permit has been issued shall fail to comply with all of the terms and conditions thereof and with the standards specified in this chapter.
- B. No person other than a contractor licensed in accordance with the provisions of the Contractors License Law (Chapter 9, Division 3, of the Business and Professions Code) shall perform any construction, repair, reconstruction, or destruction of a well, unless exempted by that law. (Ord. 76-5 § 1 (part), 1976)

13.12.050 Permit—Application.

Application for permit pursuant to this chapter shall be:

- A. Made to the health officer in such form as he may prescribe, setting forth such information as he may reasonably require to secure the purposes of this chapter.
- B. Signed by the applicant and, unless for the abandonment or destruction of a well, accompanied by a filing fee of twenty-five dollars, no part of which shall be refundable. (Ord. 76-5 § 1 (part), 1976)

13.12.060 Permit—Issuance or denial.

Any permit which is issued may contain and be subject to such terms and conditions as the health officer finds necessary to carry out the purposes of this chapter. He shall deny an application for a permit if, in his judgment, its issuance would tend to defeat the purposes of this chapter. (Ord. 76-5 § 1 (part), 1976)

13.12.070 Permit—Expiration.

Every permit issued pursuant to this chapter shall expire and become null and void if the work authorized thereby has not been completed within one year following its issuance. Upon expiration no further work shall be done unless and until a new permit has been obtained. (Ord. 76-5 § 1 (part), 1976)

13.12.080 Permit—Suspension and revocation.

A. The health officer may suspend or revoke any permit issued pursuant to this chapter whenever he finds that the permittee has violated any of the provisions of this chapter or has misrepresented any material fact in his application, or any supporting documents, for such permit. Prior to ordering any such suspension or revocation, the health officer shall give the permittee an opportunity for a hearing thereon, after reasonable notice.

B. No person whose permit has been suspended or revoked shall continue to perform the work for which the permit was granted until, in the case of suspension, such permit has been reinstated by the health officer.

C. Upon suspending or revoking any permit, the health officer may order the permittee to perform any work reasonably necessary to protect the underground waters from pollution or contamination if any work already done by the permittee has left a well in such condition as to constitute a hazard to the quality of the underground waters. No permittee shall fail to comply with any such order. (Ord. 76-5 § 1 (part), 1976)

13.12.090 Variances.

The health officer shall have the power, in specific cases, to grant a variance from any provision of the standards incorporated into this chapter by reference whenever he finds that special circumstances exist in a particular case and that practical difficulties or unnecessary hardship would result from the strict interpretation and enforcement of any such standard, and that the granting of such a variance would not tend to defeat the purposes of this chapter. (Ord. 76-5 § 1 (part), 1976)

13.12.100 Standards adopted by reference—Modification.

Chapter II and Appendices E, F, and G of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," dated February 1968, and California Department of Water Resources Bulletin No. 74-1, "Cathodic Protection Well Standards," dated March 1973, copies of both of which are on file as required by law, are adopted and incorporated into this chapter by reference, with the following modification to paragraph A of Section 8 of Part II of said Bulletin No. 74: The minimum distance between all wells and any subsurface sewage leaching field or septic tank shall be one hundred feet. (Ord. 76-5 § 1 (part), 1976)

13.12.110 State reporting.

A. Nothing contained in this chapter shall be deemed to excuse any person from compliance with the provisions of Article 3 (commencing at Section 13750) of Chapter 10, Division 7 of the Water Code, relating to notices and reports.

B. Upon completion of a well the owner or his authorized representative shall file with the health officer a copy of the well driller's detailed log, referred to in Section 13751 of the Water Code. (Ord. 76-5 § 1 (part), 1976)

13.12.120 Appeals.

A. Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended or revoked, may appeal to the city council, in writing, within ten days after any such denial, conditional granting, suspension or revocation. Such appeal shall specify the grounds upon which it is taken, and shall be accompanied by a filing fee of twenty-five dollars. The clerk of the council shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and the health officer, in writing, of the time so set at least five days prior to the hearing.

B. After such hearing the city council may reverse, wholly or partly, or may modify the order or determination appealed from. (Ord. 76-5 § 1 (part), 1976)

13.12.130 Right of entry and inspection.

The health officer shall enforce and administer this chapter, and shall have the right to enter upon any premises at all reasonable times to make inspections and tests for the purpose of such enforcement and administration. If any such premises is occupied he shall first present proper credentials and demand entry, and if same is unoccupied he shall first make a reasonable effort to locate the owner or other person having charge or control of same and demand entry. If such entry is refused he shall have recourse to such remedies as are provided by law to secure entry. (Ord. 76-5 § 1 (part), 1976)

Chapter 13.16

FRANCHISES

Sections:

- 13.16.010 Franchise required.**
- 13.16.020 Matters subject to franchise.**
- 13.16.030 Franchises—Authority of council.**
- 13.16.040 Franchise terms and considerations.**
- 13.16.050 Franchise application.**
- 13.16.060 Application fee.**
- 13.16.070 Franchise—Call for bids discretionary.**
- 13.16.080 Application—Referral.**
- 13.16.090 Franchise—Notice of hearing.**
- 13.16.100 Hearing.**
- 13.16.110 Franchise bond.**
- 13.16.120 Acceptance of franchise.**
- 13.16.130 Franchise obligation of grantee.**
- 13.16.140 Franchise assignment.**
- 13.16.150 Special permits.**
- 13.16.160 Application for special permit.**
- 13.16.170 Special permits—Granting.**
- 13.16.180 Special permits—Bond.**

13.16.010 Franchise required.

No corporation, company, firm, partnership, public agency or district or political subdivision of the state shall exercise any franchise, permit or privilege mentioned herein except insofar as it may be entitled to do so by direct authority of the Constitution or general laws of the state of California or the Constitution or laws of the United States, in, upon, over, under or along any public place in the city, unless it shall have obtained a franchise or grant therefor in accordance with the provisions hereof and of any applicable provisions of the municipal code. Nothing herein contained shall be construed to:

- A. Invalidate any lawful franchise heretofore granted;
- B. Necessitate the obtaining of a new franchise for a use for which a current franchise holder shall have a valid unexpired franchise; or
- C. Apply to any system or facilities providing utility services (as enumerated in Section 13.16.020) within that portion of the city not located within the boundaries of the former Fort Ord Army base on the effective date of the ordinance codified in this chapter. (Ord. 97-8 § 1 (part), 1997)

13.16.020 Matters subject to franchise.

Except insofar as it may be entitled to do so by direct authority of the Constitution or general laws of California, or of the Constitution or laws of the United States, no corporation, firm, partnership, public agency or district or political subdivision of the state shall exercise any privilege or provide any utility services enumerated in this section unless it shall have been granted an appropriate franchise therefor by the city, namely:

- A. Construct, lay, maintain or operate pipes, tubes or conduits along, upon, over, in, under or across any public place in the city for the purpose of collecting, transmitting or distributing water, wastewater, gas, steam, or other substance or utility;
- B. Erect, construct, lay, maintain or operate poles, pipes, conduits, wires, cables, or appurtenances, upon, over, under, in, across or along any public place in the city for the purpose of transmitting or distributing power, electricity or electric energy, or for a communication by telephone, telegraph, or other system;
- C. Construct, maintain or operate any other plants or system necessary or convenient for furnishing the city and its inhabitants with transportation, communication, water, wastewater collection and disposal services, light, power or other public utility services.

The term “public place” as used herein shall be deemed to include any street, highway, lane, alley, court or other public place in the city. (Ord. 97-8 § 1 (part), 1997)

13.16.030 Franchises—Authority of council.

Pursuant to its constitutional, statutory and municipal code authority, the city council may grant and confirm franchises and privileges for all of the purposes enumerated herein to corporations, companies, firms, partnerships, public agencies or districts or political subdivisions of the state, whether operating under any existing franchise or not, upon such terms and conditions as are in the applicable provisions of the municipal code, and any ordinances adopted pursuant thereto, and may in such franchises impose such other and additional terms and conditions not in conflict with said municipal code or ordinances, whether governmental or contractual in character, as in the judgment of said council are in the public interest. (Ord. 97-8 § 1 (part), 1997)

13.16.040 Franchise terms and considerations.

- A. No franchise shall be granted without reserving to the city adequate consideration for the privilege conferred.
- B. Franchises may be granted either for a fixed or an indeterminate period. (Ord. 97-8 § 1 (part), 1997)

13.16.050 Franchise application.

- A. An applicant for any franchise above mentioned, shall file with the city council a verified application which shall state:
 - 1. The name of the applicant;
 - 2. The purpose and term, whether definite or indeterminate, for which the franchise shall be desired;
 - 3. The amounts and/or percentages, if any, applicant, if granted the franchise, will pay to the city during the life of such franchise;
 - 4. Any limitations as to time, place or type of services proposed by applicant; and
 - 5. Any other terms or conditions that applicant may desire, including surrender of existing franchises, or parts thereof, or claims to such franchises, or proposals to settle any litigation or controversies between applicant and the city.
- B. Franchise applications shall set forth such other information as the city council may require. (Ord. 97-8 § 1 (part), 1997)

13.16.060 Application fee.

Every application for a franchise, permit or privilege shall be accompanied by a cash deposit of not less than five hundred dollars, or by a certified check for said amount, payable to the city, as a fund out of which to pay all expenses connected with such application. The deposit of the applicant shall be retained until the acceptance of the franchise and the filing of any bond, or other security required or until the council determines not to grant the franchise. Thereupon the remainder, if any, of the five hundred dollars after the payment therefrom of all such expenses incurred by the city shall be returned to the applicant. (Ord. 97-8 § 1 (part), 1997)

13.16.070 Franchise—Call for bids discretionary.

The council may grant a franchise without calling for bids or may, in its discretion, advertise for bids for the sale of a franchise after notice inviting bids therefor upon a basis, not in conflict with the provisions of the municipal code, to be set out in advertisements for bids and notice of sale, provided that no bidding shall be had or required upon any renewal of a franchise, surrender of existing franchise or parts thereof, or in settlement of litigation between the grantee and the city. (Ord. 97-8 § 1 (part), 1997)

13.16.080 Application—Referral.

Every application made to the council for a franchise, privilege or permit mentioned herein shall, before any action is taken thereon, be referred by the council to the city manager and city attorney for their respective recommendations. Before making his recommendation to the council, the city manager shall obtain the recommendations of the director of public works and the planning director. (Ord. 97-8 § 1 (part), 1997)

13.16.090 Franchise—Notice of hearing.

A. Upon receipt of the city manager's recommendation, the council may pass a resolution declaring its intention to grant the franchise, stating the character of the same, setting forth a notice of the day, hour and place when and where any and all persons having any objection to the granting thereof may appear before the council and be heard thereon, and directing the city clerk to publish said notice at least once within fifteen days after the passage of said resolution. The time fixed for such hearing shall be not less than twenty nor more than sixty days after the date of the passage of said resolution.

B. Such notice shall state the name of the applicant, the character of the franchise, its term, whether definite or indeterminate, the amounts and/or percentages, if any, grantee shall pay to the city during the life of such franchise, any limitations as to time, place or type of service proposed, the amount and character of any bond or other security required, together with an outline of the other major provisions of the proposed franchise. (Ord. 97-8 § 1 (part), 1997)

13.16.100 Hearing.

A. At any time not later than the hour set for the hearing of objections, any person interested may make written protest stating objections against the granting of such franchise. Such protest must be signed by the protestant and be delivered to the city clerk. At the time set for hearing objections, the council shall proceed to hear and pass upon all protests so made and its decision shall be final and conclusive. The council may adjourn said hearing from time to time.

B. If no protest in writing shall have been delivered to the clerk up to the hour set for hearing, or such protests as shall have been filed shall have been heard and determined by the council to be insufficient, or shall have been overruled or denied, the council may grant such franchise. Such franchise shall be granted by ordinance adopted in the manner prescribed by the municipal code. (Ord. 97-8 § 1 (part), 1997)

13.16.110 Franchise bond.

The council may require the grantee of any franchise to provide such bond or other security as it deems the public interest requires. (Ord. 97-8 § 1 (part), 1997)

13.16.120 Acceptance of franchise.

The grantee of any franchise granted hereunder shall within ten days after the franchise is granted, file with the city clerk a written acceptance of the terms and conditions thereof and any bond or other security required by the council. (Ord. 97-8 § 1 (part), 1997)

13.16.130 Franchise obligation of grantee.

The grantee of any franchise granted pursuant hereto shall:

A. Construct, install and maintain all pipes, tubes, conduits, poles, wires, instrumentalities and appurtenances in accordance and in conformity with all of the lawful ordinances, rules and regulations theretofore or thereafter adopted by the city in the exercise of its police powers, and, as to state highways, subject to the provisions of general laws relating to the location and maintenance of such facilities therein;

B. Pay to the city on demand the cost of all repairs to public property made necessary by any operations of the grantee under such franchise;

C. Indemnify and hold harmless the city and its officers and employees from any and all liability for damages proximately resulting from any operations under such franchise; and

D. Make such reports and permit such examinations of its records as the franchise may require. (Ord. 97-8 § 1 (part), 1997)

13.16.140 Franchise assignment.

No franchise, permit or privilege granted by the city shall be, in whole or in part, leased, assigned or otherwise disposed of, or transferred without the express consent of the city; provided, that nothing herein shall be construed to prevent the grantee from the city of such franchise permit or privilege from including it in a mortgage or trust deed without such express consent. (Ord. 97-8 § 1 (part), 1997)

13.16.150 Special permits.

A. When the council shall find that an emergency exists and that public convenience and necessity require it, a special permit may be granted to any applicant for a franchise to permit such applicant to proceed with the relocation, extension, alteration or other change in existing facilities, except repairs or maintenance changes, which relocation, extension, alteration or other change in existing facilities by reason of such emergency should be made before the securing of a franchise is possible.

B. Such special permit shall only be granted to an applicant for a franchise, and after the filing of the application for a franchise as provided herein. (Ord. 97-8 § 1 (part), 1997)

13.16.160 Application for special permit.

A. An application for a special permit shall be filed in writing with the council setting forth such information as will permit action thereon. Reference in said application may be made to the application for a franchise for a description of the proposed extension, alteration or other change in existing facilities.

B. Applications for special permits shall be referred to the city attorney and the city manager in the manner provided for applications for franchises. (Ord. 97-8 § 1 (part), 1997)

13.16.170 Special permits—Granting.

All such special permits shall be granted under the express condition that if a franchise under this chapter is not granted and accepted, all work done under such special permit shall be removed immediately at applicant's expense and the streets or alleys or other public places affected by such work shall be placed in as good condition as before such work was done, all to the satisfaction of the director of public works. (Ord. 97-8 § 1 (part), 1997)

13.16.180 Special permits—Bond.

The council may require, as a condition to the granting of such special permits, that a bond of a kind and in an amount determined by it shall be furnished by applicant conditioned upon the faithful performance of the terms and conditions of the permit and further conditioned that applicant shall prosecute diligently to completion all work thereunder including removal work as hereinbefore provided. (Ord. 97-8 § 1 (part), 1997)

Chapter 13.18

PROTECTION OF CONTRACT REVENUES—HOSPITALITY OPERATIONS

Sections:

- 13.18.010 Findings and purpose.**
- 13.18.020 Labor activity pledges required.**
- 13.18.030 Definitions.**

13.18.010 Findings and purpose.

A. When the city has a financial or proprietary interest in a project that includes hospitality operations such as hotels, restaurants, bars, clubs, and food and beverage operations and when the revenues generated by such operations are necessary to defray the public costs incurred in the construction or maintenance of such projects or when such revenues are necessary to fund lease, rental or license payments to the city, it is essential to the public fiscal welfare that the revenue stream to so defray or fund not be interrupted or in any manner be affected by labor disputes.

B. The city has found that the only effective way to avoid such disputes is to require employers and others to be signatory to collective bargaining agreements or other agreements under 29 U.S.C. Section 185(a) with unions representing or seeking to represent employees who will staff the hospitality operations described hereinabove, which agreements prohibit the union and its members, and in the case of collective bargaining agreements all employees covered by such agreements from engaging in picketing, work stoppages, boycotts or other economic interference with the business of said employers, for the duration of the hospitality operation so long as such operation is producing a revenue stream to city, as described above, and to provide instead for alternative dispute resolution for all employment disputes including unresolved negotiations.

C. It is the purpose of this chapter to require collective bargaining or other agreements as described above, to ensure continuous provision of employee services and consequent assurance that the city will continue to receive agreed upon revenue to defray financial obligations and to fund public services. (Ord. 2001-10 § 1 (part), 2001)

13.18.020 Labor activity pledges required.

A. All contractors shall be or become signatory to valid collective bargaining agreements or other contracts under 29 U.S.C. §185(a) with any labor organization representing or seeking to represent hospitality workers employed in contractor's hospitality operations in a capital project or under a revenue producing contract as a condition precedent to its contract or subcontract with city.

B. Each collective bargaining agreement or contract shall include a provision prohibiting the labor organization and its members, and in the case of a collective bargaining agreement, all employees covered by the agreement, from engaging in any picketing, work stoppages, boycotts or any other economic interference with the hospitality operations of contractor or any persons under contract to it for the duration of the time required for the repayment of public indebtedness incurred to finance the acquisition or development of a capital project, or for the duration of contractor's contract or contracts with the city for the operation of a revenue producing contract. Each agreement must provide that during the prescribed period, all disputes relating to employment conditions or the negotiation thereof shall be submitted to final and binding arbitration.

C. All contractors shall require that any work under contract or contracts with city to be done by contractors' contractors, subcontractors, tenants or subtenants, licensees or sublicensees shall be done under

collective bargaining agreements or other contracts under 29 U.S.C. §185(a) containing the same provisions as specified above in this section.

D. A contractor shall be relieved of the obligations of this section with respect to a labor organization if the labor organization places conditions upon its strike and/or labor activity pledge that the council finds, after notice and bearing, to be arbitrary or capricious. (Ord. 2001-10 § 1 (part), 2001)

13.18.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. "Contractor" means any person party to a contract.

B. "Contract" means (1) any contract, lease or license from city to use any city property for hospitality operations; (2) any contract, lease or license pursuant to which city is entitled to receive as rents, royalties, payments in connection with financing provided by or through city, or other income, a percentage of the revenues of an enterprise of which hospitality operations are any part, including but not limited to a contract for all or part of a capital project or revenue producing contract; or (3) any subcontract, sublease, sublicense, management agreement or other transfer or assignment or any right, title or interest received from city pursuant to any of the foregoing contracts, leases, or licenses.

C. "Hospitality operations" means hotels or motels, providing lodging and other guest accommodations, and restaurants, bars, clubs, cafeterias and food and beverage operations, but does not include sport stadium operations.

D. "Collective bargaining agreement" means a collective bargaining agreement entered into between the person contracting or subcontracting to provide services and a labor organization lawfully serving as the exclusive collective bargaining representative for the employees who provide or will provide services pursuant to such a contract.

E. "Contract under 29 U.S.C. §185(a)" means a contract to which 29 U.S.C. §185(a) applies, as that provision has been interpreted by the courts of competent jurisdiction.

F. "Capital project" means a project financed by debt or by other funds and which meets all of the following:

1. Is an undertaking to construct, repair, renovate, improve, equip, furnish or acquire any
 - a. building, structure, facility or other physical public improvement;
 - b. land or rights in land; or
 - c. furnishings, machinery, apparatus or equipment for a building, structure, facility or other physical public improvement.

2. Has an estimated useful life in excess of five years.

3. Has an estimated financial cost in excess of one hundred thousand dollars. This definition does not apply to original equipment or furnishings for previously authorized public improvement projects.

G. "Revenue producing contracts" means all contracts that produce revenue for city or involve payment of money or monies to city other than taxes.

H. "Hospitality workers" means all full-time or part-time employees in a hospitality operation, except supervisors, managers and guards. (Ord. 2001-10 § 1 (part), 2001)

Title 14

(Reserved)

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

15.04	General Provisions
15.08	Building Code
15.10	Building Code Standards
15.12	Mechanical Code
15.16	Housing Code
15.20	Abatement of Dangerous Buildings Code
15.24	Plumbing Code
15.28	Electrical Code
15.30	Administrative Code
15.32	Adoption of the Uniform Fire Code
15.34	Minimum Building Security Standards
15.35	Building Conservation Code
15.36	Local Improvements
15.40	Residential Property Inspection Program
15.44	Smoke Detectors Required for Residential Property
15.48	Flood Damage Prevention
15.54	Occupancy of Buildings on Fort Ord
15.56	Digging and Excavation on the Former Fort Ord
15.58	Digging, Trenching and Excavation at the Marina Municipal Airport

Chapter 15.04

GENERAL PROVISIONS

Sections:

15.04.010	Definitions.
15.04.050	Fee schedule for mobile homes.
15.04.055	Construction hours and noise.
15.04.060	Violation—Penalty.

15.04.010 Definitions.

“Administrative Code” is the Uniform Administrative Code, or UAC, 1997 edition, promulgated by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in the Marina Municipal Code.

“Dangerous Building Code” is the Uniform Code for the Abatement of Dangerous Buildings, or “UCADB” 1997 edition, promulgated by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in the Marina Municipal Code.

“Electrical Code” means the National Electric Code or NEC, 1999 edition, promulgated by the National Fire Protection Association, as amended and set forth in the California Building Standards Code, Title 24 of the California Code of Regulations and in this title.

“Fire Code” is the Uniform Fire Code or UFC, 2000 edition, promulgated by the International Fire Code Institute, including the Appendix Sections, together with those omissions, amendments, exceptions and additions thereto as amended in the California Code of regulations and in the Marina Municipal Code.

“Housing Code” is the Uniform Housing Code, or UHC, 1997 edition, promulgated by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in the Marina Municipal Code.

“Mechanical Code” is the Uniform Mechanical Code or UMC, 2000 edition, promulgated by the International Association of Plumbing and Mechanical Officials, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the California Code of Regulations and in the Marina Municipal Code.

“Plumbing Code” is the Uniform Plumbing Code, or UPC, 2000 edition, promulgated by the International Association of Plumbing and Mechanical Officials, including the appendix thereto, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the California Code of Regulations and in the Marina Municipal Code.

“Security Code” is the “Uniform Building Security Code” 1997 edition, promulgated by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in the Marina Municipal Code. (Ord. 2002-14 § 1, 2002; Ord. 87-2 § 1, 1987; Ord. 76-9 § 1.1, 1976)

15.04.050 Fee schedule for mobile homes.

Inasmuch as the city is the enforcement agency for the Mobile Home Parks Act, being Part 2.1 (commencing at Section 18200) of Division 13 of the Health and Safety Code, and the regulations adopted pursuant thereto, the city does establish fees, to be collected by the building department, for installation, inspection, construction and alteration permits, and for accessory building and structure permits, as are set forth in Sections 1028, 1040, 1042 and other applicable sections of California Administrative Code, Title 25. (Ord. 81-2 § 1, 1981)

15.04.055 Construction hours and noise.

Unless performing emergency work as defined in Section 15.04.010, it is unlawful for any person within the city to conduct any outside construction, repair work or related activities requiring a building, grading, demolition, use or other permit from the city when construction noise is produced adjacent to residential uses, including transient lodging, except between the hours of seven a.m. and seven p.m. (standard time), and on Sundays and holidays between the hours of ten a.m. and seven p.m. (standard time). During daylight savings time, the hours of construction may be extended one hour to eight p.m. For the purposes of this section, "holidays" shall include New Year's Day, July 4th, Thanksgiving and Christmas. However, during the hours of construction, no construction, tools or equipment shall produce a decibel level of more than sixty decibels for twenty-five percent of an hour at any receiving property line. (Ord. 87-2 § 2, 1987)

15.04.060 Violation—Penalty.

Any person who does any work or uses, occupies or maintains any building or structure, or causes the same to be done, or does any grading, contrary to or in violation of this title or of any of the uniform codes adopted by this title is guilty of an infraction. (Ord. 78-14 § 1a, 1978; Ord. 76-9 § 1.7, 1976)

Chapter 15.08

BUILDING CODE

Sections:

15.08.010	Adoption of technical provisions of Uniform Building Code
15.08.030	Section 106.3.1—Amended.
15.08.050	Building permit fees.
15.08.100	Portions of Uniform Building Code which are not approved, adopted or incorporated by reference.
15.08.110	Automatic fire sprinkler systems (UBC Chapter 9)
15.08.120	Seismic zone 4 near-source factor (UBC 1629.4.2).
15.08.130	Structural Systems (UBC TABLE 16-N).
15.08.140	Load and resistance factor design (UBC 2204.1).
15.08.150	Seismic design provisions for structural steel (UBC 2205.3)
15.08.160	Basic load combinations (UBC 1612.2.1).
15.48.170	Detailing requirements in seismic zones 3 and 4 (UBC 1630.8.2.2).
15.08.180	Calculated story drift UBC 1630.10.2.
15.08.190	Design specifications (UBC 2316).

15.08.010 Adoption of technical provisions of Uniform Building Code.

A. Except as otherwise provided for in this chapter, the Uniform Building Code, 1997 edition, Volumes I, II, including the appendices thereto, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the California Code of Regulations are approved and adopted, and are hereby incorporated in this chapter by reference and made a part hereof the same as if fully set forth herein.

B. One copy of the UBC has been filed for use and examination of the public in the office of the building official of the city of Marina. (Ord. 2002-14 § 3, 2002; Ord. 95-17 § 1, 1995)

15.08.030 Section 106.3.1—Amended.

The following paragraph shall be added to Section 106.3.1:

No permit shall be issued until the applicant has obtained all clearances and any requirements from other city departments and governmental agencies, including but not limited to, encroachment, sewage, water, subdivision, zoning permits, fire department.

(Ord. 96-25 § 1(29), 1996; Ord. 76-9 § 2.1(2), 1976)

15.08.050 Building permit fees.

The building permit fees shall be as set forth in the Uniform Administrative Code, adopted by Chapter 15.30 hereof. (Ord. 81-2 § 2(c), 1981)

15.08.100 Portions of Uniform Building Code which are not approved, adopted or incorporated by reference.

The following portions of the “Uniform Building Code, 1997 edition,” or of the appendix thereto, are not approved or adopted or incorporated in this chapter by reference, and shall not be deemed to be a part of this chapter nor a part of the building code of the city of Marina: Chapter 1 with the exception of Section 101, and all of the Appendix with the exception of the following Appendix Chapters or portion thereof:

- A. 1997 UBC Appendix Chapter 3, Division II, Agricultural Buildings;
- B. 1997 UBC Appendix Chapter 18, Waterproofing and Damp proofing foundations;
- C. 1997 UBC Appendix Chapter 31, Division II, Membrane Structures. (Ord. 2002-14 § 5, 2002)

15.08.110 Automatic fire sprinkler systems (UBC Chapter 9)

A. Findings. The amendments set forth in this part are reasonably necessary because of the following local geological, topographical and climatic conditions:

1. Marina is within a very active seismic area (Seismic Zone 4). Severe seismic action could disrupt communications, damage gas mains, cause extensive electrical hazards, and place extreme demands on the limited and widely dispersed resources of the fire department resulting in failure to meet the fire and life safety needs of the community.

2. The local geographic, topographic and climatic conditions pose an increased hazard in the acceleration, spread, magnitude, and severity of potential fires in the city of Marina, and may cause a delayed fire response time, allowing further growth of the fire.

3. This section adopts the latest standards currently listed by the state of California Fire Marshals Office for automatic fire protection systems and includes references to the amendments to the standards made in the Uniform Fire Code.

4. The type of automatic fire sprinkler systems set forth in the amendment is a more restrictive standard which will better prevent fire damage which can result from local conditions.

B. Cross-References to Uniform Fire Code. The provisions of this part contain cross-references to the provisions of the Uniform Fire Code or UFC, 1997 edition, in order to facilitate reference and comparison to those provisions.

C. Standards of Quality (UBC 902). The text of UBC 902 is deleted and replaced with the following:

A. Fire-extinguishing systems, including automatic sprinkler systems, Class I, Class II and Class III standpipe systems, special automatic extinguishing systems, basement pipe inlets, smoke-control systems, and smoke and heat vents shall be approved and shall be subject to such periodic tests as may be required.

B. The standards listed below labeled a “U.B.C. standard” are also listed in UBC Chapter 35, Part II, and are part of this title. The other standards listed below are recognized standards (see UBC 3503 and 3504).

1. Fire-extinguishing system.

1.1 NFPA 13, 1999, Installation of Sprinkler Systems

1.2 NFPA 13D, 1999 Installation of Sprinkler Systems

1.3 NFPA 13R, 1999 Installation of Sprinkler Systems

2. Standpipe systems.

NFPA 14, 2000, Standpipe Systems as amended in the Fire Code.

3. Smoke control.

3.1 U.B.C. Standard 7-2, Fire Tests of Door Assemblies

3.2 UL 555, Fire Dampers

3.3 UL 555C, Ceiling Dampers

3.4 UL 555S, Leakage Rated Dampers for Use in Smoke Control Systems

3.5 UL 33, Heat Response Links for Fire Protection Service

3.6 UL 353, Limit Controls

4. Smoke and heat vents.

UBC Standard 15-7, Automatic Smoke and Heat Vents

D. Fire Extinguishing Systems Installation Requirements (UBC 904.1). The text of UBC 904.1 is deleted and replaced with the following:

A. Fire Extinguishing Systems Installation Requirements.

General (UBC 904.1.1)

1. Fire-extinguishing systems required in this title shall be installed in accordance with the requirements of this section.

2. Fire hose threads used in connection with fire-extinguishing systems shall be national standard hose thread or as approved by the Fire Department.

3. The location of fire department hose connections shall be approved by the Fire Department.

4. In buildings used for high-piled combustible storage, fire protection shall be in accordance with the Fire Code.

B. Fire Extinguishing System Standards (UBC 904.1.2). Fire-extinguishing systems shall comply with the following, including the appendix sections of each standard:

1. NFPA 11-1998 Foam Extinguishing Systems;

2. NFPA 11A-1999, Medium- and High-Expansion Foam Systems;
3. NFPA 12- 1998, Carbon Dioxide Fire Extinguishing Systems;
4. NFPA 12A, 1997, Halon 1301 Systems;
5. NFPA 2001-2000, Clean Agent Fire Extinguishing Systems as amended in the Fire Code;
6. NFPA 13,1999, Installation Of Sprinkler systems as amended in the Fire Code;
7. NFPA 13D-1999 Sprinklers Systems One-and Two Family Dwellings as amended in the Fire Code;
8. NFPA 13R-1999, Installation of Sprinkler Systems in Residential Occupancies.
9. NFPA 14-2000, Standpipe and Hose Systems as amended in the Fire Code;
10. NFPA 15-1996, Water Spray Fixed Systems;
11. NFPA 16-1999, Installation of Foam-water Sprinkler and Spray Systems;
12. NFPA 17-1998, Dry Chemical Extinguishing Systems;
13. NFPA 17A-1998, Wet Chemical Extinguishing Systems;
14. NFPA 20-1999, Centrifugal Fire Pumps as amended in the Fire Code;
15. NFPA 22-1998, Water Tanks for Private Fire Protection;
16. NFPA 72-1999, National Fire Alarm Code as amended in the Fire Code;
17. NFPA 96-2001, Ventilation Control and Fire Protection of Commercial Cooking; as amended in the Fire Code;
18. NFPA 130-2000, Fixed Guideway Transit Systems;
19. NFPA 214-2000, Water Cooling Towers;
20. NFPA 318-2000, Protection of Clean Rooms as amended in the Fire Code;
21. NFPA 409-2001, Aircraft Hangars;
22. NFPA 415-1997, Airport Terminal Buildings, Fuel Ramp Drainage and Loading Walkways.

EXCEPTIONS:

1. Automatic fire-extinguishing systems not covered by NFPA 13 shall be approved and installed in accordance with approved standards.

2. Automatic sprinkler systems may be connected to the domestic water supply main when approved by the Building Official provided the domestic water supply is of adequate pressure, capacity and sizing for the combined domestic and sprinkler requirements. The Fire Department connection may be omitted when approved by the Fire Department.

E. Automatic Fire-Extinguishing Systems. The text of UBC 904.2.2 is deleted and replaced with the following:

An automatic sprinkler system shall be installed *in all occupancies*.

1. Airport control towers.
2. One story detached accessory buildings to a group R-3 dwelling unit.
3. Open parking structures.
4. Group F-2 Occupancies.

F. Standpipes Location of Class I Standpipes (UBC 904.5.3). The text UBC 904.5.3 is deleted and replaced with the following:

There shall be a Class I standpipe outlet connection at every intermediate landing between floor levels at every required stairway above or below grade and each side of the wall adjacent to the exit opening of a horizontal exit. Outlets at stairways shall be located within the exit enclosure.

Risers and laterals of Class I standpipe systems not located within an enclosed stairway or pressurized enclosure shall be protected by a degree of fire resistance equal to that required for vertical enclosures in the building in which they are located.

EXCEPTION: In buildings equipped with an approved automatic sprinkler system, risers and laterals that are not located within an enclosed stairway or pressurized enclosure need not be enclosed within fire-resistive construction.

There shall be at least one outlet above the roof line when the roof has a slope of less than 4 units vertical in 12 units horizontal (33.3% slope).

In buildings where more than one standpipe is provided, the standpipes shall be interconnected at the bottom.
(Ord. 2002-14 § 6, 2002)

15.08.120 Seismic zone 4 near-source factor (UBC 1629.4.2).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. Sections 9.6a and 9.6b of AISC - Seismic Part 1 exempts strong-column/weak-beam requirements under certain load conditions and configurations for steel Special and Intermediate moment frames. 97 UBC Section 1629.4.2 item 4 require that structures located near fault shall comply with Strong Column/Weak beam requirements. The revision reflects the same requirements as in 1997 AISC-Seismic. This is consistent with SEAOC Seismology position.

B. Seismic Zone 4 near-source factor (UBC Section 1629.4.2). The text of UBC section 1629.4.2 is deleted and replaced with the following:

In Seismic Zone 4, each site shall be assigned a near-source factor in accordance with Table 16-S and the Seismic Source Type set forth in Table 16-U. The value of N_a , used in determining C_a need not exceed 1.1 for structures complying with all the following conditions:

1. The soil profile type is S_A , S_B , S_C or S_D .
2. $\rho = 1.0$.
3. Except in single-story structures, Group R, Division 3 and Group U, Division 1 Occupancies, moment frame systems designated as part of the lateral-force-resisting system shall be special moment-resisting frames.
4. The provisions in Sections 9.6a and 9.6b of AISC - Seismic Part 1 shall not apply, except for columns in one-story buildings or columns at the top story of multistory buildings.

5. None of the following structural irregularities is present: Type 1, 4 or 5 of Table 16-L, and Type 1 or 4 of Table 16-M.

(Ord. 2002-14 § 7, 2002)

15.08.130 Structural systems (UBC TABLE 16-N).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The amendment allows the use of steel ordinary moment frames and intermediate moment frames with certain limitations on height and dead load.

4. Table 16-N is revised to make it consistent with the adoption of 1997 AISC-Seismic Provisions and the latest Supplements. These provisions are fundamentally updated from previous editions. It has incorporated to the extent possible, most recent findings from the FEMA funded SAC Reports on steel moment frames that.

B. Structural Systems. Table 16-N of the California Building Code is deleted and replaced with the following:

TABLE 16-N - STRUCTURAL SYSTEMS¹

BASIC STRUCTURAL SYSTEM ²	LATERAL-FORCE-RESISTING SYSTEM DESCRIPTION	R	Ω	HEIGHT LIMIT FOR SEISMIC ZONES 3 AND 4 (feet)
				x 304.8 for mm
1. Bearing wall system	1. Light-framed walls with shear panels			
	a. Wood structural panel walls for structures three stories or less	5.5	2.8	65
	b. All other light-framed walls	4.5	2.8	65
	2. Shear walls			
	a. Concrete	4.5	2.8	160
	b. Masonry	4.5	2.8	160
	3. Light steel-framed bearing walls with tension-only bracing	2.8	2.2	65
	4. Braced frames where bracing carries gravity load			
	a. Steel	4.4	2.2	160
	b. Concrete ³	2.8	2.2	- ³
	c. Heavy timber	2.8	2.2	65
2. Building frame system	1. Steel eccentrically braced frame (EBF)	7.0	2.8	240
	2. Light-framed walls with shear panels.			
	a. Wood structural panel walls for structures three stories or less	6.5	2.8	65
	b. All other light-framed walls	5.0	2.8	65

BASIC STRUCTURAL SYSTEM ²	LATERAL-FORCE-RESISTING SYSTEM DESCRIPTION	R	Ω	HEIGHT LIMIT FOR SEISMIC ZONES 3 AND 4 (feet)
				x 304.8 for mm
	3. Shear walls a. Concrete b. Masonry 4. Ordinary braced frames a. Steel⁶ b. Concrete³ c. Heavy timber 5. Special concentrically braced frames a. Steel	5.5 5.5 5.6 5.6 5.6 6.4	2.8 2.8 2.2 2.2 2.2 2.2	240 160 35 ⁶ - 65 240
3. Moment-resisting frame system	1. Special moment-resisting frame (SMRF) a. Steel b. Concrete⁴ 2. Masonry moment-resisting wall frame (MMRWF) 3. Intermediate moment-resisting (IMRF) a. Steel⁶ b. Concrete⁵ 4. Ordinary moment-resisting frame (OMRF) a. Steel⁶ b. Concrete⁸ 5. Special truss moment frames of steel (STMF)	8.5 8.5 6.5 4.5 5.5 3.5 3.5 6.5	2.8 2.8 2.8 2.8 2.8 2.8 2.8 2.8	N.L. N.L. 160 35 ⁶ - ³ - ⁶ - ³ 240
4. Dual systems	1. Shear walls a. Concrete with SMRF b. Concrete with steel OMRF (Not Permitted) c. Concrete with concrete IMRF⁵ d. Masonry with SMRF e. Masonry with steel OMRF (Not Permitted) f. Masonry with concrete IMRF³ g. Masonry with masonry MMRWF 2. Steel EBF a. With steel SMRF b. With steel OMRF (Not Permitted) 3. Ordinary braced frames (Not Permitted) 4. Special concentrically braced frames a. Steel with steel SMRF b. Steel with steel OMRF (Not permitted) 5. Steel IMRF (Not permitted)	8.5 - 6.5 5.5 - 4.2 6.0 8.5 - 7.5 -	2.8 - 2.8 2.8 - 2.8 2.8 2.8 - 2.8 -	N.L. - - ⁵ 160 - - ³ 160 N.L. - N.L. -
5. Cantilevered column building systems	1. Cantilevered column elements	2.2	2.0	35 ⁷

BASIC STRUCTURAL SYSTEM ²	LATERAL-FORCE-RESISTING SYSTEM DESCRIPTION	R	Ω	HEIGHT LIMIT FOR SEISMIC ZONES 3 AND 4 (feet)
				x 304.8 for mm
6. Shear wall-frame interaction systems	1. Concrete ⁸	5.5	2.8	160
7. Undefined systems	See Section 1629.6.7 and 1629.9.2	-	-	-

N.L.-no limit

¹ See Section 1630.4 for combination of structural systems.

² Basic structural systems are defined in Section 1629.6.

³ Prohibited in Seismic Zones 3 and 4.

⁴ Includes precast concrete conforming to Section 1921.2.7.

⁵ Prohibited in Seismic Zones 3 and 4, except as permitted in Section 1634.2.

⁶ In Seismic Zone 4 **Steel IMRF, OMRF and Ordinary Braced Frames** are permitted as follows:

- a) **Steel IMRF** are permitted for structural systems 35 feet or less in height and the dead load of the roof, walls or floors not exceeding 35 psf each; or for single-story buildings 60 feet or less in height with the dead load of the roof or walls not exceeding 15 psf each where the moment joints of field connections are constructed of bolted end plates; or single-family dwellings using light frame construction with $R = 3.0$ and $\Omega_o = 2.2$.
- b) **Steel OMRF** are permitted for buildings 35 ft or less in height with the dead load of the roof, walls or floors not exceeding 15 psf each; or single-story buildings 60 ft or less in height with the dead load of the roof or walls not exceeding 15 psf each and where the moment joints of field connections are constructed of bolted end plates.
- c) **Steel Ordinary Braced Frames** are permitted for structural systems 35 ft or less in height; or penthouse structures; or single-story buildings 60 ft or less in height with the dead load of the roof or walls not exceeding 15 psf each.

⁷ Total height of the building including cantilevered columns.

⁸ Prohibited in Seismic Zones 2A, 2B, 3 and 4. See Section 1633.2.7.

(Ord. 2002-14 § 8, 2002)

15.08.140 Load and resistance factor design (UBC 2204.1).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The amendment eliminates references to Divisions II and III of Chapter 22 for seismic design of steel structures. This is necessary since the 1997 AISC Seismic Provisions with Supplement 1 and 2 are adopted in another part of this ordinance as the code of seismic design of such structures.

B. Design Methods. The text of UBC section 2204 is deleted and replaced with the following:

Design shall be by one of the following methods.

2204.1 Load and Resistance Factor Design. Steel design based on load and resistance factor design method shall resist the factored load combinations of section 1612.2 in accordance with the applicable requirements of section 2205.

2204.2 Allowable Stress Design. Steel design based on allowable stress design methods shall resist the factored load combinations of section 1612.3 in accordance with the applicable requirements of section 2205.

(Ord. 2002-14 § 9, 2002)

15.08.150 Seismic design provisions for structural steel (UBC 2205.3).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The current 1997 UBC edition is based on the outdated 1992 AISC Seismic provisions. The proposal makes the CBC provisions consistent with the current practice, which is based on the 1997 AISC Seismic with the two subsequent Supplements printed afterward.

B. Seismic Design Provisions for Structural Steel. The text of UBC section 2205.3 is deleted and replaced with the following:

2205.3 Seismic Design Provisions for Structural Steel. Steel structural elements that resist seismic forces shall, in addition to the requirements of Section 2205.2 be designed in accordance with Division IV.

C. Modification of Division IV and V of Chapter 22 of the California Building Code. Division IV of Chapter 22 of the California Building Code is deleted and replaced with the following:

Division IV — SEISMIC PROVISIONS FOR STRUCTURAL STEEL BUILDINGS

Based on Seismic Provisions for Structural Steel Buildings, of the American Institute of Steel Construction. Parts I and III, dated April 15, 1997 and Supplement No. 2, dated November 10, 2000.

2210 — Adoption

Except for the modifications as set forth in Sections 2211 and 2212 of this division and the requirements of the Building Code, the seismic design, fabrication, and erection of structural steel shall be in accordance with the *Seismic Provisions for Structural Steel Buildings*, April 15, 1997 published by the American Institute of Steel Construction, 1 East Wacker Drive, Suite 3100, Chicago, IL 60601, as if set out at length herein. The adoption of *Seismic Provisions for Structural Steel Buildings* in this Division, hereinafter referred to as AISC-Seismic, shall include Parts I (LRFD), and III (ASD)- and Supplement No. 2, dated November 10, 2000.

Where other codes, standards, or specifications are referred to in this specification, they are to be considered as only an indication of an acceptable method or material that can be used with the approval of the building official.

2211 — Design Methods

When the load combinations from Section 1612.2 for LRFD are used, structural steel buildings shall be designed in accordance with Chapter 22 Division II (AISC-LRFD) and Part I of AISC-Seismic as modified by this Division.

When the load combinations from Section 1612.3 for ASD are used, structural steel buildings shall be designed in accordance with Chapter 22 Division III (AISC-ASD) and Part III of AISC-Seismic as modified by this Division.

2212 — Amendments

The AISC-Seismic adopted by this Division apply to the seismic design of structural steel members except as modified by this section.

1. The following terms that appear in AISC-Seismic shall be taken as indicated in the 1997 Uniform Building Code.

AISC-Seismic	1997 Uniform Building Code
Seismic Force Resisting System	Lateral Force Resisting System
Design Earthquake	Design Basis Ground Motion
Load Combinations Eqs. (4-1) and (4-2)	Chapter 16 Eqs. (12-17) and (12-18) respectively
LRFD Specification Section Eqs. (A4-1) through (A4-6)	Chapter 16 Eqs. (12-1) through (12-6) respectively
$\zeta_o Q_E$	E_m

2. The text of section 1 of Part 1 of the AISC Seismic Provisions is deleted and replaced with the following:

1. Scope

These provisions are intended for the design and construction of structural steel members and connections in the Seismic Force Resisting Systems in buildings for which the design forces resulting from earthquake motions have been determined on the basis of various levels of energy dissipation in the inelastic range of response. These provisions shall apply to buildings in Seismic Zone 2 with an importance factor I greater than one, in Seismic Zone 3 and 4 or when required by the Engineer of Record.

These provisions shall be applied in conjunction with, Chapter 22, Division II, hereinafter referred to as the LRFD Specification. All members and connections in the Lateral Force Resisting System shall have

a design strength as provided in the LRFD Specification to resist load combinations 12-1 through 12-6 (in Chapter 16) and shall meet the requirements in these provisions.

Part I includes a Glossary, which is specifically applicable to this Part, and Appendix S.

3. Section 4.1. of Part 1, first paragraph of the AISC Seismic Provisions is deleted and replaced as follows:

4.1 Loads and Load Combinations

The loads and load combinations shall be those in Section 1612.2 except as modified throughout these provisions.

E_h is the horizontal component of earthquake load E required in Chapter 16. Where required in these provisions, an amplified horizontal earthquake load $\Omega_o E_h$ shall be used in lieu of E_h as given in the load combinations below. The term Ω_o is the system overstrength factor as defined in Chapter 16. The additional load combinations using amplified horizontal earthquake load are:

$$1.2 D + 0.5 L + 0.2 S + \Omega_o E_h \quad (4-1)$$

$$0.9 D + \Omega_o E_h \quad (4-2)$$

Exception: the load factor on L in load combination 4-1 shall be equal to 1.0 for garages, areas occupied as places of public assembly and all areas where the live load is greater than 100 psf.

Orthogonal earthquake effects shall be included in the analysis as required in section 1633.1, except that, when consideration of the load $\Omega_o E_h$ is required, orthogonal earthquake effects need not be considered.

D. Deletion of Division V of Chapter 22 of the California Building Code. Division V of Chapter 22 of the California Building Code is hereby deleted. (Ord. 2002-14 § 10, 2002)

15.08.160 Basic load combinations (UBC 1612.2.1).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. To avoid reduction of the vertical seismic component (E_v) by the dead load ($0.9D$) which was not the intent of considering the vertical component in seismic calculations.

4. To delete exception item 2 regarding the 1.1 factor for seismic design of concrete and masonry. The need for eliminating this factor has been well documented in many engineering and trade journals as well as in SEAOC Blue Book Commentary C101.7.1 (page. 85)

B. Basic Load Combinations. The text of Section 1612.2.1 is deleted and replaced with the following:

612.2.1 Basic load combinations. Where Load and Resistance Factor Design (Strength Design) is used, structures and all portions thereof shall resist the most critical effects from the following combinations of factored loads:

$$1.4D \quad (12-1)$$

$$1.2D + 1.6L + 0.5 (L_r \text{ or } S) \quad (12-2)$$

$$1.2D + 1.6 (L_r \text{ or } S) + (f_1 L \text{ or } 0.8 W) \quad (12-3)$$

$$1.2D + 1.3W + (f_1 L + 0.5 (L_r \text{ or } S)) \quad (12-4)$$

$$1.2D + 1.0E + (f_1 L + f_2 S) \quad (12-5)$$

$$0.9D \pm (1.0pE_h \text{ or } 1.3 W) \quad (12-6)$$

WHERE:

$f_1 = 1.0$ for floors in places of public assembly, for live loads in excess of 100 psf (4.9 kN/m²), and for garage live load.

$= 0.5$ for other live loads.

$f_2 = 0.7$ for roof configurations (such as saw tooth) that do not shed snow off the structure.

$= 0.2$ for other roof configurations.

EXCEPTIONS:

1. Factored load combinations for concrete per Section 1909.2 where load combinations do not include seismic forces.

2. Where other factored load combinations are specifically required by the provisions of this code.

(Ord. 2002-14 § 11, 2002)

15.08.170 Detailing requirements in seismic zones 3 and 4 (UBC 1630.8.2.2).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions:

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The provision is adopted in AISC-Seismic 97 Part I, Section 8.3 and is applicable to all axial loaded members therefore, it is redundant.

4. Old section is no longer applicable. Replaced with provision in the AISC-Seismic.

B. Detailing Requirements in Seismic Zones 3 and 4. The text of Section 1630.8.2.2 is deleted and replaced with the following:

1630.8.2.2 Detailing Requirements in Seismic Zones 3 and 4. In Seismic Zones 3 and 4, elements supporting discontinuous systems shall meet the following detailing or member limitations:

1. Reinforced concrete or reinforced masonry elements designed primarily as axial-load members shall comply with Section 1921.4.4.5.

2. Reinforced concrete elements designed primarily as flexural members and supporting other than light-frame wood shear wall systems or light-frame steel and wood structural panel shear wall systems shall comply with Sections 1921.3.2 and 1921.3.3. Strength computations for portions of slabs designed as supporting elements shall include only those portions of the slab that comply with the requirements of these Sections.

3. Masonry elements designed primarily as axial-load-carrying members shall comply with Sections 2106.1.12.4, Item 1, and 2108.2.6.2.6.

4. Masonry elements designed primarily as flexural members shall comply with Section 2108.2.6.2.5.

5. Steel elements designed primarily as flexural members or trusses shall have bracing for both top and bottom beam flanges or chords at the location of the support of the discontinuous system and shall comply with the requirements of AISC-Seismic Part I, Section 9.4b.

6. Wood elements designed primarily as flexural members shall be provided with lateral bracing or solid blocking at each end of the element and at the connection location(s) of the discontinuous system. (Ord. 2002-14 § 12, 2002)

15.08.180 Calculated story drift UBC 1630.10.2.

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The amendment corrects a much significant deficiency in the 1997 UBC, which eliminated any minimum base shear from consideration when checking for building drift.

4. After engineers began using the 1997 UBC they found problems with applying (30-7) for the drift calculations. (30-7) applies only to Zone 4 and was added after the Northridge Earthquake to account for near fault pulses. An erratum to 1997 UBC Section 1630.10.3 was issued in March 2001, three years following publication, that deleted (30-7) from being applied to drift calculations. However, SEAOC Seismology Committee found that the erratum actually made the drift limit to be less stringent and would allow more slender and flexible buildings than were allowed under the 1994 UBC.

5. The proposed modification was recommended by SEAOC Seismology Committee. It effectively makes the descending branch vary with $1/T^{2/3}$ for drift coordination purposes and make the drift limitations very similar to those of the 1994 UBC.

6. The change from 0.7 seconds to 0.5 seconds in the proposal is needed to avoid a step function in the drift limit. If 0.7 second were retained, the drift limit at T just below 0.7 seconds would have been different from the drift limit just above 0.7 seconds. With the switch to 0.5 seconds, the drift limit just below $T=0.5$ seconds is the same as the drift limit just above $T=0.5$ seconds.

B. Story Drift Calculated. The text of section 1630.10.2 is deleted and replaced with the following:

1630.10.2 Calculated. Calculated story drift using Δ_M shall not exceed 0.025 times the story height for structures having a fundamental period of less than 0.5 second. For structures having a fundamental period of 0.5 second or greater, the calculated story drift shall not exceed $0.020/T^{1/3}$ times the story height.

EXCEPTIONS: 1. These drift limits may be exceeded when it is demonstrated that greater drift can be tolerated by both structural elements and nonstructural elements that could affect life safety. The drift used in this assessment shall be based upon the Maximum Inelastic Response Displacement, Δ_M .

2. There shall be no drift limit in single-story steel-framed structures classified as Groups B, F and S Occupancies or Group H, Division 4 or 5 Occupancies. In Groups B, F and S Occupancies, the primary use shall be limited to storage, factories or workshops. Minor accessory uses shall be allowed in accordance with the provisions of Section 302. Structures on which this exception is used shall not have equipment attached to the structural frame or shall have such equipment detailed to accommodate the additional drift. Walls that are laterally supported by the steel frame shall be designed to accommodate the drift in accordance with Section 1633.2.4.

C. Story Drift Limitation. The text of section 1630.10.3 is deleted and replaced with the following:

1630.10.3 Limitations. The design lateral forces used to determine the calculated drift may disregard the limitations of Formula (30-6) and (30-7) and may be based on the period determined from Formula (30-10) neglecting the 30 or 40 percent limitations of Section 1630.2.2, Item 2.

(Ord. 2002-14 § 13, 2002)

15.08.190 Design specifications (UBC 2316).

A. Findings. The amendment set forth in this part reasonably necessary because of the following local geological conditions.

1. The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

2. Recent earthquake activities, including the 1989 Loma Prieta and the 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

3. The 1991 NDS is an outdated specification, which is more than ten years old. Since the adoption of 97 UBC the NDS has published the 1997 specifications, which incorporates many of the items that were added since publication of 1991 NDS and it is also in a more user friendly format.

B. Design specifications for allowable stress design of wood buildings. Part 1 of UBC Chapter 23, Division III is deleted and replaced with the following:

Part I-ALLOWABLE STRESS DESIGN OF WOOD

This standard, with certain exceptions, is the ANSI/NFoPA NDS-97 National Design Specification for Wood Construction of the American Forest and Paper Association, 1997 Edition, and the Supplement to the 1997 Edition, National Design Specification, adopted by reference.

The National Design Specification for Wood Construction, 1997 Edition, and supplement are available from the American Forest and Paper Association, 1111 19th Street, NW, Eighth Floor, Washington, DC, 20036.

C. Design Specification. The text of UBC section 2316.1 is deleted and replaced with the following:

SECTION 2316 - DESIGN SPECIFICATIONS

2316.1 Adoption and Scope. The National Design Specification for Wood Construction, revised 1997 Edition (NDS), which is hereby adopted as a part of this code, shall apply to the design and construction of wood structures using visually graded lumber, mechanically graded lumber, structural glued laminated timber, and timber piles. National Design Specification Appendix Section F, Design for Creep and Critical Deflection Applications, Appendix Section G, Effective Column Length, and Appendix Section J, Solution of Hankinson Formula are specifically adopted and made a part of this standard. The Supplement to the 1997 Edition National Design Specification, Tables 2A, 4A, 4B, 4C, 4D, 4E, 5A, 5B and 5C are specifically adopted and made a part of this standard.

Other codes, standards or specifications referred to in this standard are to be considered as only an indication of an acceptable method or material that can be used with the approval of the building official, except where such other codes, standards or specifications are specifically adopted by this code as primary standards.

D. Amendments. 1. Section 12 of Section 2316.2 is deleted and replaced with the following:

12. Sec. 3.2.3.3. Add to end of paragraph as follows: Cantilevered portions of beams less than 4 inches (102 mm) in nominal thickness shall not be notched unless the reduced section properties and lumber defects are considered in the design. For effects of notch on shear strength, see Section 3.4.4

2. Section 14 of Section 2316.2 is deleted.

3. Section 26 of Section 2316.2 is deleted.

4. Section 27 of Section 2316.2 is deleted.

(Ord. 2002-14 § 14, 2002)

Chapter 15.10

BUILDING CODE STANDARDS

Sections:

15.10.010 Uniform Building Code Standards adopted.

15.10.011 Effective date.

15.10.010 Uniform Building Code Standards adopted.

Effective on the date stated in Section 15.10.011, the latest edition of the Uniform Building Code Standards, published by the International Conference of building officials, copies of which are on file as required by law, is adopted and incorporated into this title by reference, with amendments as follows in this chapter. (Ord. 81-2 § 2(d), 1981)

15.10.011 Effective date.

The effective date for the operation of the latest edition of the Uniform Building Code Standards within the city shall be six months following its adoption by the California Building Standards Commission, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 96-25 § 1(34), 1996; Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(e), 1981)

Chapter 15.12

MECHANICAL CODE

Sections:

15.12.010 Adoption of technical provisions of Uniform Mechanical Code.

15.12.011 Effective date.

15.12.010 Adoption of technical provisions of Uniform Mechanical Code.

A. Except as otherwise provided for in this chapter, the Uniform Mechanical Code, 2000 edition, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the Cali-

for California Code of Regulations are approved and adopted, and are hereby incorporated in this chapter by reference and made a part hereof the same as if fully set forth herein.

B. One copy of the UMC has been filed for use and examination of the public in the office of the building official of the city of Marina. (Ord. 2002-14 § 19, 2002: Ord. 81-2 § 2(f), 1981)

15.12.011 Effective date.

The effective date for the operation of the latest edition of the Uniform Mechanical Code within the city shall be one year and one hundred eighty days from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(g), 1981)

Chapter 15.16

HOUSING CODE

Sections:

15.16.010 Adoption of the Uniform Housing Code.

15.16.011 Portions of Uniform Mechanical Code which are not approved, adopted or incorporated by reference.

15.16.020 Portions of the Uniform Housing Code which are not approved, adopted or included by reference.

15.16.010 Adoption of the Uniform Housing Code.

A. The Uniform Housing Code, 1997 edition, is hereby incorporated in this chapter by reference and made part hereof the same as if fully set forth herein.

B. One copy of the Uniform Housing Code has been filed for use and examination by the public in the office of the building official of the city of Marina.

15.16.011 Portions of Uniform Mechanical Code which are not approved, adopted or incorporated by reference.

The following portions of the Uniform Mechanical Code or UMC, 2000 edition, or of the appendix thereto, are not approved or adopted or incorporated in this chapter by reference, and shall not be deemed to be a part of this chapter nor a part of the mechanical code of the city of Marina: Chapter 1, and all of the Appendix Chapters with the exception of the following Appendix Chapters or portion thereof:

A. UMC Appendix C, sizing of Venting System serving appliances equipped with draft hoods and appliances listed for use with type 'B' vents. (Ord. 2002-14 § 21, 2002)

15.16.020 Portions of the Uniform Housing Code which are not approved, adopted or included by reference.

A. Sections 203 and 204 are omitted. (Ord. 2002-14 § 26 (part), 2002: Ord. 76-9 § 4.1(1), 1976)

Chapter 15.20

ABATEMENT OF DANGEROUS BUILDINGS CODE

Sections:

- 15.20.010 Adoption of the Uniform Code for the Abatement of Dangerous Buildings.**
- 15.20.011 Effective date.**
- 15.20.020 Sections 203 and 205—Omitted.**

15.20.010 Adoption of the Uniform Code for the Abatement of Dangerous Buildings.

A. The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, is hereby incorporated in this chapter by reference and made part hereof the same as if fully set forth herein.

B. One copy of the Uniform Code for the Abatement of Dangerous Buildings has been filed in the filed for use and examination by the public in the office of the building official of the city of Marina. (Ord. 2002-14 § 29, 2002; Ord. 81-2 § 2(k), 1981)

15.20.011 Effective date.

The effective date for the operation of the latest edition of the Uniform Abatement of Dangerous Buildings Code within the city shall be one year and one hundred eighty days from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(l), 1981)

15.20.020 Sections 203 and 205—Omitted.

Sections 203 and 205 of the Uniform Code for the Abatement of Dangerous Buildings are omitted. (Ord. 76-9 § 5.1(1), 1976)

Chapter 15.24

PLUMBING CODE

Sections:

- 15.24.010 Adoption of technical provisions of Uniform Plumbing Code.**
- 15.24.011 Effective date.**
- 15.24.020 Sanitary plumbing outlets.**
- 15.24.030 Portions of Uniform Plumbing Code which are not approved, adopted or incorporated by reference.**

15.24.010 Adoption of technical provisions of Uniform Plumbing Code.

A. Except as otherwise provided for in this chapter, the Uniform Plumbing Code, 2000 edition, including the appendices thereto, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the California Code of Regulations are approved and adopted, and are hereby incorporated in this chapter by reference and made a part hereof the same as if fully set forth herein.

B. One copy of the UPC has been filed for use and examination of the public in the office of the building official of the city of Marina.
(Ord. 2002-14 § 15, 2002: Ord. 81-2 § 2(m), 1981)

15.24.011 Effective date.

The effective date for the operation of the latest edition of the Uniform Plumbing Code within the city shall be six months following its adoption by the California Building Standards Commission, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 96-25 § 1(35), 1996: Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(n), 1981)

15.24.020 Sanitary plumbing outlets.

UPC Section 604 is hereby modified to read as follows:

Section 604.0 Materials

604.1 Water distribution pipe, building supply water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized steel, or other approved materials. Asbestos-cement, CPVC, PE, PVC or PEX water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC, PEX water pipe, tubing, and fittings, manufactured to a recognized standard may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of like material, except where otherwise approved by the building official. (Ord. 2002-14 § 16, 2002: Ord. 76-9 § 6.1(1), 1976)

15.24.030 Portions of Uniform Plumbing Code which are not approved, adopted or incorporated by reference.

The following portions of the Uniform Plumbing Code or UPC, 2000 edition, or of the appendix thereto, are not approved or adopted or incorporated in this chapter by reference, and shall not be deemed to be a part of this chapter nor a part of the plumbing code of the city of Marina: Chapter 1 with the exception of Section 101, and all of the Appendix with the exception of the following Appendix Chapters or portion thereof:

- A. UPC Appendix A, Recommended Rules for Sizing Water Supply Systems.
- B. UPC Appendix B, Notes on Combination Waste and Vent Systems
- C. UPC Appendix C, sizing of category 1 venting
- D. UPC Appendix D, Sizing Stormwater Drainage Systems
- E. UPC Appendix H, Recommended Procedures for Design, Construction and Installation of Commercial Kitchen Grease Interceptors
- F. UPC Appendix I, Installation Standards
- G. UPC Appendix J, Reclaimed Water Systems for Non-Residential Buildings
- H. UPC Appendix K, Private Sewage Disposal Systems. (Ord. 2002-14 § 18, 2002)

Chapter 15.28

ELECTRICAL CODE

Sections:

15.28.010	Adoption of technical provisions of National Electrical Code.
15.28.011	Effective date.
15.28.020	Electrical permit fees.
15.28.030	Inspections.

15.28.010 Adoption of technical provisions of National Electrical Code.

A. Except as otherwise provided for in this chapter, the National Electrical Code, 1999 edition, together with those omissions, amendments, exceptions and additions thereto as amended in Title 24 of the California Code of Regulations are approved and adopted, and are hereby incorporated in this chapter by reference and made a part hereof the same as if fully set forth herein.

B. One copy of the NEC has been filed for use and examination of the public in the office of the building official of the city of Marina.

1. Findings. The amendments set forth in this part reasonably necessary because of the following local geological conditions:

The San Francisco, San Jose, Monterey Bay area region is densely populated and located in an area of high seismic activities as indicated by United States Geological Survey and California Division of Mines and Geology.

Recent earthquake activities, including the 1989 Loma Prieta and 1994 Northridge earthquakes, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced the protection of the life-safety of building occupants.

Section 110.26(C) Access and Entrance to Working Space

For equipment rated 1200 amperes or more and over 6 ft (1.83 m) wide that contains overcurrent devices, switching devices, or control devices, there shall be one entrance not less than 24 in. (610 mm) wide and 6 ½ ft (1.98 m) high at each end of the working space. Where the entrance has a personnel door(s), the door(s) shall open in the direction of egress and be equipped with panic bars, pressure plates or other devices that are normally latched but open under simple pressure.

Section 210.12(B) Dwelling Unit Bedrooms

All branch circuits that supply 125-volt, single-phase, 15 and 20-ampere outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter listed to provide protection of the entire branch circuit.

Section 336-4 Uses Permitted

Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following:

(1) One- and Two-Family dwellings. Multifamily dwellings permitted to be of Types III, IV, and V construction except as prohibited in 336.5.

(2) Other structures permitted to be of Types III, IV, and V construction except as prohibited in 336-5. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

(3) Cables Trays, where the cables are identified for such use.

Section 625.29 (d) (1) Ventilation Required

(1) Table Values.

For supply voltages and currents specified in Table 625-29(D)(1) or 625-29(D)(2) for each of the total number of electric vehicles that can be charged at one time.

(Ord. 2002-14 § 22, 2002; Ord. 81-2 § 2(p), 1981)

15.28.011 Effective date.

The effective date for the operation of the latest version of the National Electrical Code within the city shall be one year and one hundred eighty days from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(q), 1981)

15.28.020 Electrical permit fees.

Fees for electrical permits shall be as set forth in the Uniform Administrative Code, adopted by Chapter 15.30 hereof. (Ord. 81-2 § 2(r), 1981)

15.28.030 Inspections.

A. Upon completion of the work authorized by an electrical permit, it is the duty of the person who installed such work, to notify the building official of such completion. Such official shall inspect the installation within forty-eight hours after he receives such notice, or as soon thereafter as practicable, excluding Saturdays, Sundays, and holidays. If, after such inspection, such official finds that the installation complies with the provisions of this title, he shall issue and deliver to the person who made the installation, a certificate of approval, authorizing the use of the installation and its connection to the source of supply, and shall immediately notify the electrical utility furnishing the electric service of such authorization.

B. If, upon inspection, the installation is found to be not in compliance with the provisions of this title, such official shall promptly notify, in writing, the person who made the installation, specifying therein the defects found. All defects shall be corrected within ten days after such notice, or within such other reasonable period as such official may determine.

C. When a certificate of approval is issued, authorizing connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein, and shall be revocable by such official for cause.

D. A preliminary certificate of approval may be issued, authorizing the connection and use of certain specific portions of an incompletd installation, and such certificate shall be revocable in the discretion of such official.

E. When any part of a wiring installation is to be hidden from view by the permanent placement of parts of the building, the person installing the wiring shall notify the building official, and such part of the wiring installation shall not be concealed until it has been inspected and approved by such official; except that on large installations, where the concealment of parts of the wiring proceeds continuously, the person installing the wiring shall give such official due notice, and inspections shall be made periodically during the progress of the work.

F. The building official shall have the power to remove or require the removal of, any obstruction which prevents proper inspection of any electrical wiring, device, appliances, apparatus, or equipment.

G. No person shall make connection from a source of electrical power (energy), or supply electrical service, to any electrical wiring, devices, appliances, apparatus or equipment which has been disconnected, or ordered to be disconnected or not used, by the building official after notice of such disconnection or order to disconnect or not use and until a certificate of approval has been issued. (Ord. 76-9 § 7.1(2), 1976)

Chapter 15.30

ADMINISTRATIVE CODE

Sections:

- 15.30.010 Adoption of the Uniform Administrative Code.**
- 15.30.011 Effective date.**
- 15.30.020 Table No. 3—Combination fees.**
- 15.30.030 Portions of the Uniform Administrative code not approved, adopted or incorporated by reference.**

15.30.010 Adoption of the Uniform Administrative Code.

Except as otherwise provided for in this chapter, the Uniform Administrative Code, 1997 edition is hereby adopted.

A. Buildings in existence on November 1, 2002 may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the building code, and provided continued use is not dangerous to life, health and safety.

B. A change in the use or occupancy of any existing building or structure shall comply with the provisions of Part 6 of Chapter 24.02 and Chapter 24.07 Part 1 of this title and Chapter 34 of the building code.

Historic Buildings (UAC 102.8) and (CBC Ch. 34)

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure, or its building service equipment may be made without conforming to the requirements of the technical codes and in accordance with the provisions of the State Historical Building Code Division II of Chapter 34 of 2001 CBC when authorized by the building official, provided:

A. The building or structure has been designated by official action of the legally constituted authority of the City as having special historical or architectural significance.

B. Unsafe conditions as described in this Title are corrected.

C. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

Plumbing permit exemptions (UAC 301.2.2) and (2000 UPC 103.1.2)

A plumbing permit shall not be required for the following:

1. The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this Title.

2. (1) The clearing of stoppages, including the removal and reinstallation of water closets or; (2) the repairing of leaks in pipes, valves or fixtures, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the Code or any other laws or ordinances of this jurisdiction.

3. The installation of one and six tenths (1.6) gallons per flush or less water closets installed in existing residential dwelling units when done as part of the City's "Water Conservation Retrofit Incentive Program." These exempted installations shall be limited to the replacement of non-water conserving water closets installed on existing roughed-in plumbing in residential dwelling units only, and shall not apply to water closet installations in new construction or addition, relocation or remodeling projects.

Mechanical Permit Exemptions (UAC 301.2.4) and (2000 UMC 112.2)

A mechanical permit shall not be required for the following:

1. A portable heating appliance, portable ventilating equipment, portable cooling unit or portable evaporative cooler.

2. A closed system of steam, hot or chilled water piping within heating or cooling equipment regulated by this code.

3. Replacement of any component part or assembly of an appliance which does not alter its original approval and complies with other applicable requirements of this code.

4. Refrigerating equipment, which is part of the equipment for which a permit has been issued pursuant to the requirements of this code.

5. A unit refrigerating system.

Deferred submittals (UAC 302.4.2)

A. For the purposes of this Chapter, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the Building Official within a specified period.

B. Deferral of any submittal items shall have prior approval of the Building Official. The architect or engineer of record shall list the deferred submittals on the cover sheet of the plans and shall submit the deferred submittal documents together with any required additional fees for review by the Building Official prior to their installation.

C. Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building.

D. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Building Official.

Plan Check Renewals and Extensions

A. All plan check submittals and approvals must be updated to meet this Title when the permit is issued one year or more after October 31, 2002.

B. When a plan check submittal or approval has expired, then it must be resubmitted and appropriate fees paid for review for conformance with the current codes.

C. Plan Check Time Extensions for one-building projects must comply with the following. A plan check submittal or approval may be extended one time for an additional 180 days by applicant making a written request to Building Official showing circumstances beyond the control of applicant have prevented action from being taken and paying appropriate fee prior to expiration date of the plan check submittal or approval.

D. Plan Check Time Extensions for ongoing multi-building projects must comply with all of the following:

1. A plan check submittal or approval may be extended one time for an additional 180 days by applicant making written request to Building Official and paying appropriate fees.

2. If a permit for at least one building has been issued, then the plan check approval is valid for 180 days from the latest permit issuance date, subject to the above limitations. The plan check approval may be extended for an additional 180 day period by applicant making a written request to Building Official and paying appropriate fees prior to expiration date of plan check approval, subject to the above limitations.

Change in Use (UAC 309.2)

Changes in the character or use of a building, or portion thereof, shall not be made except as specified in the Building Code and the Uniform Code for Building Conservation, Chapter 5. (Ord. 2002-14 § 24, 2002; Ord. 81-2 § 2(s), 1981)

15.30.011 Effective date.

The effective date for the operation of the latest edition of the Uniform Administrative Code within the city shall be one year and one hundred eighty days from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 86-15 § 1 (part), 1986; Ord. 81-2 § 2(t), 1981)

15.30.020 Table No. 3—Combination fees.

The following table and schedule of fees, for residential work only, is added as Table No. 3 to the Uniform Administrative Code, following Section 308 and prior to Table No. 3-A thereof:

TABLE NO. 3 - COMBINATION RESIDENTIAL/APARTMENT FEES

A single permit, encompassing official, electrical, gas, plumbing and mechanical work, shall be issued for all residential work, exclusive of hotels and motels, where the permit application lists the contractor and electrical and mechanical subcontractors. Notwithstanding any other provision of this title, the fee for such a combination permit shall be twenty-five percent (25%) greater than the applicable Building Permit fee as set forth in Table 3-A.

(Ord. 81-2 § 2(u), 1981)

15.30.030 Portions of the Uniform Administrative code not approved, adopted or incorporated by reference.

A. Tables 3-B, 3-C, 3-D, 3-E are hereby omitted. (Ord. 2002-14 § 25, 2002)

Chapter 15.32

ADOPTION OF THE UNIFORM FIRE CODE*

Sections:

15.32.010	Definitions.
15.32.020	Bureau of fire prevention established.
15.32.030	Section 7701.7.2 Fire limits established.
15.32.040	Section 7804—Added.

- 15.32.050 Section 7804.1—Added.**
- 15.32.060 Section 7804.1.2—Added.**
- 15.32.070 Section 7804.1.3—Added.**
- 15.32.080 Section 7804.1.4—Added.**
- 15.32.090 Section 2902—Amended.**
- 15.32.100 Section 1101.4—Added.**
- Section 1102.3.1—Amended.**
- 15.32.120 Article 10, Section 1003—Amended.**
- 15.32.130 Secondary supply capacity.**
- 15.32.140 Part IX appendices—Adopted.**

* Prior ordinance history: Ords. 76-18, 79-3, 81-2, 86-15, 99-17 and 2000-06.

15.32.010 Definitions.

As used in this chapter or in any other uniform codes or other nationally recognized fire safety standard, made a part of this chapter, unless otherwise apparent from the context:

- A. “City” means the city of Marina when it refers to a political entity, and means the incorporated area of the city of Marina when it refers to an area.
- B. “City council” means the city council of Marina.
- C. “Fire chief” means the chief of the fire department serving the city of Marina.
- D. “Mayor” means the mayor of the city of Marina.
- E. “Municipality” means the city of Marina. (Ord. 2002-14 § 30 (part), 2002)

15.32.020 Bureau of fire prevention established.

The Uniform Fire Code shall be enforced by the fire chief or his/her designee. (Ord. 2002-14 § 30 (part), 2002)

15.32.030 Section 7701.7.2 Fire limits established.

The limits referred to in Section 7701.7.2 of the Uniform Fire Code in which storage of explosives and blasting agents is prohibited are established as follows:

All land within the corporate limits of the city. (Ord. 2002-14 § 30 (part), 2002)

15.32.040 Section 7804—Added.

Section 7804 is added to Article 78 of the Uniform Fire Code to read as follows:

7804.0 Safe and Sane Fireworks Permitted. Notwithstanding the foregoing provision of law, safe and sane fireworks, as defined by the California Health and Safety Code or regulations issued by the Office of the State Fire Marshal, may be sold and discharged within the City during the period from 12:00 o’clock noon on June 28 to and until 11:59 p.m. on July 4 of each year, pursuant to the provisions of this ordinance and not otherwise.
(Ord. 2002-14 § 30 (part), 2002)

15.32.050 Section 7804.1—Added.

Section 7804.1 is added to Article 78 of the Uniform Fire Code to read as follows:

7804.1 Sale Permit Required. No person, co-partnership, partnership, organization or group shall sell safe and sane fireworks within the City without first having applied for and received a permit therefore in compliance with the terms of this ordinance. Upon receipt of a written application for a permit pursuant to this ordinance, the City Manager shall direct the Fire Chief to cause an investigation to be made and make a report to the City Manager of his findings and his recommendations for or against the issuance of a permit, together with his reasons therefore. After the receipt of such report and recommendations, the City Manager shall have the power, in his discretion, to grant or deny the application. The denial of an application may be appealed to the City Council by a written notice of appeal filed with the City Clerk within five (5) days after notice of the City Manager's action. Any permit granted by the City Manager may be subject to such reasonable conditions and restrictions as may be imposed by the City Manager, and such conditions and restrictions shall be complied with by the permittee.

(Ord. 2002-14 § 30 (part), 2002)

15.32.060 Section 7804.1.2—Added.

Section 7804.1.2 is added to Article 78 of the Uniform Fire Code to read as follows:

7804.1.2 Permittees. No permit for the sale of safe and sane fireworks shall be issued to any person, corporation, partnership, organization or group which has not been in business or in operation within the City for at least one (1) year continuously preceding the filing of the application. Being "in business" shall require the prior payment of a business license fee to the City. An organization or group shall be deemed to be "in operation" if it has a principal and permanent meeting place in the City, holds regular business meetings at that location and has bona fide membership of at least twenty (20) members.

(Ord. 2002-14 § 30 (part), 2002)

15.32.070 Section 7804.1.3—Added.

Section 7804.1.3 is added to Article 78 of the Uniform Fire Code to read as follows:

7804.1.3. Application for Permit.

Application for a permit to sell safe and sane fireworks shall:

- a) Be made in writing;
- b) Be filed with the Fire Chief on or prior to May 1 of each year;
- c) Set forth the proposed location of all fireworks stands, and the dimensions thereof;
- d) Be accompanied by an assurance that if a permit is issued the applicant, at the time of receipt of such permit, shall deliver to the City Manager satisfactory evidence of an insurance policy with \$50,000/100,000 public liability and ten thousand dollars property damage coverage's, with a rider attached to the policy designating the City and its agents and employees as additional insured thereunder;

e) Be accompanied by an assurance that if a permit is issued the applicant, at the time of receipt of such permit, shall deposit \$100.00 cash with the City Clerk, which deposit shall be refunded to the permittee after the permit period has ended, if said permittee has complied with all applicable provisions of law for the sale of fireworks, but to be forfeited and retained by the City in the event of non-compliance with such law;

f) Be accompanied by a nonrefundable application fee of \$25.00; and

g) Shall contain the following information: name and address of the applicant; applicant's business or organization status; the date the applicant was organized or first conducted business; the names and addresses of applicant's officers, if any; the location of applicant's principal and permanent place of business or meeting; the location where applicant will sell and store fireworks; and the applicant's State Board of Equalization Sales Tax Permit Number.

Applicants for permits hereunder shall be notified by the City Clerk of the granting or denial of their application for a permit on or before the first day of June each year.

h) And; for fireworks to be sold during the period from nine a.m. on December 26, 1999, until midnight of January 1, 2000, be filed with the city manager or fire chief on or prior to November 1, 1999. Applicants for such permits shall be notified by the city clerk of the granting or denial of their application for a permit on or before the December 1, 1999.

(Ord. 2002-14 § 30 (part), 2002)

15.32.080 Section 7804.1.4—Added.

Section 7804.1.4 is added to Article 78 of the Uniform Fire Code to read as follows:

7804.1.4 Fireworks Stands, Regulations. All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is prohibited. Such stands shall be subject to the following regulations:

a) No person, corporation, partnership, organization or group other than the designated permittee shall operate the stand for which a permit is issued or share or otherwise participate in the profits from the operation of such stand.

b) No person other than individuals who are employees of the permittee or members of a permittee organization or group, or the spouses or children, eighteen years or older, of such persons, shall sell or otherwise participate in the sale of fireworks at such stand.

c) Fireworks stands shall comply with the provisions of the Building Code of the City, and all stands shall be erected under the supervision of the Building Inspector, who shall require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons. An electrical permit and compliance with electrical codes are required.

d) If, in the judgment of the Fire Department Inspector, the construction of the stands or the conduct of the operators therein do not conform to the provisions of this ordinance, such officer may order the stands immediately closed.

e) No person shall be allowed in the interior of the stands except those directly employed in the sale of fireworks.

f) There shall be at least one supervisor, twenty-one (21) years of age or older, on duty at all times.

g) No stand shall be placed closer than twenty (20) feet to any other building.

h) NO SMOKING signs shall be prominently displayed both inside and outside the stand. No smoking shall be permitted within the stand, or within five (5) feet of the stand.

i) All weeds and combustible material shall be cleared from the location of the stand. No rubbish shall be allowed to accumulate in or around any fireworks stand, nor shall a fire nuisance be permitted to exist.

j) No stand shall be erected before June 15th of any year. The premises on which the stand is erected shall be cleared of all structures and debris not later than noon of the 12th day of July following.

k) All stands must be equipped with at least one 2 1/2-gallon water pressure type extinguisher for each exit in the stand. Each fire extinguisher shall have a current State Fire Marshal tag affixed and have been serviced within the last year.

l) Each stand in excess of twenty (20) feet in length must have at least two (2) exits; and each stand in excess of forty (40) feet in length must have at least three (3) exits spaced approximately equidistant apart; provided, however, that in no case shall the distance between exits exceed twenty (20) feet.

m) No stand shall be constructed with a depth of more than twelve (12) feet.

n) All unsold safe and sane fireworks shall be returned to the wholesaler not later than the eighth day of July.

o) Fireworks shall be stored only in a metal type trailer (such as a U-Haul type) and be equipped with a lock for overnight storage. The trailer wheels shall be removed while the trailer is being used for storage of fireworks.

p) In addition to the above, the permittee shall also conform to all regulations relating to the storage and sale of fireworks as set forth in the California Health and Safety Code and the Fireworks Rules and Regulations of the State Fire Marshal.

(Ord. 2002-14 § 30 (part), 2002)

15.32.090 Section 2902—Amended.

Add Section 2902.7 to Article 29 of the Uniform Fire Code to read as follows:

- a. **REPAIR OF GASOLINE TANKS.** No repair of a gasoline tank is permitted, unless the tank has been made vapor free. No draining of flammable liquids from storage tank of vehicle or equipment is permitted within any garage, repair shop or enclosure.

(Ord. 2002-14 § 30 (part), 2002)

15.32.100 Section 1101.4—Added.

Section 1101.4 of Article 11 of Uniform Fire Code is added to read as follows:

Permit Required. No person shall kindle or maintain any open fire or authorize any such fire or authorize any such fire to be kindled or maintained for the purpose of preparation of food, such as in the case of a Luau or barbecue or recreational fire without a permit form the Marina Fire Department. Other than one and two family residential dwelling units shall also need to secure a permit and/or clearance from the Monterey Bay Unified Air Pollution Control District.

(Ord. 2002-14 § 30 (part), 2002)

15.32.110 Section 1102.3.1—Amended.

Section 1102.3 of Article 11 of the Uniform Fire Code is amended by amending subsection 1102.3.1 to read as follows:

The Chief of the Marina Fire Department shall prohibit all outdoor rubbish fires, no waste matter shall be disposed of by burning within the City of Marina.

(Ord. 2002-14 § 30 (part), 2002)

15.32.120 Article 10, Section 1003—Amended.

Article 10, Section 1003 of the Uniform Fire Code is amended to read as follows:

Section 1003.2.2 All Occupancies.

1. An automatic sprinkler system shall be installed and maintained in all new construction to include mobile homes and manufactured homes moved into the city regardless of floor area or occupancy use with the following exceptions.

EXCEPTIONS:

- a. The exceptions as listed in section **1003.4 Permissible Sprinkler Omissions.**
- b. Temporary Buildings under 1000 Sq. ft.
- c. Existing mobile home parks within the City regulated by the Department of Housing and Community Development are exempt. Authority, Health and Safety Code, Mobilehome Parks Act, Section 18300.

d. Where the existing conditions would constitute an existing hardship prohibiting the installation of the fire sprinkler system in existing One and Two Family Dwellings. Existing factors constituting the hardship shall be submitted to the Fire Chief for verification and approval. Existing Hardship is defined as “an insufficient amount of water at the street side of the water meter.”

1003.2.9 Group R, Division 1 Occupancies.

Residential or quick-response standard sprinklers shall be used in dwelling units and guest room portions of the building. Such automatic fire sprinkler systems shall be installed in accordance with N.F.P.A. Standard 13-R.

1003.2.9.1 Group R Division 3 Occupancies is added to read.

An automatic fire sprinkler system shall be installed in every new one and two family dwellings, including attached garages.

“Existing One and Two Family Dwellings.” Additions not exceeding 50 percent of the existing square footage of habitable space are exempt from this code.

1003.2.9.2 Residential Fire Sprinkler Requirements is added to read.

An automatic fire sprinkler system in Group R, Division 3 Occupancies, including but not limited to one and two family dwellings, manufactured homes and mobile homes shall comply with N.F.P.A. Standard 13-D and the following.

a. All fire sprinkler systems installed in accordance with N.F.P.A. Standard 13-D shall be tested for leakage by undergoing a hydrostatic test at 200 psi for a two-hour duration or at 50 psi above static pressure in excess of 150 psi for a two-hour duration.

b. Each water system supplying both domestic and fire protection system shall have a single indication-type control valve, arranged to shut-off both the domestic and sprinkler systems and a separate shut-off valve for the domestic system only. The location of the control valve shall be approved by the Fire Chief or Fire Marshal. A separate shut-off valve is not required for the domestic water supply in multipurpose piping systems.

c. Local water flow alarms shall be provided on all N.F.P.A. Standard 13-D sprinkler systems. Local water flow alarms shall be powered from a non-switched circuit.

d. Garages shall be sprinkled.

e. Spare sprinklers shall be provided as required by N.F.P.A. 13.

1003.2.10 Sound Stages and Solid-Ceiling Sets and Platforms.

An automatic sprinkler system shall be installed in all permanent sound stages and interior solid-ceiling sets and under platforms.

EXCEPTION:

Sets with solid-ceilings designed to allow the ceilings to be positioned to allow for the operation of the automatic fire sprinkler system after filming has been completed for the day.

Section 1003.3 Sprinkler System Monitoring and Alarms.

Section 1003.3.1 Where required is amended to read as follows.

All valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:

- a. Twenty or more in Group I, Division 1.1 and 1.2 Occupancies.
- b. Fifty or more in all other occupancies.

Valve monitoring and water-flow alarm and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station, remote station or proprietary monitoring station as defined by *(For SFM) NFPA 72 as amended in Article 91* or, when approved shall sound an audible signal at a constantly attended location.

EXCEPTION: Underground key or hub valves in roadway boxes provided by the municipality or public utility need not be monitored.

(Ord. 2004-08 §§ 1, 2, 2004; Ord. 2002-14 § 30 (part), 2002)

15.32.130 Secondary supply capacity.

The secondary supply shall have sufficient capacity to operate a protected premises, central station, proprietary system, remote station or auxiliary station for sixty hours regardless of U.L. Listing. (Ord. 2002-14 § 30 (part), 2002)

15.32.140 Part IX appendices—Adopted.

Part IX Appendices of the Uniform Fire Code adopted as follows:

I-A, I-C, II-A, II-D, II-E, II-F, II-H, II-I, II-K, III-A, III-AA, III-B, III-BB, III-C, III-D, V-A, VI-B, VI-C, VI-D, VI-E, VI-F, VI-G, VI-H, VI-I, VI-J, VI-K. (Ord. 2002-14 § 30 (part), 2002)

Chapter 15.34

MINIMUM BUILDING SECURITY STANDARDS

Sections:

- 15.34.010 Adoption of the Uniform Building Security Code.**
- 15.34.080 Exterior security lighting.**
- 15.34.085 Additional measures may be required.**
- 15.34.110 Enforcement.**

- 15.34.120 Responsibility for security in nonresidential buildings.**
- 15.34.130 Occupancy.**
- 15.34.140 Violation—Penalties.**
- 15.34.150 Nuisances declared—Abatement and injunctions.**

15.34.010 Adoption of the Uniform Building Security Code.

A. The Uniform Building Security Code, 1997 Edition, is hereby incorporated in this chapter by reference and made part hereof the same as if fully set forth in this chapter.

B. One copy of the Uniform Building Security Code has been filed for use and examination by the public in the office of the building official of the city of Marina. (Ord. 2002-14 § 27, 2002: Ord. 89-2 § 1 (part), 1989)

15.34.080 Exterior security lighting.

A. Parking lots, including parking lots with carports, aisles, passageways, recesses and grounds contiguous to buildings within multiple-family, commercial and industrial complexes, shall be provided with lighting of sufficient wattage to provide adequate illumination to provide a safe environment for persons using the complex and make clearly visible the presence of any person on or about the premises during the hours of darkness. Such lighting shall be equipped with vandal-resistant covers/lenses.

B. The lighting required in subsection A of this section shall be installed according to a lighting plan reviewed and approved by the enforcing authority. Review and approval will be based upon criteria including but not limited to:

1. The nature and use of the area within the development;
2. The type of area in which the development is located;
3. The hours of use of the area to be lighted;
4. The frequency of use of the area to be lighted;
5. Existing lighting in the area;
6. Past criminal or crime-related incidents in the area;
7. Physical characteristics of the structure and/or development under proposed construction.

C. Nothing contained in this section is to be construed as prohibiting additional lighting from being used for purposes such as enhancing the beauty of the structure or landscaping, marking locations of stairways and other similar uses. Such lighting shall not be used in lieu of lights for security purposes. (Ord. 89-2 § 1 (part), 1989)

15.34.085 Additional measures may be required.

A. Additional security measures more stringent than those stated elsewhere in this chapter may be required by the planning commission or city council as conditions of approval of a use permit, specific plan or design review approval, in projects of a more complex nature than the normal residential, commercial or industrial developments. Prior to requiring such additional security measures, the planning commission or city council shall make findings that the project is of a highly complicated nature which may significantly and adversely affect the city's ability to respond to security and/or other emergency situations within the project.

B. Such additional security requirements shall be determined by considering recommendations of city staff of specific individual characteristics of a project and the needs dictated by such characteristics. Security measures required under this section may include, but shall not be limited to:

1. Security guard system;
2. Video monitoring system;
3. Card access systems;
4. Site circulation, parking and lighting systems.

C. Systems required under this section shall be maintained for the life of a given project as a condition to the continuing validity of a use permit, specific plan or design review approval. Projects which remove security devices or fail to maintain systems (including security guard services) required as a condition to the permit or approval, shall have their permits or approvals revoked upon findings of such failure made by the planning commission after a public hearing held before them. (Ord. 89-2 § 1 (part), 1989)

15.34.110 Enforcement.

The enforcement officer shall be the chief building inspector with the assistance of the authorized representative of the director of public safety and other appropriate departments in accordance with administrative procedures adopted with the approval of the city manager. (Ord. 89-2 § 1 (part), 1989)

15.34.120 Responsibility for security in nonresidential buildings.

The person owning the property, his designated agent, tenant and the general contractor for the project in question shall be jointly and severally responsible for compliance with this chapter. Security items that will remain on the premises after a tenant moves out are typically the responsibility of the property owner; systems that are removed upon vacation of the premises, such as an alarm system, are generally the responsibility of the tenant. (Ord. 89-2 § 1 (part), 1989)

15.34.130 Occupancy.

No persons shall occupy buildings or portions of buildings covered by this chapter until occupancy inspection and approval has been provided by the enforcing authority. (Ord. 89-2 § 1 (part), 1989)

15.34.140 Violation—Penalties.

Any person constructing, enlarging or maintaining any building or structure in this city or who causes the same to be done in violation of this chapter shall be guilty of an infraction and shall be punished as provided in Chapter 1.08 of this code. (Ord. 89-2 § 1 (part), 1989)

15.34.150 Nuisances declared—Abatement and injunctions.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this chapter is declared to be unlawful and a public nuisance, and in addition to any other remedy available, including criminal prosecution as an infraction, the city attorney shall upon order of the city council, immediately commence action for the abatement and removal and injunction thereof in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction, to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation, from setting up, erecting, building, maintaining or using any such building or structure contrary to the provisions of this title. (Ord. 89-2 § 1 (part), 1989)

Chapter 15.35

BUILDING CONSERVATION CODE

Sections:

- 15.35.010 Adoption of technical provisions of the Uniform Code for Building Conservation Chapter 5 and Appendix Chapters 1, 5 and 6.**

**15.35.010 Adoption of technical provisions of the Uniform Code for Building Conservation
Chapter 5 and Appendix Chapters 1, 5 and 6.**

A. Except as otherwise provided for in this chapter, the following chapters of the Uniform Code for Building Conservation, 1997 edition, together with those omissions, amendments, exceptions and additions thereto as amended in the Title 24 of the California Code of regulations are approved and adopted, and hereby incorporated in this chapter by reference and made a part of the same as if fully set forth:

1. Chapter 5 "Minimum Provisions for Change of Occupancy"
2. Appendix Chapter 1, "Seismic Strengthening provisions for Unreinforced Masonry Bearing Wall Buildings"
3. Appendix Chapter 5, "Earthquake Hazard Reduction in Existing Tilt-Up Concrete Wall Buildings"
4. Appendix Chapter 6, "Prescriptive Provisions for Seismic Strengthening of Cripple Walls and Sill Plate Anchorage of Light, Wood-Framed, Residential Buildings" (Ord. 2002-14 § 31, 2002)

Chapter 15.36

LOCAL IMPROVEMENTS

Sections:

15.36.010	Purpose.
15.36.020	Public improvements required.
15.36.030	Improvement plans.
15.36.040	Appeals.

15.36.010 Purpose.

Much of the existing development in the city lacks full public improvements. The city council has determined that the lack of said public improvements may be injurious to the health, safety, and welfare of the citizens of Marina, and may detract from the overall character of the community.

Therefore, the city council desires to achieve a uniformity of public improvements which will provide more efficient facilities and systems and will reduce the burden of maintenance of said facilities and systems. (Ord. 78-5 § 1, 1978)

15.36.020 Public improvements required.

Full public improvements, both on site and off site when the project has direct impact on adjacent properties, including, but not limited to, street improvements (including right-of-way dedications), curbs, gutters, sidewalks, paveout, fire hydrants, facilities for control of surface drainage, sanitary facilities for refuse storage and disposal, and necessary additions to water and sewer lines shall be installed in accordance with the requirements of the city engineer, fire inspector, building inspector, planning director and other appropriate officials on all construction requiring the issuance of building permits. Requirements for said improvements may be established as conditions of approval of use permit, zoning permit, site design review, variance, subdivision, minor subdivision, or other zoning or subdivision approvals, or at the time of application for building permits. (Ord. 78-5 § 2, 1978)

15.36.030 Improvement plans.

Applicants are required to submit necessary improvement plans to the appropriate agencies for approval prior to issuance of building permits, and are required to install said improvements prior to final signing of building permits. (Ord. 78-5 § 3, 1978)

15.36.040 Appeals.

Applicants dissatisfied with the requirements established by this procedure may appeal to the city council who may affirm, reverse or modify the decision. (Ord. 78-5 § 4, 1978)

**Chapter 15.40
RESIDENTIAL PROPERTY INSPECTION PROGRAM**

Sections:

15.40.010 Definitions.

15.40.020 Residential property inspection report required.

15.40.030 Contents of report.

15.40.040 Substandard housing inspection.

15.40.050 Effect and extent of report.

15.40.060 Exceptions.

15.40.070 Presentation of report to buyer.

15.40.080 Penalties.

15.40.090 No invalidation of sale or exchange.

15.40.010 Definitions.

For the purposes of this chapter, the following words and phrases shall the meanings respectively ascribed to them by this section:

A. "Agreement of sale" means any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner, including a lease with option to buy.

B. "Buyer" means any person, copartnership, association, corporation, fiduciary or other legal or business entity which intends to sign an agreement or instrument which on its face appears to be legally binding or is intended to be legally binding, subject to specified conditions. Such agreement or instrument shall include, but is not necessarily limited to, a deposit receipt, seller's instructions, contract of sale, exercise of option to buy or executed deed when there is no prior written agreement.

C. "Owner" means any person, copartnership, association, corporation, fiduciary or other legal or business entity having legal or equitable title or any interest in any residential property, or any realtor, real estate broker or agent representing such owner.

D. "Residential property" means all improved real property which is, or by virtue of the zoning thereon, may be used for residential purposes. (Ord. 81-8 § 1 (part), 1981)

15.40.020 Residential property inspection report required.

Prior to the close of escrow or transfer of title for sale or exchange of any residential real property, the owner of such property shall obtain from the city a residential property inspection report and, pursuant to Section 15.40.070, deliver same to the buyer. An inspection of any other type of real property may be requested by the owner thereof, and if so requested, such report shall be subject to the same terms and conditions as a residential

property inspection report required hereunder. A fee of twenty-five dollars shall be charged for each residential building (including apartments and condominiums) inspected pursuant hereto. A separate fee shall be charged for a substandard housing inspection report, if required, as provided for in Section 15.40.040. (Ord. 81-8 § 1 (part), 1981)

15.40.030 Contents of report.

Upon application by the owner or his authorized agent, and subject to payment of the fee required, the building inspector shall review pertinent city records, conduct an exterior inspection of the subject property, and deliver to the applicant within four working days a residential property inspection report which shall contain the following information, insofar as the same is available:

- A. Street location, address and parcel number of the subject property;
- B. Zone classification and authorized use;
- C. Occupancy as indicated and established by permits of record;
- D. Violations of the codes, ordinances and regulations of the city existing upon the subject property and its improvements which are of record or are revealed in the course of an exterior inspection by the city;
- E. Whether or not the building(s) inspected appear to the building inspector to be substandard, as defined in the Uniform Housing Code. (Ord. 81-8 § 1 (part), 1981)

15.40.040 Substandard housing inspection.

If, as a result of the exterior inspection provided for hereinabove, the building inspector determines, in his sole discretion, that the building inspected is or appears to be substandard, as that term is defined in the Uniform Housing Code adopted by Chapter 15.16 (Section 1001(a) of said uniform code, or similar subsequent section), then the residential property inspection report shall so indicate, and said report shall not be delivered to the owner until the building inspector makes a complete interior inspection of the building(s) in question, and prepares an additional report indicating why or in what manner the building is substandard and outlining the remedial action necessary to insure that the building complies with the minimum standards of the Uniform Housing Code. A fee of one hundred dollars shall be paid to the city for the substandard housing inspection and report. The report shall be attached to the regular property inspection report and delivered to the buyer, as provided for in Section 15.40.060. Completion of the remedial work specified in the sub-standard housing inspection report shall not be a condition to the sales or exchange transaction in question, but the city may at any future time take action to abate the substandard conditions pursuant to the Uniform Housing Code. (Ord. 81-8 § 1 (part), 1981)

15.40.050 Effect and extent of report.

Errors or omissions in any reports prepared under this chapter shall not bind or estop the city from abating any dangerous defects on the property by legal action against the seller, buyer or any subsequent owner. Such reports do not address guarantees of the structural stability of any existing building nor do they relieve the owner, his agent, architect or builder from designing and building a structurally stable building which meets the requirements of adopted codes and ordinances. Such reports shall be valid only as to the specific transaction for which the inspection and review of record was made by the city; provided, however, that in the event such transaction is not consummated, the reports shall be valid for a period of one hundred eighty days, on the condition that if a subsequent transaction is arranged during that period the property shall again be inspected by the city and a supplemental report issued, if necessary, without charge to the owner. (Ord. 81-8 § 1 (part), 1981)

15.40.060 Exceptions.

This chapter shall not apply to the first sale of:

A. A newly constructed residential property which is sold within six months after final inspection by the city; or

B. Of a residential building located in a subdivision whose final map has been approved and recorded in accordance with the Subdivision Map Act not more than two years before the first sale. (Ord. 81-8 § 1 (part), 1981)

15.40.070 Presentation of report to buyer.

Upon receipt of the residential property inspection report, and any addendums thereto, the seller or his authorized agent shall present such report, or an exact copy of same, to the buyer prior to transfer of title of such property to such buyer. Buyer shall, upon receipt of such report, execute a receipt for such report upon a form provided by the city, and such receipt shall be returned either by hand delivery or first class mail to the building department of the city. (Ord. 81-8 § 1 (part), 1981)

15.40.080 Penalties.

Violations of this chapter shall be an infraction. (Ord. 81-8 § 1 (part), 1981)

15.40.090 No invalidation of sale or exchange.

No sale or exchange of residential property shall be invalidated solely because of the failure of any person to comply with any provision of this chapter unless such failure is an act or omission which would be a valid ground for rescission of such sale or exchange in the absence of this chapter. (Ord. 81-8 § 1 (part), 1981)

Chapter 15.44

SMOKE DETECTORS REQUIRED FOR RESIDENTIAL PROPERTY

Sections:

15.44.010 Smoke detectors required prior to sale.

15.44.010 Smoke detectors required prior to sale.

No residential dwelling unit within the city, including single-family residences, condominiums, apartment buildings, mobile homes, motels or hotels shall be sold or released from escrow until a smoke detector or detectors have been installed therein in conformance with the requirements of § 1210(a) of the 1979 Uniform Building Code. It shall be the responsibility of the seller of such residential property to comply, at his or her own expense, with the requirements of this section prior to such sale. (Ord. 81-9 § 1, 1981)

Chapter 15.48

FLOOD DAMAGE PREVENTION

Sections:

15.48.010 Statutory authorization, findings of fact, purpose and methods.

15.48.020 Definitions.

15.48.030 General provisions.

15.48.040 Administration.

15.48.050 Provisions for flood hazard reduction.

15.48.060 Variance procedure.

15.48.010 Statutory authorization, findings of fact, purpose and methods.

A. Statutory Authorization. The legislature of the state of California has in Government Code Sections 65302, 65560 and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city council of the city does ordain as follows:

B. Findings of Fact.

1. The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To insure that potential buyers are notified that property is in an area of special flood hazard; and
8. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Controlling fill, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

15.48.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. See “Special flood hazard area.”

“Backfill” means the placement of fill material within a specified depression, hole or excavation pit below the surrounding adjacent ground level as a means of improving floodwater conveyance or to restore the land to the natural contours existing prior to excavation.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “one-hundred-year flood”).

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions: (1) breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and (2) the elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

Building. See “Structure.”

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE or V.

“Critical feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

“Curvilinear line” means the border on either a Flood Hazard Boundary Map or Flood Insurance Rate Map that delineates the special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazard areas and consists of a curved or contour line that follows the topography.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (in-

cluding, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an existing-manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Fill” means the placement of fill material at a specified location to bring the ground surface up to a desired elevation.

“Fill material” means natural sand, dirt, soil or rock. For the purposes of floodplain management, fill material may include concrete, cement, soil cement, brick or similar material as approved on a case-by-case basis.

“Flood,” “flooding,” or “floodwater” means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source, and/or
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)(a) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; and
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

“Flood elevation determination” means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

“Flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the flood boundary and floodway map, and the water surface elevation of the base flood.

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Floodplain administrator” means the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances.

“Flood protection system” means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce

the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed to conform with sound engineering standards.

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”

“Floodway encroachment lines” means the lines marking the limits of floodways on federal, state and local floodplain maps.

“Floodway fringe” means the area of a floodplain on either side of the designated floodway where encroachment may be permitted.

“Fraud and victimization” related to Section 15.48.060, Variances, of this chapter means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the variance board will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“Hardship” as related to Section 15.48.060, Variances, of this chapter means the hardship that would result from a failure to grant the requested variance. The variance board requires that the variance be exceptional, unusual and peculiar to, the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as exceptional hardships. All of these problems can be resolved through other means, without granting a variance. This is so even if the alternative means are more expensive or complicated than building with a variance, or if they require the property owner to put the parcel to a different use than originally intended, or to build elsewhere.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) by an approved state program as determined by the Secretary of the Interior or (b) directly by the Secretary of the Interior in states with approved programs.

“Landfill” means a permitted location for the disposal, placement or dumping of garbage, trash, debris, junk or waste material.

“Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “Basement” definition).

1. An unfinished or floor-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor, provided it conforms to applicable nonelevation design requirements, including, but not limited:

- a. The flood openings standard in Section 15.48.050;
- b. The anchoring standards in Section 15.48.050;
- c. The construction materials and methods standards in Section 15.48.050;
- d. The standards for utilities in Section 15.48.050.

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below-grade garages and storage areas.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map” means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Flood Insurance Administration, Federal Emergency Management Agency.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“Minimum necessary” related to Section 15.48.060, Variances, of this chapter means the minimum necessary to afford relief to the applicant of a variance with a minimum deviation from the requirements of this chapter. In the case of variances to an elevation requirement, this means the variance board need not grant permission for the applicant to build at grade, for example, or even to whatever elevation the applicant proposes, but only that level that the board believes will both provide relief and preserve the integrity of the chapter.

“New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after January 1, 1993 and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after January 1, 1993.

“Obstruction” means and includes but is not limited to any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water or its likelihood of being carried downstream.

“One-hundred-year flood” means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the “base flood,” which will be the term used throughout this chapter.

“Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

“Principal structure” means a structure used for the principal use of the property as distinguished from an accessory use.

“Public safety and nuisances” as related to Section 15.48.060, Variances, of this chapter means the granting of a variance must not result in additional threats to public safety or create nuisances. This chapter is intended to help protect the health, safety, well-being and property of the local citizens. This is a long-range community effort made up of a combination of approaches such as adequate drainage systems, warning and evacuation plans, and keeping new property above the flood levels. These long-term goals can only be met if exceptions to the requirements of this chapter are kept to a bare minimum.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach. Sheet Flow Area. See “Area of shallow flooding.”

“Special flood hazard area (SFHA)” means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A-30, VE or V.

“Start of construction” means and includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure for a substantial improvement the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided, that the alteration will not preclude the structure’s continued designation as a historic structure.

V Zone. See “Coastal high hazard area.”

“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

15.48.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of city.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated February 1, 1993, and the Flood Insurance Rate Map (FIRM), dated February 1, 1993, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This Flood Insurance Study (FIS) and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city council by the floodplain administrator. The study and Flood Insurance Rate Maps (FIRMs) are on file at the planning department.

C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the city council; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards, areas of flood-related erosion hazards and areas of mudslide (i.e., mudflow) hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city council, any officer or employee thereof, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

G. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

15.48.040 Administration.

A. Establishment of Development Permit. A development permit shall be obtained before any construction or other development begins within any area of special flood hazard, or areas of flood-related erosion hazard established in Section 15.48.030(B). Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures. In Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
2. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
3. All appropriate certifications listed in Section 15.48.040(C)(4) of this chapter; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Designation of the Floodplain Administrator. The community development director is appointed to administer, implement and enforce this chapter by granting or denying development permits in accord with its provisions.

C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

1. Permit Review.
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
 - b. All other required state and federal permits have been obtained;
 - c. The site is reasonably safe from flooding; and

d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.48.030(B), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 15.48.050. Any such information shall be submitted to the city for adoption.

3. Whenever a watercourse is to be altered or relocated:

a. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency;

b. Require that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.

4. Obtain and maintain for public inspection and make available as needed:

a. The certification required by Section 15.48.050(A)(3)(a) (floor elevations);

b. The certification required by Section 15.48.050(A)(3)(b) (elevations in areas of shallow flooding);

c. The certification required by Section 15.48.050(A)(3)(c)(iii) (elevation or floodproofing of nonresidential structures);

d. The certification required by Section 15.48.050(A)(3)(d)(i) or 15.48.050(A)(3)(d)(ii) (wet floodproofing standard);

e. The certification of elevation required by Section 15.48.050(C)(2) (subdivision standards);

f. The certification required by Section 15.48.050(F)(1) (floodway encroachments);

g. The information required by Section 15.48.050(G)(6) (coastal construction standards); and

5. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of flood-related erosion hazards or areas of mudslide (i.e., mudflow) (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.48.060.

6. Take action to remedy violations of this chapter as specified in Section 15.48.030(C).

7. Development of Substantial Improvement and Substantial Damage Procedures.

a. Using FEMA publication FEMA 213, “Answers to Questions About Substantially Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “market value.”

b. Assure procedures are coordinated with other departments/divisions and implemented by community staff. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

15.48.050 Provisions for flood hazard reduction.

A. Standards of Construction. In all areas of special flood hazards the following standards are required:

1. Anchoring.

a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall meet the anchoring standards of subsection D of this section.

2. Construction Materials and Methods.

a. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvement shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Require within Zones AH or AO that adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

3. Elevation and Floodproofing.

a. New construction and substantial improvement shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subsection (A)(3)(c) of this section. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.

b. New construction and substantial improvement in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in subsection (A)(3)(c) of this section. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain coordinator.

c. Nonresidential construction shall either be elevated to conform with subsection (A)(3)(a) or (b) of this section or together with attendant utility and sanitary facilities:

i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

ii. Have structural component capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.

d. Require, for all new construction and substantial improvement that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i. Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided, the bottom of all openings shall be no higher than one foot above grade (openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater); or

ii. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency.

e. Manufactured homes shall also meet the standards in subsection D of this section.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.
2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
3. Other utilities are addressed in subsections (A)(2) and (C)(4) of this section.

C. Standards for Subdivisions.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
2. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the final first floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
3. All subdivision proposals shall be consistent with the need to minimize flood damage.
4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's Flood Insurance Rate Map on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood:

- a. Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement;

- b. Sites located within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the standards of subsection G of this section.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection (A)(3)(d)(i) of this section will be elevated so that either:

- a. The lowest floor of the manufactured home is at or above the base flood elevation, or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's Flood Insurance Rate Map will either:
 - a. Be on the site for fewer than one hundred eighty consecutive days;
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions); or
 - c. Meet the permit requirements of Section 15.48.040 of this chapter and the elevation and anchoring requirements for manufactured homes in subsection D of this section.

2. Vehicles placed on sites within Zones V1-30, V and VE on the community's Flood Insurance Rate Map will meet the requirements of this subsection and subsection G of this section.

F. Floodways. Located within areas of special flood hazard established in Section 15.48.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If subdivision 1 of this subsection is satisfied, all new construction, substantial improvement and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this section.

G. Coastal High Hazard Areas. Within coastal high hazard areas established in Section 15.48.030(B), the following standards shall apply:

1. All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist floatation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

2. All new construction and other development shall be located on the landward side of the reach of mean high tide.

3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 15.48.020 of this chapter. Such enclosed space shall not be used for human habitation and will be useable solely for parking of vehicles, building access or storage.

4. Fill shall not be used for structural support of buildings.

5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

6. The floodplain administrator shall obtain and maintain the following records:

a. Certification by a registered engineer or architect that a proposed structure complies with subsection (G)(1) of this section;

b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

15.48.060 Variance procedure.

A. Nature of Variances. The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. Though these standards vary from jurisdiction to jurisdiction, in general, a properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners. It is the duty of the city council to help protect its citizens from flooding. This need is so compelling, and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in

this chapter are quite rare. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Appeal Board.

1. The city council of the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.

3. In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger of life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in time of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

4. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that (a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage and (b) such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the office of the Monterey County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

5. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

C. Conditions for Variances.

1. Generally, variances may be issued for new construction, substantial improvement and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 15.48.040 and 15.48.050 of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Section 15.48.020 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the “minimum necessary” (as defined in Section 15.48.020 of this chapter), considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional “hardship” (as defined in Section 15.48.020 of this chapter) to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create “nuisances” (as defined in Section 15.48.020 of this chapter), cause “fraud or victimization” (as defined in Section 15.48.020 of this chapter) of the public, or conflict with existing local laws or ordinances.

6. Variances may be issued for new construction, substantial improvement and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (C)(1) through (C)(5) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

7. Upon consideration of the factors of subsection (B)(3) of this section and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 2006-15 § 1 (part), 2006: Ord. 92-4 § 1 (part), 1992)

Chapter 15.54

OCCUPANCY OF BUILDINGS ON FORT ORD

Sections:

15.54.010	Definitions.
15.54.020	Findings of fact.
15.54.030	Purpose.
15.54.040	Occupancy permit required.
15.54.050	Nuisance declared.
15.54.060	Occupancy permit procedure.
15.54.070	Appeals.
15.54.080	Compliance with Chapter 15.40.

15.54.010 Definitions.

The following words, when used in this chapter, shall have the meanings respectively ascribed to them as follows:

“City” means the city of Marina.

“Fort Ord” means the portion of the city lying within the former boundaries of Fort Ord, including Fritzsche Field.

“Substandard building” shall have the same meaning as is described in the State Housing Law, California Health and Safety Code Section 17920.3. (Ord. 95-5 § 1 (part), 1995)

15.54.020 Findings of fact.

The city council finds that the buildings on Fort Ord within the city’s jurisdiction have been built under varying standards of construction, over a considerable number of years, have suffered various degrees of deterioration since their last occupancy, and are in unknown conditions of safety. The city council further finds that the best method to determine if the above-described buildings are safe for habitation and use is to require an inspection and determination of safety prior to any habitation or use. (Ord. 95-5 § 1 (part), 1995)

15.54.030 Purpose.

The purpose of this chapter is to prescribe the procedure and criteria for making the determination whether a building is safe for habitation and use. (Ord. 95-5 § 1 (part), 1995)

15.54.040 Occupancy permit required.

It is unlawful for any person to occupy, use or otherwise permit occupancy of any building on Fort Ord, other than those classified as “M-1 agriculture buildings” pursuant to the Uniform Building Code, until an occupancy permit is issued pursuant to this chapter. (Ord. 95-5 § 1 (part), 1995)

15.54.050 Nuisance declared.

The following are declared to be a nuisance and the city attorney shall, upon order of the city council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction, to grant such relief as will abate such use, occupancy or habitation and restrain and enjoin any person, firm or corporation from using any such building or structure contrary to the provisions of this chapter:

- A. Any building occupied or used in violation of this chapter;
- B. Any building for which an inspection has been performed and report of violations has been provided pursuant to this chapter and said violations have not been corrected or a building permit issued for those corrections within six months of the date of the report of violations. (Ord. 95-5 § 1 (part), 1995)

15.54.060 Occupancy permit procedure.

Prior to the first change of use in any manner of a building subject to this chapter following conveyance from the federal government, the owner or proposed occupant shall apply for an occupancy permit, pursuant to the following procedures:

A. Application shall be on a form provided by the building official and approved by the city manager. The application shall include but not be limited to the following:

- 1. A plot plan indicating dimensions of each building and showing the size of any living and garage areas, lot size, shape and setback, number of bedrooms, bathrooms, sewer and water lines and gas, electric and water meters. Sewer and water lines may not pass through neighboring property not including a public way without a valid easement recorded in conformance with the law;
- 2. In other than single-family dwellings, a set of plans or reference to plans on file with the building official of the existing building showing intended use, exits, mechanical equipment, plumbing layout and electrical layout;
- 3. The location of smoke detectors;
- 4. Any other information required by the building official.

B. The application shall be accompanied by the proper fee as determined by the city council pursuant to Chapter 3.24 of this code.

C. Within fifteen working days of receipt of a properly completed application and the appropriate fee, or, upon a showing of good cause the building official determines that more days are required, the building official, or his or her representative, shall inspect the building and issue one of the following to the applicant:

1. Upon a finding of no violations of those codes adopted under Title 15 (the Building Codes) which would make the building unsafe or substandard and the use is in conformance with Title 17 of this code (the zoning ordinance), an occupancy permit shall be issued.

2. Upon a finding of violations of the building codes which make the building unsafe or substandard or the use is not in conformance with Title 17 of this code, a report of violations shall be issued. Any such report shall indicate the location of the violation within the building and the appropriate citation of the Uniform Building Code or similar code. (Ord. 2005-12 § 1 (Exh. A (part)), 2005; Ord. 95-5 § 1 (part), 1995)

15.54.070 Appeals.

Any person aggrieved by any decision or action of the building official in respect to any application for an occupancy permit may appeal, in writing, to the city council within twenty days after the decision or action in question upon payment of the appropriate fee. In addition any member of the city council may request, in writing, within said time period that the decision or action of the building official be reviewed by the city council as if on appeal. The matter of the appeal or review shall be heard by the city council within forty-five days from the date of filing a request therefor, and notice of the time and place of such hearing shall be mailed to the appellant, to the applicant if other than the appellant, and to the owners of all adjacent property, not less than ten days prior to the date of such hearing. Failure of any person to receive notice of the hearing shall in no way affect the validity of the action taken. (Ord. 95-5 § 1 (part), 1995)

15.54.080 Compliance with Chapter 15.40.

The inspection described in this chapter may be in lieu of any inspection required by Chapter 15.40. An occupancy permit may be delivered to the first buyer of the property following its issuance and may be used for compliance with Chapter 15.40. (Ord. 95-5 § 1 (part), 1995)

Chapter 15.56

DIGGING AND EXCAVATION ON THE FORMER FORT ORD

Sections:

15.56.010	Purpose and intent.
15.56.020	General.
15.56.030	Designation and applicability.
15.56.040	Excavation and digging restrictions.
15.56.050	Permit requirements.
15.56.060	Permit procedure.
15.56.070	Term of permit.
15.56.080	Exceptions to permit conditions.
15.56.090	Performance bond.
15.56.100	Amendment to permits.

- 15.56.110 Appeals.**
- 15.56.120 Notification to property owners and other land users.**
- 15.56.130 Revision of chapter.**

15.56.010 Purpose and intent.

The United States Army (Army) is in the process of transferring various parcels of the former Fort Ord military installation (Fort Ord) to the city or to other entities within the city's land use jurisdiction. Some parcels of the former Fort Ord were contaminated with unexploded ordnance and explosives (UXO), which is a hazardous waste. The Army will not transfer those parcels until it has completed response actions for UXO as required by law. Even following the Army's completion of UXO response actions, it is possible that some UXO materials may remain on those parcels. The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has statutory responsibility to oversee cleanup of releases of hazardous substances, which includes hazardous waste. DTSC cannot certify that all UXO has been cleared and has considered requiring land use restrictions that will be recorded with the Monterey County recorder. The city believes that recorded land use restrictions would burden the title of those parcels and present economic disincentives to develop them. The city and DTSC desire that sufficient controls and restrictions be placed on these parcels to protect the public health, safety and in a manner equivalent to that resulting from recordation of land use restrictions. (Ord. 98-4 § 1 (part), 1998)

15.56.020 General.

The city council finds and determines that those properties formerly included within the Fort Ord military installation which are suspected of containing UXO require special standards and procedures for digging and excavation in addition to those contained in the building code, to ensure that:

- A. Neither digging or excavation nor development of such properties occurs until ordnance or explosive remediation thereon is completed;
- B. Potential purchasers or developers of UXO sites and those persons whose work at UXO sites includes disturbing soil, are aware of the potential that UXO may be located on these properties and are aware of the requirements for UXO remediation prior to any digging, excavation or ground disturbance thereon; and
- C. DTSC should be continuously involved in the establishment of controls for those properties because it has statutory oversight responsibility with respect to hazardous substance response actions. (Ord. 98-4 § 1 (part), 1998)

15.56.030 Designation and applicability.

A. The city council shall by resolution, and with the concurrence of DTSC, designate all real property within the city's land use jurisdiction which was formerly part of Fort Ord and which have been identified in the Revised Archives Search Report, Former Fort Ord, dated 1997, or are otherwise identified, as the possible location of unexploded ordnance or explosives as an ordnance remediation district. All such districts shall be depicted on a grading district map by an "ORD" suffix to indicate the existence of ordnance remediation obligations on such property and, upon receipt of notification by the Army of specific requirements or restrictions on such districts, a notation thereof. The city shall notify DTSC of any change in the permitted land uses in any district within thirty days after it adopts any change.

B. The regulations in this chapter shall apply in all "ORD" districts and shall be in addition and subject to all provisions of the municipal code including Title 17 and the building code. (Ord. 98-4 § 1 (part), 1998)

15.56.040 Excavation and digging restrictions.

It is unlawful for any person, including utilities, to engage in any of the following activities on any property located within a district unless that person is acting pursuant to a valid permit issued pursuant to this chapter: excavation, digging, development or ground disturbance of any type (A) involving the displacement of ten cubic feet or more of soil; or (B) in violation of requirements or restrictions placed on such property by the Army and as noted on the grading district map. (Ord. 98-4 § 1 (part), 1998)

15.56.050 Permit requirements.

An owner or user of real property located within a district who desires to conduct the activities described in Section 15.56.040 shall apply to the director of public works (director) for a permit. The application shall be on a form approved by the city, shall be signed by the permit applicant, and shall contain the following information:

A. A description of any previous UXO excavation or removal activity conducted on the property whose soil is proposed to be excavated, moved or graded;

B. A description of the property whose soil is proposed to be excavated, moved or graded. The description shall include a drawing with dimensions to a scale which sets forth the size and details of all proposed excavation activity, including any proposed cut and fill, trenching, well drilling, mineral excavation, post hole drilling, or other activity of any sort whenever the applicant proposes to (1) disturb ten cubic feet or more of soil; or (2) disturb soil in a manner inconsistent with restrictions placed on the property by the Army and as noted on the grading district map;

C. A statement that the person submitting the application acknowledges liability for removing all detected unexploded ordnance and explosives in accordance with this chapter and the permit;

D. A statement by the person submitting the application that s/he has, within the preceding twelve months, delivered a copy of the notice to everyone whose work at the property described in subsection B above includes disturbing soil;

E. Any other information which the director may require as pertinent to the determination of the adequacy of the proposed plan;

F. Payment of the permit fee, as established by the city council, at the time of filing the application for the permit. (Ord. 98-4 § 1 (part), 1998)

15.56.060 Permit procedure.

The director shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such application, the director, in his/her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Except as otherwise indicated in Section 15.56.080, any permit issued hereunder shall be subject to the following conditions:

A. All excavation and grading shall be performed solely in accordance with the permit approved by the city and in accordance with the permit as issued by the city.

B. Prior to movement of any soil on any property located within a district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the notice and safety plan which is attached hereto as Exhibit A, and explain to each such person the information set forth in that notice.

C. The permittee may not move or disturb soil in a manner inconsistent with restrictions placed on the property by the Army and as noted on the grading district map unless there is a Department of Defense certified, or equivalent, explosive ordnance disposal technician acceptable to the director who is on site and visually su-

pervises any such activity. Any excavation or soil disturbance inconsistent with restrictions placed on the property by the Army may be accomplished only after investigation using sweep lanes no wider than five feet throughout the excavation area and after using detection devices and visual identification to locate, identify and remove any unexploded ordnance discovered during such excavation activity.

D. The permittee shall cease soil disturbance activities and shall notify the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC.

E. No later than thirty days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the director, the Army and DTSC an after action report that shall state whether and where UXO was detected and the extent and depth of UXO response actions undertaken and completed on the property that is the subject of the permit. The after action report shall include site maps to illustrate the information contained in the report. All after action reports prepared and filed in accordance with this chapter shall be deemed public records.

F. The permittee agrees as a condition of issuance of a permit to defend at its sole expense, indemnify and hold harmless from any liability the city, and reimburse the city for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal proceeding. The city may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this subsection. (Ord. 98-4 § 1 (part), 1998)

15.56.070 Term of permit.

The permit shall be valid for one year from the date it is issued. (Ord. 98-4 § 1 (part), 1998)

15.56.080 Exceptions to permit conditions.

Following consultation with and approval by DTSC, the city council may, upon a finding that the requirements of Section 15.56.060C are no longer necessary, designate by resolution any district as a limited control district. The holder of any permit issued for any limited control district shall not be subject to section 15.56.060C. (Ord. 98-4 § 1 (part), 1998)

15.56.090 Performance bond.

Upon a finding by the director that a permit should issue for excavation or grading on the proposed site, a surety bond, lien or other security guarantee conditioned upon the faithful performance and completion of the permitted excavation activity shall be filed with the city. Such surety shall be executed in favor of the city and shall be maintained in an amount prescribed by the director sufficient to ensure the completion of the ordnance remediation and excavation of the site as prescribed in the approved permit. (Ord. 98-4 § 1 (part), 1998)

15.56.100 Amendment to permits.

Request for amendments to an approved excavation permit may be submitted to the director at any time, detailing proposed changes from the original permit. Deviations from the original permit shall not be undertaken until such amendment has been approved by the city in writing. Amendments to an approved permit shall be approved by the same procedure as prescribed for the approval of the original excavation permit. (Ord. 98-4 § 1 (part), 1998)

15.56.110 Appeals.

Any person aggrieved by any determination of the director in exercise of the authority granted in this chapter shall have the right to appeal to the city council. Any appeal setting forth the contested decision and the rea-

sons for contesting same must be filed within ten working days after the posting of the director's decision at the three places designated by the city council. The city council shall render its decision within sixty days following the filing of the notice of appeal. The council may affirm, reverse or modify the decision of the director. The council action shall be final upon issuance of its decision. (Ord. 98-4 § 1 (part), 1998)

15.56.120 Notification to property owners and other land users.

A. To the extent that the Army identifies those persons to whom it has conveyed property that is designated ordnance remediation districts, the city will notify those persons and those utilities known to be providing service within the city, of the requirements of this chapter and provide those persons with the notice and safety plan (notice), which is attached hereto as Exhibit A. The city shall annually notify the owners of such property as shown on the equalized tax rolls of the requirements of this chapter and provide those persons with a copy of the notice. Failure of any owner, occupant or user of such land to receive such notification shall not relieve that person from responsibility for compliance with this chapter.

B. All owners, occupants or users of land subject to this chapter, including utilities, shall notify any subsequent owners, assigns, lessees or users of such land of the requirements of this chapter. Notification shall be made prior to transfer of the property in question.

C. All persons identified in subsection A above shall deliver, at least annually, a copy of the notice to everyone whose work at UXO sites includes disturbing soil and shall explain the contents thereof to those persons. (Ord. 98-4 § 1 (part), 1998)

15.56.130 Revision of chapter.

This chapter shall not be revised without prior written notice to the DTSC and subject to the terms of that certain agreement between the city and DTSC dated April 21, 1998. (Ord. 98-4 § 1 (part), 1998)

Chapter 15.58

**DIGGING, TRENCHING AND EXCAVATION AT
THE MARINA MUNICIPAL AIRPORT**

Sections:

15.58.010 Findings and purpose.

15.58.020 Prohibited digging, trenching and excavation.

15.58.030 Signs authorized.

15.58.010 Findings and purpose.

It is found and determined that digging, trenching and excavation at the Marina Municipal Airport is potentially dangerous because it is believed that there may be underground utilities which are either not recorded on available maps or are not locatable through the normal process of contacting Underground Service Alert ("USA"). It is further found and determined that such digging, trenching and excavation could create a hazard to the health, safety and general welfare. (Ord. 2001-01 § 1 (part), 2001)

15.58.020 Prohibited digging, trenching and excavation.

It is unlawful for any person, including utilities, to engage in any digging, trenching or excavation at the Marina Municipal Airport without the express written permission of the director of public works ("director"). In

permitting such digging, trenching and excavation the director may impose such reasonable conditions as he deems appropriate. Said permission is intended to supplement the normal process of contacting USA prior to any digging, trenching or excavation and does not eliminate the requirement for such contact. (Ord. 2001-01 § 1 (part), 2001)

15.58.030 Signs authorized.

The director shall post and maintain signs at all entrances to the Marina Municipal Airport in at least one and one-half inch high letters containing the following language: “No digging, trenching or excavation at the Marina Municipal Airport without the express written permission of the director of public works.” (Ord. 2001-01 § 1 (part), 2001)

EXHIBIT A

EXPLOSIVES ALERT:

NOTICE OF POTENTIAL UNEXPLODED ORDNANCE

Unexploded ordnance (“UXO”) is various kinds of weapons or munitions that have been armed, launched or released, but have not exploded. UXO varies in size from ½” (e.g., bullets) to 10’ (e.g., bombs and rockets). Depending on the kind of UXO, motion, pressure or heat can cause the UXO to explode. Various kinds of UXO are shown on the attached paper [or, “on the reverse side of this paper”].

There are certain areas of the former Fort Ord where unexploded ordnance was found buried in the ground. The U.S. Army has attempted to “clear” those areas of UXO. There is a possibility that UXO remains in these areas. The UXO may be intact or in parts or fragments.

UXO CAN HURT OR KILL YOU. YOU MUST BE EXTREMELY CAREFUL WHEN WORKING IN THE SOIL IN THESE AREAS.

UXO SAFETY WARNINGS

- ◆ When you see potential UXO, STOP. Do not move closer.
- ◆ Never transmit radio frequencies (e.g., walkie talkies, C.B. radios or other personal communication devices).
- ◆ Never attempt to remove anything near a UXO.
- ◆ Never attempt to touch, move, or disturb a UXO.
- ◆ Clearly mark the UXO area.
- ◆ Avoid any area where UXO is located.
- ◆ Call the federal police at 408-242-7851 or 7852 to report what you have found.

For more information concerning UXO cleanup at the former Fort Ord, contact the Directorate of Environmental and Natural Resources Management at the Presidio of Monterey (408-242-7924).

ART HERE

Title 16

SUBDIVISIONS*

Chapters:

16.02	Outline of Procedure for Filing Subdivision Maps
16.04	Purpose Planning Commission Minor Subdivision Committee
16.06	Definitions
16.08	Design Requirements by Type of Subdivision
16.10	Exceptions from Requirements
16.11	Vesting Tentative Maps
16.12	Standard Preliminary Map Filing Procedure
16.14	Standard Tentative Map Subdivision Procedure
16.16	Reversion to Acreage
16.18	Final Map
16.20	Minor Subdivision
16.22	Enforcement
16.24	Violation Penalty

* Prior ordinance history: Ords. 76-5, 76-16, 80-6, 82-14, 83-12, 88-6, 90-10, 93-6

Chapter 16.02

OUTLINE OF PROCEDURE FOR FILING SUBDIVISION MAPS

Sections:

16.02.010 Outline of procedure.

16.02.010 Outline of procedure.

Section	Action By	Responsible Party	Time Schedule
16.12.010	Preliminary map submitted to planning department (7 copies)	Subdivider	14 days prior to subdivision committee meeting
16.12.020	Recommendation on preliminary map to planning commission and subdivider	Subdivision committee	
16.14.010A	Submit preliminary title report to planning department	Subdivider	With filing of tentative map
16.14.010B	Slope stake sidehill roads where average cross slope exceeds 10%	Subdivider	Prior to filing tentative map
16.14.050B	Tentative map presented to planning department (15 copies plus reproducible sepia) Fee based on city council resolution	Subdivider	30 days prior to planning commission meeting
16.14.050D	A model of any development having cross slope of 20% or more shall be presented	Subdivider	Prior to planning commission meeting
16.14.050E	Transmit tentative maps to other agencies and departments	Planning department	
16.14.050F	Suggested conditions and comments submitted to planning department	Staff department review	Within 16 days
	Meet with subdivider or his representative	Subdivision committee	Optional
16.14.060	File tentative map with planning commission (7 copies of revised tentative map, 8" × 11" transparency)	Planning department	Next meeting after subdivision committee meeting
16.14.060A	Reports action to subdivider. Informal report to city council	Planning commission	50 days after tentative map application is complete
16.14.070	City council action on tentative map	City council	Within 15 days of receipt of report
16.14.080	Improvement plans and final map for checking to city engineer	Subdivider	

Section	Action By	Responsible Party	Time Schedule
16.18.010	Authorizes recordation of final map (if approved)	City council	Within 24 months after tentative map approval
16.18.020	Submit corrected plans, final map fees, agreement, etc. to city engineer	Subdivider	Two weeks prior to city council action

(Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.04

PURPOSE—PLANNING COMMISSION—MINOR SUBDIVISION COMMITTEE

Sections:

- 16.04.010 Purpose.**
- 16.04.020 Planning commission.**
- 16.04.030 Subdivision committee.**
- 16.04.040 Minor subdivision committee.**

16.04.010 Purpose.

A. This title is enacted for the purpose of promoting the public health, safety, convenience and general welfare; to regulate the design, improvement and survey data of subdivisions; and to provide for the form and content of tentative and final maps thereof. The procedure to be followed in securing official approval thereof shall be governed by the Subdivision Map Act of the state of California and by the provisions of this title.

B. To secure compliance with the city of Marina Zoning Ordinance, the Local Coastal Program and any adopted general plans of the city of Marina.

C. Further, it is the purpose of this title to encourage new concepts and innovations in the arrangement of building sites within subdivisions. Deviations from the traditional mechanical approach to the subdivision of land are encouraged in order to facilitate the ultimate development of the land in a manner that will be commensurate with contemporary living patterns and technological progress. (Subdivision ordinance dated 8/95 (part), 1995)

16.04.020 Planning commission.

The planning commission is designated as the advisory agency with respect to subdivisions as provided in the Subdivision Map Act of the state of California.

A. The planning commission shall have all the powers and duties with respect to tentative and final maps, and the procedure relating thereto, which are specified by law and by this title.

B. In the case of a minor subdivision for which a variance from requirements of the Marina Zoning Ordinance, an exception from the requirements of this title, or a use permit must be granted prior to the approval of the minor subdivision, or is applied for consideration concurrent with the minor subdivision application, the planning commission shall serve as the advisory agency for the review of the minor subdivision and the planning

commission shall take all actions otherwise assigned to the minor subdivision committee under this title. (Ord. 2004-09 § 1 (part), 2004: subdivision ordinance dated 8/95 (part), 1995)

16.04.030 Subdivision committee.

There is created a subdivision committee to consist of the director of public works, director of planning, or their designated representatives and one member of the planning commission. The committee shall have the powers and duties specified by this title. The director of planning, or his designated representative, shall be the secretary of the committee. (Subdivision ordinance dated 8/95 (part), 1995)

16.04.040 Minor subdivision committee.

A. There is created a minor subdivision committee to consist of the director of public works and the director of planning or their designated representatives, and one member of the planning commission. The director of planning or his designated representative shall be the secretary of the committee.

B. The minor subdivision committee is designated as the advisory agency for minor subdivision and divisions of property requiring a parcel map under Section 11535(d) of the Business and Professions Code, except as provided by Section 16.04.020(B) of this chapter. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.06

DEFINITIONS

Sections:

16.06.010	General definitions from Zoning Ordinance.
16.06.020	City council.
16.06.030	City officer.
16.06.040	City street.
16.06.050	Coastal dune disturbed area.
16.06.060	Commission, planning.
16.06.070	Cross slope, average.
16.06.080	Density.
16.06.090	Design.
16.06.100	Easement.
16.06.110	Final map.
16.06.120	Improvement.
16.06.130	Lateral accessway.
16.06.140	Local coastal plan.
16.06.150	Lot.
16.06.155	Lot, corner.
16.06.160	Lot depth.
16.06.165	Lot width, frontage.
16.06.170	Lot line, front.
16.06.180	Lot line, rear.
16.06.190	Lot line, side.
16.06.200	Lot width, average.

16.06.210	Owner.
16.06.220	Parcel map.
16.06.230	Standards.
16.06.240	Subdivision.
16.06.250	Subdivision, minor.
16.06.260	Subdivision, private road.
16.06.270	Subdivision, standard.
16.06.275	Subdivision, infill.
16.06.280	Subdivider.
16.06.290	Tentative map.
16.06.300	Vertical access.

16.06.010 General definitions from Zoning Ordinance.

Incorporate by reference the definitions included in the city of Marina Zoning Ordinance. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.020 City council.

“City council” means the city council of the city of Marina, state of California. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.030 City officer.

“City officer” means the particular officer of the city of Marina. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.040 City street.

“City street” means any street, road, avenue, way, lane or alley for vehicular use accepted by the city council.

A. A “major” street is any street which is intended to carry traffic on present or future streets with four moving lanes between different areas of the city and traffic entering from “secondary” streets.

B. A “secondary” street is a street which is intended to collect traffic and carry it to a major street.

C. A “local” or “minor” street is one used primarily for access to abutting properties including loop, cul-de-sac and tertiary streets. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.050 Coastal dune disturbed area.

“Coastal dune disturbed area” means terrain and/or natural land form that has been substantially altered by erosion, grading, mining, excavation or other natural or man-made causes to the extent that none or very little or the native vegetation remains. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.060 Commission, planning.

“Planning commission” means the planning commission of the city and the advisory agency referred to in the Subdivision Map Act. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.070 Cross slope, average.

FORMULA FOR AVERAGE CROSS SLOPE

$S = .00229 \text{ IL divided by } A$

Where

$I =$ Interval of measured contours in feet

$S =$ Average cross slope of parcel in percent

$L =$ Combined length of contours in feet (i.e., map measurement of contours in inches $\times$ the scale)

$A =$ Area of parcel in acres

(Subdivision ordinance dated 8/95 (part), 1995)

16.06.080 Density.

A. “Density” designates the ratio of single-family living units to acreage.

B. “Density, gross” designates the ratio of single-family living units to acreage within the entire parcel.

C. “Density, net” designates the ratio of single-family living units to acreage including only open space and actual lot areas. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.090 Design.

“Design” refers to street alignment, grades and widths; alignment and widths of easements and rights-of-way for drainage, sanitary sewers, water, utilities, and other facilities for public use or benefit; lot area, width, depth, shape and pattern as required in this title. “Design” also includes land to be dedicated for park or recreational purposes. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.100 Easement.

“Easement” means an easement offered for dedication to the city to be used for utility, drainage or other public purpose. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.110 Final map.

“Final map” refers to a map prepared in accordance with this title, which is designed to be placed on record in the office of the recorder of the county of Monterey. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.120 Improvement.

“Improvement” refers to such street work, drainage work and utilities, landscaping, or other improvements to be installed, or agreed to be installed by the subdivider on the subdivision or land adjacent thereto to be used for public streets, easements, highways, and park and recreation sites necessary for the use and benefit of the lot owners in the subdivision and adjacent areas as a condition precedent to approval of the final map, thereof. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.130 Lateral accessway.

“Lateral accessway” means an access easement along the sandy beach frontage parallel to the water’s edge. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.140 Local coastal plan.

“Local coastal plan” means and refers to the local coastal land use and implementation plans as adopted by the city and certified by the California Coastal Commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.150 Lot.

“Lot” means a parcel of land established, or to be established, by the standard subdivision procedure or minor subdivision procedure as provided herein. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.155 Lot, corner.

“Corner lot” means a building site situated at the intersection of two or more streets, or a building site abutting on more than one part of the same street. (Ord. 2002-06 § 1, 2002)

16.06.160 Lot depth.

“Lot depth” means a line midpoint from the front line to the midpoint of the line farthest away from the midpoint of the established front line, in the general direction of the sidelines. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.165 Lot width, frontage.

The length of the front lot line of a lot abutting a street; and in the case of a lot with its narrowest frontage on a private road, the width of the said lot measured at the easement line of said private road. (Ord. 2001-07 § 1 (part), 2001)

16.06.170 Lot line, front.

“Front lot line” means, in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.180 Lot line, rear.

“Rear lot line” means a lot line which is opposite and most distant from the front line and, in the case of an irregular, triangular or gore-shaped lot, a line within the lot, having a length of at least ten feet. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.190 Lot line, side.

“Side lot line” means any lot boundary not a front line or a rear lot line. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.200 Lot width, average.

“Average lot width” means the area of the parcel divided by the lot depth. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.210 Owner.

“Owner” means the individuals, firms, partnerships or corporations having proprietary interests in the land sought to be subdivided. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.220 Parcel map.

“Parcel map” means a map showing the division of land which has been processed as a minor subdivision. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.230 Standards.

“Standards” means the standard improvement specifications adopted by the city council, copies of which are on file in the office of the planning commission, and city clerk. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.240 Subdivision.

A. “Subdivision” means any real property, improved or unimproved, or portion thereof, shown on the 1964-65 tax roll as a unit or as contiguous units, which is divided for the purpose of sale, lease, transfer or financing, whether immediate or future, by any subdivider into two or more parcels; provided, that this title shall not apply to the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, commercial building or trailer park, nor shall this title apply to mineral, oil or gas leases. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way.

B. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels. Prior to such conveyance, a minor subdivision tentative and parcel map shall be filed in accordance with provisions of this title.

C. “Subdivision” shall not include the division of property for the sole purpose of adjusting property lines between contiguous parcels when no new building site as defined by the Zoning Ordinance of the city is thereby created and where no building site as defined by such ordinance is thereby rendered substandard.

D. “Subdivision” shall not include a division of property into parcels when said parcels were shown on the 1964-65 county tax roll under separate ownership, or a division of property into four or less parcels shown on a record of survey recorded prior to March 2, 1964, or record of survey of four or less parcels, each of which is over two and one-half acres, recorded prior to March 4, 1972, or parcels of two and one-half acres or over when said parcels were shown under separate ownership on March 7, 1972, when shown on deed or deeds recorded on or before March 7, 1972, when said parcels comply with applicable zoning ordinances in effect at the time of division, or when said parcels are lots on a recorded subdivision map approved by the city council of the city of Marina. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.250 Subdivision, minor.

“Minor subdivision” means any subdivision containing four or less lots or parcels or any subdivisions of more than four lots or parcels where each lot is forty acres or larger. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.260 Subdivision, private road.

“Private road subdivision” means division of land without frontage on a public street. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.270 Subdivision, standard.

“Standard subdivision” means any subdivision containing five or more parcels or lots except those divisions of five or more parcels of which are forty acres or larger. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.275 Subdivision, infill.

“Infill subdivision” means the subdivision of land located wholly within that portion of the city which is exclusive of all three of the following areas: the former Fort Ord Reservation, the area west of State Highway One, and the area commonly known as the Armstrong Ranch and having Monterey County assessor parcel num-

bers 175-011-038, 175-011-044, 175-011-045, 175-011-046, and 203-021-001 at the time of the adoption of this section. (Ord. 2004-09 § 1 (part), 2004: Ord. 2001-07 § 1 (part), 2001)

16.06.280 Subdivider.

“Subdivider” means a person, firm, corporation, partnership or association who causes land to be divided into any number of parcels. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.290 Tentative map.

“Tentative map” means any map made for the purpose of showing the design of a proposed subdivision of any kind, including a minor subdivision, and the existing conditions in and around it, prepared as required in this title. (Subdivision ordinance dated 8/95 (part), 1995)

16.06.300 Vertical access.

“Vertical access” means an access easement perpendicular from the nearest public road parallel to the ocean to the sandy beach frontage (See Lateral accessway). (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.08

DESIGN REQUIREMENTS BY TYPE OF SUBDIVISION

Sections:

16.08.010	Generally.
16.08.020	Industrial subdivisions.
16.08.030	Commercial subdivisions.
16.08.040	Residential subdivisions.
16.08.050	General design and improvement standards.
16.08.051	Blocks.
16.08.052	Disturbed dune area.
16.08.053	Vertical beach accessways.
16.08.054	Lateral beach accessways.
16.08.055	Pedestrian walkways.
16.08.056	Easements.
16.08.057	Watercourses.
16.08.058	Street frontage.
16.08.059	Roads and streets.
16.08.060	Streets and highways.
16.08.070	Specific street design and improvements.
16.08.080	Improvements.
16.08.090	Dedication of land for parks and recreational purposes.
16.08.100	School sites.
16.08.110	Requirement for school site dedications—Overcrowding.
16.08.120	Additional off-site improvements.
16.08.130	Improvement review.
16.08.140	Optional design and improvement standards.

16.08.010 Generally.

Subdivision design and improvements required are as set out in this chapter. These design requirements shall be considered by the subdivision committee under Section 16.12.050, Design review action by minor subdivision committee. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.020 Industrial subdivisions.

A. Minimum lot area and width for industrial subdivisions, unless other lot size or width is stipulated in the zoning ordinance, shall be ten thousand square feet in area and one hundred feet in average lot width, unless a greater lot area or width is required by the zoning ordinance or unless the lot area and width is reduced through the use of Section 16.08.140, Optional design and improvement standards.

B. Street Design. Street design shall be as set out in Sections 16.08.050 through 16.08.140 for industrial areas.

C. Improvements. All improvements shall be as set out in this chapter and in the standards.

D. Other Regulations. All other regulations set out in this title shall be complied with in the development of industrial subdivisions. (Ord. 2000-10 § 1 (part), 2000: subdivision ordinance dated 8/95 (part), 1995)

16.08.030 Commercial subdivisions.

A. Minimum lot area and width for commercial subdivisions, unless other lot size or width is stipulated in the zoning ordinance or unless the lot size is reduced through the use of Section 16.08.140 in this chapter, shall be ten thousand square feet and a one hundred-foot average in lot width, provided that the planning commission may reduce the lot area sizes not more than fifty percent when the total lot size combined with land used for parking and landscaping in undivided common interest equals the required ten thousand square feet lot size.

B. Street Design. Street design shall be as set out in the standards.

C. Improvements. Improvements shall be installed as set out in Section 16.08.050 and in the standards. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.040 Residential subdivisions.

A. Except as provided in subsequent subsections of this section and as provided by Section 16.08.110 of this chapter, residential lots shall comply with the following standards:

1. Minimum lot area:

- a. Corner lots: seven thousand square feet;
- b. Interior lots: six thousand square feet.

2. Minimum average lot width:

- a. Corner lots: seventy feet;
- b. Interior lots: sixty feet.

3. Minimum frontage lot width: thirty-five feet.

4. Minimum average lot depth: ninety feet.

5. Maximum ratio lot depth to average lot width: three to one.

6. Lot design restrictions shall not apply to public utility buildings and uses.

B. Notwithstanding the requirements of subsection A of this section, lot area, lot width, and lot depth requirements for infill subdivisions where use is limited to single-family dwelling use in the R-4 zoning district shall be as prescribed in Section 17.20.170 of the Marina Zoning Ordinance.

C. Notwithstanding the requirements of subsection A of this section, minimum lot area and width for infill subdivisions of single-family dwelling use in the R-1 zoning district shall be as prescribed below:

1. Minimum lot area:
 - a. Corner lots: six thousand square feet;
 - b. Interior lots: six thousand square feet.
2. Minimum average lot width:
 - a. Corner lots: fifty-five feet;
 - b. Interior lots: fifty feet.

D. Notwithstanding the requirements of subsections A, B and C of this section, minimum lot area, minimum average lot width, minimum frontage lot width and the minimum lot depth may be increased by the advisory agency or the city council, as may be determined necessary, where the average cross slope exceeds ten percent or where the advisory agency or the city council has determined that the cross slope is a factor in the establishment of said minimum standards.

E. Improvements: All design and improvements shall be as set forth in Section 16.08.050. (Ord. 2007-01 § 1 (part), 2007; Ord. 2004-09 § 1 (part), 2004; Ord. 2001-07 § 1 (part), 2001: subdivision ordinance dated 8/95 (part), 1995)

16.08.050 General design and improvement standards.

Improvements hereinafter mentioned shall conform to requirements of the standards. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.051 Blocks.

Blocks shall not be longer than one thousand two hundred feet between intersecting street lines; except on expressways and major streets where longer blocks may be required by the planning commission. With the exception of corner lots, lots shall not have frontage on more than one street; however, such frontage may be permitted if access rights on all but one street are granted to the city. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.052 Disturbed dune area.

Within a coastal dune area, development shall be concentrated in disturbed coastal dune areas. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.053 Vertical beach accessways.

Vertical beach accessways shall be provided in accordance with the provisions of the local coastal land use plan; the width of the accessway shall be a minimum of ten feet and shall extend from the nearest public roadway to the sandy beach frontage. Improvements to be made shall be as prescribed in the local coastal land use plan and by the planning commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.054 Lateral beach accessways.

Lateral beach accessways shall be provided by an easement parallel to the water line extending inland to the edge of the sandy beach frontage as defined by a qualified geologist or oceanographer and confirmed by the planning director. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.055 Pedestrian walkways.

Pedestrian walkways shall be provided through the middle of blocks over one thousand feet in length; and may be required by the planning commission to serve the following purposes: to connect streets, to provide access to river, lake, bay or ocean frontages; to provide access to parks, playgrounds and similar public areas. The

widths of the walkways, and the construction improvements to be made shall be as prescribed by the planning commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.056 Easements.

Easements not less than five feet wide shall be required on the sides and rear of all lots where necessary for poles, underground utilities, cables, wires, drainage, conduit and water mains or other utilities. A reduction of the width may be allowed when a lesser width is recommended by the city engineer. In condominium or other optional design subdivisions easements of varying widths and locations may be approved by the planning commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.057 Watercourses.

The planning commission may require watercourses to be placed in underground conduits or fenced, or otherwise improved in accordance with the standards. Where sumps are approved to handle drainage as an interim solution, easements shall be provided for necessary channels and sump area. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.058 Street frontage.

All lots shall have frontage hereinafter set out unless otherwise approved by the advisory agency or the city council except in U and N zoning districts:

A. Each lot of less than two and one-half acres in area shall have a minimum of a thirty-five-foot frontage on a public road, and said required frontage shall provide useable and practical access to the building site, and the driveway providing access shall not exceed twenty-five percent grade and five percent cross slope outside the public road right-of-way, and the geometry of the driveway within the public road right-of-way shall conform to the standards, except as provided by subsection C of this section.

B. Each lot of two and one-half acres or over in area shall have a minimum of a thirty-five-foot frontage on an improved street, public or private, and said required frontage shall provide useable and practical access to the building site, and the driveway providing access shall not exceed twenty-five percent grade and five percent cross slope outside the public road right-of-way, and the geometry of the driveway within the public road right-of-way shall conform to standards.

C. Each lot within a subdivision approved pursuant to the requirements of Section 17.20.030(M) of the Marina Zoning Ordinance shall have a minimum frontage on a public street equal to the minimum site width as specified in Section 17.20.170 of the Marina Zoning Ordinance except that the review body may approve the creation of a flag lot if said review body determines that a flag lot is necessary for the reasonable development of a parcel and the minimum width of the portion of the flag lot that provides access to the buildable portion of the lot shall have a minimum width of twelve feet and a length not exceeding ninety feet. (Ord. 2004-09 § 1 (part), 2004: subdivision ordinance dated 8/95 (part), 1995)

16.08.059 Roads and streets.

A. Reserve strips, where required to control access over certain lot lines or over the needs of street stubs, shall be dedicated to the city.

B. Alleys, access roads and acceleration lanes may be required in industrial, commercial and in multiple-family residential areas where necessary to control access to expressways and major streets. Where alleys intersect, widths in excess of that in the standards may be required.

C. Cul-de-sac streets shall have the following limiting dimensions:

1. Fifty-foot minimum radius to property line where cul-de-sac is longer than four hundred feet. Forty-foot minimum radius where cul-de-sac is less than four hundred feet;
2. Forty-foot minimum radius to curblin where cul-de-sac is longer than four hundred feet;
3. Thirty-foot radius to curblin where cul-de-sac is less than four hundred feet;
4. Four hundred-foot maximum length of a cul-de-sac to center of turnaround, except where such cul-de-sac serves less than sixteen lots or where cross slope exceeds fifteen percent and when approved by the planning commission.

D. Names for proposed new streets shall be shown on the tentative map and shall be subject to approval by the planning commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.060 Streets and highways.

A. The street and highway design shall conform both in width and alignment to any adopted master plan of streets and highways, and the right-of-way for any street or highway indicated on such master plan shall be offered for dedication.

B. The street and highway design shall conform to any proceedings affecting the subdivision, which may have been initiated by the city council or approved by said council upon initiation by other legally constituted bodies of the county, city or state. If a parcel of land to be subdivided includes a portion of the right-of-way to be acquired for a public freeway or parkway, the city council shall determine the boundaries of the right-of-way to be acquired, the subdivider shall either dedicate or withhold from subdivision all the area included in said right-of-way. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.070 Specific street design and improvements.

A. Street design and improvement shall conform to the standards and to the requirements set forth in this chapter.

B. Private roads may be permitted where the following conditions prevail:

1. No more than forty-two dwelling units are located thereon.
2. Maintenance is provided for proper legal safeguards.
3. Net density per dwelling unit is two and one-half acres or larger.
4. Standards of road improvement are approved by the planning commission or subdivision commission

where applicable as a part of the total design of the plan.

C. Private roads may be also permitted where the following conditions prevail:

1. Maximum number of dwelling units to be served is four.
2. Adequate parking is provided on the private road or on the building site.
3. Provisions are made for adequate turning operations.
4. Minimum widths and standards are determined at the time of application.

D. Private roads may be permitted in condominiums or similar developments where maintenance is provided for by proper legal safeguards.

E. Private roads may be permitted by the planning commission when constructed according to standards. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.080 Improvements.

All improvements installed and constructed in subdivisions shall conform to the regulations set out in the standards and to all conditions imposed upon the approval of the tentative map. The following improvements shall be constructed, and where described in the standards as specified therein.

A. Curb, gutter, sidewalk and walkways;

B. Fire hydrants;

C. Water Lines and Other Utility Services. Water lines and other utility services to serve each lot and stubbed to property line prior to construction of street and pavement connected to existing city, public utility, or other approved system when such system is or can be made available. The subdivider shall present evidence from the proposed supplier of the water availability that the supplier will provide the required services to subdivision and evidence that satisfactory agreements have been entered into to provide the services;

D. Water Wells. When connection to an existing water system cannot be affected, the subdivision may be provided service by the establishment of a water system constructed to standards. In the case of a subdivision with lots of two and one-half acres or over in size, water supply may be from wells or springs on individual lots; provided, however, the planning commission may approve on a showing of necessity a water supply from wells or springs on individual lots of over one acre in size. In these cases, sufficient evidence shall be submitted showing that water is available and can be obtained from wells or springs;

E. Sanitary Sewers and Laterals.

1. Sanitary sewers and laterals to serve each lot and stubbed to property line prior to construction of street base and pavement connected to existing city, district or approved private system, where such system is or can be made available. In such case, the subdivider shall present evidence from the appropriate agency indicating the ability of the system to handle sewage from the subdivision and evidence that a satisfactory agreement has been entered into to provide the service. Where such system is not available, the planning commission may approve disposal by septic tank on each lot,

2. The requirements for sanitary sewers specified in this chapter shall be considered minimum requirements. Where other agencies have jurisdiction over the construction, maintenance and operation of sanitary sewers and have equal to or higher standards of regulation, the regulation of that agency shall apply;

F. Erosion Control. Silt basins, structures, planting or other forms of erosion control when necessary in the opinion of the planning commission;

G. Improved Streets. Improvement and widening of major and secondary streets when within a subdivision or when bordering a subdivision on one side only;

H. Street Lights. Street lights as specified by the planning commission;

I. Street Trees. Street trees as specified by the planning commission;

J. Street Signs. Street name signs and regulatory signs as specified by the city engineer;

K. Street Barricades. Street end barricades, walls or fences;

L. Utilities. All utility distribution facilities (including but not limited to electric, communication and cable television lines) installed in and for the purpose of supplying service to any subdivision shall be placed underground, except as follows:

1. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts, or such equipment when concealed by shrubbery, landscaping or other screening and approved by the director of planning,

2. The planning commission may waive the requirements of this section if topographical, soil or other physical conditions make underground installation of said facilities unreasonable or impractical;

M. Vertical Beach Accessway. Identification of easement, installation and maintenance of any structures required to provide the vertical beach access from the nearest public road to the sandy shoreline as specified in the local coastal land use plan and by the planning commission;

N. Landscaping. Installation and maintenance of landscaping and/or screen planting as specified by the planning commission. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.090 Dedication of land for parks and recreational purposes.

A. Authority and Purpose. This section is enacted pursuant to the authority of California Government Code Section 66477 and the general police power of the city, and is for the purpose of providing land for such additional park, recreational facilities and open space as may be deemed appropriate under the park and recreational element of the city general plan and/or any park and recreational plan adopted by the city park and recreation committee.

B. Dedication Requirement. As a condition of approval of, or prior to the issuance of:

1. A final subdivision map for residential use where building plans are available and concurrently approved that the number of proposed bedrooms can be determined;
2. Any use permit, design review approval, or other zoning permit of a multiple-family dwelling project of five or more units or a mobile home park of three or more spaces; or
3. A building permit for the construction of a single- or multiple-family dwelling; the owner or applicant shall dedicate land, for park and recreational purposes according to the standards and formula contained in this section.

C. General Standard. It is found and determined by the city council that the public interest, convenience, health, welfare and safety require that three acres of land for each one thousand persons residing within this city be acquired and devoted to city park, open space and recreational purposes.

D. Standards and Formula for Dedication of Land. Where a park, recreational facility or open space has been designated in the city of Marina park and recreational plan or in an element of the general plan of the city, and it is to be located in whole or in part within a proposed subdivision of more than fifty parcels or in the vicinity of a multiple-family dwelling project of five or more units so as to serve the immediate and future needs of the residents of the subdivision or multiple-family dwelling project, the owner or developer shall dedicate land for a city park sufficient in size and topography to serve the residents of the subdivision or multiple-family dwelling project. The amount of land to be dedicated shall be determined pursuant to the following standards and formula:

1. Formula. The formula for determining the amount of acreage to be dedicated, based upon the general standard of three acres per one thousand population shall be the average number of persons per unit, as set forth in the standard in this section, divided by one thousand over three; or stated otherwise:

$$\frac{\text{Average number or Persons per unit}}{\text{Persons per unit}} \div \frac{1,000 \text{ population}}{3 \text{ acres}} = \text{Acres to be dedicated}$$

2. Standard for Density. In applying the above formula, the following table of density standards shall be applied, to arrive at the following stated amounts (percentage) of acres to be dedicated per dwelling unit:

Type of Dwelling	Average Density Per Dwelling Unit	Acreage to be Dedicated Per Dwelling Unit
Single-family	3.6	.0108
Duplex	3.1	.0093
Condominiums	2.4	.0072
Apartments	2.4	.0072
Mobile home parks	2.0	.0060

Dedication of the land as required in the foregoing shall be made in accordance with the procedures contained in subsection G of this section.

E. Subdivision Not Within the General Plan. Where the proposed subdivision or family dwelling project lies within an area not then in but to be included within the city general plan, the owner or developer shall dedicate land in accordance with the adopted principles and standards of the park and recreation plan or the general plan and in accordance with the provision of this section.

F. Determination of Land. Whether the city council accepts land dedication or not shall be determined by consideration of the following:

1. Compatibility with the city's general plan;
2. Topography, geology, access and location of land in the subdivision or multiple-family dwelling project available for dedication;
3. Size and shape of the subdivision or multiple-family dwelling project and land available for dedication;
4. The feasibility of dedication;
5. Compatibility of dedication with the city park and recreation plans;
6. Availability of previously acquired park property;
7. The parcel being dedicated for public park uses exceeds one acre in size or can be combined with existing facilities.

The determination of the city council as to whether land shall be dedicated, or not shall be final and conclusive.

G. 1. Procedure. At the time of approval of the tentative subdivision map or issuance of the necessary permits for construction of a single- or multiple-family dwelling project or mobile home park, the city council shall determine whether land is to be dedicated by the owner or developer or not.

2. At the time of the filing of the final subdivision map or at the time of the issuance of such necessary permit, the owner or developer shall dedicate the land as previously determined by the city pursuant to the terms of this section.

H. Payment of Park Development Impact Fees. Regardless of land dedication, the most currently adopted park development impact fee shall be paid at the issuance of any building permit for new development within the city pursuant to City Ordinance No. 3.26.

I. Credit for Land Dedication. For the purpose of this section, it is deemed and determined that a credit of one hundred fifty thousand dollars per acre of land dedicated will be applied to the park development impact fee described in subsection H of this section, to any land dedicated and accepted by the city for the use of parks and recreation. (Ord. 2005-13 § 5 (Exh. B), 2005: Subdivision ordinance dated 8/95 (part), 1995)

16.08.100 School sites.

Any subdivider proposing a development of more than four hundred dwelling units within any three-year period on any parcel or contiguous parcels shall dedicate such land as deemed necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate elementary school facilities. The requirements of dedication shall automatically terminate unless the school district shall enter into a binding commitment with the subdivider to accept the dedication within thirty days after the requirement is imposed by the city. The required dedication may be made at any time prior to the construction of the 401st dwelling unit. The school district shall, in the event that it accepts the dedication, repay to the subdivider or his successors, the original cost to subdivider of the dedicated land, plus a sum equal to total of following amounts:

- A. The cost of any improvements to dedicate land since acquisition by the subdivider;
- B. The taxes assessed against the dedicated land from the date demand for dedication is made;
- C. Any other costs incurred by the subdivider in maintenance of such dedicated land, including costs incurred on any loan covering such land. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.110 Requirement for school site dedications—Overcrowding.

A. No tentative subdivision map or parcel map for residential purposes shall be approved, after the city council has concurred in a school district's notice of findings that conditions of overcrowding in an attendance area exist, so as to put the provisions of this title into effect, unless the council makes one of the following findings:

1. That the impact of the proposed development upon the schools servicing the area requires the dedication of land and/or the payment of in-lieu fees by the developer to mitigate such impacts;
2. That there are specific overriding fiscal, economic, social or environmental factors which in the judgment of the city council would benefit the city thereby justifying the approval of a residential development otherwise subject to the school facilities dedication provisions of this section.

B. School District Findings. The governing body of a school district may make findings supported by clear and convincing evidence that:

1. Conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing;
2. All reasonable methods of mitigating conditions of overcrowding have been evaluated;
3. No feasible methods for reducing such conditions exist.

Upon making these findings, the school district must provide the city with notice of its findings.

C. School District Notice to the City. Any notice of findings sent by a school district to the city shall specify:

1. The findings listed in subsection B of this section;
2. The mitigation measures and methods considered by the school district and any determination made concerning them by the district. These mitigation methods shall include the following:
 - a. Agreements between a subdivider and the school district whereby temporary use buildings will be leased to the school district or temporary use buildings owned by the school district will be used,
 - b. The use of available annual revenue limit and bond revenues,
 - c. The use of funds which could be available from the sale of surplus school district real property and funds available from any other sources,
 - d. An agreement has been reached between the subdivider and the school district to eliminate conditions of overcrowding;
3. A description of the geographic boundaries of the overcrowded attendance area or areas;
4. Such other information as may be required by the city council.

D. City Concurrence. After receipt of any notice of findings from a school district complying with the requirement of subsection C of this section, the council shall determine whether it concurs in such school district findings. If it concurs with the school district's findings, it shall do so by resolution.

E. School District Schedule. Following the concurrence and decision by the city to require the dedication of land or the payment of fees, or both, for an attendance area, the governing body of the involved school district shall submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the city council and the reasons for the modifications.

F. Standards for Land and Fees.

1. General Standard. The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for permanent or

interim elementary, middle and/or high school facilities, including all mandated educational programs, and shall be reasonably related and limited to the need for schools caused by the development.

2. Small Subdivisions. Only the payment of fees is required for the approval of a subdivision map containing forty parcels or less.

3. Amount of Land. The total land area required by this chapter to be dedicated shall be at least equal in monetary value to the fees which would otherwise be required by this section. The planning director shall determine and establish the monetary value of the land area for the purposes of this section.

4. Amount of Fees. When fees are required by this chapter to be paid in-lieu of land dedication or as a combination of both, such fees shall be, and paid, as follows:

a. Three hundred dollars per bedroom in excess of one bedroom per dwelling unit not exceeding nine hundred dollars. Any room designed for sleeping which has a closet is a bedroom for the purposes of this section;

b. Three hundred dollars for each dwelling unit space or lot in a mobile home park;

c. Nine hundred dollars per lot where the size of the proposed dwelling units cannot be determined at the time of approval of the final map or parcel map.

G. Exemptions. The requirements of this section shall not apply to:

1. Projects converting existing apartment buildings into condominiums if no additional dwelling units are added;

2. Subdivisions of less than four parcels.

H. Procedures.

1. Application Filing. At the time of filing an application for the approval of a tentative subdivision map or parcel map located in an attendance area where the council has concurred with a school district's finding that conditions of overcrowding exist, the applicant shall, as a part of such filing, indicate whether he prefers to dedicate land for school facilities or to pay a fee in-lieu thereof, or do a combination of these. If the applicant prefers to dedicate land, he shall indicate the land on the subdivision map.

2. Decision Factors. At the time of approval of the tentative subdivision map the city council shall determine whether to require a dedication of land within the development, payment of a fee in-lieu thereof, or a combination of both. In making this determination, the city council shall consider the following factors:

a. Whether lands offered for dedication will be consistent with the general plan;

b. The topography, soils, soil stability, drainage, access, location and general utility of land in the development available for dedication;

c. Whether the location and amount of lands proposed to be dedicated or the amount of fees to be paid, or both, will bear a reasonable relationship and will be limited to the needs of the community for elementary, middle and/or high school facilities, including all mandated educational programs, and will be reasonably related and limited to the need for schools caused by the development;

d. Any recommendations made by affected school districts concerning the location and amount of lands to be dedicated.

3. Land Dedication. When land is to be dedicated, it shall be offered for dedication in substantially the same manner as prescribed in this title for streets and public easements.

4. Fee Payment. If the payment of a fee is required, such payment shall be made to the city no later than the time that an application for a building permit is filed.

5. Trust Land and Fees. Land and fees shall be held in trust by the city until transferred to the school district operating schools in the attendance area from which the land or fees were collected, such transfer to take place upon notice from the school district of an immediate need for same.

6. City Refunds. If a final subdivision map or parcel map is voided and if the city or school district still retains the land and/or fees collected for it, and if the applicant so requests, the board/council shall order returned to him such land and/or fees.

I. Use and Limits.

1. Use of Land and Fees. All land or fees, or both, collected pursuant to this section and transferred to a school district shall be used only for the purpose of providing elementary, middle or high school classroom and related facilities, including all mandated educational programs.

2. Agreement for Fee Distribution. Where two or more separate school districts operate schools in an attendance area where the council concurs that overcrowding conditions exist for both school districts, the council will enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this section.

3. Fee Fund and Land Records and Reports. Any school district receiving funds or land pursuant to this section shall maintain a separate account for any fees paid and disposition of land received and shall file a report with the council on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1st of each year and shall be filed more frequently at the request of the council.

4. Termination of Dedication Requirements. When it is determined by the city council and/or the school district that overcrowding conditions no longer exist in an attendance area, the city shall cease levying any fee or requiring the dedication of any land pursuant to this chapter for the area. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.120 Additional off-site improvements.

The following off-site improvements may also be required:

A. Water supply and transmission lines;

B. Sewage disposal facilities and sewerage systems;

C. Property graded, drained and paved access roads;

D. The extension of any other utilities;

E. Fees for drainage facilities. As a condition of approval of the final map, the subdivider shall pay fees imposed by ordinance of the city enacted under the authority of (Business and Professions Code Sections 11543.5) for the purpose of defraying actual or estimated costs of constructing planned drainage facilities for removal of surface and storm waters from drainage areas. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.130 Improvement review.

In addition to all other requirements herein:

A. Improvement work shall not be commenced until plans for such work have been submitted to and approved by the city engineer;

B. All improvements shall be constructed under the inspection of, and to the satisfaction of the city engineer;

C. Cost of inspection shall be borne by the subdivider. (Subdivision ordinance dated 8/95 (part), 1995)

16.08.140 Optional design and improvement standards.

Where a subdivider signifies his intent to enhance the livability, convenience and appearance of his proposed subdivision and the health, safety or general welfare of the users of the subdivision by using new concepts

in the arrangement of lots, circulation pattern and by providing permanent open space in the proposed subdivision, and appropriate means of access to blocks, schools, shopping centers and other uses which do not literally comply with the requirements of this title but which serve and implement the intent of this title, he may be permitted exceptions provided he comply with the following:

A. Improved design based on density control and better community environment. The standards set out in Sections 16.08.020 through 16.08.130 may be varied only when the gross density of an area is not increased and where said design has the approval of the planning commission and the city council, and where each finds that said exceptions will:

1. Produce a more desirable and livable community than would be effected by compliance with the standards;

2. Create better community environment through dedication of public areas, or setting out of scenic easements and open spaces; and rearrangement of lot sizes and reforestation of barren areas.

B. Where the map indicates condominium or name of similar type of improvement, the planning commission may waive filing of the final map prior to issuance of building permits provided there shall be no transfer of property and no occupancy permit granted and allow start of road work construction upon approval of improvement plans.

C. As an incentive to creating better overall communities, the planning commission may authorize exceptions in lot size but with no increase in density in the overall development.

D. Said planning commission and city council may authorize exceptions from other standards of this chapter where they find that said exceptions will give effect to the intentions described hereinabove.

E. Where lot sizes are proposed to be reduced by use of common areas, dedication of open areas, or by agreement to give up development rights as a method of maintaining the density required for an area, the credit for such common areas, open areas dedicated, or development rights offered shall be based on the density permitted under the zoning district in which the offer is made or on the basis of the lot sizes required as set out in Section 16.08.040 of this chapter, whichever is more restrictive. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.10

EXCEPTIONS FROM REQUIREMENTS

Sections:

16.10.010 Generally.

16.10.020 Exception criteria.

16.10.010 Generally.

It is recognized that there are certain parcels of land of such dimensions, subject to such restrictions, so affected by physical conditions and devoted to such uses that it would be difficult or impractical for the subdivider to conform to the foregoing requirements. (Subdivision ordinance dated 8/95 (part), 1995)

16.10.020 Exception criteria.

A. The planning commission, the minor subdivision committee when considering minor subdivisions (or on appeal, the city council) may grant exceptions from the foregoing requirements, when all the following conditions are found to exist:

1. That because of special circumstances applicable to the subdivision, including size, shape, topography, location or surroundings, the literal application of this title would deprive the subdivision of privileges enjoyed by other properties in the vicinity;

2. That under the circumstances of a particular case granting the exceptions, rather than the sections at issue in this title, actually carries out the intent of this title.

B. Any exception granted shall be subject to such conditions as will assure that the adjustments thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity.

C. Adequate guarantees may be required to insure that any conditions imposed as a part of any approved exception shall be carried out as specified. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.11

VESTING TENTATIVE MAPS

Sections:

- 16.11.010 Definition of vesting tentative map.
- 16.11.020 Application for a vesting tentative map.
- 16.11.030 Processing.
- 16.11.040 Zoning and other approvals.
- 16.11.050 Development conditions.
- 16.11.060 Amendments to vesting tentative maps.
- 16.11.070 Expiration of approval and initial time period of vested rights.
- 16.11.080 Vesting on approval of vesting tentative map.

16.11.010 Definition of vesting tentative map.

“Vesting tentative map” means a tentative map for a subdivision that shall have printed conspicuously on its face the words “Vesting Tentative Map” at the time it is filed in accordance with this title and which, if approved or conditionally approved by the city council, confers a vested right to proceed with development in substantial compliance with ordinances, policies and standards in effect at the time an application for said map is accepted by the city as complete. (Subdivision ordinance dated 8/95 (part), 1995)

16.11.020 Application for a vesting tentative map.

When a provision of this title requires the filing of a tentative map, a vesting tentative map may instead be filed in accordance with the provision of this title. (Subdivision ordinance dated 8/95 (part), 1995)

16.11.030 Processing.

A vesting tentative map shall be filed in the same form, possess the same contents, and shall be processed in the same manner as set forth in this title for a tentative map, except as hereinafter provided. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words “Vesting Tentative Map.” (Subdivision ordinance dated 8/95 (part), 1995)

16.11.040 Zoning and other approvals.

The subdivider must make application and receive approval concurrent with the vesting tentative map for all zoning approvals, including, but not limited to, site and architectural design review approvals, conditional use permits, zoning variances, and grading and drainage plans, which are necessary for ultimate development on the area covered by the vesting tentative map. (Subdivision ordinance dated 8/95 (part), 1995)

16.11.050 Development conditions.

An approved or conditionally approved vesting tentative map shall not limit the city from imposing reasonable conditions on required approvals or permits necessary for the development and authorized by the ordinance, policies and standards described in Government Code Sections 66474.2 and 66498.1(b). (Subdivision ordinance dated 8/95 (part), 1995)

16.11.060 Amendments to vesting tentative maps.

After approval or conditional approval of a vesting tentative map, amendments can be made only by following procedures for the original approval or conditional approval. Approvals or permits which depart from the vesting tentative map may only be granted based upon an amendment to the vesting tentative map. No amendments shall be granted so as to modify or delete any public improvements and site development requirements and conditions approved in the first instance by the city council, including, but not limited to, grading, drainage facilities and structures. This section shall not be construed to prevent the city from denying or placing any conditions upon approval of a final map pursuant to Government Code Section 66498.1(c). (Subdivision ordinance dated 8/95 (part), 1995)

16.11.070 Expiration of approval and initial time period of vested rights.

A. The rights conferred by a vesting tentative map shall last for an additional time period of one year beyond the recordation of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.

B. The initial time period set forth herein shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if such processing exceeds thirty days, from the date a complete application is filed.

C. A subdivider may apply to the planning commission for a one-year extension at any time before the initial time period set forth herein expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen days.

D. If the subdivider submits a complete application for a building permit during the periods of time specified herein, the rights referred to herein shall continue until the expiration of that permit.

16.11.080 Vesting on approval of vesting tentative map.

A. The approval or conditional approval of a vesting tentative map by the city council shall confer a vested right to proceed with the development in substantial compliance with the ordinances, policies and standards described in Sections 66474.2 and 66498.1(b) of the Government Code.

B. Notwithstanding the above provisions, a permit, approval, time extension and/or entitlement may be made conditional or denied by the city council if any of the following are determined:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety;

2. The condition or denial is required in order to comply with the mandates of either state or federal law.

C. Expiration. An approved or a conditionally approved vesting tentative map shall be effective for the same time periods as provided for in this title for tentative maps. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.12

STANDARD PRELIMINARY MAP FILING PROCEDURE

Sections:

- 16.12.010 Preliminary map required.
- 16.12.020 Purpose of preliminary map.
- 16.12.030 Purpose of a development plan.
- 16.12.040 Requirements for preliminary maps.
- 16.12.050 Action by minor subdivision committee.

16.12.010 Preliminary map required.

Prior to the submission of a tentative map of a proposed subdivision, seven copies of a preliminary map shall be prepared by the subdivider and submitted to the planning department at least fourteen days prior to meeting of the subdivision committee. A development plan showing proposed building locations and landscaping shall be required when such construction is to be done by the subdivider. (Subdivision ordinance dated 8/95 (part), 1995)

16.12.020 Purpose of preliminary map.

The purpose of the preparation and consideration of a preliminary map is to provide a means of review of the proposed subdivision by the subdivision committee with the subdivider. From this review, it is expected that the subdivider will be made aware of problems in the use of the land and if necessary on and off-site improvements for the land to be subdivided and that the minor subdivision committee will be made aware of proposals for the subdivision of land that will require consideration of expansion of public services and facilities prior to the proposed use of land within a subdivision. (Subdivision ordinance dated 8/95 (part), 1995)

16.12.030 Purpose of a development plan.

The purpose of the preparation of a development plan is to provide the planning commission with information on the ultimate use of the subdivision. (Subdivision ordinance dated 8/95 (part), 1995)

16.12.040 Requirements for preliminary maps.

It is not intended that a preliminary map be as detailed as the tentative map, but it shall be prepared with enough care to provide pertinent facts and shall show the following:

- A. The land area proposed to be subdivided and a statement of the number of acres therein;
- B. All existing structures;
- C. The placement and location of all existing streets, easements, rights-of-way on the land proposed to be subdivided, and those abutting said land;
- D. Sufficient contours to indicate the elevations and the fall of the land adjacent to the surrounding area;
- E. Any large land fills;

- F. The proposed uses of all portions of the subdivision;
- G. If coastal frontage parcel, approximate location of vertical and lateral accessway easements;
- H. The approximate alignment of the proposed streets within the subdivision and their connections with existing streets or methods of terminating proposed streets;
- I. The number of acres of open space in the subject subdivision, calculated to the nearest one-half acre;
- J. The approximate number, size and acreage size of lots in the proposed subdivision;
- K. The approximate density proposed;
- L. The north point and date;
- M. Drainage, existing and proposed;
- N. Utilities proposed;
- O. Names and addresses of subdivider and record owner in the lower right-hand corner;
- P. Name and address of person who prepared map in lower right-hand corner;
- Q. Vicinity map;
- R. Map shall be accompanied by preliminary reports on reimbursable utility installation costs. (Subdivision ordinance dated 8/95 (part), 1995)

16.12.050 Action by minor subdivision committee.

The minor subdivision committee shall consider the preliminary map and thereafter make a report to the planning commission concerning the completeness and accuracy of the preliminary map and the accompanying statements and reports, the suitability of the land for the subdivision as proposed, the design of the subdivision and its conformity with the requirements of this and other applicable ordinances, provisions for and suitability of all streets, utilities, fire hydrants, lighting, drainage, streets, trees, sidewalks, water supply, sewage disposal and easements for utilities and drainage, and provisions for public utility facilities. The minor subdivision committee shall take the following action:

A. If the preliminary map does not comply with this title, the local coastal plan and applicable laws, then the minor subdivision committee shall give written notice to the subdivider.

B. The minor subdivision committee may recommend changes in design, additional improvements, easements and dedications. The subdivider shall be informed of the recommendations at the time of the meeting or in writing following the meeting.

C. If it is found that the preliminary map requires a significant amount of correction before deemed acceptable for consideration by the planning commission, the committee may recommend that the subdivider make the changes and reappear before the committee.

D. The minor subdivision committee shall submit a report on the proposed subdivision to the planning commission on its conformity to this chapter and Chapter 16.14 of this title. A copy of the report shall be submitted to the subdivider and the engineer of the project.

E. If the planning commission recommends to the city council that an Environmental Impact Report (EIR) be required under the criteria set forth in the guidelines of the city of Marina (pursuant to the California Environmental Quality Act of 1970), it shall so advise the city council, which shall then determine whether or not an EIR is required. If an EIR is required, the preliminary map shall be considered by the planning commission at the time the EIR is presented to the commission. The subdivider may request that the preliminary map, report and EIR (if required) be submitted to the city council for review and comment. (Subdivision ordinance dated 8/95 (part), 1995)

STANDARD TENTATIVE MAP SUBDIVISION PROCEDURE

Sections:

- 16.14.010 Data required and design.
- 16.14.020 Soils report.
- 16.14.030 Statements and reports.
- 16.14.040 Covenants.
- 16.14.050 Completeness and filing.
- 16.14.060 Action by the planning commission.
- 16.14.070 Action by the city council.
- 16.14.080 Improvement plans.

16.14.010 Data required and design.

After submission of a preliminary map to the subdivision committee and the review by said committee, the action in connection with the approval of a subdivision shall be the preparation of a reproducible tentative subdivision map or maps, which shall comply with Chapter 16.08 as to design, and shall include the following data:

A. A preliminary title report issued by a title company shall accompany any tentative map filed pursuant to this section;

B. For purposes of a field investigation and prior to filing of a tentative map of a subdivision, critical points on proposed sidehill roads as determined by the director of planning shall be slope staked by flagging to indicate the general limits of cut and fill slopes if average cross slope exceeds ten percent. Typical locations slope staked shall be designated on a copy of the tentative map;

C. A sketch at a minimum scale of one inch equals two thousand feet indicating the location of the proposed subdivision in relation to the surrounding area or region and showing land use in surrounding area. All to be indicated on the tentative map;

D. Name and address of record owner and subdivider;

E. Name and address of surveyor or engineer who prepared said tentative map;

F. Date, north point (generally up on the map) and scale. Minimum scale: one inch equals one hundred feet; minimum map size: eighteen inches by twenty-six inches;

G. Name of proposed subdivision and of all adjacent subdivisions; locations of, names and widths of streets, highways, alleys and ways, and easements of all kinds, together with the type and location of street improvements thereon including fire hydrants and street light locations;

H. The contour of the land at intervals of one-foot elevation up to five percent slopes; two-foot intervals up to ten percent and five-foot intervals over ten percent. Contours shall be indicated in contiguous lands for a distance of two hundred feet. Every fifth contour line shall be a heavier weight line;

I. Within the coastal dune area as defined in the local coastal land use plan indicate to scale the coastal dune disturbed area(s);

J. Sufficient data to define the boundaries of the tract, or a legal description of the tract and blue border on reverse side of map to indicate tract boundaries. Tentative map to show any proposed units of final map;

K. Width, approximate location and purpose of all existing and proposed easements and easements adjoining such land;

L. The location of vertical beach access easements by metes and bounds or other description sufficient in detail to show designation width of ten feet and designation of area as access easement;

- M. The location of sandy beach frontage as defined by a qualified geologist or oceanographer and description sufficient in detail to show designation of area as a public easement;
- N. The width and approximate grade of all streets, highways, alleys and other rights-of-way whether proposed for dedication or not;
- O. The approximate radii of all curves;
- P. All lots numbered consecutively throughout each block in the development; the approximate dimensions of all lots; lot areas shall be shown for all lots not rectangular in shape;
- Q. The approximate location of areas subject to inundation by stormwater, and the location, width and direction of flow of all watercourses existing and proposed;
- R. The location and outline to scale of each existing building or structure within the subdivision and the location and designation of uses of each structure in contiguous areas within one hundred feet of the boundary thereof; noting thereon whether or not such building or structure within the subdivision is to be removed from or remain in the subdivision, and its existing and proposed use;
- S. Show approximate elevation of street intersections;
- T. The location, pipe size and approximate grades of proposed sewers and water lines; and the proposed location of fire hydrants and street lights, electric power, gas lines, T.V. cables and storm drains;
- U. The location of all trees over four inches in diameter at base of tree (where stands of trees are located, individual trees need not be shown, but may be shown as a group);
- V. The location of existing fences, ditches, wells, sumps, cesspools, reservoirs, sewers, culverts, drain pipes, underground structure, utility lines or sand, gravel or other excavation within the subdivision, noting thereon whether they are to be abandoned or used. The location of utility lines and sand, gravel or other excavation within three hundred feet of any portion of the subdivision shall be shown;
- W. Line of high water when adjacent to any stream, waterway or ocean;
- X. If a condominium or similar development is proposed, the word "condominium" or appropriate name shall be indicated on the tentative map;
- Y. Gross area of subdivision and open space calculated to nearest tenth acre;
- Z. Lot areas, number of lots, minimum lot size, average lot size and density. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.020 Soils report.

A preliminary soils report shall be required which shall be prepared by a registered civil engineer.

A. Such report shall be based on adequate test borings or excavations and shall recommend corrective action. The preliminary soil report may be waived if the director of building inspection shall determine that, due to the knowledge his department has as to the qualities of the soil within the subdivision or lot, no preliminary analysis is necessary.

B. If the preliminary soil report indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects, a soil investigation of each lot so affected in the subdivision shall be made by a registered civil engineer.

C. Where no sewers are available, a soils report shall be submitted relative to percolation tests and/or soil borings, the type and number shall be as required by the county health department. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.030 Statements and reports.

Accompanying the tentative map, or placed on the map, shall be statements by the subdivider containing the following:

- A. Existing zoning and proposed uses of the land;
- B. Intentions regarding erosion control and improvements to be constructed, as required in Chapter 16.08 and by other ordinances of the city;
- C. Building setback lines;
- D. Proposed source of water supply and method of sewage disposal;
- E. Indicate type of tree planting proposed;
- F. Proposed public areas to be dedicated and common area or scenic easements proposed; and, if shoreline property, geologic report on definition of sand beach area to be dedicated. If common areas are proposed, method of maintenance shall be stated;
- G. Proposed development of lots, that is, whether for sale as lots, fully developed house and lot, or for lease and/or for financing purposes. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.040 Covenants.

A copy of any existing or proposed conditions, restrictions or covenants regulating or restricting the use of the land within the subdivision shall be attached to the above statement. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.050 Completeness and filing.

A. A tentative map shall be considered ready for the consideration of the planning commission after the submission of the preliminary map to the minor subdivision committee and receipt of a report from said committee that the map complies with this title, and when maps or sketches, together with all required supplementary data have been submitted to the planning department. If the subdivision is a portion of a larger area which may be subdivided later, the tentative map shall indicate the ultimate plan for the whole.

B. Fifteen copies, one reproducible sepia of a tentative map, and a transparency of seven and one-half-inch by nine and one-half-inch image on eight-inch by ten-inch plastic, and the statement for the proposed subdivision of any land, shall be presented to the planning department at least thirty days prior to the planning commission meeting, at which the map will be filed, together with a fee to be established by resolution of the city council from time to time hereafter enacted.

C. Revised Tentative Map Fee. If, subsequent to the approval of a tentative map by the planning commission, the subdivider submits a revised tentative map as a substitute for the tentative map theretofore approved, or requests a change of any of the conditions approved by the commission, he shall pay a fee to be established by resolution of the city council from time to time hereafter enacted. The fee may be waived when revision is initiated by the commission or the minor subdivision committee. The time of original approval shall not be extended by revision approval.

D. Model. The subdivider shall prepare and make available to the director of planning and the planning commission a model of any subdivision which is proposed on any area having an average cross slope of twenty percent or more. Where the gross area of the land is fifty acres or fifty lots or less, the planning commission may waive the requirement for a model. The model shall be to scale and shall indicate with tape or colored line the proposed cuts, fills, roads, grading, contours and lot layout. When a vertical exaggeration is used in the model, it shall be so indicated thereon.

E. Distribution of Copies. Upon the submission to the planning department of a tentative map and the requisite number of copies thereof, the said department shall retain two copies and shall transmit copies to the following agencies, departments or officers: fire department; public works department; health officer; director of parks; if the subdivision is traversed or bounded by a state highway, the District Engineer of the Division of

Highways, Department of Public Works of the state of California; the utility companies serving the area; any municipality as may be required by law; and two copies to the city engineer.

F. Reports. Within a period of not more than sixteen days from the receipt of a copy of a tentative map, each officer or department to which a copy shall have been transmitted shall file with the planning department a report showing changes necessary to make the map meet the requirements of the Subdivision Map Act, this title, and other applicable ordinances. If such report is not made before the expiration of the sixteen-day period, the map shall be deemed to be approved. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.060 Action by the planning commission.

A. The date of the filing of the tentative map shall be the date of the planning commission meeting following the presentation of the tentative map or corrected tentative map to the planning department. The planning commission shall act on any tentative map within fifty days of the date of filing unless this time period is extended by mutual consent of the subdivider and the planning commission. If the map proposed for filing is a corrected tentative map, seven copies of the corrected map and a transparency of seven and one-half-inch by nine and one-half-inch image on eight-inch by ten-inch plastic shall be filed.

B. The planning commission shall determine whether the tentative map of a standard subdivision is in conformity with provisions of law and this title, and shall make the findings required by Section 11549.5 of the Business and Professions Code and thereupon approve, conditionally approve or disapprove said map and shall report its action to the subdivider. The report of the planning commission with said findings shall be submitted to the city council.

C. The planning commission may, in addition to other causes therefor, disapprove a tentative map because of flood, inundation, geologic or slide hazards and may require protective improvements to be constructed, as a condition of approval of the map. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.070 Action by the city council.

Within fifteen days after receipt of the report of the planning commission on the tentative map, or at its next regular meeting, the city council shall act thereon. The city council shall determine whether or not the proposed tentative map meets the requirements of this and any other applicable ordinances and shall thereafter approve, conditionally approve or deny said tentative map. (Subdivision ordinance dated 8/95 (part), 1995)

16.14.080 Improvement plans.

After the approval by the city council of the tentative map of any subdivision, the subdivider shall furnish the following information to the city engineer.

A. A grading plan consisting of cross-sections and finished grades of all lots to be graded as a part of the improvement of the subdivision, and of all roads, streets and highways in the proposed subdivision;

B. Plan and profile drawing on all streets, including sewer and drainage improvements. Utilities may be shown in plan only. Improvement plan scales shall be one inch equals forty feet horizontally in plan; one inch equals four feet vertical in profile, unless otherwise approved by the city engineer;

C. Estimated costs of improvements to be constructed and estimated cost of conditions of approval of the subdivision;

D. Any other pertinent information required by the conditional approval of the city council including a soils report on filled areas or areas proposed to be filled; and in all street and alley rights-of-way at intervals not exceeding one thousand feet and/or any change in soil conditions. The soils report and analysis will be in accordance with methods approved by the state of California for "R" values, sieve analysis and sand equivalent. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.16

REVERSION TO ACREAGE

Sections:

16.16.010 Procedure.

16.16.010 Procedure.

For the purpose of reversion of subdivided land to acreage, provided that no lots have been sold, no streets improved and where it is not the intent to replot the area, the following procedure shall be followed:

A. Three copies of record map of area proposed for reversion to acreage shall be filed with the planning commission ten days prior to meeting of said planning commission. Each copy of the map shall be accompanied by evidence of title and non-use or lack of necessity of streets or easement which are to be vacated or abandoned. Any streets or easements to be left in effect after the reversion shall be adequately delineated on the map.

B. Action on Map. The planning commission shall determine whether it is in the best interests of the area to approve such action, and within thirty days after filing shall approve or disapprove the action and forward its recommendations to the city council along with evidence of title and non-use of streets and easements.

C. Action by the City Council. At its first regular meeting following receipt of the recommendation of the planning commission, the council shall set a public hearing and give notice as required by law. After said public hearing, the council shall consider such request for reversion of subdivided land to acreage and if said council deems it to be in the best interest of the area, it may approve such request. The clerk of the council shall certify any map approved by the council by signing the certificate provided for on the map.

D. Any map filed for the purpose of reversion of subdivided land to acreage shall be conspicuously designed with the title, "The Purpose of This Map is a Reversion of Acreage."

E. Within fifteen days after approval of the city council, said map shall be recorded in the county recorder's office. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.18

FINAL MAP

Sections:

16.18.010 Time limit.
16.18.020 Final map form.
16.18.030 Data required.
16.18.040 Additional material.
16.18.050 Certificates.
16.18.060 Submission procedure.
16.18.070 Improvement agreement.
16.18.080 Tax and assessment liens.
16.18.090 Approval by the city council.

16.18.010 Time limit.

A. Within twenty-four months after approval or conditional approval of the tentative map, the subdivider may cause the final map to be prepared in accordance with the tentative map as approved, or conditionally approved.

B. An extension of not exceeding two additional years may be granted by the planning commission upon application of the subdivider.

C. Any failure to record a final map within twenty-four months from the approval or conditional approval of the tentative map, or within the time extension granted by the planning commission, shall terminate all proceedings. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.020 Final map form.

A. The final map shall be made to a scale large enough to show details clearly, minimum scale of one hundred feet to the inch or larger, using more than one sheet if necessary. The original shall be drawn in black ink upon tracing cloth or polyester base film of good quality. The size of the sheets shall be eighteen inches by twenty-seven inches, and all sheets shall have a two-inch margin on the left side and a one-inch margin on all other borders.

B. Each sheet shall be numbered, the relation of one sheet to another shown, and the number of sheets used in the map shall be set forth in the title of the map. If more than two sheets are necessary, an index diagram shall be provided.

C. The title of the final map shall consist of a tract number and name, conspicuously placed at the lower right-hand corner of the sheet followed by the words, "consisting of __ sheets" (showing the number thereof), followed by the words, "City of Marina."

D. The map and title sheet shall also contain a subtitle giving a general description of the property being subdivided by reference to maps which have been previously filed or recorded, or by reference to the plat of any state or U.S. survey. Each reference in such description shall be set out as on the original record thereof as on the original pages of records and worded identically with the original record thereof and references to book and page of record must be complete. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.030 Data required.

The final map shall show the following:

A. Boundaries, Streets and Easements. The exterior boundaries of the land in the subdivision shown by a blue border one-eighth inch wide; the border lines and centerlines of all proposed streets with their widths and names; all easements including those to be dedicated to public use; vertical and lateral accessway easements shall be reviewed by a qualified biologist and/or geologist and easements shall be dedicated to the public as determined by the city unless otherwise specified in the local coastal land use plan and in the approval of the tentative map;

B. Adjacent Streets. The lines of all adjoining properties; the lines of adjacent streets and alleys, showing their widths and names;

C. Lot Lines and Numbers. All lot lines, and numbers for all lots. Building lines shall be shown if they differ from zoning requirements. All lots are to be numbered consecutively;

D. Dimensions. All dimensions, both linear and angular, for locating boundaries of subdivisions, lots, street and alley lines, easements and building lines. The linear dimensions shall be expressed in feet and hundredths of a foot;

E. Monuments. All permanent monuments, together with their descriptions showing their location and size, and if any points were reset by ties, that fact shall be stated. Monuments shall be of a type and location as prescribed by the standards;

F. Title and Description. Title and description of property being subdivided, showing its location and extent, north arrow, scale of plan, basis of bearing and name of subdivider and of engineer or surveyor platting the tract;

G. The boundaries of any areas subject to periodic inundation by water or to geological hazards;

H. Ocean meander lines from recorded data when sufficient survey information exists on filed maps and when the location of any points can be established by monuments;

I. Scenic easements and open spaces if not shown as a lot or parcel shall be described by courses and distances and the basis of bearings shown. When a tentative subdivision map is approved with a prescribed net density and when final subdivision maps are filed in units, sufficient lot size plus open space in each unit to meet the approved net density shall be provided;

J. Boundaries. Any city boundaries which adjoin the subdivision shall be designated and located in relation to adjacent lot or block lines. No lot shall be divided by a city or district boundary line;

K. Places where access rights have been waived or dedicated. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.040 Additional material.

The following additional material shall be submitted with the final map:

A. Traverse Sheets. The subdivider shall furnish the city engineer traverse sheets prepared by a registered engineer or licensed surveyor showing the mathematical closure within one foot to ten thousand feet on the perimeter of the exterior boundary of the tract and of each block within the tract and each irregular lot.

B. Soils Report. The final map shall contain a note referring to the final soils report and recommended corrective action, and shall indicate by symbol on the map those lots needing corrective action. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.050 Certificates.

The following certificates and acknowledgments shall appear on the final map, and may be combined where appropriate:

A. A certificate signed and acknowledged, by all parties having any record title interest in the land subdivided, consenting to the preparation and recording of the final map. In the event of dedication, there shall be a certificate signed and acknowledged by all parties having a record title interest in land being subdivided offering certain parcels of land for dedication for specified public uses, subject to such restrictions as may be contained in the offer of dedication. An offer of dedication for street or highway purposes may include a waiver of access rights to such street or highway from any property shown on the final map as abutting thereon. Any parcels of land shown on the map and intended for public use shall be offered for dedication for public use except those parcels intended for the exclusive use of lot owners in the subdivision, their licensees, tenants and employees. The signatures of parties owning the following types of interests may be omitted if their names and the nature of their interests are set forth on the map:

1. Rights-of-way, easements or other interest, none of which can ripen into a fee;
2. Rights-of-way, easements or reversions, which by reason of changed conditions, long disuse or laches, appear to be no longer of practical use or value and which signatures it is impossible or impractical to obtain. In this case, a reasonable statement of the circumstances preventing the procurement of the signatures shall be set forth on the map;

3. Any subdivision map including land originally patented by the United States or the state of California, under patent reserving interest to either or both of these entities, may be recorded under the provision of this title without the consent of the United States or the state of California thereto, or to dedication made thereon;

4. Interests in or rights to minerals, including but not limited to oil, gas, or other hydrocarbon substances, if (1) the ownership of such interests or rights does not include a right of entry on the surface of the land, or (2) the use of the land, or surface thereof, in connection with the ownership of such interests or rights is prohibited by zoning or other governmental regulations of the governing body and the signatures of the owners of such interests or rights are waived by the governing body.

B. A certificate by the engineer or surveyor responsible for the survey and final map. His certificate shall give the date of the survey and state that the survey was made by him or under his direction and that the survey is true and complete as shown. The certificate shall also state that all the monuments are of the character and occupy the positions indicated or that they will be set in such positions and on or before a specified later date. The certificate shall also state that the monuments are or will be sufficient to enable the survey to be retraced. If the certificate states that all the monuments will be set on or before a specified later date, the subdivider shall furnish to the city council of the city of Marina a bond or cash deposit in the amount equal to the estimated cost of setting such monuments, not already set prior to the recording of the map, guaranteeing payment of the cost thereof.

C. Certificates for execution by the city engineer, secretary of the planning commission, clerk of the city council and the county recorder. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.060 Submission procedure.

The subdivider shall submit the final map and twelve blue line copies thereof in the form and with materials prescribed herein to the city engineer.

A. The final map shall be accompanied by a checking fee to be established by resolution of the city council from time to time hereafter enacted, the proposed improvement agreement, accompanying improvement security, a map filing title report and proposed private deed restrictions.

B. The city engineer shall forthwith transmit copies of the final map to the secretary of the planning commission, the county health officer, and to any fire district and flood control district containing the subdivision.

C. The city engineer shall examine the map and accompanying instruments, papers and materials and if he finds the map is substantially the same as the tentative map as approved and as modified by any approved alterations, that it complies with requirements of this title and of the Subdivision Map Act applicable at the time of approval of the tentative map, and that it is technically correct, he shall affix his certificate of approval to the map stating that he has examined the map and has made these findings.

D. The city engineer shall then transmit the final map to the secretary of the planning commission who shall examine the map to determine if it is in substantial conformity to the tentative map, and any approved alterations thereof; that it complies with this title and the Subdivision Map Act and that it is technically correct. If he finds that the final map meets these requirements he shall affix his certificate of approval to the map. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.070 Improvement agreement.

The subdivider shall execute and file with the city council an agreement between himself and the city for construction of improvements in the subdivision required by this title and other applicable laws. Said agreement shall provide for the following, in addition to other requirements which may be imposed.

A. The period within which the subdivider shall complete the improvement work to the satisfaction of the city engineer, failing which city may complete the work and recover the cost thereof from the subdivider and his improvement security;

B. Inspection of all improvement work by the city engineer and provision for payment to the city for the cost thereof;

C. The agreement may also provide for the construction of improvements in units, for extensions of time for performance of the agreement, and for progress payments to the subdivider or his order from cash deposits which the subdivider may have made as improvement security; provided, however, that no such progress payment shall be made for more than ninety percent of the value of any installment of work provided. No progress payments from cash deposits shall be made except upon certification by the city engineer that the work covered thereby has been satisfactorily completed, and upon approval and authorization by the city council;

D. That the subdivider file with the improvement agreement improvement security in the amounts and for the following purposes:

1. An amount determined by the city council, not less than fifty percent nor more than one hundred percent of the total estimated cost of the improvements, conditioned upon the faithful performance of the agreement,

2. An additional amount determined by the city council, not less than fifty percent nor more than one hundred percent of the total estimated cost of the improvement, securing payment to the contractor, his subcontractors and to persons renting equipment or furnishing labor or materials to them for the improvement,

3. "Improvement security" as used in this section means one or more of the following:

a. A cash deposit or deposits made with the city,

b. A bond or bonds by one or more duly authorized corporate securities,

c. An instrument or instruments of credit from one or more financial institutions subject to regulation by the state or federal government pledging that the funds necessary to meet the performance are on deposit and the guarantee for payment and agreeing that the funds designated by the instrument shall become trust funds for the purposes set forth in the instrument,

4. Improvement security may be released or reduced in the following manner:

a. Improvement security given for faithful performance of the agreement may be released upon final completion and acceptance of the work; partial release of cash deposit improvement security as the work progresses shall be as established hereinabove,

b. Improvement security securing the payment to the contractor, his subcontractors, and to persons renting equipment or furnishing labor or materials may, six months after the completion and acceptance of the work, be reduced to an amount not less than the total of all claims on which an action has been filed and notice thereof given in writing to the city council, and if there are no actions filed, the improvement security may be released in full. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.080 Tax and assessment liens.

Prior to the filing of the final map with the clerk of the city council, the subdivider shall file with the clerk a certification from the officer of the county computing redemptions showing that, according to the records of his office, there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments not yet payable.

A. As to taxes or special assessments collected as taxes not yet payable, the subdivider shall file with the clerk of the city council a certificate by the county assessor giving his estimate of the amount of taxes and assessments which are a lien but which are not yet payable.

B. Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map shall not be recorded until the subdivider executes and files with the city council a bond to be approved by the city council and by its terms made to inure to the benefit of the city and conditioned upon the payment of all state, county, municipal and local taxes and all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable. In lieu of a bond, a deposit may be made of money or negotiable bonds in the same amount, and of the kind approved for securing deposits of public money. (Subdivision ordinance dated 8/95 (part), 1995)

16.18.090 Approval by the city council.

A. When the certificates of the city engineer, the secretary of the planning commission, and all other required certificates, except that of the city council, have been placed on the final map it shall be filed with the clerk of the city council together with accompanying proposed improvement agreements, improvement security, and any other papers and materials required by this title.

B. The city council shall consider the map, the proposed improvement agreement, proposed improvement security, and all accompanying papers and materials. If the city council determines that they conform to the requirements of this title and the Subdivision Map Act, and that the conditions of approval of the tentative map are satisfied, it shall:

1. Approve the final map. The council at this time shall also accept, subject to improvement, or reject any or all offers of dedication;

2. Enter into an agreement for construction of improvements in the subdivision;

3. After approval of the final map by the city council, the city clerk shall execute a certificate thereon stating that the city council approved the map and accepted or rejected, on behalf of the public, parcels of land offered for dedication for public use in conformity with the terms of the offer for dedication. The clerk shall thereupon transmit the final map together with the recording fee, to be paid by the subdivider, to the county recorder;

4. The subdivider shall present to the county recorder evidence in the form of a title guarantee from a licensed title company that, upon the date of recording, as shown by public records, the parties consenting to the recordation of the map are all the parties having a record title interest in the land being subdivided whose signatures are required by the provisions of this title, otherwise the map shall not be recorded. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.20

MINOR SUBDIVISION

Sections:

16.20.010	General design.
16.20.020	Filing application.
16.20.030	Map form.
16.20.040	Information required.
16.20.050	Reports by minor subdivision committee members.
16.20.060	Action by minor subdivision committee.
16.20.070	Filing of parcel map.
16.20.080	Lawful division of property.

- 16.20.090 Appeal.
- 16.20.100 Subdivision alternate.

16.20.010 General design.

The design requirements of Chapter 16.08 shall apply to minor subdivisions; and improvement requirements established for standard subdivisions may be applied to minor subdivisions. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.020 Filing application.

Every subdivider of a proposed minor subdivision shall submit one copy of an application to the planning department on a form prescribed by the director of planning together with ten copies of a minor subdivision map and filing fee to be established by resolution of the city council from time to time hereafter enacted. Said department shall examine said application, supporting data and map for compliance with the requirements of this chapter and shall accept said application and maps for filing when all requirements are met. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.030 Map form.

The map shall be clearly and legibly reproduced on sheets eight and one-half inches by eleven inches, eighteen inches by twenty-six inches, or thirteen inches by eighteen inches. The scale shall be one inch to each one hundred feet, unless a larger scale is required, by the director of planning, to show all details of the land division. In all cases, an engineer's scale shall be used. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.040 Information required.

- A. The application shall be filed on a form prescribed by the director of planning.
- B. The map shall show the following information:
 - 1. Name and address of the person, firm or organization which prepared the map;
 - 2. Date of preparation, north point and map scale;
 - 3. Boundaries and dimensions of the land proposed to be divided;
 - 4. Location of the land in relation to the nearest crossroad or street, including, where necessary, a key map in order to more easily identify the location of the land;
 - 5. Right-of-way lines of public highways shall be shown if available; otherwise, where any private or public road adjacent to property lines is fenced, the distance between fences shall be shown;
 - 6. Width of pavement and indication of curbs, gutters and sidewalks on all adjacent roads and streets;
 - 7. Proposed lot lines and dimensions of existing and proposed lots;
 - 8. Approximate radii of all curves;
 - 9. Area of the site and of each proposed lot, excluding all roads;
 - 10. Locations of watercourses and areas subject to inundation;
 - 11. Contour lines, if required by the planning director;
 - 12. Location and outline, to scale, of any structures on the property being subdivided, with an indication of their uses and whether they are to remain, be relocated, or removed;
 - 13. The location and size of existing water lines, sewage facilities, and wells on the property; also the location of all proposed utility facilities and easements;
 - 14. Private roads, existing or proposed, if any, which are intended to provide access to lots in the minor subdivision. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.050 Reports by minor subdivision committee members.

- A. The city engineer shall report on:
 - 1. Effect of proposed land division on drainage, and other public improvements.
- B. The health department shall report on:
 - 1. Adequacy of proposed water supply for domestic purposes;
 - 2. Adequacy of proposed sewage disposal system;
 - 3. Any other matters which may affect the public health;
 - 4. The necessity of soil borings and percolation tests to be made by the subdivider.
- C. The director of planning shall report on:
 - 1. Compliance with the Zoning Ordinance;
 - 2. Lot design in accordance with subdivision requirements;
 - 3. Such other matters as may be deemed necessary to secure compliance with this title. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.060 Action by minor subdivision committee.

A. The minor subdivision committee shall consider the application, map and supporting data, the reports and recommendations of its members, any evidence submitted by the subdivider and interested persons following which it shall approve, conditionally approve or disapprove the minor subdivision application and map.

B. When the action of the committee is the approval or disapproval of the map the secretary of the committee shall endorse its action upon the map and then send one copy to the applicant and one copy to each member of the committee. When the action of the committee is the conditional approval of the map, and when conditions imposed are designated as precedent to committee approval, the secretary shall so notify the applicant and shall hold the map until the conditions have been met. When met, the secretary shall so certify by endorsement upon the map and then send one copy to the applicant and one copy to each member of the committee. All conditions of approval shall be met precedent to sale of the property unless otherwise noted. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.070 Filing of parcel map.

When the conditions of approval of the minor subdivision have been met, a parcel map shall be prepared as prescribed by Sections 11575 to 11580 inclusive of the California Business and Professional Code. The parcel map shall be submitted to the city engineer for examination and filing. Provided, however, that the city council or the minor subdivision committee may waive the requirement for filing a parcel map for minor subdivisions for any parcel or parcels each of a gross area of forty acres or more, or each of which is a quarter-quarter section or larger; or where four or less parcels are being created, the minor subdivision committee may waive said requirements for any of said parcels that is of a gross area of forty acres or more, or is a quarter-quarter section or larger. Provided further that said waiver may be made only after all findings required by Section 11535 of the said Business and Professions Code are made and that the conditions for granting exceptions under Chapter 16.10 of this title are found to exist. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.080 Lawful division of property.

No sale, lease or transfer or other division of the land in the minor subdivision shall be made until the parcel map has been filed with the county recorder. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.090 Appeal.

A. An appeal may be taken by the subdivider or any member of minor subdivision committee to the city council from the decision of the minor subdivision committee. The appeal shall be taken by the filing of a notice of appeal with the city council within ten days following the mailing to the applicant of the notice of the decision of the minor subdivision committee. The notice of appeal shall specify the grounds thereof. Upon the filing of the notice of appeal, the city council shall set the matter for hearing and give ten days' notice thereof to the subdivider and to the secretary of the minor subdivision committee. Upon receipt of such notice of hearing, the minor subdivision committee shall file with the city council a copy of all paper, reports and notices pertaining to the application.

B. At the conclusion of the hearing on the appeal, the city council shall affirm, conditionally affirm or reverse the decision of the minor subdivision committee. Written notice of the decision of the city council shall be given to the subdivision committee and the subdivider within ten days from the date thereof. A decision reversing the action of the minor subdivision committee shall be accompanied by findings in support of the decision.

C. Limitation of Approval. The approval or conditional approval of a minor subdivision shall be valid for a period of one year from the date of approval by the minor subdivision committee or city council. Such approval or conditional approval may be extended for a period not to exceed one year by the subdivision committee upon written request, provided such request is made prior to the expiration of the one-year period. Filing of the parcel map with the county recorder shall authorize the requested division. Failure to meet conditions imposed and to file the parcel map within the period prescribed in this title or any extension thereof shall terminate all proceedings. (Subdivision ordinance dated 8/95 (part), 1995)

16.20.100 Subdivision alternate.

Nothing contained in this chapter shall prohibit a division of land as a standard subdivision. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.22

ENFORCEMENT

Sections:

16.22.010 Enforcement.

16.22.010 Enforcement.

No building shall be constructed nor shall a permit for the construction of a building be issued on any parcel or lot created in violation of the requirements of this title, nor shall any parcel or lot be used if created in violation of this title. (Subdivision ordinance dated 8/95 (part), 1995)

Chapter 16.24

VIOLATION—PENALTY

Sections:

16.24.010 Violation—Penalty

16.24.010 Violation—Penalty.

A. Any offer to sell, contract to sell or sale made contrary to the provisions of this title shall be a misdemeanor, and any person, firm, corporation or partnership, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment, that nothing herein contained shall be deemed to bar any legal, equitable or summary remedy to which the city or other political subdivision or person, firm, corporation, partnership or co-partnership may otherwise be entitled, and the city or any other political subdivision, or person, firm, corporation, partnership may bring an action in any court possessing jurisdiction to restrain or enjoin any attempt or proposed subdivision or sale in violation of this title.

B. Any transfer or conveyance, or purported transfer or conveyance, or agreement to transfer or convey any parcel of land without compliance with the terms of this title shall be voidable at the option of the transferee in accordance with the provisions of Sections 11540 and 11540.1 of the Business and Professions Code of the state of California, as the same may be amended from time to time. (Subdivision ordinance dated 8/95 (part), 1995)

Title 17

ZONING

Chapters:

- 17.02 General Provisions**
- 17.04 Definitions**
- 17.06 General Zoning Regulations**
- 17.08 U or Unclassified District**
- 17.10 O or Open Space District**
- 17.11 PF or Public Facility District**
- 17.12 K or Agricultural-Residential District**
- 17.13 MHR or Marina Heights Residential District**
- 17.14 R-1 or Single-Family Residential District**
- 17.16 R-2 or Duplex Residential District**
- 17.18 R-3 or Limited Multiple-Family Residential District**
- 17.19 Criteria and Standards for Low Income Senior Citizens' Apartment Projects**
- 17.20 R-4 or Multiple-Family Residential District**
- 17.21 C-R or Commercial/Multiple-Family Residential District**
- 17.22 C-1 or Retail Business District**
- 17.24 C-2 or General Commercial District**
- 17.25 C-D or Coastal Conservation and Development District**
- 17.26 PC or Planned Commercial District**
- 17.27 Adult Businesses and Massage Therapists**
- 17.28 Airport District**
- 17.29 BP or Business Park District**
- 17.30 M or Industrial District**
- 17.31 P or Business Park and Planned Industrial Small Lot Combining District**
- 17.32 A or Limited Agricultural Uses Combining District**
- 17.34 ST or Special Treatment District**
- 17.36 S or Integrated Combining District**
- 17.38 X or Camp Combining District**

- 17.40 B or Site and Yard Area Combining District**
- 17.41 SU or Coastal Zone Secondary Use Combining District**
- 17.42 T or Transitional District**
- 17.43 C-P or Coastal Development Permit Combining District**
- 17.44 Parking Requirements**
- 17.45 Affordable Housing**
- 17.46 Variances**
- 17.48 Use Permits**
- 17.50 Site and Architectural Design Review**
- 17.51 Tree Removal, Preservation and Protection**
- 17.52 Nonconforming Uses**
- 17.54 Condominium Guidelines**
- 17.55 Surface Mining and Reclamation Standards**
- 17.56 Appeals**
- 17.58 Amendments**
- 17.59 Signs**
- 17.60 Enforcement—Penalties**

Chapter 17.02

GENERAL PROVISIONS*

Sections:

- 17.02.010 Plan adopted.
- 17.02.020 Title for citation.
- 17.02.030 Purpose.
- 17.02.040 Nature of zoning plan.
- 17.02.050 Establishment and designation of districts.
- 17.02.060 Combining regulations.
- 17.02.070 District boundaries.
- 17.02.080 Effect of establishment of districts.
- 17.02.090 U districts.
- 17.02.100 Suspension of time limits.

* Prior ordinance history: Ords. 77-10, 82-14 and 92-5.

17.02.010 Plan adopted.

There is adopted a zoning plan for the city, said zoning plan being a districting plan as provided by law. (Zoning ordinance dated 7/94 (part), 1994)

17.02.020 Title for citation.

This title shall be known and cited as “The Zoning Ordinance of the city of Marina.” (Zoning ordinance dated 7/94 (part), 1994)

17.02.030 Purpose.

This zoning plan is adopted to promote and protect the public health, safety, peace, morale, comfort, convenience and general welfare, and for the accomplishment thereof and is adopted, among other purposes for the following more particularly specified purposes:

- A. To assist in providing a definite plan of development for the city, and to guide, control and regulate the future growth of the city in accordance with said plan;
- B. To protect the character and the social and economic stability of agricultural, residential, commercial, industrial, and other areas, within the city and to assure the orderly and beneficial development of such areas;
- C. To implement the city’s coastal program. (Zoning ordinance dated 7/94 (part), 1994)

17.02.040 Nature of zoning plan.

This zoning plan consists of the establishment of various districts within the incorporated area of the city within some, all or none of which it is unlawful to erect, construct, alter or maintain certain buildings or to carry on certain trades or occupations or to conduct certain uses of land or of buildings; within which the height and bulk of future buildings shall be limited; within which certain open spaces shall be required about future buildings and consisting further of appropriate regulations to be enforced in such districts, all as set forth in this title. (Zoning ordinance dated 7/94 (part), 1994)

17.02.050 Establishment and designation of districts.

The several districts established and into which the city is divided are designated as follows:

- U unclassified districts
- O open space districts
- K agricultural-residential districts
- ST special treatment districts
- R-1 single-family residential districts
- R-2 duplex residential districts
- R-3 limited multiple-family residential districts
- R-4 multiple-family residential districts
- C-R commercial multiple-family residential districts
- C-1 retail business districts
- PC planned commercial districts
- C-2 general commercial districts
- L-M limited industrial districts
- M industrial districts
- T transitional districts
- P-F public facilities districts
- C-D coastal conservation and development districts

(Zoning ordinance dated 7/94 (part), 1994)

17.02.060 Combining regulations.

In addition to the foregoing districts, certain combining districts are established and are designated as follows:

- A limited agricultural uses
- X camp districts
- S integrated districts
- B-1 first building site area and yard regulations
- B-2 second building site area and yard regulations
- B-3 third building site area and yard regulations
- B-4 fourth building site area and yard regulations
- B-5 special building site area and yard regulations
- B-6 second special building site area and yard regulations
- C-P coastal development permit district
- SU Coastal Zone secondary use combining district

(Zoning ordinance dated 7/94 (part), 1994)

17.02.070 District boundaries.

- A. The designations, locations and boundaries of such districts are set forth on the city zoning map.
- B. The aforesaid districts and certain combinations are established insofar as the designation, locations and boundaries thereof are set forth and indicated in the sections of this title which describe certain of said districts.

C. Where uncertainty exists as to the boundaries of any of the aforesaid districts as described as aforesaid or as shown on said sectional maps, the planning commission upon written application or upon its own motion, shall determine the location of such boundaries. (Zoning ordinance dated 7/94 (part), 1994)

17.02.080 Effect of establishment of districts.

A. Except as hereinafter otherwise provided:

1. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building or premises be used, designated or intended to be used for any purpose, or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building, land or premises is located.

2. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the districts in which such building is located.

3. No building shall be erected, nor shall any existing building be altered, enlarged or rebuilt, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard, building site area and building location regulations hereinafter designated for the district in which such building or open space is located.

4. No yard or other open space provided about any building for the purpose of complying with provisions of this title shall be considered as providing a yard or open space for any other building, and no yard or other open space on one building site, shall be considered as providing a yard or open space for a building on any other building site.

B. No governmental unit whether city, county, district, state or federal shall be exempt from the provisions of this title. (Zoning ordinance dated 7/94 (part), 1994)

17.02.090 U districts.

All the territory of the city which is not included under the terms of this title in any other district, is designated and classified as constituting U districts. (Zoning ordinance dated 7/94 (part), 1994)

17.02.100 Suspension of time limits.

A. Whenever a time limit is prescribed by this title, the zoning ordinance of the city of Marina, or is imposed as a condition which is applicable to any permit or approval granted or any action taken pursuant to this title, any time during which the city is prevented due to circumstances beyond the control of the city from fulfilling a responsibility which is prerequisite to the applicant's accomplishment of the requirements to meet said time limit, the time during which said circumstances continue shall not be included as part of the time in which the condition or time limit established by ordinance must be fulfilled. "Circumstances beyond the control of the city" as used in this section is defined to include only actions by parties beyond the control of the city, including but not limited to inability or failure of persons other than the city to take actions which are prerequisite to the city's fulfillment of its responsibilities, the departure of key city personnel, appeals to the city council or to other responsible authorities, and lawsuits filed against the city to challenge an associated permit, approval granted or any other related city action. Subject time limits shall be suspended for those periods of time during which the city is prevented by circumstances beyond the control of the city from fulfilling what either are or would ultimately become its responsibilities should all other requirements precedent to the city taking action to fulfill these responsibilities be ultimately satisfied. No city responsibility can be created to bring about a time limit suspension relating to a particular project, permit, approval granted or any city action taken pursuant to this title as a result of actions or inactions by the beneficiaries of the project, permit, approval granted or any city action taken

pursuant to this title. This section shall apply to any unexpired time limits imposed prior to the effective date of this section as well as to such future time limits.

B. Upon request, the director of planning may be asked to determine whether there has been a delay caused by circumstances beyond the control of the city. The time limit suspension provided for by this section shall not come into effect for any specific time limit case unless such a request is made and the director of planning makes the administrative determination that there has been such a delay. If such a delay is determined, the Planning Director shall also determine the number of days during which applicable time limits have been suspended pursuant to this section and report the findings to the city manager, planning commission, and city council. Notice of said determinations shall be mailed to all persons having previously requested in writing to be notified of any city activities related to the original action to which the time limit conditions or ordinance provisions apply. Within seven calendar days of the director of planning's written notice of the determinations, any person may appeal to the city council the director of planning's determinations upon submission of a letter to the city clerk describing the reasons for the appeal accompanied by a fee equal to the lowest fee applicable to the class of action(s) to which the time limit applies. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.04

DEFINITIONS*

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17.04.013	Access, vertical beach.
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17.04.030	Airport.
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17.04.700	Trailer.
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17.04.750	Wild animal.
17.04.760	Yard.
17.04.770	Yard, front.
17.04.780	Yard, rear.
17.04.790	Yard, side.

* Prior ordinance history: Ords. 77-10, 79-11, 82-11 and 82-14.

17.04.010 Definitions generally.

A. All words used in the present tense shall include the future tenses; all words in the plural number shall include the singular; and all words in the singular number shall include the plural number, unless the natural construction of the wording indicates otherwise. The word “shall” is mandatory and not directory. The word “city” shall mean city of Marina, the words “city council” shall mean city council of Marina, the words “planning commission” shall mean the planning commission of Marina.

B. For the purpose of this title, certain terms used herein are defined as follows in this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.04.011 Access.

“Access” means an opening in a fence, wall or structure, or a walkway or driveway permitting pedestrian or vehicular approach to, or within, any structure or use. (Zoning ordinance dated 7/94 (part), 1994)

17.04.012 Access, lateral beach.

“Lateral access beach” means continuous access along the beach parallel to the mean high tide line. (Zoning ordinance dated 7/94 (part), 1994)

17.04.013 Access, vertical beach.

“Vertical access beach” means perpendicular access from the nearest public roadway to the sandy beach frontage and/or mean high tide lines. (Zoning ordinance dated 7/94 (part), 1994)

17.04.020 Agriculture.

“Agriculture” means the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; horticulture; and forestry; the science and art of the production of plants and animals useful to man. (Zoning ordinance dated 7/94 (part), 1994)

17.04.030 Airport.

“Airport” means a place, either on land or on water, where aircraft may land and take off and where additional space may be provided to discharge or receive cargoes and passengers, make repairs or take in fuel. (Zoning ordinance dated 7/94 (part), 1994)

17.04.040 Alley.

“Alley” means a passage or way open to public travel, affording a secondary means of access to abutting lots and not intended for general traffic circulation. (Zoning ordinance dated 7/94 (part), 1994)

17.04.045 Amusement center or arcade.

“Amusement center or arcade” means any business, use or structure which contains three or more games of chance, skill or science and/or viewing machines which may or may not be coin operated and whether or not the operation of said games or machines is the main business conducted therein. (Zoning ordinance dated 7/94 (part), 1994)

17.04.050 Apartments.

“Apartment” means a room or suite of two or more rooms, which is designated for, intended for, or occupied by one family doing its cooking therein. (Zoning ordinance dated 7/94 (part), 1994)

17.04.060 Apartment building.

“Apartment building” means any structure containing more than two dwelling units. (Zoning ordinance dated 7/94 (part), 1994)

17.04.070 Auto court.

“Auto court” means a group of two or more buildings, containing guest rooms or apartments with automobile storage space serving such rooms or apartments provided in connection therewith, which group is designed and used primarily for the accommodation of transient automobile travelers (also includes motels). (Zoning ordinance dated 7/94 (part), 1994)

17.04.080 Block.

“Block” means that property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets and railroad right-of-way, unsubdivided acreage, watercourse or body of water. (Zoning ordinance dated 7/94 (part), 1994)

17.04.090 Building.

“Building” means any structure built entirely of frame or more lasting type of construction, having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel, but not including any tent or trailer. (Zoning ordinance dated 7/94 (part), 1994)

17.04.100 Building, accessory.

“Accessory building” means a subordinate building, the use of which is incidental to that of a main building on the same building site. (Zoning ordinance dated 7/94 (part), 1994)

17.04.110 Building, main.

“Main building” means a building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling, except for a detached secondary dwelling unit, shall be deemed to be a main building, or part of a main building, on the building site on which the same is situated. (Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.04.120 Building site.

“Building site” means a parcel of land occupied or intended to be occupied by main buildings and accessory buildings and uses, including such open spaces as are provided or are intended to be used in connection therewith or are required by the regulations for the district wherein such parcel is located. (Zoning ordinance dated 7/94 (part), 1994)

17.04.130 Bungalow courts or grouped dwellings.

“Bungalow courts or grouped dwellings” means a combination or group of two or more detached or semi-detached dwellings or dwelling units and their accessory buildings occupying an integrally owned building site and used for nontransient living accommodations. (Zoning ordinance dated 7/94 (part), 1994)

17.04.131 Business service establishment.

“Business service establishment” means an establishment within a building that provides services to other businesses. Examples of these services include: blueprinting, computer-related services, copying and quick-printing, film processing and retail photofinishing, mailing and mailbox services, and security systems services. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.132 CEQA.

“CEQA” means the California Environmental Quality Act of 1970, setting forth requirements for governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality, and setting forth regulations for environmental impact reports (EIR). (Zoning ordinance dated 7/94 (part), 1994)

17.04.140 Campgrounds.

“Campgrounds” means land or premises which is used or intended to be used, let or rented for occupancy by campers traveling by automobile or otherwise, or for occupancy by tents or similar quarters. (Zoning ordinance dated 7/94 (part), 1994)

17.04.150 Carport.

“Carport” means an accessible and usable covered parking space not less than nine feet by twenty feet for the storage of automobiles. (Zoning ordinance dated 7/94 (part), 1994)

17.04.160 Cattle feed yard.

“Cattle feed yard” means any premises on which cattle are held or maintained for the purpose of feeding and fattening for market and where sixty percent or more of the feed for such cattle is imported or purchased. (Zoning ordinance dated 7/94 (part), 1994)

17.04.170 Club.

“Club” means all clubs except those, the chief activity of which is a service customarily carried on as a business. (Zoning ordinance dated 7/94 (part), 1994)

17.04.171 Coastal appeal zone.

“Coastal appeal zone” means that geographical area between the sea and first public road paralleling the sea or within three hundred feet of the inland extent of any beach or within three hundred feet of the mean high tide lines of the sea where there is no beach, whichever is the greater distance. Furthermore, tidelands; submerged lands; public trust lands within one hundred feet of any wetland, estuary, stream, or within three hundred feet of the top of seaward face of any coastal bluff are also included. (Zoning ordinance dated 7/94 (part), 1994)

17.04.172 Coastal development permit.

“Coastal development permit” means a permit issued for development within the Coastal Zone as required by this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.04.173 Coastal scenic view corridor.

“Coastal scenic view corridor” means an area in which development is sited and designed to protect public views to the dunes and to and along the shorelines and, in scenic coastal areas in order to minimize the alteration of landforms so that new development will be visually compatible with the character of the surrounding areas. (Zoning ordinance dated 7/94 (part), 1994)

17.04.174 Coastal Zone.

“Coastal Zone” means that portion of the city of Marina defined by the California Public Resource Code Sections 30103 and 30160 as being in the Coastal Zone, generally State Highway Route 1, the area west of Highway 1 and portions of the area between Del Monte Boulevard and Highway 1 generally including coastal dunes, vernal ponds and adjacent lands either undeveloped or under cultivation in 1979. (Zoning ordinance dated 7/94 (part), 1994)

17.04.176 Commercial recreation, indoors.

“Commercial recreation facility — indoor” means establishments providing indoor amusement and entertainment services for a fee or admission charge, including: bowling alleys, amusement and electronic game arcades, ice skating and roller skating rinks, pool and billiard rooms as a primary use.

This use does not include adult entertainment businesses, or night clubs, which are separately defined. Four or more electronic games or coin-operated amusements in any establishment, or a premise where fifty percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above, three or fewer machines are not considered a land use separate from the primary use of the site. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.180 Condominium conversion.

“Condominium conversion” means the development or use of land and existing rental structures as a condominium/planned development project, regardless of whether any improvements have been made to such structures. (Ord. 2004-13 § 1 (part), 2004: zoning ordinance dated 7/94 (part), 1994)

17.04.190 Condominium/planned development project.

“Condominium/planned development project” means any or all of the following:

- A. Two or more proposed condominiums, as defined in Section 783 of the California Civil Code;
 - B. The entire parcel of real property divided, or to be divided, into condominiums, including all existing or proposed structures therein;
 - C. A community apartment project, as defined in Section 11004 of the Business and Professions Code, containing two or more rights of exclusive occupancy;
 - D. A planned development, as defined in Section 11003 of the Business and Professions Code, containing two or more rights of exclusive occupancy;
 - E. A stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, containing two or more rights of exclusive occupancy;
 - F. A residential subdivision development, containing two or more rights of exclusive occupancy.
- (Ord. 2004-13 § 1 (part), 2004: zoning ordinance dated 7/94 (part), 1994)

17.04.200 Contractor's yard.

"Contractor's yard" means any land and/or buildings used primarily for the storage of equipment, vehicles, materials or components used in the conduct of any building trades or craft. (Zoning ordinance dated 7/94 (part), 1994)

17.04.210 Courts.

"Courts" means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings. (Zoning ordinance dated 7/94 (part), 1994)

17.04.211 Day care center, adult or child.

"Day care center, adult or child" means a commercial or nonprofit child or adult day care facility, other than a family day care home, that provides nonmedical care on less than a twenty-four hour basis for fifteen or more children or seven or more adults. Includes infant centers, preschools, school-age day care facilities, and facilities for adults who require supervision and care because of mental and/or physical condition. These may be operated in conjunction with a school, religious facility, business, or as an independent land use. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.212 Day care home, large family.

"Large family day care home" means a single-family dwelling in which the occupant provides care and supervision of between nine to fourteen children, inclusive, at any time for periods of less than twenty-four hours a day in accordance with a state license. Children under the age of ten years who reside in the home count as children served by the day care provider. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.213 Day care home, small family.

"Small family day care home" means a dwelling in which the occupant provides care and supervision for eight or fewer children or six or fewer adults for periods of less than twenty-four hours a day in accordance with a state license. Children under the age of ten years who reside in the home count as children served by the day care provider. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.220 Density.

"Density" means the ratio of family living units to acreage. (Zoning ordinance dated 7/94 (part), 1994)

17.04.221 Development.

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredge materials or waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity of use of land including subdivision and any other division of land except where division occurs as a result of purchase by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure; the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting; and the civilian reuse of former United States military land. (Ord. 97-12 § 1 (part), 1997; zoning ordinance dated 7/94 (part), 1994)

17.04.222 Disturbed area.

“Disturbed area” means terrain that has been substantially altered by erosion, grading, mining, excavation or other natural or man-made causes to the extent that none or very little of the native vegetation and/or natural landform remains. (Zoning ordinance dated 7/94 (part), 1994)

17.04.230 Domestic animal.

“Domestic animal” means animals normally maintained in a home as pets.
(Zoning ordinance dated 7/94 (part), 1994)

17.04.240 Drive-in business.

“Drive-in business” means any primary or subsidiary business in which business is transacted while the consumer is seated in or on a motor vehicle. (Zoning ordinance dated 7/94 (part), 1994)

17.04.250 Drive-in restaurants.

“Drive-in restaurants” means a restaurant where food and beverages are sold and served to customers in motor vehicles and which are regularly and customarily consumed in motor vehicles on the premises. (Zoning ordinance dated 7/94 (part), 1994)

17.04.260 Duplex.

“Duplex” means a detached building, under one roof, designed for or occupied exclusively by, two families living independently of each other. (Zoning ordinance dated 7/94 (part), 1994)

17.04.265 Dwelling, efficiency or studio.

“Efficiency dwelling or studio” means a compact unit within a multiple-dwelling building having kitchen and bathroom facilities in compliance with the provisions of the California Uniform Building Code, Section 310.7. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.270 Dwelling group.

“Dwelling group” means a group of two or more detached or semidetached one-family, two-family or multiple-family dwellings occupying a parcel of land in one ownership and having any yard or court in common. (Zoning ordinance dated 7/94 (part), 1994)

17.04.280 Dwelling, multiple.

“Multiple dwelling” means a building or portion thereof, used or designed as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartment houses, apartment hotels and flats, but not including automobile courts. (Zoning ordinance dated 7/94 (part), 1994)

17.04.290 Dwelling, one-family.

“One-family dwelling” means a detached building designed for, or occupied exclusively by, one family with facilities for living, sleeping, cooking and eating, but containing only one kitchen. (Zoning ordinance dated 7/94 (part), 1994)

17.04.291 Dwelling unit, secondary.

“Secondary dwelling unit” means an attached or detached dwelling unit sited on the same parcel as the main building and which provides complete independent living facilities for one or two persons, including permanent provisions for living, sleeping, eating, cooking, sanitation and laundry hook-ups. (Ord. 2003-09 § 1 (part), 2003)

17.04.300 Family.

“Family” means one or more persons occupying a premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants. (Zoning ordinance dated 7/94 (part), 1994)

17.04.301 Feasible.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors as they relate to the area or land under consideration. (Zoning ordinance dated 7/94 (part), 1994)

17.04.302 Fitness and health establishment.

“Fitness and health establishment” means commercial or nonprofit facilities, such as fitness centers and health and athletic clubs, oriented toward promoting physical health. Such facilities can include any of the following: gymnasium, swimming pool, exercise equipment, indoor sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, and other indoor sports activities. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.303 Foster home or foster care home.

“Foster home or foster care home” means the residence of a family in which no more than six children of sixteen years of age or younger are cared for as foster children under a license of the county department of social services. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.310 Garage, private.

“Private garage” means an accessible and usable enclosed covered parking space not less than nine feet by twenty feet for the storage of automobiles. (Zoning ordinance dated 7/94 (part), 1994)

17.04.320 Garage, public.

“Public garage” means any premises, except those herein defined as a private or storage garage, used for the storage and/or repair of motor vehicles or where any such vehicles are equipped for operation or repair, or kept for remuneration, hire, or sale. (Zoning ordinance dated 7/94 (part), 1994)

17.04.330 Garage, storage.

“Storage garage” means any premises, except those herein defined as a private garage, used exclusively for the storage of motor vehicles. (Zoning ordinance dated 7/94 (part), 1994)

17.04.340 Golf course, practice fairway.

“Practice fairway golf course” means a practice and instructional facility for golf purposes. It shall not include any concessions or commercial sale of merchandise. (Zoning ordinance dated 7/94 (part), 1994)

17.04.350 Golf course, regulation.

“Regulation golf course” means a golf course whose minimum total length for nine holes is three thousand yards and for eighteen holes is six thousand yards. (Zoning ordinance dated 7/94 (part), 1994)

17.04.360 Golf course, short.

“Short golf course” means a golf course whose minimum total length is five thousand yards, with some holes over two hundred fifty yards. (Zoning ordinance dated 7/94 (part), 1994)

17.04.370 Golf course, three-par.

“Three-par golf course” means a golf course in which the longest hole does not exceed two hundred fifty yards. (Zoning ordinance dated 7/94 (part), 1994)

17.04.380 Guest house.

“Guest house” means a detached living quarters with permanent provisions for sleeping and sanitation, but without kitchens or cooking facilities, clearly subordinate and incidental to the main building on the same building site, and not to be rented, let or leased, whether compensation be direct or indirect. (Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.04.390 Guest room.

“Guest room” means a room which is intended, arranged or designed to be occupied or which is occupied by guests, but in which no provision is made for cooking, and not including dormitories for sleeping purposes. (Zoning ordinance dated 7/94 (part), 1994)

17.04.391 Habitat, primary.

This term includes all of the environmentally sensitive areas in Marina. These are as follows:

A. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be collectively referred to as “rare and endangered”;

B. Vernal ponds and their associated wetland vegetation. The Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas (California Coastal Commission, February 14, 1981) contains technical criteria for establishing the inland boundary of wetland vegetation;

C. All native dune vegetation, where such vegetation is extensive enough to perform the special role of stabilizing Marina’s natural sand dune formations. (Zoning ordinance dated 7/94 (part), 1994)

17.04.392 Habitat, secondary.

This term refers to areas adjacent to primary habitat areas within which development must be sited and designed to prevent impacts which would significantly degrade the primary habitat. The secondary habitat area will be presumed to include the following, subject to more precise determination upon individual site investigation:

A. The potential/known localities of rare and endangered plant species as shown on “Disturbed Vegetation” map in the Marina local coastal program;

B. The potential wildlife habitats as shown on “Potential Wildlife Habitats” map in the Marina local coastal program;

C. Any area within one hundred feet of the landward boundary of a wetland primary habitat area. (Zoning ordinance dated 7/94 (part), 1994)

17.04.400 Height of building.

“Height of building” means the vertical distance from natural grade at the average of the highest and lowest points of the building site covered by the building, to the topmost point of the roof. (Zoning ordinance dated 7/94 (part), 1994)

17.04.410 Hog ranch, commercial.

“Commercial hog ranch” means any premises on which hogs are raised or maintained and said hogs are fed by the purchase or import of swill, garbage, vegetables or fruit. (Zoning ordinance dated 7/94 (part), 1994)

17.04.421 Home occupation.

“Home occupation” means any gainful occupation carried out within, and by any occupant of a dwelling unit, including but not limited to: handicrafts and similar activities, office use for a variety of types of businesses and occupations; teaching when limited to attendance of one pupil at a time; sales and other like occupancies which meet all of the conditions specified in Section 17.06.110. (Ord. 2001-06 § 1 (part), 2001)

17.04.430 Hotel.

“Hotel” means establishments offering lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This classification includes, auto courts motor lodges, motels, hostels, extended-stay hotels, and tourist courts, but does not include rooming hotels, boarding houses, or residential hotels designed or intended to be used for sleeping for a period of thirty consecutive days or longer. This classification also excludes bed and breakfast facilities and similar accommodations that an occupant of single-family housing provides on the same premises incidental to the primary residential use of the property. (Ord. 2004-04 § 1 (Exh. 1 (part)), 2004: Ord. 2004-03 § 1 (part), 2004: zoning ordinance dated 7/94 (part), 1994)

17.04.431 Hotel, residential.

“Residential hotel” means those establishments offering rooms for rent to transient patrons and for semi-transient or permanent residents on a weekly or monthly basis and may include a kitchen or kitchenette. (Ord. 2004-04 § 1 (Exh. 1 (part)), 2004: Ord. 2004-03 § 1 (part), 2004)

17.04.440 Hotel, resort.

“Resort hotel,” as distinguished from an auto court or motel, means a hotel designed primarily for the convenience of transient guests, with a minimum of ten percent of the total area maintained for landscaping, with accessory recreational components as well as service and/or other associated uses such as a full-service restaurant and meeting rooms, and which may include a vacation club and/or kitchen or kitchenette units not limited to a percentage of total units nor limited to three hundred fifty square feet or less of gross floor area for each such unit. (Ord. 96-7 § 1 (part), 1996: zoning ordinance dated 7/94 (part), 1994)

17.04.441 Interim housing.

“Interim housing” means shared living quarters, with or without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate needs. Interim housing includes, but is not limited to, the following:

- A. Homeless shelters;
- B. Emergency shelters;

- C. Dormitories;
- D. Transitional housing;
- E. Boarding houses;
- F. Halfway houses.

Interim housing does not include residential care homes or facilities, convalescent hospitals, hotels or motels that may be used for residential purposes, or single-room occupancy housing. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.442 Junkyard.

“Junkyard” means the use of more than two hundred square feet of the area of any parcel, lot or contiguous lots, for the storage of junk, including scrap metals or other scrap materials, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery. (Zoning ordinance dated 7/94 (part), 1994)

17.04.443 Live-work unit.

“Live-work unit” means an integrated housing unit and working space, occupied and utilized by a single household in a structure, either single-family or multifamily, that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes: (1) complete kitchen space and sanitary facilities in compliance with the city building code; and (2) working space reserved for and regularly used by one or more occupants of the unit. A live-work unit is intended to be occupied by business operators who live in the same building that contains the commercial activity. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.451 Local coastal implementation plan (LCIP).

“Local coastal implementation plan (LCIP)” means that report, adopted by the council and certified by the State Coastal Commission, which describes various administrative and legal procedures to be pursued to carry out the local coastal land use plan. (Zoning ordinance dated 7/94 (part), 1994)

17.04.452 Local coastal land use plan (LCLUP).

“Local coastal land use plan (LCLUP)” means that report, adopted by the council and certified by the State Coastal Commission, which, in response to the Coastal Act of 1976 contains maps, planning area text, public access component policies and guidelines for land use and public access within Marina’s Coastal Zone. (Zoning ordinance dated 7/94 (part), 1994)

17.04.453 Local coastal program (LCP).

The city’s local coastal program consists of the following documents: local coastal land use plan and local coastal implementation plan. (Zoning ordinance dated 7/94 (part), 1994)

17.04.455 Lot, corner.

“Corner lot” means a building site situated at the intersection of two or more streets, or a building site abutting on more than one part of the same street. (Ord. 2002-06 § 2 (part), 2002)

17.04.460 Lot, reverse frontage.

“Reverse frontage lot” means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot exclusive of the width of any alley, and fronting on the street which intersects or intercepts the street upon which the corner lot fronts. (Zoning ordinance dated 7/94 (part), 1994)

17.04.465 Membership organization facilities.

“Membership organization facilities” mean permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including clubs, lodges, private meeting halls or similar facilities, for business associations, civic, social and fraternal organizations, labor unions and similar organizations, political organizations and professional membership organizations. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.470 Mobile home.

“Mobile home” means a vehicle designed and equipped for human habitation and for being drawn by a motor vehicle. (Zoning ordinance dated 7/94 (part), 1994)

17.04.480 Mobile home park.

“Mobile home park” means a parcel of land under one ownership which has been planned and improved for the placement of mobile homes for nontransient use. (Zoning ordinance dated 7/94 (part), 1994)

17.04.490 Nonconforming building.

“Nonconforming building” means a building, structure, or portion thereof, which does not conform to the regulations of this title, for the district in which it is situated and which lawfully existed at the time of the adoption of the ordinance codified in this title. (Zoning ordinance dated 7/94 (part), 1994)

17.04.500 Nonconforming use.

“Nonconforming use” means a building or land occupied by a use that does not conform to the regulations as to use for the district in which it is situated. (Zoning ordinance dated 7/94 (part), 1994)

17.04.510 One ownership.

“One ownership” means ownership of property (or possession thereof), under a contract to purchase or under a lease, the term of which is not less than ten years, by a person or persons, firm, corporation or partnership, individually, jointly, in common, or in any other manner whereby such property is under single or unified control. The term “owner” shall be deemed to mean the person, firm, corporation or partnership exercising one ownership as herein defined. (Zoning ordinance dated 7/94 (part), 1994)

17.04.515 Open space, common.

“Common open space” means an area on the ground, balcony, or deck that is available and accessible to the occupants of a building or building site for the purposes of active and/or passive recreation. This area includes the aggregate area of ground level areas, side and rear yards, (but not required front yards or exterior side yards), and patios, balconies and decks having a depth of not less than six feet and area of not less than sixty square feet. This area is exclusive of any area having a slope greater than ten percent, driveways, area for off-street parking and services, and ground level areas with a width of less than six feet or maximum dimension of under ten feet. Notwithstanding the general exclusion of driveways, on project sites with an average width of less than one hundred feet, the planning commission or the city council on appeal may allow minor driveways as defined in Section 17.54.020 of this title to be included within the definition of common open space. In multifamily residential developments of at least twenty units, indoor spaces of not less than three hundred square feet, designed and used for recreational purposes, can be included as part of a project’s required common open space. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2005-10 § 1 (Exh. A (part)), 2005: zoning ordinance dated 7/94 (part), 1994)

17.04.516 Open space, private.

“Private open space” means outdoor area either at ground level or on a balcony, deck, or atrium which is appurtenant to and contiguous with a dwelling unit and designed for the exclusive use of the occupants of that dwelling unit with a minimum horizontal dimension of not less than five feet except as otherwise required by this code. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.520 Parking space.

“Parking space” means an accessible and usable space on the building site at least nine feet by nineteen feet located on site for the parking of automobiles, not including the use of any required front or side yard setbacks. (Zoning ordinance dated 7/94 (part), 1994)

17.04.530 Poultry farms.

“Poultry farms” means the raising and/or keeping of more than five hundred chickens, ducks, geese, pigeons, pheasants, peafowl or guinea fowl. (Zoning ordinance dated 7/94 (part), 1994)

17.04.531 Rare and endangered species.

This term will apply to those plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. The environmental analysis report prepared for the Marina local coastal program identified such species in the dune habitat areas. While future scientific studies may result in addition or deletion of species, the list presently includes:

- A. Smith’s Blue Butterfly, *Shijimiaeoides enoptes smithi*;
- B. Globose Dune Beetle, *Coelus globosus*;
- C. Black Legless Lizard, *Anneilla pulchra nigra*;
- D. Salinas Kangaroo Rat, *Dipodomys Heermanni Goldmani*;
- E. Seaside Painted Cup, *Castilleja latifolia* ssp. *latifolia*;
- F. Monterey Spine Flower, *Chorizanthe pungens* var. *pungens*;
- G. Eastwood’s *Ericameria*, *fasciculata*;
- H. Coast Wallflower, *Erysimum ammophilum*;
- I. Menzies’ Wallflower, *Erysimum menziesii*;
- J. Coastal Dunes Milk Vetch, *Astragalus tener* var. *titi*;
- K. Dune Gilia, *Gilia tenuiflora* var. *arenaria*;
- L. Wild Buckwheat, *Eriogonum latifolium**;
- M. Wild Buckwheat, *Eriogonum parvifolium**;
- N. Bush Lupine, *Lupinus* ssp.+.

* Only within the range of Smith’s Blue Butterfly.

+ Only within the range of the Black Legless Lizard.

(Zoning ordinance dated 7/94 (part), 1994)

17.04.540 Refreshment stand.

“Refreshment stand” means an establishment or portion thereof, where prepared food and beverages are sold, substantial portions of which are sold on a self-service basis or are sold and served for consumption outside of buildings on the premises. (Zoning ordinance dated 7/94 (part), 1994)

17.04.542 Residential care home or residential care facility.

“Residential care home or residential care facility” means a dwelling unit or multiple-unit facility in which the occupant(s) is licensed by the state or county department of social services to provide twenty-four hour, primarily nonmedical care for children or adults in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. Examples of residential care facilities include, but are not limited to, facilities for developmentally or mentally disabled, substance abuse recovery, dependent and neglected children, physically disabled, and wards of the court. Residential care homes do not include family day care, foster care or any medical services, including skilled nursing services, beyond that required by the residents of the facility for sustaining the activities of daily living.

Residential care homes are further defined as follows: (1) “Small residential care home” is a residence serving six or fewer clients; (2) “Large residential care home” is a facility serving seven or more clients. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.550 Restaurant.

“Restaurant” means a business devoted to the serving of prepared food to the public where the food is consumed on the premises while the customers are seated. (Zoning ordinance dated 7/94 (part), 1994)

17.04.560 Rest home.

“Rest home” means the rooming or boarding of any aged or convalescent persons, whether ambulatory or nonambulatory, for which a license is required by a county, state or federal agency. (Zoning ordinance dated 7/94 (part), 1994)

17.04.570 Rooming or boarding house.

“Rooming or boarding house” means a dwelling other than a hotel where lodging and/or meals for three or more persons are provided for compensation. (Zoning ordinance dated 7/94 (part), 1994)

17.04.580 Sign.

“Sign” means anything whatsoever placed, erected, constructed, posted, painted, printed, tacked, nailed, glued, stuck, carved, or otherwise fastened, affixed or made visible for out-of-door advertising purpose in any manner whatsoever, on the ground or on any tree, wall, bush, rock, post, fence, building structure, or thing whatsoever. For the purpose of this title, the advertising area of one side of a double-faced sign shall be used in determining the advertising area. (Zoning ordinance dated 7/94 (part), 1994)

17.04.590 Sign, appurtenant.

“Appurtenant sign” means a sign relating only to goods sold or services rendered upon the building site on which said sign is erected or maintained. (Zoning ordinance dated 7/94 (part), 1994)

17.04.600 Sign, directional and informational.

“Directional and informational sign” means any sign which is confined to the giving of directions to a community or population center, or which, in addition to such directions, also gives general information as to the services, products or facilities available therein, without, however, naming or otherwise identifying any particular establishment, purveyor of goods or services, or brand or manufacturer of products. (Zoning ordinance dated 7/94 (part), 1994)

17.04.610 Sign, outdoor advertising.

“Outdoor advertising sign” means any sign other than an appurtenant sign, or a directional and informational sign. (Zoning ordinance dated 7/94 (part), 1994)

17.04.612 Single-room occupancy (SRO) units.

“Single-room occupancy (SRO) units” means a multiple-family dwelling with units of a smaller size than normally found in multifamily dwellings, with kitchen and bathroom facilities that may be provided within the unit or shared, and which are rented to a one- or two-person household on a long-term basis. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.615 Site coverage.

The percent of the site area covered by principal and accessory buildings.
(Ord. 2002-03 § 1 (part), 2002)

17.04.620 Street line.

“Street line” means the boundary between a street and abutting property.
(Zoning ordinance dated 7/94 (part), 1994)

17.04.630 Small livestock farming.

“Small livestock farming” means the raising and/or keeping of not more than twelve chicken hens or twelve pigeons, or twelve similar fowl and/or twelve rabbits, or twelve similar animals, or any roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep or similar livestock, or the raising and/or keeping for commercial purposes of any cats or dogs; provided, that the term “small livestock farming” as used in this title shall not include commercial hog farming, dairying, or the raising and/or keeping of horses, mules, or similar livestock as determined by the planning commission. (Zoning ordinance dated 7/94 (part), 1994)

17.04.640 Story.

“Story” means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
(Zoning ordinance dated 7/94 (part), 1994)

17.04.650 Street, public.

“Public street” means a street, road or way, but not an alley, owned by or maintained by a state, county or incorporated city. (Zoning ordinance dated 7/94 (part), 1994)

17.04.660 Structural alterations.

“Structural alterations” mean any change in the supporting members of a building such as bearing walls, columns, beams or girders. (Zoning ordinance dated 7/94 (part), 1994)

17.04.670 Structural walls.

“Structural walls” mean any bearing wall of a building.
(Zoning ordinance dated 7/94 (part), 1994)

17.04.680 Structure.

“Structure” means anything constructed or erected, except fences under six feet in height, the use of which requires location on the ground or attachment to something having location on the ground but not including any trailer, tent or decks less than eighteen inches above the ground. (Zoning ordinance dated 7/94 (part), 1994)

17.04.690 Structure, outdoor advertising.

“Outdoor advertising structure” means any structure of any kind or character, erected or maintained for outdoor advertising sign purposes. (Zoning ordinance dated 7/94 (part), 1994)

17.04.695 Structure, portable personal recreation.

A structure, capable of being carried or moved by not more than two adults when fully assembled, located adjacent to and directly accessible from a dwelling unit, which is used solely for recreational purposes by the occupants of the dwelling unit and their guests. Said structures are classified as accessory structures and may include, but are not limited to: portable play structures, trampolines, swing sets, mobile barbeque grills. (Ord. 2002-03 § 1 (part), 2002)

17.04.696 Structure, non-portable personal recreation.

A structure, not capable of being carried or moved by only two adults, located adjacent to and directly accessible from a dwelling unit, which is used solely for the recreational purposes by the occupants of the dwelling unit and their guests. Said structures are classified as accessory structures and include, but are not limited to: swimming pools, tennis courts, hot tubs and spas, built in cooking facilities such as barbeque grills, pits and/or ovens. (Ord. 2002-03 § 1 (part), 2002)

17.04.697 Studio—Art, dance, martial arts, music, etc.

“Studio—art, dance, martial arts, music, etc.” means small-scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are classified as “schools — specialized education.” Examples of these facilities include individual and group instruction and training in the arts; production rehearsal; photography and the processing of photographs produced only by users of the studio facilities; martial arts training; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.04.700 Trailer.

“Trailer” means a vehicle designed and used for human habitation and with its wheels in place. (Zoning ordinance dated 7/94 (part), 1994)

17.04.710 Trailer camp.

“Trailer camp” means any area or tract of land where space is rented or held out for rent to two or more owners or users of trailers, or where the free use of such space is permitted owners or users of trailers for the purpose of securing their trade. (Zoning ordinance dated 7/94 (part), 1994)

17.04.720 Use.

“Use” means the purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is, or may be occupied or maintained. (Zoning ordinance dated 7/94 (part), 1994)

17.04.730 Use, accessory.

“Accessory use” means a use accessory to any permitted use and customarily a part thereof, which use is clearly incidental and secondary to the permitted use and which does not change the character thereof. (Zoning ordinance dated 7/94 (part), 1994)

17.04.745 Vacation club.

“Vacation club” means a program for marketing transient occupancy for hotel, and/or motel accommodations to the general public through a membership agreement. (Ord. 96-7 § 1 (part), 1996)

17.04.750 Wild animal.

“Wild animal” means any animal feral in nature, that is, any animal which must be reclaimed and made tame by art, industry or education, or which must be kept in confinement to be brought within the immediate power of the owner; it excludes any animal which has been brought into, or born in, restraint or captivity upon any farm or ranch for the purpose of cultivating or pelting its fur; bees, birds, frogs, fish, and any other animal kept for human consumption. (Zoning ordinance dated 7/94 (part), 1994)

17.04.760 Yard.

“Yard” means an open space on the same building site with a building, which open space is suitable for recreation, landscaping, gardens, or household service activities, such as clothes drying, but not including any portion of any street or alley or road right-of-way. (Ord. 2002-03 § 1 (part), 2002: zoning ordinance dated 7/94 (part), 1994)

17.04.770 Yard, front.

“Front yard” means a yard extending across the front of the lot between the side lot lines and to a depth required by the district in which said lot is situated; provided, however, that if any official plan line has been established for the street upon which the lot faces, then such measurement shall be taken from such official plan line to the nearest line of the building. (Zoning ordinance dated 7/94 (part), 1994)

17.04.780 Yard, rear.

“Rear yard” means a yard extending across the back of the lot between the side lines and to a depth required by the district in which said lot is situated. (Zoning ordinance dated 7/94 (part), 1994)

17.04.790 Yard, side.

“Side yard” means a yard between the sidelines of the lot and to a width required by the district in which said lot is situated; and extending from the front yard to the rear yard. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.06

GENERAL ZONING REGULATIONS*

Sections:

- 17.06.010 Compliance with chapter.**
- 17.06.020 Use regulations.**
- 17.06.030 Private stables.**

- 17.06.040 Secondary dwellings and guest houses.**
- 17.06.050 Mobile home parks.**
- 17.06.060 Height.**
- 17.06.070 Yards.**
- 17.06.080 Timeshare projects.**
- 17.06.090 Satellite dish antennae.**
- 17.06.100 Vacation clubs as a visitor-serving use in the Coastal Zone.**
- 17.06.110 Home occupations.**
- 17.06.120 Alternative development regulations for planned development in the C-R, C-1 and C-2 districts.**
- 17.06.130 Criteria and standards for residential hotels conversions.**
- 17.06.135 Large family day care and day care centers.**
- 17.06.140 Single-room occupancy (SRO) housing.**
- 17.06.150 Live-work units.**

* Prior ordinance history: Ords. 77-10, 82-11, 82-14, 83-4, 84-9, 86-3, 92-6 and 93-2.

17.06.010 Compliance with chapter.

The regulations specified in this title shall be subject to the general provisions and exceptions of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.06.020 Use regulations.

A. No dancehall, roadhouse, nightclub, commercial club, establishment or business where alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on- and/or off-sale consumption at the subject establishment of business:

1. Will not constitute a public nuisance;
2. Will not occur within five hundred feet of a park or school or place of public assembly;
3. Will not contribute to law enforcement problems associated with an undue concentration of on- and/or off-sale licenses in the vicinity of the subject business or establishment.

C. The following activities shall be permitted in any zoning district:

1. The excavation or removal of materials or trees during the normal construction of buildings, structures or underground facilities;
2. Cutting or removal of trees for the purpose of land clearing for public roads and rights-of-way;
3. The cutting or removal of Christmas trees.

D. Public utility distribution and transmission line towers and poles and underground facilities for distribution of gas, water, telephone, and electricity and telephone booths shall be allowed in all districts, and without limitations as to height, without the necessity of first obtaining a use permit therefor; provided, however, that the routes of proposed gas, water, telephone and electric transmission lines, and the proposed locations of telephone booths, shall be submitted to the planning commission for recommendation at any time prior to but at least thirty

days in advance of the acquisition of rights-of-way for any such routes, or, in the case of telephone booths, in advance of the erection thereof except in the Coastal Zone, where the construction of utility lines shall be subject to first obtaining a coastal permit.

E. No accessory building or structure shall be constructed or placed, nor shall any accessory use be conducted on any property in any R district unless and until the main building is constructed or until a use permit, or in the Coastal Zone a coastal permit, is first obtained.

F. 1. No trailer or mobile home shall be used in any zoning district for any purpose other than a single-family residence or for residential or agricultural storage purposes unless a use permit, and in the Coastal Zone a coastal permit, are first secured in each case.

2. Trailers or mobile homes used as temporary construction offices are allowed without the securing of a use permit. Such use shall be permitted only during the period of construction.

3. Trailers or mobile homes used by public utility companies for temporary emergency equipment or supplies shall be allowed in any district without the securing of a use permit; provided, however, that such use shall not exceed ninety days duration.

G. Licensed residential care homes for aged persons of not more than six people, including any permitted rooming and boarding, may be allowed in any zoning district which allows residential uses.

H. Licensed nursery schools may be permitted in any zoning district upon first securing a use permit and in the Coastal Zone, a coastal permit in each case.

I. Mobile homes and trailers, used as living quarters, not located in mobile home parks or trailer camps shall be allowed only in conjunction with agricultural uses or for the purpose of twenty-four-hour watchman's quarters upon first securing a use permit and in the Coastal Zone, a coastal permit in each case which will be good for a maximum period of one year, after which time permanent living quarters shall be constructed. Existing mobile homes which have been granted use permits, and which do not comply with the provisions of this title, may be allowed to continue for as long as the planning commission may desire upon first securing a use permit and in the Coastal Zone, a coastal permit in each case. The following regulations shall apply in all cases where a use permit or a coastal permit is granted:

1. Skirting of fireproof material shall be provided around the perimeter of the mobile home or trailer;

2. The face of all cut-and-fill slopes shall be planted with a groundcover approved by the director of planning to protect the slopes against erosion;

3. All cut-and-fill slope landscaped areas shall be continuously maintained by the applicant in a litter-free, weed-free condition, and all plant materials shall be continuously maintained in a healthy, growing condition;

4. The planning commission may require compliance with any other conditions or requirements which it may deem reasonable and necessary to make the mobile home compatible with the surrounding neighborhood.

J. No person, firm or corporation shall hereafter, within the city, use any land or erect, construct or use any building, structure or enclosure for the purpose of maintaining a zoo or zoological garden for the purpose of raising, maintaining, keeping or exhibiting of any wild animal unless and until a use permit has been first secured. A use permit may be applied for in any district except for R-1, R-2, R-3 and R-4 districts. In the Coastal Zone such uses must be found consistent with the local coastal land use plan and a coastal permit shall be required for these uses.

K. 1. Water facilities, including wells and storage tanks, serving less than three domestic users are permitted in any zoning district.

2. Water facilities, including wells and storage tanks, serving three or four domestic users are permitted in any zoning district upon approval by the design review board as to the location, access, landscaping and color of storage tanks. In the Coastal Zone such uses shall be subject to a coastal permit.

3. Water facilities, including wells and storage tanks, serving five or more domestic users are permitted in any zoning district upon securing a use permit in each case, except in the Coastal Zone where such uses shall also be subject to first securing a coastal permit.

L. In the Coastal Zone the proposed use shall be consistent with the designation and policies of the general plan and local coastal land use plan.

M. No more than fifteen percent of the units in any motel or auto court may be provided with a kitchen or kitchenette. No unit in any motel or auto court containing a kitchen or kitchenette shall exceed three hundred fifty square feet of gross floor area. Each unit in a motel or auto court containing a kitchen or kitchenette shall be provided with one and one-half on-site parking spaces.

N. One on-site dwelling unit may be allowed subject to the following limitations:

1. The unit is to be occupied exclusively by a property owner, individual employed in the management of the property, or individual employed in the management of an on-site business, together with members of the family of said owner, property manager or business manager, and provisions are made to ensure such continued occupancy.

2. A use permit shall be obtained in each case.

3. The site is located in a commercial or business district.

4. Each building site is limited to one such unit with a maximum gross floor area not exceeding two thousand square feet and not exceeding two bedrooms.

5. Two parking spaces shall be required for the unit.

6. The total number of residential dwelling units including said owner's/manager's unit shall not exceed the number of residential dwelling units which would otherwise be allowed on the building site if some residential use is already or otherwise allowed on the site. (Ord. 2007-02 § 1, 2007; Ord. 2003-01 § 1 (part), 2003; Ord. 2002-03 § 1 (part), 2002; zoning ordinance dated 7/94 (part), 1994)

17.06.030 Private stables.

The following regulations shall apply in all cases where a use permit has been issued for the maintenance of a private stable:

A. The minimum lot area upon which a horse may be kept is one acre and two horses may be kept on such area. One additional horse may be kept for each twenty thousand square feet by which the parcel of land exceeds one acre;

B. Stables shall be located midway between the side lot lines and in no case closer than twenty feet from the side lines, and not closer than fifty feet to the front lot line. Paddocks shall be located on the rear half of the lot not closer than twenty feet to any property line nor closer than forty feet from any dwelling on the same or adjacent property;

C. Prior to the establishment of any stable in the Coastal Zone, the planning commission will be required to make a finding that such use is consistent with the local coastal program. Stables will also be required to first obtain a coastal permit. (Zoning ordinance dated 7/94 (part), 1994)

17.06.040 Secondary dwellings and guest houses.

A. One secondary dwelling or one guest house is allowed per building site subject to the following general requirements:

1. There is one and only one single-family dwelling and no other main buildings on the building site.

2. The building site is located in the R-1, R-2, R-3, or R-4 district and conforms to the minimum site area, minimum average lot width, and minimum lot depth requirements of the district in which it is located.

3. If located in the R-4 district, the building site is not in excess of seven thousand five hundred square feet.

4. The building site is not located within (a) a condominium or planned unit development project; or (b) in a mobile home or trailer park.

5. The building site abuts upon and takes direct access from a public street.

6. Maximum floor area shall not exceed whichever is less of: (a) ten percent of the site area, (b) two-thirds of the living area of the main building, or (c) nine hundred fifty square feet.

7. The guest house or secondary dwelling shall incorporate or continue architectural features that are similar to and/or compatible with the main building with respect to roof pitch and style, exterior building materials and colors.

8. Additional parking is not required, but any parking provided shall be in accordance with Chapter 17.44.

9. The secondary dwelling or guest house does not qualify as a housing unit and shall not be counted towards meeting a housing unit density requirement for a project site and shall not be counted towards meeting an inclusionary housing requirement.

B. Additional Regulations for Guest Houses. No guest house or any part thereof shall be rented, let or leased separately from the main residence.

C. Additional Regulations for Attached Secondary Dwellings.

1. Attached secondary dwellings shall be governed by the minimum yard and maximum height requirements for the main building as required by applicable provisions of Section 17.06.070 and the district in which it is located.

2. The entrances to attached secondary dwellings located on the second floor of the main building shall face the rear yard only.

D. Additional Regulations for Guest Houses and Detached Secondary Dwellings.

1. Guest houses and detached secondary dwellings shall subject to the following requirements, notwithstanding any district or general regulations to the contrary:

a. Located on the rear half of the building site and shall maintain a minimum rear yard of ten feet;

b. Located no closer than six feet from the nearest point of the main building;

c. Not to be located in required side yard in the district in which located; and

d. Not to exceed a maximum height of sixteen feet in the R-1, R-2 or R-3 district and not exceed a maximum height of twenty-five feet in the R-4 district.

2. Design of Openings. Entry doors, including sliding glass doors, access stairs, and decks shall be limited to the walls facing the primary residence, and/or interior of the rear yard. Exceptions to this standard may be approved only as follows and only then upon approval of the site and architectural design review board:

a. Where such openings would face any interior side lot line, said side yard for the secondary dwelling shall be increased to ten feet in accordance with Section 17.06.070(E).

b. Notwithstanding the provision of subsection A of this section, where such openings would face any rear lot line, said rear yard for the secondary dwelling or guest house shall be increased to fifteen feet.

3. Architectural Compatibility. The design of guest house or secondary dwelling sited on a corner lot, within thirty feet of an exterior side lot line and visible from the public street, shall be consistent with the street appearance of the existing residence.

E. Site and Architectural Design Review Board Appeal and Approval.

1. Referral to the site and architectural design review board may be requested by the applicant in those instances where an applicant wishes to appeal the planning director's determination regarding architectural compatibility pursuant to subsections (A)(7) and (D)(3) of this section. The design review board may affirm or mod-

ify the planning director's determination where the board determines that the design of the secondary dwelling or guest house, as affirmed or modified, enhances the overall appearance and character of the neighborhood in which it is located.

2. Where site and architectural design review board is requested or required pursuant to this section, abutting property owners shall be notified through the mailing of design review board meeting agendas. In all instances, the applicant shall be responsible for payment of applicable design review fees. (Ord. 2006-11 § 1, 2006: Ord. 2004-12 § 1, 2004; Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.06.050 Mobile home parks.

The following regulations shall apply in all cases where a use permit has been issued for a mobile home park, except otherwise prescribed by state law:

- A. The minimum lot area for a mobile home park shall be five acres.
- B. No mobile home park shall have commercial uses other than those used primarily by the residents of the park such as: coin-operated machines for laundry, soft drinks, cigarettes and similar uses on condition that the uses shall be located in the interior of the park.
- C. The density of the mobile home park shall be limited to eight homes per acre with the minimum mobile home site to be not less than three thousand square feet.
- D. Minimum yard setbacks from adjoining streets and properties shall be as follows: front yard setback, twenty feet; side yard setback, ten feet; and rear yard setback, ten feet, except otherwise prescribed by state law.
- E. Landscaping and fences shall be provided and shall be designed to screen the mobile home park from the street and adjoining properties. Landscaping and fencing plans shall be approved by the director of planning.
- F. All landscaped areas shall be continuously maintained by the applicant in a litter-free, weed-free condition and all plant material shall be continuously maintained in a healthy, growing condition.
- G. No less than ten percent of the total area of the mobile home park shall be developed for recreational purposes.
- H. For required parking see Section 17.44.020.
- I. All utility distribution facilities, including but not limited to electric, communication and cable television lines installed for the purpose of supplying service within any mobile home park, shall be placed underground, except as follows: equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts, or such equipment when concealed by shrubbery, landscaping or other screening and approved by the director of planning. The planning commission may waive the requirements of this section if topographical, soil or other physical conditions make underground installation of such facilities unreasonable or impractical.
- J. Notwithstanding the requirements in subsections C, D and G of this section, alternative regulations as described below shall apply to mobile home parks which meet these following criteria: (a) the mobile home park was legally established prior to the incorporation of the city of Marina, (b) it has not expanded by more than three new mobile home sites since incorporation, and (c) it has been and shall continue to be certified by the United States Department of Housing and Urban Development as a mobile home park providing housing for adults fifty-five years old or older. The alternative regulations which shall then apply in lieu of the requirements of subsections C, D and G of this section are that: (a) the density shall be limited to eleven homes per acre, (b) the minimum mobile home site area shall be two thousand four hundred square feet, and (c) no less than six percent of the total area of the mobile home park shall be developed for recreational purposes. (Ord. 99-04 § 1 (part), 1999: Ord. 96-8 § 1 (part), 1996: zoning ordinance dated 7/94 (part), 1994)

17.06.060 Height.

A. Chimneys, vents, cupolas, spires, and other architectural or mechanical appurtenances may be erected to a greater height than the limit established for the district in which the building is located except in the Coastal Zone where the height of such structures shall be subject to a coastal permit.

B. Towers, poles, water tanks, and similar structures may be erected to a greater height than the limit established for the district in which they are to be located, subject to securing a use permit and, in the Coastal Zone, a coastal permit in each case.

C. In any required front yard or in any required exterior side yard or any side yard abutting a street, separate fences and retaining walls shall not exceed three and one-half feet in height and fences combined with retaining walls shall not exceed a combined height of four and one-half feet with the retaining wall not exceeding one foot in height, all subject to definitions in subsection E and modifications in subsections G and H below.

D. NOTE: Retaining walls exceeding thirty inches in height are required to meet all Uniform Building Code (UBC) requirements. All persons planning to install a retaining wall should check with the Marina Building Division prior to installing a retaining wall. Retaining walls that exceed thirty inches in height above grade are required to install a thirty-six-inch (three foot) tall guardrail on top of the retaining wall for safety reasons. The Marina Building Department shall determine when a guardrail is required. This note is provided for informational purposes only. It is not a quote from the UBC.

E. In any required rear yard or in any required interior side yard or any required side yard not abutting a street, separate fences and separate retaining walls shall not exceed six feet in height and fences combined with retaining walls shall not exceed a combined height of nine feet with the retaining wall not exceeding three feet in height.

F. All heights referenced in subsections C and D above shall be measured from the finished ground elevation at the base of a separate fence and from the finished ground elevation at the base of the lower side of a separate retaining wall or a combined retaining wall and fence. A fence or a wall shall be considered a separate fence or a separate wall when the face of the fence and the face of the retaining wall are separated by a minimum three foot horizontal distance or are located on separate building sites.

G. The heights of fence columns may extend a maximum of six inches above the maximum height otherwise allowed by the height limitations described above. The height of arbors integrated into the design of a fence and incorporating a pedestrian opening in the fence may exceed the height limitations described above, provided the height of such an arbor does not exceed a height of twelve feet above the height of the finished ground elevation at the pedestrian opening.

H. Maximum height limitations as otherwise required above may be exceeded where determined necessary by the planning commission or the city council on appeal (1) to provide satisfactory visual or sound isolation of sensitive lands uses from commercial activities such as contractors yards, loading docks and similar commercial activities or (2) to provide reasonable security for areas approved for outdoor storage of equipment or material associated with approved contractor's yards to restrict unauthorized access to facilities that might be dangerous or hazardous.

I. Master fence plans for subdivisions of five units/lots or more shall be reviewed as part of the entitlement process. Master fence plans for minor subdivisions may, at the discretion of the applicant, be reviewed as part of the entitlement process. Master fence plans may deviate from the fence regulations stated herein if the design review board and/or planning commission makes findings that the proposed fences provide public safety, privacy or security and are aesthetically pleasing from the street side view (findings are listed in order of importance). The design review board or planning commission may require landscaping or other measures to mitigate the visual impacts of proposed fences and/or retaining walls or any combination thereof.

J. In the R-1 District, on a corner lot created after January 6, 1997, the heights of fences retaining walls or combinations thereof located in any required front yard or any required exterior side yard or any side yard abutting a street shall be regulated by limits set forth in subsection D rather than subsection C above in circumstances where; (a) said fence, wall or combination thereof is a minimum of ten feet back of a sidewalk constructed in accordance with plans approved by the City of Marina or in the absence of such a sidewalk, within ten feet of the probable location of a future sidewalk as determined by the director of public works, and/or (b) said fence, retaining wall or combinations thereof encloses an area of the site which is opposite from the front entrance to the main structure on the site for units where the front door faces the longer street side.

K. In the R-1 District, on a corner lot created prior to January 7, 1997, fences, retaining walls or combined retaining walls/fences are subject to the pre-January 7, 1997 fence regulations listed below:

1. Fences: maximum height of six feet measured from the lowest ground elevation at wall, fence or screen planting or one foot above the lowest ground elevation with a three foot horizontal distance from said wall, fence or screen planting, whichever measurement point results in the greater height;

2. Combined retaining wall/fence: maximum height of eight feet measured from the lowest ground elevation at wall, fence or screen planting or one-foot above the lowest ground elevation within a three-foot horizontal distance from said wall, fence or screen planting, whichever measurement point results in the greater height;

3. No required side yard fence setbacks.

(Ord. 2002-06 § 2 (part), 2002; Ord. 2002-01 § 1 (part), 2002; Ord. 98-5 § 1, 1998; Ord. 97-1 § 1, 1997: zoning ordinance dated 7/94 (part), 1994)

17.06.070 Yards.

A. In any case, where an official plan line has been established as a part of the street and highway master plan, the required yards on the street side shall be measured from such official plan lines and in no case shall the provisions of this title be construed as permitting any structures to extend beyond such building line.

B. Cornices, eaves, canopies, and similar architectural features may extend into any required yard not exceeding two and one-half feet.

C. Uncovered porches, or stairways, fire escapes or landing places may extend into any required front or rear yard not exceeding six feet, and into any required side yard not exceeding three feet. Covered porches on interior lots may extend into the required front yard not exceeding six feet and sixty square feet. Covered porches on corner lots may extend into any combination of the required front yard and the required exterior side yard not exceeding six feet and a total area of one hundred twenty square feet.

D. In any R or K district, where fifty percent or more of the building sites on any one block or portion thereof in the same district have been improved with buildings, the required front yard shall be of a depth equal to the average of the front yards of the improved building sites, to a maximum of that specified for the district in which such building site is located.

E. In case a dwelling is to be located so that the front or rear thereof faces any side lot line, such dwelling shall not be less than ten feet from such lot line.

F. In case a building site is less than sixty feet in width, side yards equal to ten percent of the lot width but not less than five feet shall be required, except in C or M districts.

G. In the case of a corner lot adjacent to a key lot, the required side yard on the street side for any building within twenty-five feet of the side line of the key lot shall be equal to the front yard required on the key lot, and if more than twenty-five feet from such side line, the required side yard shall be fifty percent of the front yard required on the key lot.

H. In case an accessory building is attached to the main building it shall be made structurally a part thereof and shall comply in all respects with the requirements of this title applicable to the main building.

I. Except as otherwise provided in subsection J of this section, detached accessory buildings not for living purposes shall not be located:

1. Within six feet from the main building;
2. Within fifty feet from the front property line;
3. Within six feet from the sidelines of the front one-half of the lot;
4. Within six feet of the sidelines of the front one-half of any adjacent lot;
5. Within one foot of any lot line of the rear one-half of the lot;
6. So as to encroach on any easement or right-of-way of record;
7. Within six feet of an alley from which the building has access.

J. Notwithstanding the limitations of subsection I above, detached accessory buildings with a projected roof area of less than one hundred twenty square feet as defined in the Marina building code, a height not exceeding eight feet, and on a building site used exclusively for single-family dwelling purposes in any residential district may be constructed or placed on the site as long as it is:

1. Located at least three feet from the main building or perimeter fence; and
2. Located within that portion of the site which is separated from the public way by the main building or by a minimum five feet high fence.

K. In case of a lot abutting upon two or more streets, the main building and accessory buildings shall not be erected so as to encroach upon the front yard or the exterior side yard required on any of the streets.

L. Notwithstanding any requirements in this section, in cases where the elevation of the front half of the lot at a point fifty feet from the centerline of the traveled roadway is seven feet above or below the grade of the centerline, a private garage attached or detached, may be built to within five feet of the front line of the lot.

M. Nothing contained in the general provisions shall be deemed to reduce special yard requirements as set forth in the regulations for any R or K districts.

N. Structures, except utility poles and utility equipment appurtenant thereto, shall not be located so as to encroach on any utility or road easement or right-of-way.

O. Notwithstanding the provisions of subsections B, C and H of this section, porches, decks and patios exceeding a height of eighteen inches and attached to the main building, and patio covers attached to the main building may extend into the required rear yard and together with other buildings on the lot may occupy an area greater than the maximum site coverage allowed in the district in which it is located, except as follows:

1. The structures shall not extend more than ten feet into the required rear yard and shall not occupy an area of the required rear yard exceeding two hundred square feet.

2. The finished floor surface shall not exceed five feet in height and the patio cover is a single story structure not exceeding sixteen feet in height.

3. If the structure is enclosed by walls, the walls may have any configuration, provided the open area of the longer wall and one additional wall is equal to at least sixty-five percent of the area of each respective wall below a minimum of six feet eight inches measured from the floor.

4. Wall openings may be enclosed with insect screening, plastic or glass. The plastic or glass shall be readily removable, translucent or transparent and not exceed a thickness provided by the current edition of the Uniform Building Code.

5. Patio covers shall be used only for recreational and outdoor living purposes and not as carports, garages, storage rooms, commercial or business space or habitable space as defined by the current edition of the Uniform Building Code. (Ord. 2004-10 § 1 (part), 2004; Ord. 2003-09 § 1 (part), 2003; Ord. 98-15 § 1 (part), 1998; zoning ordinance dated 7/94 (part), 1994)

17.06.080 Timeshare projects.

A. For the purposes of this code, timeshare projects shall be considered a visitor-serving use as are hotel/motel projects and shall be permitted as hotel/motel projects are permitted in this title.

- B. Conversions of existing structures to timeshare projects shall not be permitted.
- C. Timeshare projects shall be liable for the payment of transient occupancy taxes in accordance with the provisions of Title 3, Revenue and Finance, of this code.
- D. Each timeshare unit shall have a minimum of three hundred fifty square feet gross floor area measured from inside of walls. (Zoning ordinance dated 7/94 (part), 1994)

17.06.090 Satellite dish and local television broadcast antennae.

Legislative Finding and Determination. The city council of the city of Marina does find, determine and declare as follows: that the use of satellite dish antennae is increasing throughout the city due to technological advances of such equipment; that although such equipment is large, cumbersome and can be aesthetically unattractive, it appears to be a necessary and desirable accessory use of property within the city; that at the present time the size, location and appearance of such equipment is not adequately addressed in the zoning regulations in effect in the city; that in the absence of regulation, the placement of unattractive equipment in residential and commercial locations would interfere with the use, possession and enjoyment of adjacent property; and that the public peace, health, safety and general welfare require enactment of this ordinance to regulate the use of satellite dish antennae rather than prohibit them.

A. Definitions. "Large satellite dish antennae," means any antennae or parabolic reflector established to receive transmissions directly from satellites, with minimum diameter in excess of one meter (39.37"), and which is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite. "Small satellite dish antennae" means any antennae which are one meter or less in diameter or diagonal measurement and are designed to receive video programming services via MMDS (multipoint microwave distribution system, multi-channel multi-point distribution system, or wireless cable), or to receive or transmit fixed wireless signals other than via satellite as well as to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite. Neither large nor small satellite dish antennae include antennae established for the purpose of receiving transmissions from ground transmitters. "Local television broadcast antennae" means antennae which are designed to receive local television broadcast signals.

B. Satellite Dish Antennae Requirements—Residential Districts. In residential districts:

1. The site and architectural design review board shall be the primary reviewing body of applications to install satellite dish antennae. It shall ensure that each application is consistent with the provisions and intent of this chapter prior to approval.

2. Prior to installation of a satellite dish antennae, all appropriate permits shall be obtained from the building division.

3. Satellite dish antennae shall be considered accessory structures, and unless otherwise stated, shall comply with the height, setback and lot coverage requirements for buildings in the zone in which they are to be located.

4. All satellite dish antennae shall be located on the back half of the lot as ground-mounted units only.

C. Satellite Dish Antennae Requirements in All Other Districts:

1. A use permit or coastal development permit in the Coastal Zone approved by the planning commission shall be required for all satellite dish antennae.

2. Prior to installation of a satellite dish antennae, all appropriate permits must be obtained from the building division.

3. Antennae may be ground-mounted, roof-mounted or aboveground pole-mounted.

4. Roof-mounted and aboveground pole-mounted antennae shall not exceed the height of structures allowed in the district in which they are to be located.

5. Roof-mounted antennae shall be located on a flat portion of the roof with parapets and/or an architecturally matching screening plan.

6. No commercial advertising of any kind shall be allowed on large satellite dish antennae.

D. Development Standards for Satellite Dish Antennae.

1. The planning commission and/or site and architectural design review board may add any conditions to a permit necessary to achieve the compatibility of satellite dish antennae with its neighborhood.

2. All satellite dish antennae located in residential districts shall be located to minimize the visual impact on surrounding properties and from public rights-of-way and adjacent properties by use of screens, fences and/or landscaping without impeding the efficiency of the dish, to the satisfaction of the city council on appeal, the planning commission or site and architectural design review board.

3. Any readily visible satellite dish antennae shall be painted to blend with its surroundings and shall not be unnecessarily bright, shiny, garish or reflective.

4. Prior to installation of a satellite dish antennae, all appropriate permits must be obtained from the building division.

5. All proposals for roof-mounted antennae shall be designed by a registered architect, or civil or structural engineer.

6. The installation of all satellite dish antennae shall be subject to the design of footings, anchorage and fasteners by a California registered architect, civil or structural engineer, to meet the current Uniform Building Code as adopted by the city.

7. The electrical system shall be designed and installed in accordance with the National Electrical Code as adopted by the city.

8. All electrical wiring associated with antennae shall be installed underground.

9. A satellite dish antennae shall be maintained in a safe and aesthetically acceptable condition for the duration of the time it exists on the property.

E. Limitation. Certain parcels of land in the city may not be able to accommodate satellite dish antennae because of unique terrain problems and/or adverse effects on the surrounding neighborhood. In such instances, the site and architectural design review board or the planning commission may withhold approval to construct, install and/or maintain a satellite dish antennae.

F. Existing Antennae.

1. All owners of antennae installed or constructed prior to the effective date of the ordinance codified in this section shall apply to the planning commission for a use permit no later than July 1, 1987.

2. Within sixty days after such application, the planning commission shall:

a. Issue a use permit if the antennae conforms to the provisions of this chapter; or

b. Prior to the issuance of a use permit, require the owner to move the antennae, or to make structural and/or design changes to the antennae so that it conforms to the provisions of this chapter; or

c. Issue an exemption, if it determines that the antennae is installed or constructed in a safe manner and is in substantial compliance with the provisions and/or intent of this chapter.

3. In granting an exemption, the planning commission may add any conditions necessary to effectuate the purpose and intent of this chapter.

G. Appeals. Any action taken by the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of said action. Any action taken by the planning commission may be appealed, in writing, to the city council within ten days of said action.

H. Local television broadcast antennae that are mounted on buildings such that the maximum height of the antennae exceeds fifteen feet above the roofline of the building are subject to approval by a conditional use permit.

I. Exemptions. All small satellite dish antennae mounted on buildings such that they do not protrude above the nearest roof eave are exempt from this title. All local television broadcast antennae that are mounted on a building such that the maximum height of the antennae does not exceed fifteen feet above the roofline of the building are also exempt from this title. (Ord. 2002-07 § 1, 2002: zoning ordinance dated 7/94 (part), 1994)

17.06.100 Vacation clubs as a visitor-serving use in the Coastal Zone.

A. Any proposal for a vacation club, as defined in Section 17.04.745, shall be considered a visitor-serving use in the Coastal Zone subject to the following finds made by the planning commission at a duly noticed public hearing as part of the development review process and shall not be considered a visitor-serving use in the Coastal Zone without such findings:

1. Membership of the proposed vacation club is sufficiently large to insure to broad opportunity for visitor use;
2. The purchase price and on-going maintenance fees for membership are reasonably affordable;
3. Membership in the club is easy to achieve and is documented in a membership program;
4. The membership is available to the general public; and
5. Permit requirements are established that will insure availability of transient accommodations to the general public who are not members of the club.

B. The record of proceedings on such a determination will require the applicant to provide sufficient information and program materials to demonstrate that the proposed vacation club use meets the findings noted above. The planning commission's determination shall include a written summary and analysis of this information and written findings of their decision. The planning commission may impose conditions as necessary to effect the purpose and intent of this section. All determinations by the commission are appealable as provided for under this title. (Ord. 97-7 § 1 (part), 1996)

17.06.110 Home occupations.

A home occupation, as defined in Section 17.04.421, may be permitted as an accessory use to a permitted residential use in a residential zoning district provided the following standards are met:

- A. A business license is secured from the city finance department.
- B. The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- C. The business shall not require the installation of gas or electric power service in excess of normal dwelling requirements or place a load on garbage or sewer or community facilities beyond normal dwelling requirements.
- D. The use does not change the character of dwelling or adversely affect the uses permitted in the residential district.
- E. The use creates no significant additional vehicular or pedestrian traffic to the residence and requires no additional parking space or involves the repeated use of commercial vehicles for delivery of materials to or from the premises, beyond that normal to residential use.
- F. No persons are employed in nor report to the home other than those necessary for domestic purposes.
- G. Not more than twenty-five percent of the area of said dwelling is used for such use.
- H. No internal or external alterations or construction features not customary in dwellings is involved.
- I. No sign, which identifies or advertises the business, shall be displayed on the property.
- J. There shall be no storage or display of materials or products used in the business that are visible from off of the property.
- K. There shall be no external evidence of business activity, including odors, construction materials, smoke or other particulate matter, heat, humidity, glare, electronic interference, noises or vibrations.

L. The use can not occupy required parking spaces, which includes a two-car garage for a single-family home.

M. There shall be no process used in the home occupation which is hazardous to public health, safety or welfare. No toxic explosive, radioactive or other restrictive materials not normally used in a single-family dwelling shall be used or stored on the site.

N. The property owner must agree in writing to all proposed uses, if the applicant is a renter and not a property owner. (Ord. 2001-06 § 1 (part), 2001)

17.06.120 Alternative development regulations for planned development in the C-R, C-1 and C-2 districts.

Notwithstanding any minimum building site area, minimum front, side or rear yard, or parking requirements to the contrary, alternative development regulations may be established in the C-R, C-1, and C-2 districts for a planned development on a total site area of not less than one-half acre, subject to the approval of a general development plan for said area as described and following procedures described in Chapter 17.31. Within said planned development area a general development plan may establish alternative individual building site areas, yard requirements, and parking requirements, all of which may vary from those otherwise required. However, such a plan shall establish alternative setbacks within the boundaries of the general development plan area which shall be landscaped and shall be permanently maintained as open space as follows; (a) setbacks as provided by the front yard requirement of said district abutting any public street frontage, and (b) a minimum ten-foot building setback and perimeter landscape planting strip measured from the boundary of the general development plan area not abutting a public street. Cornices, eaves, canopies, and similar architectural features, and uncovered porches, stairways, fire escapes, or landing places may extend into said open space as shown and clearly defined in general development plan. Also, parking spaces or driveways may encroach up to five feet into said open space not abutting a street as shown and clearly defined in the general development plan. Further, such a plan may establish alternative parking requirements where no individual tenant space constitutes more than twenty-five percent of the total floor area and where there is a mix of residential and commercial uses within said planned development. However, any reduction in the total number of parking spaces which might otherwise be required shall not be reduced to less than one parking space for each four hundred fifty square feet of floor area. The approval of any such general development plan shall be conditioned upon the provision of adequate assurances that said permanent landscaping shall be perpetually maintained and that all parking, with the exception of not more than two parking spaces for each residential unit, shall be made available for shared usage by all uses within the planned development. On planned development sites that abut lands in the same district, the planning commission may require that pedestrian and vehicular circulation facilities be extended from the planned development site to the boundary of general development plan area for connection with existing or future pedestrian and vehicular facilities on such abutting lands, and that provisions are incorporated into the project to ensure that necessary and appropriate cross easements will be obtained. (Ord. 2003-01 § 1 (part), 2003; Ord. 2001-02, 2001)

17.06.130 Criteria and standards for residential hotel conversions.

A. Purpose. The purpose of this section is to provide for the orderly conversion of existing hotels which have primarily nontransient occupants to residential hotels designed to allow long term, residential use for low to moderate income households and to provide needed affordable and transitional housing opportunities. The standards herein are established to ensure that such use shall provide a suitable living environment for the tenants of the residential hotels, be compatible with surrounding land uses and protect the public health, safety and general welfare.

B. Use Permit Required. Residential hotel conversions shall be permitted only for a hotel legally operating before January 1, 2000 which can demonstrate that it is no longer economically viable as a fully transient hotel in the R-4, or multifamily residential district and C-1, commercial or retail business district of the city. These conversions shall only be permitted in these underlying zones provided a use permit is first approved pursuant to the provisions of Chapter 17.06 of this title, a conversion agreement between the owner and the city is approved and executed, and compliance with the Uniform Building Codes (UBC) is achieved. The conversion agreement shall be designed to lessen the impact of the conversion removing visitor-serving units from the community, as set forth under subsections D through L in this section. For those hotels located in the C-1 zoned areas that have been constructed prior to January 1, 2000, residential hotels are conditionally permitted uses and are only allowed above the ground floor, except that, for such a hotel with only a single floor, a residential hotel is a conditionally permitted use which may occupy up to fifty percent of the square footage of the single floor.

C. Resident Manager. An on-site resident manager shall be required and shall be responsible for ensuring that applicable occupancy and income restrictions listed in the "Conversion Agreement" are enforced.

D. Low and Moderate Income, Affordability and Residency. As a condition of approval of any use permit and prior to the issuance of any building permits for such project, the owner(s) of the property shall be required to execute and record a notice against the property in a form approved by the city attorney agreeing to restrict occupancy of the residential hotel lodging units to low and moderate income households. The term "low to moderate income households" as used in this section shall mean households having an income not exceeding one hundred twenty percent of the median family income for the county of Monterey. Minimum affordability standards shall require that rents for these units shall not exceed thirty percent of the applicable maximum income level of said low to moderate income households with Consumer Price Indexes (CPI) increases on an annual basis at any time during the life of the project.

E. Conversion Agreement. The property owner(s) will be required to execute and record a conversion agreement with the city of Marina designed to lessen the impact on the city of the conversion eliminating visitor units, to include the following:

1. Payment of a mitigation fee to amortize the change in use;
2. Limitations relating to provisions to ensure that the rooms remain available for lower income households, which may include compensation for reasonable expenses of the city or an alternative agency delegated by the city for monitoring compliance with these provisions, and other provisions of the agreement and entitlements;
3. In order to avoid overcrowding and impacts on services, limitations on the maximum size and occupancy of each unit.

F. Site Development Standards. This chapter recognizes residential hotels as a special class of residential development to provide needed affordable and transitional housing opportunities. In order to provide a living environment consistent with the needs of the tenants of the residential hotels and in order to preserve locally recognized values of community appearance, the following site development standards shall apply, along with minimum common area facilities determined through the city's normal process of hearings and consideration.

G. Minimum Lot Area. The minimum lot area shall not be less than sixteen thousand square feet.

H. Maximum Size of Each Unit. The maximum size of each dwelling unit shall be not more than five hundred square feet as per the UBC.

I. Open Space. Projects having thirty or more units shall be required to provide a total minimum of one thousand square feet of common usable open space.

J. Private Storage Space. Each unit within the project shall have at least fifty cubic feet of enclosed, weatherproofed and lockable storage space at a single location. This space shall be in addition to interior closet space provided within a unit.

K. Parking. For every dwelling unit there shall be no less than one parking space. The use and assignment of these parking spaces shall be clearly defined in the conversion agreement and lease agreement. Provisions for guest parking and bicycle parking/racks shall be required as part of the conversion agreement.

L. Site Design Review. Residential hotels in Marina shall be subject to site and architectural design review approval pursuant to zoning ordinance Chapter 17.50. (Ord. 2004-04 § 1 (Exh. 2), 2004; Ord. 2004-03 § 1 (part), 2004)

17.06.135 Large family day care and day care centers.

A. Large family day care homes and day care centers shall comply with the following standards:

1. Location and Concentration. Large family day care and day care centers shall have vehicular access from a public street or a private street improved to city standards. No large family day care or day care center shall be located within a three hundred foot radius of an existing large family day care home or child day care center. This requirement may be waived by the community development director (for large family day care homes) or by the planning commission (for child day care centers) if it can be determined that certain physical conditions exist and if the waiver would not be detrimental to the public peace, health, safety and comfort of the affected neighborhood. Examples of physical conditions that may warrant granting of a waiver include the presence of major nonresidential structures or uses between child care facilities or the presence of an arterial between the facilities.

2. Parking—Drop-off Area. At least two parking spaces for passenger loading/unloading must be available either on-street or off-street. If on-street, there shall be at least twenty-two feet of legally permitted parking along the frontage of the parcel. If on-site, an existing driveway may be used for this purpose. Such parking must not restrict access to neighboring residences. A home located on an arterial shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g., circular driveway).

3. Noise. Outdoor activities shall be limited to the hours between eight a.m. and eight p.m. in residential zone districts and between seven a.m. and eight-thirty p.m. in all other zones.

4. Health and Safety. Each large family day care home and day care center shall comply with applicable building and fire codes, as well as with licensing requirements of the state social services department, and shall receive clearance from the fire and building divisions for use of the residential structure as a large family day care home.

B. Large family day care homes shall comply with the following additional standards:

1. Conforming Use and Building. The residence must be in compliance with the development standards for the zone, including, but not limited to, minimum building site area, lot coverage, parking, and fencing.

2. Occupancy Requirement/Property Owner Authorization. The day care home shall be the principal residence of the provider. If the provider is not the owner of the principal residence, a letter authorizing the use of the residence and site for large day care use shall be obtained from the property owner.

3. Residential Use. The facility shall be operated in a manner so as not to appear as a commercial operation. No structural changes shall be approved that will alter the character of the building as a residence.

C. Day care centers shall comply with the following additional standard:

1. Employee Parking. Off-street parking shall be a minimum of one space per employee on the largest shift, plus one space for each ten children authorized by the state license. Exceptions to this parking requirement may be approved where the community development director determines that the exception will not result in potentially unsafe conditions for either pedestrians or motorists. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.06.140 Single-room occupancy (SRO) housing.

A. Purpose.

1. Provide affordable and long-term housing for small households and for people with special needs;
2. Provide high density housing in close proximity to transportation and commercial services; and
3. Provide the highest possible livability standards of design, environment, conform and security given the constraints of limited living space and the need to maintain affordability.

B. Development Regulations.

1. Floor Area. Minimum of one hundred fifty square feet per unit, including bathrooms. Maximum of three hundred fifty square feet per living unit, including bathrooms.
2. Kitchen. Each unit shall contain kitchen facilities including a sink, cooking apparatus and refrigerator.
3. Bathroom. Each unit shall contain a bathroom with toilet, sink and shower or tub.
4. Entryways. Units shall not have separate external entryways.
5. Common Area. Fifty square feet per unit, designed and furnished for the use and comfort of all residents. No common area shall be less than five hundred square feet in size. Common areas shall not include storage rooms, laundry facilities, common kitchens, dining rooms or hallways.
6. Maximum Occupancy. Two persons per unit.
7. Manager's Unit. A manager's unit shall be provided in a central location; such unit may exceed the maximum floor area and occupancy limitations in this section.
8. Telephone/Cable Television. Units shall be pre-wired for both telephone and cable television service. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.06.150 Live-work units.

A. Limitation on Uses. A live-work unit shall not be established or used in conjunction with any of the following uses or 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. Storage of flammable liquids or hazardous materials beyond that normally associated with a residential use;
4. Welding, machining, or any open flame work; and
5. Any other activity or use, as determined by the planning commission, to be incompatible with residential activities and/or to have the possibility of affecting the health or safety of live-work unit residents, because of the potential for the use to create dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, or would be hazardous because of materials, processes, products, or wastes.

B. Sale or Rental of Portions of Unit. No portion of a live-work unit shall be separately rented or sold as a commercial space for any person not living in the premises or as a residential space for any person not working in the same unit.

C. Nonresident Employees. Up to two persons who do not reside in the live-work unit can work in the unit. The employment of three or more persons who do not reside in the live-work unit can be permitted subject to use permit approval, based on additional findings that the employment will not adversely affect traffic and parking conditions in the site vicinity.

D. Client and Customer Visits. Client and customer visits to live-work units are permitted subject to any applicable conditions of the use permit.

E. Design Standards. A live-work unit shall be designed to accommodate commercial uses as evidenced by the provision of ventilation, interior storage, flooring, and/or other physical improvements of the type com-

monly found in exclusively commercial facilities permitted in the C-R district. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

Chapter 17.08

U OR UNCLASSIFIED DISTRICT*

Sections:

- 17.08.010** **Generally.**
- 17.08.020** **Conditional uses.**
- 17.08.030** **Other regulations.**

* Prior ordinance history: Ord. 77-10.

17.08.010 Generally.

The following regulations of this chapter shall apply in all unclassified districts and shall be subject to the provisions of Section 17.06.020. (Zoning ordinance dated 7/94 (part), 1994)

17.08.020 Conditional uses.

Uses permitted in the unclassified districts subject to first obtaining a use permit in each case, shall be as follows: any uses. (Zoning ordinance dated 7/94 (part), 1994)

17.08.030 Other regulations.

Building height limits, minimum yard requirements, and other regulations for any use requiring a use permit shall be as specified by such permit. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.10

O OR OPEN SPACE DISTRICT*

Sections:

- 17.10.010** **Generally.**
- 17.10.020** **Lands to be included.**
- 17.10.030** **Permitted uses.**
- 17.10.040** **Conditional uses.**
- 17.10.050** **Reclassification.**

* Prior ordinance history: Ords. 77-10 and 82-14.

17.10.010 Generally.

The purpose of the O district is to promote a rural atmosphere in an otherwise urban or semi-urban development, to hold for future generations open space in which trees and plants can grow. The regulations of this chapter shall apply in all O districts. (Zoning ordinance dated 7/94 (part), 1994)

17.10.020 Lands to be included.

All lands designated as park and open space in the local coastal land use plan shall be included in the open space district and all lands designated as open space in the open space element of the Marina general plan may be included in the O district. Such lands may include, but are not limited to the following:

- A. Crop and tree farming, grazing of sheep, cattle and goats;
- B. Public parks and playgrounds, and public recreation facilities;
- C. Private school grounds and church grounds of a predominantly open character;
- D. Sandy beaches and beach accesses, sensitive habitat areas and vernal ponds and wetland setback areas;
- E. Golf courses and country clubs;
- F. Privately and jointly owned open spaces reserved for open space use as a part of planned development;
- G. Land which because of geophysical or similar hazard is unsuitable for development;
- H. Any other publicly or privately owned open space which in the opinion of the planning commission functions as a part of the open space system of the city and is included in the open space element of the general plan;
- I. Open space as a reserve for seismic safety, erosion protection, protection of view or similar appropriate purpose. (Zoning ordinance dated 7/94 (part), 1994)

17.10.030 Permitted uses.

Permitted uses in the O district shall be crop and tree farming and grazing of horses and cattle, sheep and goats. (Zoning ordinance dated 7/94 (part), 1994)

17.10.040 Conditional uses.

Uses permitted subject to first securing a use permit and in the Coastal Zone a coastal permit:

- A. Buildings and structures accessory to any permitted use;
- B. Educational and cultural uses including any structures incidental to such uses existing at the time of inclusion in the O district;
- C. Uses and buildings normally incidental and accessory to the above principal uses: except in the Coastal Zone, structures shall be permitted only where they are ancillary to public recreational use or necessary to protect existing development or uses;
- D. Beach access and, where suitable, beach access parking;
- E. Any addition to an existing structure which will increase the coverage of the structure, or any new structure, except minor recreation or horticultural structures, such as playground equipment, trellises, fences and the like;
- F. Shoreline erosion protection structures. (Zoning ordinance dated 7/94 (part), 1994)

17.10.050 Reclassification.

The procedure for the reclassification of land set forth in Chapter 17.58 shall apply to property in the O districts, subject to the following modifications:

- A. Following a public hearing, the planning commission shall determine whether it is in the public's interest of the city to retain the subject property in open space use as against permitting its reclassification to the use applied for and whether the proposed reclassification is consistent with the general plan and all applicable portions of the local coastal land use plan. The decision on this question shall be made by resolution and shall be transmitted to the city council together with a report setting forth reasons for said decision.

B. Following receipt of the recommendation of the planning commission the city council shall hold a public hearing. Following such hearing the council may decide by resolution either to:

1. Seek means to retain the property in question in open space use; or
2. Permit a reclassification of the subject property.

C. Should the council's decision be the first alternative as listed in subsection (B)(1) of this section, all further proceedings for the reclassification of the property shall be halted for a period of not to exceed ninety days from the date of council action, during which time the city council shall actively seek to negotiate arrangements, which may include purchase or other acceptable means to retain the property in open space use. The period set forth herein may be extended by mutual agreement of the council and the applicant for reclassification. If at the end of the ninety days, or such longer period as may be agreed upon, no satisfactory arrangement has been concluded, the matter shall be remanded to the planning commission for consideration of the reclassification applied for. The commission shall thereafter proceed in accordance with the provisions of Chapter 17.58.

D. Should the council's decision be the second alternative as listed in subsection (B)(2) of this section, the matter shall be returned to the planning commission which shall consider the reclassification applied for in accordance with the procedure set forth in Chapter 17.58.

E. In areas not designated in the local coastal land use plan for open space, reclassification of property in the Coastal Zone shall not become effective until an amendment to the local coastal program has been certified by the State Coastal Commission. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.11

PF OR PUBLIC FACILITY DISTRICT*

Sections:

- 17.11.010 Uses permitted.
- 17.11.020 Conditional uses.
- 17.11.030 Development regulations.

* Prior ordinance history: Ord. 82-14.

17.11.010 Uses permitted.

The following uses are permitted in the PF district:

- A. None. (Zoning ordinance dated 7/94 (part), 1994)

17.11.020 Conditional uses.

Uses permitted subject to first obtaining a use permit or in the Coastal Zone a coastal development permit in each case:

- A. Public and private schools;
- B. Government offices and support facilities including public safety facilities;
- C. Utility installations;
- D. Public recreation facilities;
- E. One single family residence in the Coastal Zone only as provided for in the Marina local coastal land use plan;

F. Uses which in the opinion of the planning commission are similar to those listed above. (Zoning ordinance dated 7/94 (part), 1994)

17.11.030 Development regulations.

As specified in the use permit or coastal permit. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.12

K OR AGRICULTURAL-RESIDENTIAL DISTRICT*

Sections:

- 17.12.010 Generally.
- 17.12.020 Permitted uses.
- 17.12.030 Conditional uses.
- 17.12.040 Building height.
- 17.12.050 Site area.
- 17.12.060 Site width.
- 17.12.070 Site coverage.
- 17.12.080 Front yard.
- 17.12.090 Side yard.
- 17.12.100 Rear yard.
- 17.12.110 Special yards.

* Prior ordinance history: Ords. 77-10, 82-14 and 83-11.

17.12.010 Generally.

The following regulations shall apply in all K districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.12.020 Permitted uses.

Uses permitted in the K districts shall be as follows:

- A. One-family dwellings;
- B. All agricultural uses including crop and tree farming, livestock farming, and animal husbandry;
- C. Rooming and boarding of not over two persons;
- D. Accessory buildings and accessory uses including barns, stables, and other farm outbuildings, quarters for farm labor and/or servants employed on the premises. (Zoning ordinance dated 7/94 (part), 1994)

17.12.030 Conditional uses.

Uses permitted in the K districts subject to first securing a use permit or in the Coastal Zone a coastal development permit in each case:

- A. One noncommercial guest house (see Section 17.06.040);
- B. Frog farms;
- C. Commercial hog and turkey raising;
- D. Cattle feed yards;

- E. Fertilizer plants or yards except in the Coastal Zone;
- F. Animal sales yards except in the Coastal Zone;
- G. Dairies;
- H. Agricultural processing plants except in the Coastal Zone;
- I. Storage, rental and sales of irrigation equipment except in the Coastal Zone;
- J. Stands for sale of agricultural products grown on the premises;
- K. Airports, heliports or landing strips for aircraft except in the Coastal Zone;
- L. Art galleries except in the Coastal Zone;
- M. Tract offices except in the Coastal Zone;
- N. Country clubs except in the Coastal Zone;
- O. Golf courses with standard length fairways except in the Coastal Zone;
- P. Practice fairway golf courses; provided, that the use is established on a minimum of ten acres of property usable for said purpose except in the Coastal Zone;
- Q. Kennels for dogs or cats;
- R. Public or quasi-public uses, including churches, firehouses, parks and playgrounds, schools (public and parochial) and schools accredited to the state school system, public utility uses, and parking lots;
- S. Riding academies and public stables;
- T. Labor camps except in the Coastal Zone;
- U. Animal hospitals;
- V. Poultry farms;
- W. Storage and sale of hay and grain, not grown on the premises; provided, that the use is established on a minimum of five acres except in the Coastal Zone;
- X. Riding and roping arena operations of a minimum of ten acres;
- Y. Water well drilling business except in the Coastal Zone;
- Z. Commercial nurseries, greenhouses and bulb ranches. (Zoning ordinance dated 7/94 (part), 1994)

17.12.040 Building height.

Maximum building height limit in the K districts shall be thirty-five feet except in the Coastal Zone where maximum height shall be twenty-five feet. (Zoning ordinance dated 7/94 (part), 1994)

17.12.050 Site area.

Building site area required in the K districts shall be ten thousand square feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.12.060 Site width.

Average building site width required in the K districts shall be sixty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.12.070 Site coverage.

Percentage of building site coverage permitted in the K districts shall be thirty-five percent. (Zoning ordinance dated 7/94 (part), 1994)

17.12.080 Front yard.

Minimum front yard required in the K districts shall be twenty feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.12.090 Side yard.

Minimum side yard required in the K districts shall be six feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.12.100 Rear yard.

Minimum rear yard required in the K districts shall be twenty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.12.110 Special yards.

Accessory buildings used as guest houses or as barns, stables, or farm outbuildings, shall be not less than twenty feet from any side or rear property line and not less than fifty feet from the front property line nor less than twenty feet from any dwelling unit on the property. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.13

MHR OR MARINA HEIGHTS RESIDENTIAL DISTRICT

Sections:

17.13.010	Generally.
17.13.020	Permitted uses.
17.13.030	Site area.
17.13.040	Site width, site depth and setbacks.
17.13.050	Site coverage.
17.13.060	Building height.
17.13.070	Parking.
17.13.080	Open space.
17.13.090	Townhome/condominium.
17.13.100	Site and architectural review.

17.13.010 Generally.

The regulations in this chapter shall apply in all MHR districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2004-05 § 1 (part), 2004)

17.13.020 Permitted uses.

Uses permitted in the MHR district shall be as follows:

A. Residential units, either attached or detached, including single-family dwellings, duplexes, row houses, townhouses, and condominiums.

B. Community recreational facilities, including but not limited to tennis courts, swimming pools, playgrounds and parks for the private use of the residents of the development and/or public, provided such facilities are not operated for remuneration.

C. Uses, nonhabitable buildings and structures incidental, accessory and subordinate to permitted uses. (Ord. 2004-05 § 1 (part), 2004)

17.13.030 Site area.

The minimum lot size for the MHR district shall be as follows:

A.	Townhomes	5,000 square feet
B.	Detached cottages	2,500 square feet
C.	Single-family dwelling	5,000 square feet

(Ord. 2004-05 § 1 (part), 2004)

17.13.040 Site width, site depth and setbacks.

The minimum site width, site depth, and setbacks for the MHR district shall be as follows:

Regulation	Single-Family	Cottages	Townhomes
Minimum site size	5,000 sq. ft.	2,500 sq. ft.	5,000 sq. ft.
Minimum site width	50 ft.	35 ft.	50 ft.
Minimum site depth	Two times the minimum width		
Front setback	10 ft. min. 20 ft. max.	10 ft. min. 20 ft. max.	10 ft. min. 20 ft. max.
Interior side setback	5 ft. min.	5 ft. min. except may be reduced to zero for garages to allow for an additional uncovered parking space	5 ft. min. 10 ft. adjacent to estate, single-family or cottage-homes
Street side setback	10 ft. min.	10 ft. min.	10 ft. min.
Rear setback ¹	20 ft. min. unless alley loaded in which case 5 ft. to right-of-way or 15 ft. to centerline of alley	5 ft. to right-of-way or 15 ft. to centerline of alley	5 ft. to right-of-way or 15 ft. to centerline of alley

(Ord. 2004-05 § 1 (part), 2004)

17.13.050 Site coverage.

The percentage of building site coverage permitted in the MHR district shall be as follows:

Building Coverage	Total Building Coverage
Single-family	60%
Cottages	60%
Townhomes	75%

(Ord. 2004-05 § 1 (part), 2004)

17.13.060 Building height.

No habitable building or structure shall exceed two stories and a height of thirty-five feet. No nonhabitable building or structure shall exceed twenty-five feet.

Structures on lots adjoining lots that front on Bayer Drive shall not be sited and of a height so as to be within the view shed horizon of existing homes on Bayer Drive as measured from a point measured twenty feet

back from the rear property line, five-foot six inches above existing grade, and a twenty-four degree angle and a point six feet above the existing rear property line. (Ord. 2004-05 § 1 (part), 2004)

17.13.070 Parking.

See Section 17.44.020.

(Ord. 2004-05 § 1 (part), 2004)

17.13.080 Open space.

Total amount of useable open space shall be no less than ten percent of the site area.

(Ord. 2004-05 § 1 (part), 2004)

17.13.090 Townhome/condominium.

In the MHR district, development standards for townhomes/condominiums shall be those in Chapter 17.54, Condominium Guidelines of the zoning ordinance with the exception of parking (Section 17.54.030), open space (Section 17.54.060), minimum lot area per unit (Section 17.54.120), minimum unit size (Section 17.54.130) and setbacks (Section 17.54.140) standards which shall be superseded by the standards of the MHR district. (Ord. 2004-05 § 1 (part), 2004)

17.13.100 Site and architectural review.

In the MHR district, the development of individual lots shall be subject to site and architectural design review procedures in Sections 17.50.030 through 17.50.060 of the Marina zoning ordinance. (Ord. 2004-05 § 1 (part), 2004)

Chapter 17.14

R-1 OR SINGLE-FAMILY RESIDENTIAL DISTRICT*

Sections:

- 17.14.010 Generally.**
- 17.14.020 Permitted uses.**
- 17.14.030 Conditional uses.**
- 17.14.040 Accessory buildings, structures and uses.**
- 17.14.045 Public utility buildings and uses.**
- 17.14.050 Building height.**
- 17.14.060 Site area.**
- 17.14.070 Site width.**
- 17.14.080 Site depth.**
- 17.14.090 Site coverage.**
- 17.14.100 Front yard.**
- 17.14.110 Side yard.**
- 17.14.120 Rear yard.**
- 17.14.130 Parking.**

* Prior ordinance history: Ords. 77-10, 79-11, 82-14, 83-11, 84-7 and 93-2.

17.14.010 Generally.

The regulations in this chapter shall apply in all R-1 districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: zoning ordinance dated 7/94 (part), 1994)

17.14.020 Permitted uses.

Uses permitted in the R-1 districts shall be as follows:

- A. One single-family dwelling per lot;
- B. One guest house or secondary dwelling pursuant to the provisions of Section 17.06.040, except in the Coastal Zone where this provision shall not be effective unless and until approved by the California Coastal Commission;
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section 17.06.135 of this code;
- E. Home occupations pursuant to Section 17.06.110 of this code;
- F. Other uses accessory and incidental to residential use pursuant to Section 17.14.040, including but not limited to: small family day care and foster home care; rooming and boarding of not more than two persons; and the keeping of not more than four dogs and/or cats. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.14.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case or in the Coastal Zone, a coastal permit in the R-1 districts shall be as follows:

- A. Public and quasi-public uses and buildings, including churches, firehouses, hospitals, parks and playgrounds, community or recreational centers, schools (public and parochial), or schools accredited to the state school system and public utility buildings and uses exclusive of corporate, storage or repair yards;
- B. Private stables, subject to Section 17.06.030;
- C. Large residential care homes for the elderly;
- D. Condominium and/or planned development projects, subject to the provisions of Chapter 17.54. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2004-13 § 1 (part), 2004; Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.14.040 Accessory buildings, structures and uses.

Accessory buildings not intended for living purposes and accessory structures and uses permitted in the R-1 districts shall be on the same building site with, and of a nature customarily incidental and subordinate to, the principal use, structure or building including, but not limited to:

- A. Portable recreation structures;
- B. Detached sheds, garages, workrooms, and other outbuildings in compliance with the limitations contained in Section 17.06.070 of the zoning ordinance;
- C. Non-portable recreation structures located in a yard area screened from public and private streets. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: Ord. 2002-03 § 1 (part), 2002; zoning ordinance dated 7/94 (part), 1994)

17.14.045 Public utility buildings and uses.

Lot design restrictions shall not apply to public utility buildings and uses. (Ord. 2007-01 § 1 (part), 2007)

17.14.050 Building height.

A. Maximum building height limit in the R-1 districts shall be thirty feet for main buildings and sixteen feet for accessory buildings not intended for living purposes, except that approval by the site and architectural design review board shall be obtained prior to the construction of any accessory building over twelve feet in height, or if any portion within five feet of any lot line is over ten feet in height. Any action taken by the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of such action. Any action taken by the planning commission may be appealed, in writing, to the city council within ten days of such action.

B. The maximum building heights for secondary dwelling units and guest houses shall be governed by the provisions of Section 17.06.040.

C. The maximum building heights for public and quasi-public uses and buildings, including churches, firehouses, hospitals, parks and playgrounds, community or recreational centers, schools (public and parochial), or schools accredited to the state school system and public utility buildings and uses exclusive of corporate, storage or repair yards is forty feet. (Ord. 2006-17 § 1 (part), 2006; Ord. 2003-09 § 1 (part), 2003; Ord. 98-15 § 1 (part), 1998; zoning ordinance dated 7/94 (part), 1994)

17.14.060 Site area.

Minimum building site area required in the R-1 districts shall be six thousand square feet, seven thousand square feet for a corner lot, except where combined with any B district, and except that building site area for all lots created by an infill subdivision as defined in the subdivision ordinance shall be a minimum of six thousand square feet. (Ord. 2001-07 § 1, 2001; zoning ordinance dated 7/94 (part), 1994)

17.14.070 Site width.

Average building site width required in the R-1 districts shall be sixty feet, and except for building sites created by an infill subdivision as defined in the subdivision ordinance where minimum average site width shall be fifty feet. (Ord. 2001-07 § 1, 2001; zoning ordinance dated 7/94 (part), 1994)

17.14.080 Site depth.

Maximum building site depth allowed in the R-1 districts shall average not to exceed three times building site width. (Zoning ordinance dated 7/94 (part), 1994)

17.14.090 Site coverage.

Percentage of building site coverage permitted in the R-1 districts shall be thirty-five percent. However, for building sites limited exclusively to single-story structures, the percentage of building site coverage permitted shall be forty percent. (Zoning ordinance dated 7/94 (part), 1994)

17.14.100 Front yard.

Minimum front yard required in the R-1 districts shall be twenty feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.14.110 Side yard.

Minimum side yards required in the R-1 districts shall be six feet, except where combined with any B district, and except where the side yard abuts a street. A side yard which abuts a street shall have a width which is no smaller than the lesser of the minimum required front yard or twenty percent of the site width, but in no case less than fourteen feet. (Zoning ordinance dated 7/94 (part), 1994)

17.14.120 Rear yard.

Minimum rear yard required in the R-1 districts shall be twenty feet, except where combined with any B district. However, a portion of the main building may extend into the required rear yard not exceeding a horizontal distance of five feet, not exceeding one hundred square feet of gross floor area, not exceeding one story and not exceeding a height of sixteen feet. (Zoning ordinance dated 7/94 (part), 1994)

17.14.130 Parking.

See Section 17.44.020(A).
(Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.16

R-2 OR DUPLEX RESIDENTIAL DISTRICT*

Sections:

17.16.010	Generally.
17.16.020	Permitted uses.
17.16.030	Conditional uses.
17.16.040	Accessory buildings, structures and uses.
17.16.050	Building height.
17.16.060	Site area.
17.16.070	Site width.
17.16.080	Site depth.
17.16.090	Site coverage.
17.16.100	Front yard.
17.16.110	Side yard.
17.16.120	Rear yard.
17.16.130	Parking.

* Prior ordinance history: Ords. 77-10, 83-11 and 84-7.

17.16.010 Generally.

The regulations of this chapter shall apply in all R-2 districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: zoning ordinance dated 7/94 (part), 1994)

17.16.020 Permitted uses.

Uses permitted in the R-2 districts shall be as follows:

- A. Single-family dwellings;
- B. One guest house or secondary dwelling pursuant to the provisions of Section 17.06.040;
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section 17.06.135 of this code;
- E. Home occupations pursuant to Section 17.06.110 of this code;

F. Other uses accessory and incidental to residential use pursuant to Section 17.16.040, including but not limited to: small family day care and foster home care; rooming and boarding of not more than two persons; and the keeping of not more than four dogs and/or cats. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.16.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the R-2 districts shall be as follows:

A. Large residential care homes, retirement homes, and extended care medical facilities including convalescent facilities and other skilled nursing facilities;

B. Public and quasi-public uses and buildings, including churches, firehouses, parks and playgrounds, community or recreational centers, schools (public and parochial) or schools accredited to the state school system, and public utility buildings and uses exclusive or corporate, storage or repair yards;

C. Day care centers;

D. Condominium and/or planned unit development projects subject to the provisions of Chapter 17.54. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.16.040 Accessory buildings, structures and uses.

Accessory buildings not intended for living purposes and accessory structures and uses permitted in the R-2 districts shall be on the same building site with, and of a nature customarily incidental and subordinate to, the principal use, structure or building including, but not limited to:

A. Portable recreation structures;

B. Detached sheds, garages, workrooms, and other outbuildings, in compliance with the limitations contained in Section 17.06.070 of the zoning ordinance;

C. Non-portable recreation structures located in a yard area screened from public and private streets. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: Ord. 2002-03 § 1 (part), 2002: zoning ordinance dated 7/94 (part), 1994)

17.16.050 Building height.

A. Maximum building height limit in the R-2 districts shall be thirty feet for main buildings and sixteen feet for accessory buildings not intended for living purposes, except that approval by the site and architectural design review board shall be obtained prior to the construction of any accessory building over twelve feet in height, or if any portion within five feet of any lot line is over ten feet in height. Any action taken by the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of such action. Any action taken by the planning commission may be appealed, in writing, to the city council within ten days of such action.

B. The maximum building heights for secondary dwelling units and guest houses shall be governed by the provisions of Section 17.06.040. (Ord. 2003-09 § 1 (part), 2003: Ord. 98-15 § 1 (part), 1998: zoning ordinance dated 7/94 (part), 1994)

17.16.060 Site area.

Minimum building site area required in the R-2 districts shall be six thousand square feet or seven thousand square feet for a corner lot except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.16.070 Site width.

Average building site width required in the R-2 districts shall be sixty feet.
(Zoning ordinance dated 7/94 (part), 1994)

17.16.080 Site depth.

Maximum building site depth permitted in the R-2 districts shall average not to exceed three times building site width. (Zoning ordinance dated 7/94 (part), 1994)

17.16.090 Site coverage.

Percentage of building site coverage permitted in the R-2 districts shall be forty percent.
(Zoning ordinance dated 7/94 (part), 1994)

17.16.100 Front yard.

Minimum front yard required in the R-2 districts shall be twenty feet except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.16.110 Side yard.

Minimum side yard required in the R-2 districts shall be six feet, except where combined with any B district, except where the side yard abuts a street in which case such side yard shall be the same as the front yard. (Zoning ordinance dated 7/94 (part), 1994)

17.16.120 Rear yard.

Minimum rear yard required in the R-2 districts shall be twenty feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.16.130 Parking.

See Section 17.44.020(B).
(Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.18

**R-3 OR LIMITED MULTIPLE-FAMILY
RESIDENTIAL DISTRICT***

Sections:

17.18.010	Generally.
17.18.020	Permitted uses.
17.18.030	Conditional uses.
17.18.040	Accessory buildings, structures and uses.
17.18.050	Building height.
17.18.060	Site area.
17.18.070	Site width.
17.18.080	Site depth.
17.18.090	Lot coverage.

17.18.100	Front yard.
17.18.110	Side yard.
17.18.120	Rear yard.
17.18.130	Special yards.
17.18.140	Parking.

* Prior ordinance history: Ords. 77-10, 83-11 and 84-7.

17.18.010 Generally.

The regulations in this chapter shall apply in all R-3 districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: zoning ordinance dated 7/94 (part), 1994)

17.18.020 Permitted uses.

Uses permitted in the R-3 districts shall be the following:

- A. Single-family dwellings;
- B. One guest house or secondary dwelling pursuant to the provisions of Section 17.06.040;
- C. Small residential care homes;
- D. Large family day care homes pursuant to Section 17.06.135 of this code;
- E. Home occupations pursuant to Section 17.06.110 of this code;
- F. Other uses accessory and incidental to residential use pursuant to Section 17.18.040, including but

not limited to: small family day care and foster home care, rooming and boarding of not more than two persons, the keeping of not more than two dogs and/or cats, and on-site property management. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: zoning ordinance dated 7/94 (part), 1994)

17.18.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the R-3 districts shall be the following:

- A. Rooming and boarding houses;
- B. Extended care medical facilities including convalescent facilities and other skilled nursing facilities;
- C. Day care centers and large residential care homes or facilities;
- D. Public and quasi-public uses and buildings, including churches, firehouses, parks and playgrounds, community or recreational centers, schools (public and parochial) or schools accredited to the state school system, and public utility buildings and uses exclusive of corporate, storage or repair yards;
- E. Condominium and/or planned unit development projects subject to the provisions of Chapter 17.54. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: zoning ordinance dated 7/94 (part), 1994)

17.18.040 Accessory buildings, structures and uses.

Accessory buildings, not intended for living purposes and accessory structures and uses permitted in the R-3 districts shall be on the same building site with, and of a nature customarily incidental and subordinate to, the principal use, structure or building including, but not limited to:

- A. Portable recreation structures;
- B. Detached sheds, garages, workrooms, and other outbuildings, in compliance with the limitations contained in Section 17.06.070 of the zoning ordinance;

C. Non-portable recreation structures located in a yard area screened from public and private streets. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2003-09 § 1 (part), 2003: Ord. 2002-03 § 1 (part), 2002: zoning ordinance dated 7/94 (part), 1994)

17.18.050 Building height.

Maximum building height limit in the R-3 districts shall be thirty-five feet. (Zoning ordinance dated 7/94 (part), 1994)

17.18.060 Site area.

Building site area required in the R-3 districts shall be six thousand square feet, except where combined with any B district, but not less than two thousand five hundred square feet of land area for each living unit in any multiple dwelling or dwelling group and not less than one thousand square feet of land area for each guest room in any rooming house, boardinghouse or similar establishment. (Zoning ordinance dated 7/94 (part), 1994)

17.18.070 Site width.

Average building site width required in the R-3 districts shall be sixty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.18.080 Site depth.

Maximum building site depth allowed in the R-3 districts shall average not to exceed three times building site width. (Zoning ordinance dated 7/94 (part), 1994)

17.18.090 Lot coverage.

Maximum percentage of lot coverage permitted in the R-3 districts shall be sixty percent. (Zoning ordinance dated 7/94 (part), 1994)

17.18.100 Front yard.

Minimum front yard required in the R-3 districts shall be twenty feet except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.18.110 Side yard.

Minimum side yard required in the R-3 districts shall be five feet except where combined with any B district, except where the side yard abuts a street, in which case such side yard shall be the same as the front yard. (Zoning ordinance dated 7/94 (part), 1994)

17.18.120 Rear yard.

Minimum rear yard required in the R-3 district shall be twenty feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.18.130 Special yards.

Special yards required for dwelling groups in the R-3 districts shall be as follows:

A. In case the buildings of the group are so located on the lot that the rear of the building which faces the street is faced by the front of a building to the rear (i.e., in a front to back series), no such building shall be closer than twenty feet to any other such building and the side yard providing access shall not be less than eight feet;

B. In case the buildings of the group are so located on the lot that the rears thereof abut upon one side yard and the fronts thereof abut upon the other side (i.e., in a single row “side to side” series) the side yard providing access shall have a width of not less than twelve feet;

C. In case the buildings of a group are so located on the lot that the rears thereof abut upon each side yard and the fronts thereof face a court (i.e., in a double row “side to side” series) the court shall have a width of not less than twenty feet;

D. In no case shall any separate building of a group be closer to any other building of the group than a distance of ten feet;

E. No building in any group shall be so located on the lot that the rear thereof abuts on any street line;

F. Distances required between buildings on the same lot and as yards and courts for dwelling groups shall be increased by two feet for each story that the height of any building or dwelling group exceeds two stories. (Zoning ordinance dated 7/94 (part), 1994)

17.18.140 Parking.

See Section 17.44.020(D).

(Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.19

CRITERIA AND STANDARDS FOR LOW INCOME SENIOR
CITIZENS' APARTMENT PROJECTS*

Sections:

- 17.19.010 Purpose.
- 17.19.020 Conditional use permit required.
- 17.19.030 Occupancy.
- 17.19.040 Low income, affordability and residency.
- 17.19.050 Required finding of accessibility to services.
- 17.19.060 Site development standards.
- 17.19.070 Minimum lot area.
- 17.19.080 Minimum building site area per dwelling unit and minimum number of units.
- 17.19.090 Building height.
- 17.19.100 Maximum lot coverage.
- 17.19.110 Minimum floor area.
- 17.19.120 Setbacks and special yards.
- 17.19.130 Special regulations.
- 17.19.140 Open space.
- 17.19.150 Indoor recreational—Leisure space.
- 17.19.160 Parking.

* Prior ordinance history: Ords. 88-11 and 94-2.

17.19.010 Purpose.

The purpose of this chapter is to provide for and encourage the orderly development of apartment projects designed expressly for low income senior citizens and further to maintain and enhance those living and environmental characteristics consistent with established community values and the particular needs of senior citizens. The following standards are established to ensure that such use shall provide a suitable living environment for senior citizens, be compatible with surrounding land uses and protect the public health, safety and general welfare. (Zoning ordinance dated 7/94 (part), 1994)

17.19.020 Conditional use permit required.

Low income senior citizens' apartment projects shall be permitted only in the R-4, or multifamily residential district, and C-R, or commercial residential district, ("underlying zones") of the city and shall be only permitted in these underlying zones provided a conditional use permit is first approved pursuant to the provisions of Chapter 17.48 of this title. As a condition of approval of any such conditional use permit and prior to the issuance of any building permits for such project, the owner(s) of the property shall be required to execute and record covenants, conditions and restrictions ("covenants") against the property in a form approved by the city attorney agreeing to restrict occupancy of all senior citizens' dwelling units within such project to households at least one member of which is a senior citizen who is at least sixty-two years of age. Notwithstanding the provisions of Section 17.19.030, said covenants shall also allow for limited occupancy by handicapped persons under sixty-two years should a proposed project be involved in a government program which requires the low income senior citizen project to be open to handicapped persons. However, the conditional use permit and covenants required by this section may include provisions to provide that in the event that a sale in foreclosure should occur due to legitimate, normal and noncollusive defaults on a loan for a low income senior citizens' housing project, the terms of the age restrictions required in this section will change from sixty-two years of age to fifty-five years of age, but with preference still to be given to those at least sixty-two years of age when otherwise qualifying prospective tenants at least sixty-two years of age are available. (Zoning ordinance dated 7/94 (part), 1994)

17.19.030 Occupancy.

Occupancy, residency and use of any senior citizens' dwelling unit within a low income senior citizens' apartment project shall be limited and restricted as follows:

A. Not more than two persons, at least one of whom must be a senior citizen and at least sixty-two years of age, shall reside in any one-bedroom unit.

B. Not more than one senior citizen, at least sixty-two years of age, shall reside in any studio unit.

C. The age and occupancy restrictions set forth in subsections A, B and D of this section shall be included in the covenants required to be recorded against the property pursuant to Section 17.19.020 hereof. The provisions of subsection E of this section may be included in the covenants should the property owner wish to do so.

D. An on-site resident manager shall be required for all low income senior citizens' apartment projects and shall be responsible for insuring that applicable age, occupancy and income restrictions listed in the covenants are enforced. The minimum age requirements listed in Section 17.19.150 shall not apply to the resident manager of the complex.

E. Notwithstanding the foregoing provisions of this section, the terms of the age restrictions required by this section shall change from sixty-two years of age to fifty-five years of age in the event that a sale in foreclosure should occur due to legitimate, normal and noncollusive defaults on a loan for a low income senior citizens' housing project. (Zoning ordinance dated 7/94 (part), 1994)

17.19.040 Low income, affordability and residency.

As a condition of approval of any conditional use permit for any senior citizens' apartment project, and prior to issuance of any building permits thereof, the property owner(s) shall include as part of the covenants, that all of the units shall be affordable to low income households. The term "low income households" as used in this chapter shall mean households having an income not exceeding eighty percent of the median family income for the county of Monterey. Minimum affordability standards shall require that rents for these units shall not exceed thirty percent of the applicable maximum income level of said "low income households" at any time during the life of the project. However, the property owner(s) may be required by conditions of project approval to execute and record an agreement with the city and/or other government agencies requiring that some or all of the apartment units in a particular project be limited to Marina residents and/or to tenants with lower incomes and/or at lower rents than the minimum standards listed in this section. Any said agreement shall be in a form approved by the city attorney. Notwithstanding the foregoing provisions of this section, the conditional use permit and covenants required by Section 17.19.020 may include provisions to provide that in the event that a sale in foreclosure should occur due to legitimate, normal and noncollusive defaults on a loan for a low income senior citizens' housing project, the project no longer need be occupied exclusively by nor remain affordable to low income households. However, if the optional provision in the immediately preceding sentence is included within the covenants, those covenants shall further provide that preference will still be given to low income households when otherwise qualifying prospective tenants who are low income households have applied for units to be rented. (Zoning ordinance dated 7/94 (part), 1994)

17.19.050 Required finding of accessibility to services.

Any proposal for a senior citizens' apartment project shall include adequate consideration and information as to the location of the site in relation to the proximity and accessibility to necessary services, including grocery stores, transit, medical facilities and banks. Prior to approving a conditional use permit for any low income senior citizens' apartment project, the approving body shall find that the evidence presented shows that said project is reasonably accessible to the services identified in this section. (Zoning ordinance dated 7/94 (part), 1994)

17.19.060 Site development standards.

This chapter recognizes senior citizens' apartment projects as a special class of residential development because of unique characteristics related to locational, affordability, social, architectural and building safety considerations. In order to provide a living environment consistent with the needs of the elderly population and in order to preserve locally recognized values of community appearance, the following site development standards shall apply in addition to, and where inconsistent therewith shall supersede, any regulations of the underlying zone. (Zoning ordinance dated 7/94 (part), 1994)

17.19.070 Minimum lot area.

The minimum lot area shall be not less than sixteen thousand square feet. (Zoning ordinance dated 7/94 (part), 1994)

17.19.080 Minimum building site area per dwelling unit and minimum number of units.

The minimum building site area shall be at least one thousand square feet of net land area per unit. Furthermore, no fewer than sixteen units shall be considered as a low income senior citizens' apartment project. (Zoning ordinance dated 7/94 (part), 1994)

17.19.090 Building height.

The maximum height of any structure shall be as required in the underlying zone. (Zoning ordinance dated 7/94 (part), 1994)

17.19.100 Maximum lot coverage.

The maximum lot coverage by all residential and accessory structures shall be as permitted in the underlying zone. (Zoning ordinance dated 7/94 (part), 1994)

17.19.110 Minimum floor area.

The minimum floor area of any low income senior citizen dwelling unit shall be not less than as provided herein:

- A. Studio units: three hundred fifty square feet;
- B. One-bedroom units: five hundred square feet;
- C. No two-bedroom units shall be allowed. (Zoning ordinance dated 7/94 (part), 1994)

17.19.120 Setbacks and special yards.

A. For low income senior citizens' apartment projects with from sixteen to twenty dwelling units, the minimum setbacks and special yards shall be as required in the underlying zone.

B. For low income senior citizens' apartment projects with more than twenty dwelling units, the minimum front, side, rear and special yard requirements of the underlying district and the locational requirements for accessory buildings in the general zoning regulations shall be superseded by a requirement of a minimum ten-foot setback around the periphery of the project site; provided however, that nothing contained in this section shall limit the authority of the planning commission or the city council on appeal, to require a greater setback. Encroachments of up to five feet into said ten-foot perimeter may be approved by the planning commission or the city council on appeal, as follows:

1. Encroachments shall be limited to surface parking spaces, open or covered decks or patios, portions of buildings which are single-story and do not exceed sixteen feet in height, or portions of two-story structures where the use of the second-story space is limited to passive living activities, i.e., sleeping or bathing areas of a dwelling.

2. No encroachments shall be allowed adjacent to public street rights-of-way. (Zoning ordinance dated 7/94 (part), 1994)

17.19.130 Special regulations.

The special regulations shall be as required in the underlying zone. (Zoning ordinance dated 7/94 (part), 1994)

17.19.140 Open space.

The area of usable open space for senior housing projects shall be as required by the underlying zone. (Zoning ordinance dated 7/94 (part), 1994)

17.19.150 Indoor recreational-leisure space.

At least thirty square feet per dwelling unit shall be provided in a common indoor recreational-leisure area which is readily accessible from all dwelling units. This area shall be deducted from the required usable open space area to a maximum of two thousand square feet. Indoor recreational-leisure space shall be provided in a multipurpose or recreational room with at least five hundred square feet of floor area. (Zoning ordinance dated 7/94 (part), 1994)

17.19.160 Parking.

At least .8 parking spaces shall be provided for each one-bedroom or studio unit, eighty percent of which shall be covered. Furthermore, space should be reserved on-site to provide at least .2 additional parking spaces per unit should the need arise. During the use permit consideration, the planning commission or city council on appeal shall have the discretion to reduce or increase the amount of reserved parking area required. Also, the planning commission or the city council on appeal shall consider on-street parking congestion and availability in the neighborhood of a proposed project in order to determine whether greater off-street parking shall be required than the minimum standards listed in this section. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.20

R-4 OR MULTIPLE-FAMILY RESIDENTIAL DISTRICT*

Sections:

17.20.010	Generally.
17.20.020	Permitted uses.
17.20.030	Conditional uses.
17.20.040	Open space, common and private.
17.20.050	Accessory buildings, structures and uses.
17.20.060	Building height.
17.20.070	Minimum building site area.
17.20.075	Residential density limitations.
17.20.080	Site width.
17.20.090	Site depth.
17.20.100	Site coverage.
17.20.110	Front yard.
17.20.120	Side yard.
17.20.130	Rear yard.
17.20.140	Special yards.
17.20.150	Parking.
17.20.160	Inclusionary housing requirement.
17.20.170	Density bonuses.
17.20.180	Special regulations.
17.20.190	Alternative regulations for small lot single-family dwellings.

* Prior ordinance history: Ords. 77-10, 83-11, 87-4, 93-6, 2000-13, 2002-03, 2003-09, 2004-10, 2004-13 and zoning ordinance dated 7/94.

17.20.010 Generally.

The regulations in this chapter shall apply in all R-4 districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.020 Permitted uses.

Uses permitted in the R-4 districts shall be as follows:

- A. Single-family dwellings constructed prior to January 1, 2005;
- B. Multiple dwellings and dwelling groups not exceeding twenty-five units per acre;
- C. One guest house or secondary dwelling pursuant to the provisions of Section 17.06.040;
- D. Small residential care homes;
- E. Large family day care homes and day care centers pursuant to Section 17.06.135 of this code;
- F. Home occupations pursuant to Section 17.06.110 of this code;
- G. Other uses accessory and incidental to residential use pursuant to Section 17.20.050, including, but

not limited to:

- 1. Small family day care and foster home care,
- 2. Rooming and boarding of not more than two persons,
- 3. On-site property management, and
- 4. The keeping of not more than two cats and/or dogs per unit.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the R-4 districts shall be as follows:

- A. Single-room occupancy housing;
- B. Extended care medical facilities, including convalescent homes and other skilled nursing facilities;
- C. Public and quasi-public buildings and uses including churches, firehouses, parks and playgrounds, community or recreational centers, schools (public and parochial) or schools accredited the state school system, and public utility buildings and uses exclusive of corporate, storage or repair yards;
- D. Mobile home parks pursuant to Section 17.06.050;
- E. Multiple dwellings and dwelling groups exceeding a density of twenty-five units per acre;
- F. Condominium and/or planned development projects subject to the provisions of Chapter 17.54;
- G. Single-family dwellings subject to compliance with the provisions of Section 17.20.190 of this chapter;
- H. Large residential care homes or facilities; and
- I. Interim housing.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.040 Open space, common and private.

A. Total Open Space Required. The minimum area of open space required for multiple-family dwellings or three or more single-family dwellings on a building site in the R-4 district shall be three hundred square feet per efficiency apartment three hundred fifty square feet per one-bedroom unit, and fifty additional square feet for each additional bedroom. A portion or all of the required usable open space shall be private as provided by this section; otherwise it shall be shared in common.

B. Private Open Space. A minimum of eighty square feet for ground floor units and forty square feet for units located on second levels and above. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.050 Accessory buildings, structures and uses.

Accessory buildings not intended for living purposes and accessory structures and uses permitted in the R-4 districts shall be on the same building site with, and of a nature customarily incidental and subordinate to, the principal use, structure or building including, but not limited to:

- A. Portable recreation structures;

B. Detached sheds, garages, workrooms, and other outbuildings, in compliance with the limitations contained in Section 17.06.070 of the zoning ordinance;

C. Non-portable recreation structures located in a yard area screened from public and private streets. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.060 Building height.

Maximum building height limit in the R-4 districts shall be forty-two feet and three stories. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.070 Minimum building site area.

Building site area required in the R-4 districts shall be six thousand square feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.075 Residential density limitations.

A. Minimum density requirement: fifteen units per acre for any residential dwellings constructed after January 1, 2005.

B. Maximum density limitation: thirty-five units per acre for conditionally permitted residential uses.

C. A maximum of forty-three units or bedrooms per acre for boarding houses and single-room occupancy dwellings and for affordable senior multiple dwellings developed pursuant to Chapter 17.19. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.080 Site width.

Average building site width required in the R-4 districts shall be sixty feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.090 Site depth.

Maximum building site depth permitted in the R-4 districts shall average not to exceed three times building site width. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.100 Site coverage.

Percentage of building site coverage permitted in the R-4 districts shall be sixty percent. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.110 Front yard.

Minimum front yard required in the R-4 districts shall be twelve feet. The front yard shall be measured from the front property line or the edge of easement for private roadway whichever is less. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.120 Side yard.

Minimum side yard required in the R-4 districts shall be five feet except where the side yard abuts a street or any site in the R-1 or R-2 district. The minimum side yard abutting a street shall be twelve feet. For sites abutting any R-1 or R-2 district, the setback shall be increased an additional five feet for each story above two stories. The side yard shall be measured from the side property line or the edge of easement for private roadway whichever is less. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.130 Rear yard.

Minimum rear yard required in the R-4 districts shall be ten feet except where the rear yards abuts any lot in the R-1 or R-2 district in which case the required rear yard shall be twenty feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.140 Special yards.

Special yards required for dwelling groups in the R-4 districts shall be as follows:

A. In case the buildings of the group are so located on the lot that the rears thereof abut upon one side yard and the fronts thereof abut upon the other side (i.e., in a single row “side to side” series), the side yard providing pedestrian access shall have a width of not less than twelve feet;

B. No building in any group shall be so located on the lot that the rear thereof abuts on any street line;

C. Distances required between buildings on the same lot and as yards and courts for dwelling groups shall be increased by two feet for each story that the height of any building or dwelling group exceeds two stories. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.150 Parking.

See Section 17.44.020.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.160 Inclusionary housing requirement.

Inclusionary housing in conformance with the Marina General Plan Housing Element and the Marina Municipal Code shall be provided for all residential developments or projects, including condominium conversions, with at least twenty dwelling units. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.170 Density bonuses.

Density bonuses may be requested pursuant to Sections 65915 through 65918 of the California Government Code and in conformance with the Marina General Plan Housing Element and the Marina Municipal Code. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.180 Special regulations.

A. Minimum Requirement for Larger Units. In multiple-family residential developments of at least ten units, exclusive of dwellings for seniors, at least forty percent of the total number of multiple-family units shall consist of two or more bedrooms. In addition, at least ten percent of the total number of multiple dwelling units shall have at least three bedrooms. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.20.190 Alternative regulations for small lot single-family dwellings.

Alternative regulations for single-family dwellings allowed by use permit pursuant to Section 17.20.030(G) of this chapter shall comply with the following:

A. Building site area shall be a minimum of two thousand square feet and said minimum site area shall exclude any portion of the lot which is narrower than the minimum site width as specified by subsection B of this section.

B. Site width shall be a minimum of forty feet where two side by side parking spaces are provided on the building site with access from the front of building site, twenty-five feet where two tandem parking spaces are provided on the building site with access from the front of building site, and twenty feet where parking

spaces are provided on the building site with access from the rear of the building site, i.e., from an alley or a private roadway. The minimum width specified herein shall not apply to that portion of the building site used principally to provide access to the buildable portion of the site. The required minimum lot width for a corner lot shall be increased to accommodate the required twelve-foot setback from the side lot line abutting a street without reducing the buildable width of the site that would otherwise be available for an interior lot, but in no case shall be less than thirty-two feet.

C. Site depth shall be a maximum of one hundred twenty feet and a minimum of sixty-five feet excluding area located within a roadway easement.

D. Side yard not abutting a street shall be minimum of three feet except that such side yards may be completely eliminated where agreement provides for common wall maintenance or easement allows for access to abutting property for necessary maintenance. Side yard abutting a street shall be a minimum of twelve feet.

E. Private open space shall be provided at the rate of ten percent of each dwelling's habitable floor area or one hundred twenty square feet, whichever is greater, on patios, decks, balconies, atriums or other outdoor private areas contiguous with and directly accessible from the unit, with a minimum width of six feet and at least one dimension of not less than ten feet. Developments approved pursuant to Section 17.20.190 prior to the effective date of the ordinance codified in this chapter shall be considered conforming to this section.

F. The minimum building site area or the minimum site width in subsections A and B, respectively, of this section shall be increased as determined necessary by the advisory agency or the city council to compensate for any loss in usability of the building site due to topography or easements within the boundary of the building site. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

Chapter 17.21

C-R OR COMMERCIAL/MULTIPLE-FAMILY RESIDENTIAL DISTRICT*

Sections:

17.21.010	Generally.
17.21.020	Permitted uses.
17.21.030	Conditional uses.
17.21.035	Limitation on allowable uses.
17.21.040	Accessory uses and buildings.
17.21.050	Minimum building site area.
17.21.060	Residential density limitations.
17.21.070	Building height.
17.21.080	Site width.
17.21.090	Open space.
17.21.100	Front yard.
17.21.110	Side yard.
17.21.120	Rear yard.
17.21.130	Special yards.
17.21.140	Floor area ratio.
17.21.150	Inclusionary housing requirement.
17.21.160	Density bonuses.

17.21.170 Development standards—Mixed use developments.
17.21.180 Parking.

* Prior ordinance history: Ords. 85-4, 94-3, 2004-13 and zoning ordinance dated 7/94.

17.21.010 Generally.

The regulations in this chapter shall apply in all C-R districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.020 Permitted uses.

Uses permitted in the C-R districts shall be as follows:

- A. Retail stores and shops conducted within a building, including appliance stores, bakeries (retail only), bookstores, florist shops, food stores, and furniture and millinery shops when incidental to the retail sales of such items; radio sales, shoe shops, hardware stores, department stores, drugstores, nursery or horticulture, photography studios, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located;
- B. Offices other than medical establishments;
- C. Personal service establishments conducted within a building, including banks, barbershops, beauty parlors, tailor shops, tanning salons, and other establishments of similar character providing services to individuals as a primary use;
- D. Studios—acting, music, dance, martial arts, etc.;
- E. Small residential care homes;
- F. Large family day care homes and day care centers pursuant to Section 17.06.135 of this code;
- G. Home occupations pursuant to Section 17.06.110 of this code.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the C-R districts shall be as follows:

- A. Single-room occupancy housing, hotels, and motels;
- B. Public and quasi-public uses and buildings, including schools and churches, parks and playgrounds, community or recreational centers, and public utility buildings and uses exclusive of corporate, storage or repair yards;
- C. Restaurants, refreshment stands, theaters, pet shops, laundrettes, undertaking establishments, used or secondhand goods, professional or trade schools, cleaning and drying establishments, convalescent and skilled nursing facilities, medical/dental clinics and offices, veterinary clinics, business-service establishments, and other uses of a similar nature which will not be detrimental to the neighborhood in which they are located;
- D. Indoor commercial recreation facilities;
- E. Research-and-development activities when conducted within an office type of environment;
- F. Arts and crafts studios;
- G. Live-work units subject to the provisions of Section 17.06.150;
- H. Residential dwellings, including condominium and/or planned development projects subject to the provisions of Chapter 17.54;
- I. Multiple-family residential dwellings as part of a mixed use development on a building site;
- J. Large residential care homes or facilities; and

K. Interim housing.
(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.035 Limitation on allowable uses.

A. If residential use is existing or approved for a site, only those commercial uses identified in Section 17.21.020(A), "Permitted uses," be allowed on the same site, subject to the approval of the community development director, and those conditional uses listed in this chapter shall not be permitted on said site.

B. Only building sites of less than one acre can be developed for exclusively residential use.
(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.040 Accessory uses and buildings.

Accessory uses and accessory buildings permitted in the C-R districts shall be appurtenant to any permitted use, including small family day care, foster home care, rooming and boarding of not more than two persons, and on-site property management. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.050 Minimum building site area.

Minimum building site area required in the C-R district shall be six thousand square feet.
(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.060 Residential density limitations.

A. A maximum of twenty-five units per acre for mixed use developments.
B. Twenty to thirty-five units per acre for developments that are exclusively residential.
C. A maximum of forty-three units or bedrooms per acre for building sites developed for hotels, motels, boarding houses, single-room occupancy housing, affordable senior multiple dwellings pursuant to Chapter 17.19, or for similar establishments. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.070 Building height.

Maximum building height limit in the C-R districts shall be fifty feet and four stories except any portion of a building within twenty feet of any lot in an R-1, R-2 or R-3 districts shall be limited to a maximum height of thirty-five feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.080 Site width.

Average building site width required in the C-R districts shall be sixty feet.
(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.090 Open space.

A. Total Open Space Required. The minimum area of common and private open space required for multiple-family dwellings or three or more single-family dwellings on a building site in the C-R district shall be two hundred fifty square feet per single-room occupancy unit, three hundred square feet per efficiency or one-bedroom unit, and fifty additional square feet for each additional bedroom. A portion or all of the required open space shall be private; otherwise it shall be shared in common.

B. Minimum Private Open Space Required. Eighty square feet for ground floor units and forty square feet for second story units and above. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.100 Front yard.

Minimum front yard required in the C-R districts shall be ten feet, all of which shall be landscaped except for driveways and pedestrian walkways. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.110 Side yard.

Minimum side yard required in the C-R districts shall be five feet except where the side yard abuts a street, in which case, the required side yard shall be ten feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.120 Rear yard.

Minimum rear yard required in the C-R districts shall be ten feet, except where the rear yard abuts any lot in the R-1 or R-2 district, in which case the required rear yard shall be twenty feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.130 Special yards.

Special yards required for dwelling groups in the C-R districts shall be as follows:

A. In case the buildings of the group are so located on the lot that the rears thereof abut upon one side yard and the fronts thereof abut upon the other side (i.e., in a single row “side to side” series) the side yard providing pedestrian access shall have a width of not less than twelve feet;

B. No building in any group shall be so located on the lot that the rear thereof abuts on any street line;

C. Distances required between buildings on the same lot and as yards and courts for dwelling groups shall be increased by two feet for each story that the height of any building or dwelling group exceeds two stories. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.140 Floor area ratio.

Floor area ratio in the C-R district shall not exceed 0.90 and shall not be less than 0.25. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.150 Inclusionary housing requirement.

Inclusionary housing in conformance with the Marina General Plan Housing Element and the Marina Municipal Code shall be provided for all residential developments or projects, including condominium conversions, with at least twenty dwelling units. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.160 Density bonuses.

Density bonuses may be requested pursuant to Sections 65915 through 65918 of the California Government Code and in conformance with the Marina General Plan Housing Element and the Marina Municipal Code. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.170 Development standards—Mixed use developments.

A. Siting. Residential units located within mixed use developments shall be sited either: (1) within the same building as commercial uses on the site and located above said commercial uses; or (2) within a separate building located to the rear of approved commercial building(s) and uses but located on the same building site as said commercial uses.

B. Residential Floor Area Limitation. Floor area for residential use shall not exceed seventy percent of the total gross floor area of a mixed use development.

C. Reduced Parking. Notwithstanding the parking requirements of Chapter 17.44, no covered or guest parking shall be required for residential uses that are part of a mixed use development.

D. Site and Architectural Design Review. The design review approval of mixed use projects shall be based upon the following criteria:

1. Promoting internal compatibility between the different uses on the same site;
2. Minimizing effects potentially detrimental to on-site or neighboring residential use such as, but not limited to, potential noise, glare and odors;
3. Ensuring that the design of residential units of a mixed use development is of a residential character, and that privacy between residential units and between other uses on the site is maximized through careful siting and design;
4. Encouraging integration of the street pedestrian environment with retail commercial uses on the site through the use of plazas, courtyards, walkways, and street furniture. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.21.180 Parking.

Parking in the C-R district shall be as provided in Chapter 17.44, except as otherwise provided herein and by Section 17.21.170 of this chapter:

A. Off-street parking can be reduced to a rate of 0.8 parking space per unit upon approval by the planning commission for residential dwellings restricted to seniors sixty-two years of age or older, for dwelling units affordable to lower income households over and above that required to meet a development's inclusionary requirement, and for housing for disabled persons.

B. Off-street parking for residential dwellings with a density of at least twenty-five units per acre may be reduced to a rate of one parking space per unit if the building site is located within one-fourth mile of a transit center, or if the combination of commercial and residential uses supports shared parking as supported by a parking demand study submitted in conjunction with the entitlement application. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

Chapter 17.22

C-1 OR RETAIL BUSINESS DISTRICT*

Sections:

17.22.010	Generally.
17.22.020	Permitted uses.
17.22.030	Conditional uses.
17.22.040	Building height.
17.22.050	Minimum building site area.
17.22.060	Site width.
17.22.070	Front yard.
17.22.080	Side yard.
17.22.090	Rear yard.
17.22.100	Floor area ratio.
17.22.110	Inclusionary housing requirement.
17.22.120	Development standards—Mixed use developments.

17.22.130 Parking.

* Prior ordinance history: Ords. 77-10, 83-11, 86-1, 94-3, 97-4, 2002-01, 2003-03, 2004-01, 2005-02, 2005-09 and zoning ordinance dated 7/94.

17.22.010 Generally.

The regulations in this chapter shall apply in all C-1 districts and shall be subject to the provisions of Chapter 17.06. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.020 Permitted uses.

Uses permitted in the C-1 districts shall be as follows:

- A. Retail stores conducted within a building, including appliance stores, bakeries (retail only), bookstores, florist shops, food stores, furniture and millinery shops when incidental to the retail sales of such items, radio sales, restaurants, shoe shops, hardware stores and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located;
- B. Professional and medical offices;
- C. Personal service establishments conducted within a building, including banks, barbershops, beauty parlors, tailor shops, tanning salons, and other establishments of similar character providing services to individuals as a primary use;
- D. Studios—art, dance, martial arts, music, etc.; and
- E. Fitness and health establishments.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the C-1 districts shall be as follows:

- A. Hotels and motels;
- B. Public and quasi-public uses including schools and churches, and public utility buildings and uses;
- C. Animal hospitals, auto repair shops, auto sales, service stations, drive-in restaurants, refreshment stands, theaters, amusement centers, pet shops, laundrettes, undertaking establishments, used car sales, used or secondhand goods, business, specialized education, professional or trade schools, membership organization facilities, and other uses which are of a similar character;
- D. Storage warehouses when incidental to a use allowed in this district;
- E. Multiple-family residential dwellings when part of a mixed use development on a building site;
- F. Buildings and building appurtenances extending into the required front yard or the required side yard abutting a public street consistent with a build-to line established for the building site by the planning commission or the city council on appeal. Said build-to line may entirely eliminate the said yard requirements for the location of buildings on building sites located within the retail core area identified in the general plan. Said build-to line may reduce said yard requirements for the location of buildings on building sites located outside said retail core area to no less than five feet;
- G. Day care centers.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.040 Building height.

Maximum building height limit in the C-1 districts shall be fifty feet except any portion of a building within twenty feet of any lot in an R-1, R-2, R-3, or K districts shall be limited to a maximum height of thirty-five feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.050 Minimum building site area.

Minimum building site area required in the C-1 districts shall be two thousand square feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.060 Site width.

Average building site width required in the C-1 districts shall be twenty-five feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.070 Front yard.

Minimum front yard required in the C-1 districts shall be ten feet all of which shall be landscaped with the exception of pedestrian accessways and driveways for ingress and egress. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.080 Side yard.

No minimum side yards are required in the C-1 districts, except where the side yard abuts a street. A side yard which abuts a street shall have a minimum width of ten percent of the average site width, but in no case more than ten feet or less than five feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.090 Rear yard.

The rear yards required in the C-1 districts shall be five feet, except where the lot abuts any lot in an R or K district, in which case the abutting rear yard shall not be less than twenty feet. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.100 Floor area ratio.

A. Floor area ratio in the C-1 district shall not exceed 0.55 nor be less than 0.25.

B. Notwithstanding this limitation, allowable floor area ratio can be increased up to 0.90 upon planning commission approval of a use permit for such increase, based upon findings that: (1) the development has provided common open space at the rate of one square foot of such open space for each five square feet of gross building floor area, and (2) off-street parking is screened from view and is located toward the rear of the building site. Such common open space areas can consist of landscaped areas, pedestrian plazas, walkways, and covered exterior spaces on the site that are freely usable and accessible by the public. Where an agreement for public access is approved by the city council, enclosed spaces can be included as part of the required common open space. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.110 Inclusionary housing requirement.

Inclusionary housing in conformance with the Marina General Plan Housing Element and the Marina Municipal Code shall be provided for all residential developments or projects, including condominium conversions, with at least twenty dwelling units. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.120 Development standards—Mixed use developments.

A. Siting. Residential units located within mixed use developments shall be sited within the same building as commercial uses on the site, and located above said commercial uses;

B. Size and Bedroom Limitations. Multiple-family dwellings located within mixed use developments shall not exceed one thousand one hundred square feet of living area. The number of two-bedroom units shall not exceed one-third of the total number of approved dwelling units on a building site.

C. Residential Maximum Density and Floor Area Limitation. Residential dwellings are permitted a maximum density of twenty-five units per acre as part of a mixed use development. Floor area for residential use shall not exceed fifty percent of the total gross floor area of a mixed use development within the “core area” as defined by the Marina General Plan, and shall not exceed seventy percent outside this “core area.” Notwithstanding this limitation, residential floor areas can be increased to sixty percent within the “core area,” where at least fifteen percent of the total dwellings are targeted as affordable to lower and moderate income households, in addition to any affordable housing that may be required pursuant to a development’s inclusionary housing requirement.

D. Reduced Parking. Notwithstanding the parking requirements of Chapter 17.44, no covered or guest parking shall be required for residential uses that are part of a mixed use development.

E. Site and Architectural Design Review. The design review approval of mixed use projects shall be based upon the following criteria:

1. Promoting internal compatibility between the different uses on the same site;
2. Ensuring that the design of residential units of a mixed use development is of a residential character, and that privacy between residential units and between other uses on the site is maximized through careful siting and design;
3. Encouraging integration of the street pedestrian environment with retail commercial uses on the site through the use of plazas, courtyards, walkways, and street furniture. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

17.22.130 Parking.

Parking in the C-1 district shall be as provided in Chapter 17.44, except as otherwise provided herein and by Section 17.22.120 of this chapter:

A. Off-street parking can be reduced to a rate of 0.8 parking space per unit upon approval by the planning commission for dwelling units restricted to seniors sixty-two years of age or older, for dwelling units affordable to lower income households over and above that required to meet a development’s inclusionary requirement, and for housing for disabled persons.

B. Off-street parking for residential dwellings may be reduced to a rate of one parking space per unit if the building site is located within one-fourth mile of a transit center, or if the combination of commercial and residential uses supports shared parking as supported by a parking demand study submitted in conjunction with the entitlement application. (Ord. 2006-03 § 1 (Exh. A (part)), 2006)

Chapter 17.24

C-2 OR GENERAL COMMERCIAL DISTRICT*

Sections:

17.24.010 Generally.

17.24.020 Permitted uses.

17.24.030	Conditional uses.
17.24.040	Accessory uses and buildings.
17.24.050	Building height.
17.24.060	Site area.
17.24.070	Site width.
17.24.080	Front yard.
17.24.090	Side yard.
17.24.100	Rear yard.
17.24.110	Parking.

* Prior ordinance history: Ords. 77-10, 83-11, 86-10 and 94-3.

17.24.010 Generally.

The regulations in this chapter shall apply in all C-2 districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.24.020 Permitted uses.

Uses permitted in the C-2 districts shall be as follows:

A. Retail stores and shops of light commercial character and conducted within a building, including appliance stores, bakeries (retail only), banks, barbershops, beauty parlors, bookstores, cleaner or laundry agents, dress shops, drugstores, florist shops, food stores, restaurants, furniture and millinery shops when incidental to the retail sales of such items, hardware stores, offices, radio sales, shoe shops, studios, tailor shops, personal service establishments, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located;

B. Auto laundries, auto repair shops, auto sales (except used cars), boarding kennels, bottling works, carpenter shops, dancing academies, lumber yards, pet shops, paint, paperhanging and decorator shops, plumbing shops, service stations (except those requiring a use permit under Section 17.24.030), storage of household goods, tinsmith shops, undertaking establishments, wholesale stores or storage (except those requiring a use permit under Section 17.24.030). (Ord. 2002-09 § 1, 2002; zoning ordinance dated 7/94 (part), 1994)

17.24.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the C-2 districts shall be as follows:

A. Hotels, motels, clubs and lodges;

B. Public and quasi-public uses, including schools, churches and public utility buildings;

C. Drive-in banks, open air retail and wholesale sales, drive-in restaurants, refreshment stands, theaters, laundries, development laboratories, used car sales, used or secondhand goods, and other uses which are of similar character;

D. Wholesale distributors of petroleum products, contractors' yards, welding shops and other uses of a similar character;

E. Manufacture of clothing, handicraft products, printing, lithographing, and other light manufacturing or industrial uses of a similar character;

F. Airports, heliports, and landing strips for aircraft;

G. Single-family, duplex and multiple-family residential dwellings limited to studio and one-bedroom units with a minimum of five hundred twenty-five square feet and a maximum of nine hundred square feet to a maximum density of one unit per five thousand square feet of lot area within the same building as commercial

uses on the site and located above those commercial uses. Such residential uses shall be permitted subject to site and architectural design review approval. However, if residential use is existing or approved for a site, only those uses identified in Section 17.24.020(A) of this chapter shall be allowed on the same site and all other permitted uses and all conditional uses listed in this chapter shall not be permitted on the site. (Ord. 2005-02 § 1 (Exh. A (part)), 2005; zoning ordinance dated 7/94 (part), 1994)

17.24.040 Accessory uses and buildings.

Accessory uses and buildings permitted in the C-2 districts shall be accessory uses and buildings appurtenant to any permitted use. (Zoning ordinance dated 7/94 (part), 1994)

17.24.050 Building height.

Maximum building height limit in the C-2 districts shall be thirty-five feet. (Zoning ordinance dated 7/94 (part), 1994)

17.24.060 Site area.

Minimum building site area required in the C-2 districts shall be two thousand square feet. (Zoning ordinance dated 7/94 (part), 1994)

17.24.070 Site width.

Average building site width required in the C-2 districts shall be twenty-five feet. (Zoning ordinance dated 7/94 (part), 1994)

17.24.080 Front yard.

Minimum front yard required in the C-2 district shall be ten feet all of which shall be landscaped save and excepting therefrom driveways for ingress and egress. (Ord. 2002-01 § 1 (part), 2002; zoning ordinance dated 7/94 (part), 1994)

17.24.090 Side yard.

No minimum side yards are required in the C-2 districts, except where the side yard abuts a street. A side yard which abuts a street shall have a minimum width of ten percent of the average site width, but in no case more than ten feet or less than five feet. (Ord. 2002-01 § 1 (part), 2002; Ord. 97-11 § 1 (part), 1997; zoning ordinance dated 7/94 (part), 1994)

17.24.100 Rear yard.

Minimum rear yards required in the C-2 districts shall be five feet, except where the lot abuts any lot in an R or K district, in which case the abutting rear yard shall not be less than twenty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.24.110 Parking.

For parking requirements in the C-2 districts, see Chapter 17.44. (Zoning ordinance dated 7/94 (part), 1994)

C-D OR COASTAL CONSERVATION AND
DEVELOPMENT DISTRICT*

Sections:

- 17.25.010 Generally.
- 17.25.020 Uses permitted.
- 17.25.030 Conditional uses.

* Prior ordinance history: Ord. 82-14.

17.25.010 Generally.

The following regulations shall apply in all C-D districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.25.020 Uses permitted.

None. (Zoning ordinance dated 7/94 (part), 1994)

17.25.030 Conditional uses.

Uses subject to first obtaining a coastal development permit in each case:

A. Coastal research and educational uses; developed public access and other coastally dependent recreation uses; coastal-dependent industrial uses including but not limited to marine agriculture (mariculture), dredge pond, surf zone and offshore sand extraction; in severely disrupted areas and those portions of parcels currently subject to dune mining activity, dune mining; and on parcels combined with the Coastal Zone secondary use combining district or SU districts, visitor-serving uses such as visitor accommodations;

B. Regulations for coastal conservation and development uses shall be specified in the coastal development permit. The permit-issuing body may approve permit applications if the following factors, where relevant are found to apply:

1. There is adequate protection and/or provision of public access from the nearest roadway to the ocean, and uninterrupted lateral access,
2. Development is limited to already disturbed areas,
3. Rare and endangered plant and animal habitats are adequately protected,
4. Grading and roadway construction are the minimum necessary for the development,
5. Views from the State Highway and from the ocean edge are protected,
6. There are sufficient provisions for public safety,
7. All significant adverse environmental effects are either avoided or adequately mitigated,
8. All major and minor subdivisions of land shall provide for sufficient size and configuration to allow for coastally dependent uses or where none are feasible visitor-serving commercial uses consistent with the local coastal land use plan. All parcels must contain sufficient shoreline frontage. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.26

PC OR PLANNED COMMERCIAL DISTRICT*

Sections:

- 17.26.010 Generally.
- 17.26.020 Planning commission approval.
- 17.26.030 Permitted uses.
- 17.26.050 Conditional uses.
- 17.26.060 Height.
- 17.26.070 Site coverage.
- 17.26.080 Parking.
- 17.26.090 Landscaping.
- 17.26.100 Zoning permit—Application—Fee.
- 17.26.110 Zoning permit—Planning commission action.
- 17.26.120 Zoning permit—Appeal.
- 17.26.130 Zoning permit—Revocation.
- 17.26.140 Zoning permit—Effect.

* Prior ordinance history: Ords. 77-10, 80-13, 82-14, 88-16, 90-1 and 94-3.

17.26.010 Generally.

The purpose of the PC district is to design and promote the orderly development of a business area as primarily a retail shopping and employment facility to serve present and future needs of coastal visitors and the residential community, with emphasis on preserving and expanding the characteristics of the area in which the commercial use is proposed. The regulations in this chapter shall apply in all PC districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.26.020 Planning commission approval.

A. Prior to the establishment of any use or the construction of any building in a PC district the planning commission may adopt the proposed plan or any part thereof in such form as deemed advisable.

B. The planning commission shall submit a report of its findings and recommendations with respect to the proposed plan to the city council; the city council may adopt the proposed plan or any part thereof in such form as said council may deem advisable.

C. The adoption of a general development plan does not allow the establishment of any use, but shall be the general guide for the development of the PC district. (Zoning ordinance dated 7/94 (part), 1994)

17.26.030 Permitted uses.

Uses permitted in the PC district, subject to first securing a zoning permit in each case, shall be as follows:

A. Retail stores and shops of light commercial character and conducted within a building, including appliance stores, banks, barbershops, beauty parlors, bookstores, cleaner or laundry agents, dress shops, drugstores, food stores, furniture shops, millinery shops, offices, radio sales, restaurants, shoe shops, studios and tailor shops, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are located;

B. Hotels, clubs, lodges, churches, and public and quasi-public uses and buildings, public utility uses and buildings, service stations, drive-in banks, dancing academies, retail plant nurseries, drive-in restaurants, undertaking establishments, and other uses which are of similar character to those enumerated and which will not be detrimental or obnoxious to the neighborhood in which they are to be located;

C. In the Coastal Zone the uses permitted shall be determined by the local coastal land use plan and a coastal development permit shall be required. Such uses shall include but not be limited to visitor-oriented retail and service uses, and accommodations and public access. (Zoning ordinance dated 7/94 (part), 1994)

17.26.050 Conditional uses.

The following conditional uses may be permitted when found by the planning commission and the city council to be, by reason of sensitive planning and attractive design, consistent with the purposes and objectives of the planned commercial zone; provided, however, that such uses will not be permitted within the Coastal Zone.

A. Laboratories, research or development installations, specialized light manufacturing institutions, and administrative or executive offices related to such uses, when of a non-nuisance type;

B. Residential uses not exceeding ten percent of total floor area of all uses in the district. (Zoning ordinance dated 7/94 (part), 1994)

17.26.060 Height.

Maximum allowable height in the PC district shall be thirty-five feet except in the Coastal Zone where the maximum height shall be thirty-five feet unless the structure is located in a coastal view corridor where a lesser maximum may be established in a coastal development permit. (Zoning ordinance dated 7/94 (part), 1994)

17.26.070 Site coverage.

A. Maximum building site coverage by buildings or structures in the PC district shall be thirty percent of the gross area of the building site for all uses specified under Section 17.26.030 except in the Coastal Zone where the maximum building site coverage shall be twenty-five or a lesser percentage may be established to comply with the provision of the local coastal program. In the Coastal Zone east of Highway 1 specific building site coverage shall comply with land use plan provisions.

B. Maximum building site coverage by buildings or structures in the PC district shall be thirty-five percent of the gross area of the site for all uses specified under Section 17.26.050. (Zoning ordinance dated 7/94 (part), 1994)

17.26.080 Parking.

For parking requirements in the PC district, see Chapter 17.44. (Zoning ordinance dated 7/94 (part), 1994)

17.26.090 Landscaping.

Landscaping required in the PC district shall be as follows: landscaping plans showing a minimum of ten percent of the gross area of the building site shall be submitted for approval of the planning director. (Zoning ordinance dated 7/94 (part), 1994)

17.26.100 Zoning permit—Application—Fee.

Application fees for a zoning permit in the PC district shall be as follows:

A. An application for a zoning permit in a PC district shall be submitted to the planning commission accompanied by drawings showing the size and dimensions of the property of the applicant; the location and dimensions of proposed buildings and signs; distances to front, side and rear property lines from the buildings; elevations of the buildings, proposed parking layout and location, landscaping plans, and the location of buildings on adjacent property, within one hundred feet of the property of the applicant.

B. The fee for a zoning permit shall be established by resolution of the city council from time to time hereinafter enacted. (Zoning ordinance dated 7/94 (part), 1994)

17.26.110 Zoning permit—Planning commission action.

A. The planning commission shall consider such application to determine its conformity to the general development plan adopted for the PC district in which the applicant's property is located. The planning commission may require such changes in the proposed use and plans of proposed buildings, structures and other improvements as they may deem necessary to insure conformity to the general development plan and to secure the purposes of this section. In the Coastal Zone, the planning commission shall find that the application conforms to the local coastal land use plan.

B. The planning commission may designate such conditions in the zoning permit as they deem necessary to secure the purposes of this section. Such conditions may include, but are not limited to, architectural and site approval, time limitations, street dedications, and street and drainage improvement. The planning commission may require such bonds and other guarantees as deemed necessary to insure compliance with conditions of the zoning permit. (Zoning ordinance dated 7/94 (part), 1994)

17.26.120 Zoning permit—Appeal.

A. An appeal may be taken by the applicant to the city council from the decision of the planning commission. The appeal shall be in writing and must be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. The appeal shall set forth the grounds for the appeal and shall describe any asserted error or abuse of discretion.

B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon. After the hearing, the city council may reverse, affirm or may modify, in whole or in part, the decision appealed from. (Zoning ordinance dated 7/94 (part), 1994)

17.26.130 Zoning permit—Revocation.

A. Where the conditions of the granting of a zoning permit have not been or are not being complied with, the planning commission may, following a hearing thereon, revoke or modify such zoning permit. Ten days written notice of such hearing shall be given to the permittee prior to the hearing.

B. Appeals from such revocation or modification may be taken in the same manner as provided in Section 17.26.120. (Zoning ordinance dated 7/94 (part), 1994)

17.26.140 Zoning permit—Effect.

A. No building permit shall be issued, nor any use conducted, other than in accordance with the conditions and terms of the zoning permit granted or after granting of such zoning permit by the city council in the event of appeal.

B. All zoning permits issued by the planning commission shall be valid until the date of expiration stated on the permit. If no date of expiration is stated, unless otherwise specified by the planning commission all such permits shall expire one year from the date of granting said permit unless construction on, or use of, the subject property, pursuant to the zoning permit, has started within this period. (Zoning ordinance dated 7/94 (part), 1994)

ADULT BUSINESSES AND MESSAGE THERAPISTS*

Sections:

- 17.27.010 Legislative findings and determination.
- 17.27.020 Definitions.
- 17.27.030 Location of adult businesses.
- 17.27.040 Use permit for adult businesses.
- 17.27.050 Use permit and location of massage therapist businesses.

* Prior ordinance history: Ord. 89-3.

17.27.010 Legislative findings and determination.

The city council makes the following findings regarding the establishment of adult businesses:

A. Certain uses of real property, variously described as adult bookstores, adult motion picture facilities, figure model studios, adult cabarets, adult motels and massage parlors have serious objectionable characteristics which, if such uses were allowed to become concentrated in certain areas of the city, may have adverse effects upon the character of such areas and adjacent neighborhoods.

B. Permitting the concentration of adult businesses may tend to create and foster a skid-row atmosphere in neighborhoods and areas within the city.

C. Permitting the concentration of such adult businesses in residential zones, or in zones adjacent to schools, churches, or public recreational areas, or within close proximity of such uses, may expose minors to such facilities and this may adversely affect such minors due to their immaturity.

D. Special regulation of adult business uses is necessary to insure that such uses do not become incompatible land uses and, further, will not contribute to the blighting or downgrading of zones in which they are permitted, therefore, adversely affecting property values and deterring or interfering with the development and operation of other businesses within the city.

E. There is a higher incidence of crime, especially crimes against the person, in areas in which adult businesses are permitted to cluster or become concentrated, and that such crimes and the incidence thereof increase in the late evening and night hours, requiring increased effort on the part of the public safety personnel to police such activities, with resultant costs to the city. (Zoning ordinance dated 7/94 (part), 1994)

17.27.020 Definitions.

For the purpose of this chapter, the following definitions shall apply, unless the context otherwise requires:

“Adult bookstore” means an establishment in which fifty percent or more of either its floor area, inventory or monthly sales is devoted to stock, books, magazines, or other periodicals, films, videotapes, video discs, or other such electronic, magnetic, or other means of creating a moving image upon any screen, television, or other device, peep shows or other similar devices designed for use in individual viewing of films on the premises, which books, magazines, periodicals, films, videotapes, video discs, or other means, peep shows or similar devices are substantially devoted to the depiction of specified sexual activities or specified anatomical areas as defined herein.

“Adult businesses” means adult bookstore, adult motion picture facility, figure model studio, adult motel, adult cabaret, or massage establishment. However, a massage therapist business as defined in this section shall be excluded from the definition of adult businesses.

“Adult cabaret” means an establishment which features topless-bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

“Adult motels” means any establishment designated as or having the characteristics of a hotel, motel, or other transient lodging facility which has or proposes to have as a feature or service offered to its customers the presentation or entertainment in the form of motion picture film, videotape, closed circuit television, or any other similar means or device which is substantially similar thereto and provided for the purpose of displaying, showing or depicting specified anatomical areas, as defined in this section for observation or viewing by persons who are customers of such establishments. This section shall apply whether charge is made or consideration exchanged for the use of rooms within such establishments for overnight accommodations or for short-term admission to view the material above described.

“Adult motion picture facility” means a facility used for presenting, whether by way of motion picture projection or television or video equipment, or peep show device, material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas for observation by patrons therein, whether in one or more auditoriums, drive-in theaters, booths or rooms within such facility.

“Figure model studio” means any premises where there is conducted the business of furnishing, providing or procuring figure models who pose for the purpose of being observed, conversed with, or viewed by any person or of being sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted in the nude or seminude for persons who pay a fee, or other consideration, compensation or gratuity, for the right or opportunity to converse with or so depict a figure model, or for admission to, or for permission to remain, or as a condition of remaining, upon the premises. Figure model studio does not include, for purposes of this definition, any studio which is operated by any state college, junior or community college, public or private school, or any governmental agency wherein the person, firm, association, partnership or corporation so operating has met the requirements established by the state for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.

“Massage” means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating, the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliance, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in the practice of massage. Exemptions listed in Section 5.36.100 of this code are excluded from this definition of massage.

“Massage establishment” means any establishment having a fixed place of business where any individual, firm, association, partnership or corporation engages in, conducts, carries on or permits to be engaged in, conducted or carried on, for any form of consideration whatsoever, “massages” as defined in this section.

“Massage therapist” means a person who can submit a diploma or certificate of graduation from a five hundred-hour resident course of instruction from a recognized school of massage as defined in this section or who can submit diplomas, certificates, or other evidence demonstrating five hundred hours of cumulative education consisting of a three hundred-hour resident course of instruction from a recognized school of massage and two hundred additional hours of resident instruction from an existing school or institution of learning outside the state of California together with a copy of the school’s approval by its State Board of Education and a certified transcript of the applicant’s school records showing date of enrollment, hours of instruction and graduation from a course having at least a minimum requirement prescribed by Title 5, Division 21, of the California Administrative Code; wherein the theory, method, profession and work of massage is taught.

“Massage therapist business” means a massage establishment in which all massage practitioners have demonstrated to the city that they qualify and meet the definition of massage therapist in this section.

“Recognized school of massage” means any school or institution of learning which teaches the theory, ethics, practice, profession or work of massage, which has been approved pursuant to the California Education

Code. Schools offering a correspondence course not requiring attendance shall not be deemed a recognized school. The city shall have a right to confirm that the applicant has actually attended class in a recognized school.

“Specified anatomical areas” means:

1. Less than completely and opaquely covered:
 - a. Mature human genitals,
 - b. Mature human buttock, and
 - c. Mature human female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

“Specified sexual activities” means:

1. Mature human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. (Zoning ordinance dated 7/94 (part), 1994)

17.27.030 Location of adult businesses.

Adult businesses, as defined in this chapter, shall only be permitted in the C-2, general commercial zoning district, and in that district shall only be permitted subject to first obtaining a use permit. In all other zoning districts, adult businesses are a prohibited use.

A. No adult business shall be located within a radius of one thousand feet from any parcel of real property upon which is located any of the following:

1. A public or private school attended primarily by minors;
2. A church which conducts religious education classes for minors;
3. A public park or recreation facility frequented or utilized by minors, including but not limited to public parks, beaches and recreation centers.

B. No adult business shall be located within four hundred feet of any residential zone in the city.

C. No adult business shall be located within one thousand feet of any other adult business. (Zoning ordinance dated 7/94 (part), 1994)

17.27.040 Use permit for adult businesses.

Any adult business, the location of which is otherwise permitted under this chapter, shall be a use subject to first obtaining a use permit, as defined in Chapter 17.48 of code, subject to the following criteria:

A. That the proposed use will not be contrary to the public health, peace, safety, morals, comfort and general welfare of persons residing or working in the zone or district in which the use is proposed;

B. That the proposed use will not result in creating a skid-row atmosphere in zones or districts in which it is proposed;

C. That the proposed use will not be contrary to any program of neighborhood conservation, nor interfere with any economic development program of urban renewal in the zones or districts in which it is proposed. (Zoning ordinance dated 7/94 (part), 1994)

17.27.050 Use permit and location of massage therapist businesses.

Any massage therapist business shall be a use subject to first obtaining a use permit, as defined in Chapter 17.48 of this code. Said businesses shall be permitted in the C-2 zone subject to the planning commission or city council on appeal making the required findings for and granting a use permit. However, said businesses may also be permitted in the C-1 and PC zones should the planning commission or city council on appeal still be able to

make the required findings for and grant a use permit upon a greater level of scrutiny than would be applied in the C-2 zone. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.28

AIRPORT DISTRICT

Sections:

17.28.010	Intent.
17.28.020	Permitted uses and facilities.
17.28.030	Building and site standards.
17.28.040	Parking, loading, service areas and screening service areas, and screening.
17.28.050	Landscaping.
17.28.060	Signage.
17.28.070	Utilities.
17.28.080	Lighting.
17.28.090	Definitions.

17.28.010 Intent.

A. The development standards set forth in this chapter shall apply to those zoning districts within the Marina Municipal Airport and Business Park (zones A-1, A-2, and A-3). Airport and business park zoning standards are intended to promote the following objectives:

1. Encourage quality development that protects the investments made in the areas by the city, other public entities, and private enterprises.
2. Encourage functionally and aesthetically compatible relationships among existing and future uses located within the Airport and Business Park.
3. Reserve land adjoining aircraft operating areas for aviation-related uses.
4. Provide opportunities for non-aviation related uses providing goods or services desired by tenants in the aviation-related zones and their clients and visitors to locate close to the airport.
5. Provide opportunities, and appropriate sites and environment for a broad range of commercial and industrial uses.
6. Maintain an overall level of development consistent with existing and planned capacity of city streets and utilities.
7. Contribute to an attractive landscape appearance for the entire area and an appropriate setting for individual buildings and uses through the combination of height controls and building setbacks.
8. Ensure there is sufficient off-street parking to accommodate the parking needs of the permitted uses and employees, customers, and clients.
9. Make adequate allowances for truck deliveries and pickup, taking into consideration the number, frequency, and type of vehicle involved.
10. Promote an attractive appearance for the entire Airport and Business Park.
11. Contribute to public safety and efficient traffic movement by providing sufficient on-site areas for maneuvering and parking motor vehicles that are attracted to or generated by the Airport and Business Park.
12. Ensure adequate street capacity to meet the transportation needs of the Marina Municipal Airport and uses planned for the associated Business Park.

13. Provide for an easily understandable and memorable circulation pattern that will enable even casual visitors to the area to easily find their desired destinations.
14. Create an attractive image for the entire area, both as experienced upon entering and traveling within the area, that promotes the city's economic objectives for the area.
15. Contribute to an overall appearance that will attract desired uses and enhance the area's short and long-term economic viability.
16. Create a coherent and positive identity for the entire area.
17. Create an appearance and identity for each zone that is in keeping with the function of the zone.
18. Preserve and integrate existing oak groves into the overall landscape of the area.
19. Create compatible relationships among the respective zones and adjoining UC MBEST Center.
20. Encourage landscaping that articulates the major approaches and entrances to the area and defines the function of individual streets.
21. Conserve water through the use of drought-tolerant plant species for landscaping.
22. Provide adequate identification for all commercial and public establishments.
23. Encourage signs that quickly and clearly inform both motorists approaching the area and persons upon their arrival by air, transit, or bicycle of their destination.
24. Encourage signs that are in scale with and do not dominate the site or buildings on which they are located.
25. Encourage signs that contribute to the visual interest and vitality of the area and help distinguish differences in the function and character of the respective development zones.
26. Ensure that the installation of utilities does not detract from the appearance of the Marina Municipal Airport and Business Park nor interfere with pedestrian and vehicular use of public rights-of-way.
27. Ensure that the lighting within the Business Park does not cause interference with aircraft in flight.
- B. The development standards set forth in this chapter shall govern the following:
 1. Permitted uses;
 2. Intensity of development;
 3. Parcel size;
 4. Building height;
 5. Building setbacks from property lines;
 6. Parking and loading area;
 7. Landscaping requirements;
 8. Signage; and
 9. Utilities. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.020 Permitted uses and facilities.

This section identifies uses permitted and uses that may be conditionally permitted with appropriate findings within zones A-1, A-2 and A-3.

A. Use Groups. Section 17.28.090 defines the twenty-seven commercial "use groups" shown in subsection C of this section. Determination shall be made by the director of planning and the airport manager as to whether a proposed use is a permitted, conditionally permitted, or prohibited use and as to which use group is applicable. Use groups are broken into two major categories:

1. Aviation-Related Zone (zone A-1). Zone A-1 accommodates two types of aviation-related uses: (a) those uses requiring direct access to aircraft operating areas and apron sites, that is, sites immediately adjoining and accessible to aircraft operating areas; and (b) uses, which though not needing a site contiguous to the aircraft

operating area, rely upon local air transportation or provide services and facilities required by other aviation-related uses.

2. Non-Aviation Uses (zones A-2 and A-3) are those uses which require neither access to aircraft operating areas, nor are required to provide services to facilities for aviation related uses, and therefore need not occupy sites with access or proximity to aircraft operating areas.

B. Lease Agreements for Apron Front Sites. If it can be demonstrated there are sufficient apron front sites to accommodate the projected five-year demand for such sites; lease of such sites in zone A-1 west of taxiway “A” as shown on the 1998 Airport Layout Plan for the Marina Municipal Airport for uses not requiring direct access to the aircraft operating areas shall be allowed and limited to five years unless extended by the city; and lease of such sites in zone A-1 north and east of taxiway “A” as shown on the 1998 Airport Layout Plan for the Marina Municipal Airport for uses not requiring direct access to the aircraft operating areas may be provided with FAA approval. In these instances, all costs associated with termination of the use or removal of related facilities shall be the sole responsibility of the lessee. One year prior to expiration of the lease the city shall seek leases from qualifying aviation related uses. If the city is unable to lease the site to such uses within six months, it may elect to renew the lease of the current lessee for an additional five years with FAA approval.

C. Table 1—Permitted Uses by Zone.

USE GROUP	ZONES		
	A-1	A-2	A-3
Aviation Related			
Aircraft storage - Type 1	P		
Aircraft storage - Type 2	P		
Fixed base operations	P	P	
Aircraft repair and maintenance	P	C	C
Aircraft sales and leasing	P	P	P
Aviation fuel facilities	P		
Airport terminal facilities	P		
Aviation-related manufacturing/assembly/research	P	P	P
Air freight operations	P	P	P
Airport serving transportation services	P	P	P
Aviation-based services, supplies, retail	P	P	P
Airport serving public parking	P	P	P
Non-Aviation Related	A-1	A-2	A-3
Restaurants, beverage and other food sales	C	P	P
Convenience consumer sales and services	C	P	P
Gasoline sales	C	C	
General office	C-1**	P	P
Business support services	C	P	P
Construction services	C	C	C
Research and development	C	P	P
Warehousing and distribution	C	P	P
Light-impact manufacturing, assembly, processing	C	P	P
Commercial recreation		C	C
Automobile rental	P	P	P

Lodging			P
Public parking	C	P	P
Temporary storage	C	C	C
Transportation services	C	C	C

P = Permitted Use C = Conditional Use

General Notes

1. Above-ground storage of large quantities of flammable materials or other hazardous materials is prohibited in the portion of Zone A-1 north of the runway.
2. Non-residential development within Zone A-1 north of the runway shall not exceed a density of one hundred fifty persons/acre.
3. Uses that may cause a hazard to aircraft in flight, such as electrical interference, high intensity lighting, bird attractions, and activities that may produce smoke, dust or glare are prohibited.

Footnote

**C-1 Only on second floor spaces originally constructed by the army.

(Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.030 Building and site standards.

A. General Standards.

1. The applicable standards are set forth in accompanying Table 2 by zone. Standards are specified for building height, allowable floor area ratio (FAR), minimum parcel size, minimum lot width, building setbacks, and common open space to be provided on individual building sites.
2. Floor area ratio (FAR) is the ratio of total floor area of a building or buildings on a parcel to the area of the parcel occupied by the building or buildings. For purposes of these calculations the floor area of any enclosed park is excluded.
3. All front yard setbacks are measured from the adjoining public right-of-way. In the absence of a dedicated public right-of-way, front yard setbacks shall be measured from which ever of the following is closest: (a) the inner face of the adjoining sidewalk; (b) curb of a driveway; (c) other paved surface intended for vehicular movement; or (d) parking area.
4. All other setbacks shall be measured from the property line or in the case of leased parcels from the designated line defining the leasehold.

Table 2
Development Standards

Zone	FAR ¹	Height (ft.) ²	Minimum Parcel Size (sq. ft.)	Minimum Parcel Width (ft.)	Front Setback (ft) ⁵	Side Setback (ft)	Rear Setback (ft) ³	Common Open Space
A-1 (See Gen. Note)	7	56	5,000 within aviation fence, 15,000 outside fence	100	10	10 or 0 ⁶	10	na
A-2	.5	56	15,000	120	20 ⁴	10	10 or 0 ⁷	6%
A-3	.6	56	40,000	160	20	10	15	6%

General Note

In Zone A-1, no setbacks or minimum parcel widths are required within individual lease parcels inside the aviation operations area inside the aviation fence area.

Footnotes

1. Site area for purposes of calculating FAR consists of land included in lease agreement excluding non-contiguous land used solely for parking.
2. Maximum permitted height unless otherwise controlled by more stringent FAA height restrictions. Airport control towers, airport hangars, and other airport related buildings, facilities or appurtenances may be erected to a height in excess of fifty-six feet, subject to first securing a use permit in each case. Also, the maximum height for buildings adjacent to the UC MBEST Center shall be fifty feet to coordinate with heights allowed in the MBEST Center.
3. No setback required for structures that adjoin a taxilane or taxiway and are used for aviation related purposes other than those required by FAA regulations (FAA A/C 150/5300-13).
4. New surface parking may be located within ten feet of adjoining street right-of-way. Older surface parking may remain where originally constructed.
5. Applies to all street frontages except those specifically identified as pedestrian-oriented frontages requiring placement of buildings at the front property line.
6. The setback will be ten feet except that it can be reduced to zero feet in cases of coordinated development across property lines.
7. The setback will be ten feet except that it can be reduced to zero feet for parcels south of Neeson Road.

(Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.040 Parking, loading, service areas and screening service areas, and screening.

A. General Standards.

1. Unless otherwise specified all parking standards and other requirements contained in Chapter 17.44 of this title shall apply.
2. Required parking may be located within a required front or side yard setback if consistent with other standards and guidelines of the Airport Guidelines.
3. Required parking for aviation related uses shall be calculated as follows:
 - a. One space for each four private aircraft occupying a hanger space or tie-down space.
 - b. One space per three hundred fifty square feet of office-type space.
 - c. One space per one thousand square feet of space devoted to aircraft maintenance activities.
 - d. One space per five hundred square feet of space used for manufacturing, assemblage, or research activities.
4. Required parking may be located either on the building site or off-site provided that: (a) off-site parking spaces are within seven hundred feet of the site; and (b) use of the off-site spaces is reserved for exclusive use of the site tenants and their visitors, clients, and customers; and (c) the site tenant has entered into a legally binding contract assuring availability of the required space as long as the permitted use is in operation.
5. Loading areas for new buildings shall face the side or rear property line and shall be designed to be an integral part of the building architecture. The rear property line for apron sites shall be the line adjoining the aircraft operating side.
6. Where side loading occurs for new buildings it shall be screened from the street by a wall with a minimum height of eight feet and a maximum height of ten feet for freestanding walls.
7. For buildings within the A-2 district which were in existence on January 1, 2003, loading areas within three hundred feet of the right-of-way of either Imjin or Neeson Roads shall be screened if and as determined necessary by the site and architectural design review board or the appropriate appellate body under Section 17.50.060. Other loading areas for buildings which were in existence on January 1, 2003, are not required to be screened.
8. Minimum dimensions for truck loading areas serving buildings with industrial or research functions shall be twelve feet wide, forty-five feet long, and have fourteen and one-half foot vertical clearance.
9. Loading and service areas shall be designed so that the loading and serving operation occurs within the confines of the building site.
10. All service areas with exterior storage of materials or equipment shall be located at the rear of the building and be totally screened from view by a wall with a minimum height of eight feet or a combination of

fencing and dense vegetation of equivalent height forming a visual barrier comparable to a solid wall. The maximum height of a freestanding wall shall be ten feet.

B. Landscape Screening. The recommended method of screening of outdoor storage area, refuse collection facilities, and loading areas is by means of building siting and use of walls architecturally integrated into the overall building architecture. If landscape materials are used for purposes of screening such facilities, landscaping should adhere to the following standards.

1. Areas Requiring Screening. Screening of storage and utility areas is required as follows:

a. Open storage areas, including refuse collection and storage, recycling storage, and loading areas generally involving less activity than service areas, each visible from adjacent properties and not separated by a public right-of-way, shall be enclosed by a screen at least six feet but not more than ten feet in height. Items stored within one hundred feet of a street or adjoining parcel shall not be stacked higher than the required screen. All dumpsters shall be closed with tight-fitting lids to minimize bird attractant hazards.

b. Exterior electrical cage enclosures, cooling, heating, ventilating, other mechanical equipment, and storage tanks shall be screened from view and directed away from adjacent public rights-of-way.

2. Materials. Screens shall include the installation and maintenance of at least one or a combination of the following materials:

a. Dense vegetation;

b. Solid fencing combined with dense vegetation; or

c. Walls.

3. Opacity. When plants are used for screening they shall be:

a. Of a variety that will provide a year-round barrier at the required height;

b. Planted at a spacing and plant size to achieve a minimum seventy-five percent opacity within two years and one hundred percent within five years;

c. Supplemented or replaced with other dense landscaping or a fence or wall if the landscape screen fails to achieve or retain the required opacity. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.050 Landscaping.

A. General Requirements.

1. Applicable Area. Landscaping is not required on the air side of the airport security fence.

2. Required Plans. Landscape plans are required for all projects and shall provide sufficient detail to enable the city to determine whether the plans comply with this section.

3. Existing Vegetation. Existing oak groves shall be retained and integrated into development sites. Individual trees may be removed or relocated upon granting of a tree removal permit as per Chapter 17.51 of this title to facilitate site development. Use of low retaining walls or walls of adjoining structures to retain vegetated slopes and minimal removal of native vegetation is encouraged. Adjoining newly landscaped area should be planted with compatible native materials to achieve an integrated and unified landscape appearance.

4. Landscaping of Unpaved Areas. All areas which are not paved or on which buildings are not located shall be retained in natural vegetation or landscaped.

5. Erosion Control. During and after construction, areas where grading or vegetation removal has occurred, which are not paved or on which buildings are not located, shall be stabilized to prevent erosion. Stabilization may be achieved by planting ground cover or shrubs or by other means demonstrated by the applicant to be effective means of erosion control.

6. Irrigation. Automatic irrigation shall be provided in all landscaped areas. For those areas landscaped with drought tolerant materials, temporary installations may be used until such time that the plant materials are firmly established.

7. Landscape materials shall be limited to native species or other species well adaptable to local climate and soils. Drought tolerant plant materials not requiring irrigation after being firmly established shall be used for the majority of the landscaped areas.

8. Use of invasive plant species is prohibited and use of exotic species in required front setbacks or other areas highly visible from the public rights-of-ways should be avoided.

9. Except where other direction is provided in the airport guidelines, landscaping shall comply with all other provisions of the city landscape guidelines, including provision for installation of reclaimed water irrigation systems.

10. Soil amendments and possibly other means should be used in all landscaping to make most efficient use of irrigation water and improve the success of initial plantings.

11. Landscaping shall be designed by landscape professionals with experience in local plants, soils, and climatic conditions.

B. Public Safety. All provisions of this section shall meet the public safety requirements set forth below:

1. The height, spread, and growth habits of all plants shall not interfere with or obstruct ease of movement or impede a public right-of-way.

2. Trees located adjacent to a public street shall be pruned such that no branches extend lower than fourteen feet above the curb line.

3. Trees located adjacent to a public sidewalk or path shall be pruned such that no branches extend lower than seven feet above the walk or path.

4. All landscaping and screening, excluding trees, located at the intersection of two public streets shall comply with Chapter 10.70 of this code, Visibility at Intersections.

5. All landscaping located within fifteen feet of the intersection of a driveway and public street shall not exceed a height of three feet.

C. Street Landscaping. Street landscaping provisions encompass the landscaping of areas within the street right-of-way, medians and parkways, and front setbacks of adjoining parcels. Landscaping shall be provided within all street rights-of-way and front setbacks in accordance with the guidelines listed in Table 3 and provisions set forth below. The employment of planting provisions and species listed in this table should be coordinated with the UC MBEST Center for those street segments adjoining the UC MBEST Center.

1. Street Tree Size. At time of installation, street trees shall have a minimum height of eight feet and a minimum caliper of two inches measured six inches above the ground level.

2. Groundcover/Shrub Coverage. Landscape materials used for street medians, parkways and adjoining street front setbacks should maintain a unified, integrated appearance along the entire street frontage. Variations from the prevailing landscape materials should be limited to applications which highlight important site access features such as major entrances to buildings or building complexes and major parking areas. Groundcovers and shrubs should be designed, installed and maintained to achieve one hundred percent coverage within three years of planting.

3. Street Tree Species. Table 3 shows the proposed planting provisions and suggested species of street trees. Plant materials not included in Table 3 may be used if they are similar in shape, rate of growth, and adaptability to local climatic and soil conditions. Species that might attract large flocks of birds during any time of the year are to be avoided.

D. Parking Area Landscaping. Landscaping should be provided along the perimeter of parking areas to spatially distinguish and partially screen parking areas from adjoining streets, buildings, and landscaped areas. The interior of multi-bay parking areas should be landscaped to minimize the visibility of paved surfaces and provide shade and rain protection.

1. Landscape Standard. Parking areas shall be landscaped consistent with the following standards or by other means demonstrated by the applicant that achieve the same visual and functional objectives.
 - a. Use suggested species shown in Table 3 or species with similar characteristics.
 - b. Plant trees at a regular spacing of thirty feet or less on center along the perimeter of parking area.
 - c. Provide a minimum of one tree for each ten non-perimeter parking spaces and plant in a regular pattern as shown in the adjoining diagram. Provide the necessary dimension to accommodate the proposed landscaping, with a minimum four-foot dimension, on all sides of planting boxes.
 - d. Separate parking spaces at the end of parking bays from adjoining access aisle by landscaped areas with appropriate widths to accommodate the proposed landscaping and a minimum width of four feet, and length equal to the length of adjoining parking spaces. Plant a minimum of two trees per planting area.
- E. Useable Landscaped Areas. Where useable outdoor space is required for use and enjoyment of employees, at least one-third of the required area shall have an attractive and durable surface (such as paving, or crushed rock) to permit daily use of the area. Additional provision shall be made for seating within this area.

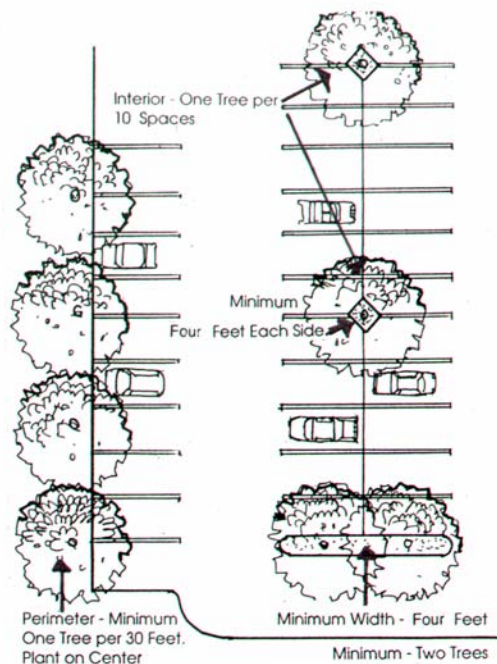


Table 3
Streetscape Guide

Application	Tree Type	Planting Provisions	Suggested Species
Imjin Road Entrance (See Section A & B)	 Round-headed, wide spreading, 30' – 60'.	Curbside planting strips from 8 to 16 feet width with 20 foot median in southern portion. Plant in informal pattern, mass to form well-defined approach to airport.	Quercus agrifolia, (California Live Oak), Aesculus californica, (California Buckeye), Platanus racemosa. (Western Sycamore), Arbutus marina.
Neeson Road (See Section C & D)	 Tall, columnar + Round Headed, 35' – 70'.	Curbside planting strip of 6 to 9 feet. Combine tall Columnar and Round-headed species to provide strong definition of southern edge of zones 1 and 2.	Platanus racemosa, (Western Sycamore), Fraxinus oregona, (Oregon Ash), Lyonothamus floribundus, (Catalina Ironwood).
North Airport Road (See Section L)	 Tall, Spreading, 35' – 70'.	Curbside planting strips of 7 feet with 14-foot median. Plant in informal, closely spaced pattern to produce windbreak appearance. Augment with similar plantings along adjoining golf course and business park frontage. Tree types should be substituted if needed to ensure root growth will not damage pavement and/or root guards should be installed.	Cupressus macrocarpa, (Monterey Cypress).
Zone 1 – Interior Roads (See Section K)	 Round-headed or pyramidal, 25' – 35'.	4-foot curbside planting. Plant in formal, evenly spaced pattern, 25 to 35 feet on center.	Celtis, (Hackberry), Prunus ilicifolia, (Hollyleaf Cherry). Pyrus Calleryana, (Bradford Pear), Arbutus marina.

Application	Tree Type	Planting Provisions	Suggested Species
Central Quads fronting streets and related street frontage (See Section E)	 Round-headed or pyramidal, 25' – 35'.	4-foot curbside planting strip. Formal placement 25 to 35 feet on center. Train to branch 10' – 12' from ground.	Pyrus Calleryana, (Bradford Pear), Arbutus marina.
Interior roads – Zones 3 (See Section H)	 Round-headed, fan-shaped deciduous trees.	4-foot curbside planting strip; plant 25' – 35' on center. Trim to branch 12' to 14' from ground.	Celtis occidentaails, (common Hackberry); Carpinus belulus, (European Hornbeam).
North & Central Entrance Roads from Blanco Road (See Section I & J)	 Round-headed pyramidal, 35' – 50'.	6-foot curb side planting strip each side plus 20 foot median.	Quercus agrifolia, (coastal Live Oak); Platanus racemosa, (Western Sycamore).
South Entrance Road from Blanco (along common boundary with MBEST Center (See Section G)	 Tall, Columnar + Medium, Round-headed, 35' – 60'.	11-foot curb side planting strip each side plus 22 median. Use tall, columnar trees to define this major entrance. Complement with medium height and flowering trees. (To be coordinated with MBEST).	Prevailing species B Lyonothamus floribundus, (Catalina Ironwood); Platanus raacemosa, (Western Sycamore); Fraxinus oregona, (Oregon Ash).

Application	Tree Type	Planting Provisions	Suggested Species
Off-Street Parking Areas	 Round-headed, broad-leaved evergreen and deciduous trees 25' – 50'.	Plant at a maximum distance of 40' on center. Train to form canopy and branch at 12'.	Pyrus calleryana, (Bradford Pear); Umbellularia California, (California Laurel) Arbutus marina.
15 foot or greater front setback	 Grasses and low ground cover plus evergreen and deciduous trees, 15' — 50'.	Plant trees consistent with adjoining parkway, i.e. formal or informal placement.	Use same species as adjoining parkway. Complement with ornamental, flowering species, e.g., Malus floribunda, (Crabapple), Arbutus marina.
10 foot front setback	 Lawn or low ground cover, 4" — 18".	Maintain ground cover consistent with adjoining parkway. Maintain consistent ground cover along entire block frontage.	Drought-tolerant, dense ground covers.

(Amended during 2/07 supplement; Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.060 Signage.

Where provisions of this section differ from those of Chapter 17.59 of this title, provisions of this chapter shall apply. Signage shall comply with all other provisions of Chapter 17.59.

A. General Standards and Guidelines. The following standards and those within Chapter 17.59 shall not apply to FAA required airport operational signs in the airport operational areas, e.g. near runways, taxilanes and/or ramps. Instead, such signs shall be governed by FAA requirements.

1. Legibility. To ensure legibility, the copy area of a sign shall not exceed thirty percent of the total background area of the sign.
2. Materials. Signs shall be constructed of permanent durable and color-fast materials.
3. Illumination. All illuminated signs shall be designed and illuminated so that no direct light falls on adjacent properties or is directed toward the sky.
4. Public Safety. No sign shall be permitted that, by virtue of the intensity, direction or color of its lighting or the placement of the sign, interferes with the operation of, or causes confusion to operation of aircraft or motor vehicles on adjoining roads.

5. Maintenance. Permanent signs shall be maintained in a safe, attractive, and orderly condition.
6. Removal. Upon termination of the lease of a use or vacation of a facility, signs related to that use or facility shall be removed.
7. Prohibited signs. All signs other than those explicitly permitted in subsection D of this section, Permitted Signs, are prohibited.
8. Design Compatibility. All signs on a given site shall have a consistent, integrated design that employs the same or complementary materials, colors, and type fonts. Signs shall be well coordinated with site landscaping, lighting and building architecture.

9. All signage on the air side of site or structures shall comply with FAA standards.

B. Definitions. Unless otherwise specified the following definitions shall apply to all signs within the Marina Municipal Airport and Airport Business Park.

“Applied letter sign” means a sign consisting of copy only (letters and symbols) with no frame or border in which the copy is either painted or applied directly in the form of cut-outs to the building exterior.

“Awning sign” means a sign integral with an awning.

“Background area of a sign” means the entire background area of a sign upon which copy could be placed.” In computing the background area of a sign, only the face seen from any one direction at a time shall be counted.

“Building complex sign” means a sign located on an access road or entrance drive, identifying groups of buildings served by that road or drive.

“Building identification sign” means a sign identifying the name and/or number of an individual building.

“Comprehensive signage program” means a program establishing the design characteristics of a coordinated set of signs for a single project or area.

“Copy area of sign” means the actual area of the sign copy applied to any background. In computing copy area, straight lines drawn closest to the copy extremities encompassing individual letters, words, or symbols shall be used.

“Directional sign” means a sign designed to guide or direct motorist or pedestrian traffic and identifying vehicular and pedestrian ingress and egress, internal circulation, and location and limitations of parking.

“Directory sign” means a sign identifying either the location of individual building in a complex of buildings or the tenants of a specific building.

“Monument sign” means a freestanding sign having either no supporting base or a supporting base with a minimum dimension of at least one-third of the maximum horizontal dimension of the sign and a vertical dimension of less than twenty percent of the maximum height of the sign.

“Sign area” means for applied letter signs, the copy area; for all other signs; the background area.

“Tenant identification sign” means a sign identifying the business occupants of a building or space within a building.

“Wall sign” means a sign affixed in any manner to the exterior wall of a building which does not project more than eight inches from the wall surface and does not extend above the parapet, eaves, or building facade to which it is attached.

“Window sign” means a sign affixed or applied to either the interior or exterior of a glazed surface such that the sign background remains transparent and the sign copy is visible from areas accessible to the public.

C. Comprehensive Signage Program.

1. A comprehensive signage program shall be prepared and submitted in conjunction with each project application involving either a multi-tenant structure or a number of buildings associated as one complex. The program submitted shall address all signs to be used, including but not limited to signs identified in subsection D of this section, Permitted Signs, below. The comprehensive signage program shall conform to all provisions of this section. For all signs, the size, placements, materials, colors, illumination, and other design characteristics

not specified in this section shall be determined at time of approval of the comprehensive signage program by the architectural and site design review board. The comprehensive signage program shall contain the following:

- a. A site plan and building elevations identifying the location of all signs.
- b. Design drawings for each sign or type of sign, specifying the dimensions, materials, type of construction, illumination, size of sign copy, and details necessary to determine the appropriateness of the signage.
2. Once a comprehensive signage program is approved, all signs in that project shall conform to the program.
3. Specific dimensional limitations specified in the following conditions may be waived upon determination by the architectural and site design review board that the submitted sign(s) meet the intent of the standards and guidelines and result in a both a functionally and aesthetically superior design.

D. Permitted Signs.

1. Temporary signs. All temporary signs including real estate, construction and special events signs shall be consistent with the Chapter 17.59 of this title.

2. Directional Signs. Provision and positioning of directional signs is essential to ensure safe vehicular and pedestrian movements. The city shall conduct a careful analysis of vehicular and pedestrian traffic. This analysis shall identify locations at which traffic movement decisions must be made are to be identified and assign appropriate signage provided at these decision points. The directional signs shall conform to the following conditions:

- a. Have a height not greater than fifty-four inches nor less than thirty-six inches and width not greater than forty inches;
- b. Be illuminated if the on-site facilities will be used during non-daylight hours; and
- c. Be consistent in lettering size and font, color, and materials and complimentary to the streetscape, landscaping, and street furniture within the public right-of-way.

3. Building Complex Sign. One monument sign serving as a building complex sign shall be permitted at the entrance or approach to building complexes or other major public facilities and shall conform to the following conditions:

- a. The height of the sign shall not exceed sixty-six inches from finished grade;
- b. The maximum width of any one vertical surface shall not exceed eight feet;
- c. The letters should not be less than eight inches in order to be legible to approaching motorist;
- d. Sign copy shall be limited to the name and/or logo of the complex or major facility;
- e. Sign should be perpendicular to approaching traffic with clear line-of-sight from approach road, except that a sign may be placed at a forty-five degree angle to the road at limited appropriate locations, such as a four way intersection;
- f. Sign copy may be placed on all surfaces of the sign; and
- g. Sign may be illuminated, either from the exterior or interior, and the source of illumination concealed from view.

4. Motorists Directory Sign for Building Complex. Sites with two or more buildings may have a monument sign, identifying by name or number buildings, major tenants. Sign shall comply with the following conditions:

- a. The height of the sign shall not exceed sixty inches from finished grade;
- b. The maximum width of any one vertical surface shall not exceed six feet;
- c. Sign copy shall be limited to thirty percent or less of the sign area; and
- d. Letter height shall not exceed five inches and copy should be designed to be legible to motorists entering the site.

5. Building Identification and Pedestrian Directory Sign. Each building may have one wall sign and one monument sign, each containing the building name or number and logo, and one monument or wall sign serving as a directory sign shall comply with the following conditions:

- a. Wall sign serving as a building identification sign shall not exceed one percent of the surface area of the facade to which it is attached except in Zone A-1, which is governed by subsection (D)(7) of this section;
- b. Wall sign serving as a directory sign shall maintain a scale consistent with the building to which it is attached and in no case exceed a total of sign area of ten square feet; and
- c. Monument sign serving as building identification sign shall not have height exceeding sixty inches from finished grade or a width greater than sixty inches.

6. Tenant Identification Signs.

a. Each ground-level tenant in a multi-tenant building shall be permitted one wall sign or awning sign consistent with the following conditions:

- i. Sign area is not greater than three percent of the area of the first floor portion of the facade occupied by the establishment; and
- ii. Sign shall be located at a height no greater than eight feet from finished grade.
- b. Additionally, establishments providing retail goods, personal and professional services, or restaurant accommodations to the general public are permitted one window sign with a sign area not greater than eight square feet.

c. An establishment located above the ground floor shall be permitted one identification sign consisting of either a wall sign or awning sign provided that:

- i. The sign is located on the first floor portion of the building facade; and
- ii. The sign is within ten feet of the street level entrance serving the establishment.

7. Wall Signs in Zone A-1. Applied signs with a sign copy not exceeding fifteen percent of the exterior wall to which the letters or symbols are affixed are permitted in Zone A-1. Sign copy is limited to the building name, building number, logo of the primary tenant or combinations thereof. Such signs are permitted on all exterior surfaces. Use of bold and simple sans-serif letters and intense colors are encouraged.

8. Public-Serving Directional Signs. Permanent monument signs at approaches and entrances to the Marina Municipal Airport and Business Park identifying the airport and/or major destinations, areas, and significant tenants and providing supplementary directional information. Such signs shall be permitted in public rights-of-way at locations identified in the directional sign analysis (see subsection (D)(2) of this section) pursuant to the following provisions:

a. Sign copy shall be limited to the words "Marina Municipal Airport" or other title selected by the city to identify the municipal airport and associated business park, a specific logo designed for the airport, and the names of major facilities, areas, or significant tenants.

b. Such sign may be either: (i) a monument sign not exceeding sixty-six inches in height from the finished grade or a width greater than twelve feet or (ii) a pilaster sign with a height not greater than twelve feet and width not greater than thirty percent of the height when viewed from any one direction.

c. Letter height shall be scaled to be legible to approaching motorist taking into account differences in travel speed on the various approach routes.

d. Sign copy shall not exceed thirty percent of sign area to promote legibility.

e. All other public street identification, directional, and traffic control signage shall be consistent with a common design for similar signage throughout the city. Sign lettering font, color, and materials shall be consistent with other directional signage within the airport and business park. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.070 Utilities.

General standards and guidelines:

- A. All new utility connections and services for electricity, gas, telephone, television, and other line carried forms of communication shall be located underground.
- B. All related equipment pertaining to the above utilities such as transformers shall be located back of the street sidewalks and provided with landscape or other form of screening. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.080 Lighting.

General standards:

- A. All new exterior lighting within the airport planning area shall be designed so as to create no glare or interference with aircraft in flight. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots. Project lighting plans shall be approved by the airport manager or his/her designee.
- B. Exterior lighting should accomplish a generally subdued and uniform lighting pattern with a minimum potential for glare with combinations of multiple indirect lighting sources as opposed to fewer, more powerful direct lighting sources.
- C. Where direct lighting sources cannot be avoided, such as on pole mounted fixtures in parking lots, diffusers shall be incorporated into the design of the fixture and the lighting source as well as the diffuser shall be mounted above or flush with an opaque fixture housing.
- D. General site and parking lot lighting should tend towards warmer color spectrum which is typical of incandescent and sodium-vapor lighting sources.
- E. Light sources which tend towards more white, daylight, or cooler colors in light spectrum should be limited to locations where a more accurate color rendition is important such as at building entrances and exits (for security reasons), or the lighting of signs, or the lighting of unique or special building or site features.
- F. The lighting plan should be considered together with the landscaping plan and the effect of proposed planting, particularly the impact of proposed trees upon the effectiveness of proposed lighting.
- G. Landscape plantings and solid fencing at the perimeter of the project site should be incorporated into the design of the lighting plan as an additional means of limiting light related impacts on surrounding property, particularly light-sensitive land uses such as residential areas and native habitat.
- H. Street lighting shall be installed pursuant to a set of common design standards approved by the city council. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

17.28.090 Definitions.

- A. Use Group Definitions—Aviation Related.

“Air freight operations” means uses engaged primarily in the transportation of goods by air and requiring on-site-enclosed storage facilities and docking and parking facilities accommodations for associated ground transportation vehicles.

“Aircraft repair and maintenance” means uses providing repair and maintenance services of aircraft or aircraft parts. For sites with direct access to aircraft operating areas such uses shall be those requiring direct aircraft access.

“Aircraft sales and leasing” means uses engaged in the sale and/or leasing of aircraft or aircraft parts and equipment.

“Airport ground support safety and operation services” means uses include fire fighting and aeronautical operations and other similar operations required for the safety of airport users and tenants.

“Airport-serving public parking” means parking facilities available for general public with no more than ten percent of the spaces provided reserved for specific airport tenants.

“Airport-serving transportation services” means uses engaged in transportation of persons or goods to or from the Marina Municipal Airport or other regional airports and related facilities such as parking, storage of transport vehicles, and incidental maintenance of such vehicles inside a building. Facilities for the storage or warehousing of goods for transportation are excluded except where incidental to the use.

“Airport terminal facilities” means facilities including offices for administration of airport related activities, lounges for general public and transient users of the airport, distribution of airport related information or providing other similar services to airport users and visitors.

“Aviation-based services” means aviation based services are those which rely on aircraft for services such as aerial photography, flight instruction, aerial ambulance services, aviation retail sales and require apron front sites or close proximity to such sites.

“Aviation fuel facilities” means facilities for the storage, sale of fuel and oil for aircraft use, and the refueling of aircraft.

“Aviation-related manufacturing, assemblage, research” means uses including manufacturing, fabrication, assemblage of aircraft or aircraft parts or components and research and development activities related to the design, manufacturing, or operation of aircraft.

“Aviation storage - type 1” means T-hangers accommodating small aircraft. Typically hanger modules are approximately forty feet by forty-two feet.

“Aviation storage - type 2” means box hanger accommodating small to medium sized private and corporate aircraft. Box hangers need only a taxi lane on one side with hanger modules ranging from sixty feet by sixty feet to one hundred feet by one hundred feet.

“Fixed base operation (FBO, includes comprehensive and limited service)” means a duly licensed commercial aviation business authorized written agreement with the airport owner to provide aeronautical activities at the airport. An FBO can provide aviation services to based and transient aircraft including, but not limited to, aircraft fueling, flight training, sales, air taxi, charter servicing. By definition, an FBO has a "fixed base" of operations, i.e. a hangar or shop on the airport, approved for commercial operations. (Note: Certain FBO's do not require direct aviation access – some office uses for aviation FBO operations can be located in non-aviation land use areas.)

B. Use Group Definitions—Non Aviation Related.

“Automobile rental” means uses consisting of rental of automobiles to private individuals or businesses on a daily or weekly basis and associated maintenance activities and parking. Uses are to be primarily provided for the convenience of air travelers using the Marina Municipal Airport or tenants of the Marina Business Park and UC MBEST Center and their clients or visitors.

“Business support services” means uses include the provision, primarily to firms rather than individuals, of services of clerical, employment, protection, or minor processing nature including multi-copy and blueprint service.

“Commercial recreation” means uses including recreational activities conducted indoors or outdoors including athletic clubs, swimming pools, tennis and other court games and performance types of recreation associated with public assemblage such as cinemas and live theaters.

“Construction services” means services typically performed off-premises by construction contractors or any trades involved in building construction or maintenance including plumbing, electrical, painting, roofing, carpentry with on-site-enclosed storage of materials.

“Convenience consumer sales and services” means retail outlets engaged in provision of frequently or re-occurring needed personal items or shops providing services to individuals employed or visiting the Airport and Business Park and immediate environs. Uses includes small grocery, drug, sundries stores, small shops selling food and/or beverages to be consumed off-site and services such as barber and beauty shops, photo processing, and repair of small articles such as shoes, watches, and apparel, and banking and real estate operations. Uses excludes repair of major appliances and business equipment.

“Gasoline sales” means uses primarily engaged in the retail sale of petroleum products with incidental sale of tires, batteries and automotive replacement parts, lubricating services and minor repair services.

“General Office” means facilities accommodating office type operations including administrative services, and professional services such as those by engineers, lawyers, architects, and accountants.

“Light-impact manufacturing, assemblage, processing” means uses such as small-scale light manufacturing, fabrication, processing, assembling, packaging or treatment of specialized goods, custom equipment or components, including, but not limited to custom equipment and machinery, nontoxic computer equipment, scientific instruments, art objects, and handcrafted goods whose operations do not produce noise, vibration, dust, or other emissions which would adversely impact adjoining properties or uses.

“Lodging” means hotel or motels guest rooms and associated services including restaurant and other food services, meeting rooms and conference space, and indoor and outdoor recreation facilities intended primary for use by guests.

“Public parking” means indoor or outdoor parking available to the general public with or without a fee and operated by either a public or commercial entity.

“Research and development” means primary research, development and/or controlled production or testing of high-technology electronic, biological, industrial or scientific products, or processes, which may include information technology.

“Restaurants, beverage and other food sales” means uses including the sale of food and beverages in a ready-to-consume state, provided the foods or beverages are served and consumed within the building or in a designated outdoor dining area on the same site. Uses providing prepared foods primarily for consumption off-site are excluded.

“Temporary storage” means storage of such items as construction equipment, building materials, and vehicles with construction or placement of buildings limited to temporary structures without permanent foundations, and screened consistent with the intent of Section 17.28.040(B).

“Transportation services” means uses engaged in commercial transportation of persons not necessarily associated with the Marina Municipal Airport, and related facilities such as parking, storage of transport vehicles, and incidental maintenance of such vehicles inside a building. Facilities for the storage or warehousing of goods for transportation are excluded except where incidental to the use.

“Warehousing and distribution” means uses including storage and distribution of finished goods, food-stuffs, semi-refined products requiring further processing or fabrication to retailers, wholesalers or manufacturers. Self-storage warehouses rented to individuals are excluded. (Ord. 2003-06 § 1 (part), 2003: Ord. 2000-10 § 1 (part), 2000)

Chapter 17.29

BP OR BUSINESS PARK DISTRICT*

Sections:

17.29.010	Generally.
17.29.020	Permitted uses.
17.29.030	Conditional uses.
17.29.040	Accessory uses and buildings.
17.29.050	Building height.
17.29.060	Site area.
17.29.070	Lot coverage.
17.29.080	Front yard.
17.29.090	Side yard.
17.29.100	Rear yard.
17.29.110	Special regulations.
17.29.120	Parking.

* Prior ordinance history: Ords. 93-8 and 93-9.

17.29.010 Generally.

The regulations in this chapter shall apply in all BP districts and shall be subject to the provisions of Chapter 17.06. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.020 Permitted uses.

Uses permitted in the BP district shall be as follows:

A. Light industry such as the fabrication of ties, shirts, hats, and other articles of clothing or upholstery; household effects such as lamps, rugs, draperies and woven fabrics; shops for the assembling and completion of finished products, such as interior decorating and picture framing; craft shops for the manufacture of art, jewelry, silverware, ceramics, leather goods, toys; cartography; book binding, editorial and designing, printing, lithography; other light industries of similar character;

B. Offices;

C. Research laboratories;

D. Nurseries and greenhouses;

E. Trade schools conducted within an enclosed building;

F. Storage warehouses;

G. Retail and wholesale sales;

H. Additional uses approved by zoning permit following procedures for zoning permit in Chapter 17.26, either when the BP district is combined with the P district and the additional uses are consistent with the approved general development plan for such P district or when the additional uses are consistent with an approved airport land use plan. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the BP districts shall be as follows:

A. Furniture manufacturing, finished paper products from finished paper stock and other light manufacturing of similar character;

- B. Public and quasi-public uses and buildings including schools, public utility buildings and uses;
- C. Airports, heliports and landing strips for aircraft;
- D. Carpentry shops, paint, paperhanging and decorator's shops, plumbing shops, tinsmith shops, and other uses of similar nature; provided, that all activity is conducted within a building;
- E. Contract service establishments including contractor's offices with related storage of equipment and vehicles, when conducted within a completely enclosed building;
- F. Propane distributorship and sales and service of appliances, and related equipment, provided all equipment is stored within a building or screened by adequate fencing and landscaping;
- G. Prototype production including machine shops;
- H. Commercial recreation;
- I. Additional uses approved by zoning permit with use permit required following procedures for zoning permit in Chapter 17.26, either when the BP district is combined with the P district and the additional uses are consistent with the approved general development plan for such P district, or when the additional uses are consistent with an approved airport land use plan;
- J. Additional uses located on city-owned property that are subject to a lease agreement with the city. (Ord. 2006-02 § 2 (Exh. B), 2006: Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.040 Accessory uses and buildings.

Accessory uses and buildings permitted in the BP district shall be accessory uses and buildings permitted appurtenant to any permitted use. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.050 Building height.

Maximum building height limit in the BP district shall be fifty-six feet, except that airport control towers, airport hangars and other airport-related buildings, facilities or appurtenances may be erected to a height in excess of fifty-six feet, subject to first securing a use permit in each case. Maximum building height limit in the BP district when combined with the P or business park and planned industrial small lot combining district shall be thirty-five feet. (Ord. 2005-05 § 1 (Exh. A), 2005: Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.060 Site area.

Building site area required in the BP district shall be one acre. (Zoning ordinance dated 7/94 (part), 1994)

17.29.070 Lot coverage.

Maximum percentage of lot coverage permitted in the BP district shall be forty percent. However, should landscaping plans showing a minimum of fifteen percent of the building site area as landscaped area be submitted for approval of the planning director the maximum percentage of lot coverage permitted in the BP district shall be forty-five percent. (Ord. 96-12 § 1 (part), 1996: Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.080 Front yard.

Minimum front yard required in the BP district shall be fifty feet. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.090 Side yard.

Minimum side yard required in the BP district shall be ten percent of average width with a maximum of twenty-five feet. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.100 Rear yard.

Minimum rear yard required in the BP district shall be thirty feet. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.110 Special regulations.

Special regulations in the BP district shall be as follows:

A. All loading and unloading operations shall be provided for on the premises. Off-street parking and loading facilities may be located within required yard and setback areas except for a ten-foot deep landscaping strip adjacent to side and rear property lines and a thirty-foot deep area to be landscaped adjacent to front property lines.

B. Manufacturing and Storage Areas. All manufacturing and fabrication operations shall be conducted within buildings. All equipment and material storage areas shall be screened by solid walls, fences, or by adequate plantings of not less than six feet or more than eight feet in height and no materials or equipment shall be stored to a height greater than such screening, fencing or screen planting. Such fencing and screening shall conform to all yard requirements.

C. Uses shall not produce undue odor, dust, smoke, noise, or other objectionable effects. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.29.120 Parking.

For parking requirements in the BP districts, see Chapter 17.44. (Ord. 95-12 § 1 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

Chapter 17.30

M OR INDUSTRIAL DISTRICT*

Sections:

- 17.30.010 Generally.
- 17.30.020 Permitted uses.
- 17.30.030 Conditional uses.
- 17.30.040 Performance standards.
- 17.30.050 Accessory buildings and uses.
- 17.30.060 Height limit.
- 17.30.070 Building site area.
- 17.30.080 Building site width.
- 17.30.090 Front yard.
- 17.30.100 Side yard.
- 17.30.110 Rear yard.
- 17.30.120 Parking.
- 17.30.130 Special regulations and yards.

- 17.30.140 Landscaping.
- 17.30.150 Outside storage areas.

* Prior ordinance history: Ords. 83-7 and 83-11.

17.30.010 Generally.

The regulations in this chapter shall apply in all M districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.30.020 Permitted uses.

Uses permitted in the M districts:

A. Within a completely enclosed building the following uses shall be permitted: animal hospitals, dancing academies or halls, wholesale stores or storage, undertaking establishments, carpenter shops, welding shops, plumbing shops, public utility buildings and uses, manufacturing of clothing, electronic equipment and handi-craft products, printing and lithography shops, light industrial and manufacturing uses and other uses of a similar nature producing none of the deleterious or undesirable impacts specified in Section 17.30.040 of this code. (Zoning ordinance dated 7/94 (part), 1994)

17.30.030 Conditional uses.

Uses permitted, subject to obtaining a use permit, in the M districts shall be as follows:

A. All uses specified in Section 17.30.020 of this code that are located outside or partially outside a completely enclosed building.

B. Auto sales, auto repair, contractor's yards, food processing, lumberyards, bottling works, manufacture of cement, electric power, fireworks, fertilizer, glue, gypsum, agricultural uses, public and quasi-public uses and other uses of a similar nature. (Zoning ordinance dated 7/94 (part), 1994)

17.30.040 Performance standards.

The following performance standards shall be applicable to all uses in the M district:

A. Air Pollution. All land uses that may be objectionable by reason of the production or emission of odor, smoke, dust or any other air contaminants shall submit estimates of the maximum quantities and types of each air contaminant which might be emitted under normal and maximum operating conditions on an hourly and daily (twenty-four-hour) basis as part of any application for any entitlement granted by the city. The information required above shall be referred to the Monterey Bay unified air pollution control district (MBUAPCD) for a report on the following matters:

1. Whether the proposed construction, expansion and operation of the facilities would result in an emission of harmful quantities of air contaminants, including but not limited to oxides of sulfur, oxides of nitrogen, hydrocarbons, particulate matter and toxic air pollutants;

2. An estimated quantity of air contaminants that would be emitted and the relation thereof to the air quality of the area;

3. Recommended and required emission limits of air contaminants, provided further, that no action shall be taken upon any application for a period of thirty days after the above mentioned information has been referred to the MBUAPCD; and provided, further that any entitlement for such use shall be granted only where the planning commission, or the city council on appeal, has found that the applicant has proven to the satisfaction of said planning commission, or city council, by plant example, plans, specification, new equipment and technical advances in the particular industry that the applicant's particular use will not be detrimental to surrounding prop-

erty or to any portion of the city; and provided, further, that said entitlement shall be conditional, and conditions attached thereto shall include a condition that the use of the property pursuant to the entitlement shall not violate any of the regulations of the MBUAPCD; and provided, further, that the entitlement shall contain a condition that the recipient of the entitlement shall not exceed those emission limits which are more stringent than those specified in the Rules and Regulations of the MBUAPCD which are determined by the planning commission or city council to be applicable except under nonrecurring and unusual circumstances.

B. Radioactivity or Electric Disturbances. No activities shall be permitted which emit radioactivity at any point which is dangerous to human beings. Devices which radiate radio-frequency energy shall be so operated as not to cause interference with any activity carried on beyond the boundary line of the property upon which the device is located.

C. Fire and Explosion Hazard. All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire-fighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fire is prohibited. The relevant provisions of federal, state and local laws and regulations shall also apply. Where questions arise due to differences in regulations, standards or requirements, the most stringent regulation, standard or requirement shall prevail.

D. Vibration. No vibration shall be permitted so as to cause a noticeable tremor measurable without instruments at the lot line.

E. Glare. No direct or reflected glare, whether produced by floodlights, high temperature processes such as combustion or welding, or other processes so as to be visible from any boundary line of property on which the same is produced shall be permitted. Sky-reflected glare from buildings or portions thereof shall be so controlled by such reasonable means as are practical to the end that said sky-reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where it occurs.

F. Liquid or Solid Waste. Compliance shall be maintained with all applicable laws and regulations concerning the discharge, disposal or storage of wastewater, liquid or solid wastes, including federal, state and local laws and regulations. This shall include, but not be limited to, obtaining a wastewater discharge permit from the Marina County water district. Where questions arise due to differences in regulations, standards or requirements, the most stringent regulation, standard or requirement shall prevail.

G. Toxic or Corrosive Materials. All activities involving, and all storage of, toxic or corrosive materials shall be provided with adequate safety devices against the hazard of spillage or leakage into the environment, particularly the groundwater supply. Compliance shall be maintained with the relevant provisions of federal, state and local laws and regulations. Where questions arise due to differences in regulations, standards or requirements, the most stringent regulation, standard or requirement shall prevail.

H. Noise.

1. At the lot or property line, the noise generated by any use or operation (other than transportation facilities or temporary construction work) shall not exceed:

- a. The noise standard for that land use as specified in Table 17.30.040 for a cumulative period of more than thirty minutes in any hour;
- b. The noise standard plus five decibels for a cumulative period of more than five minutes in any hour;
- c. The noise standard plus ten decibels for a cumulative period of more than five minutes in any hour;
- d. The noise standard plus fifteen decibels for a cumulative period of more than one minute in any hour;
- e. The noise standard plus twenty decibels or the maximum measured ambient level, for any period of time.

2. The noise measurements shall be performed using a sound level meter which meets or exceeds the requirements for type S2A meters in American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

3. If the measured ambient level differs from that permissible within any of the first four noise limit categories above, the allowable noise exposure standard shall be adjusted in five-decibel increments in each category as appropriate to encompass or reflect said ambient noise level.

4. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under this category shall be increased to reflect the maximum ambient noise level.

5. If possible, the ambient noise level shall be measured at the same location along the property line with the alleged offending noise source inoperative. If for any reason the alleged offending noise source cannot be shut down, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance such that the noise from the source is at least ten decibels below the ambient in order that only the ambient level be measured.

6. In the event the alleged offensive noise contains a steady, audible tone such as whine, screech or hum, or is a repetitive noise such as hammering or riveting, or contains music or speech conveying information content, the standard limits set forth in Table 17.30.040 shall be reduced by five decibels.

Table 17.30.040

EXTERIOR NOISE LIMITS

**Levels Not to Be Exceeded More Than
Thirty Minutes in Any Hour**

Receiving Land Use Category	Time Period	Noise Level (db)
One- and two-family residential	10 p.m. — 7 a.m.	45
	7 a.m. — 10 p.m.	55
Multiple-dwelling residential	10 p.m. — 7 a.m.	50
	7 a.m. — 10 p.m.	55
Limited commercial, some multiple dwellings	10 p.m. — 7 a.m.	55
	7 a.m. — 10 p.m.	60
Commercial	10 p.m. — 7 a.m.	60
	7 a.m. — 10 p.m.	65
Light industrial	Anytime	70
Heavy industrial	Anytime	75

(Zoning ordinance dated 7/94 (part), 1994)

17.30.050 Accessory buildings and uses.

Accessory uses, structures and buildings shall be permitted subject to the terms and requirements contained herein. (Zoning ordinance dated 7/94 (part), 1994)

17.30.060 Height limit.

Maximum permitted height limit shall be thirty-five feet provided, however, that a maximum height limit of seventy-five feet may be permitted subject to obtaining a use permit from the planning commission or the city council on appeal and further provided that such use permit shall not be granted unless the planning commission or city council on appeal shall make special findings, over and above the normally required use permit findings, that adequate fire protection facilities have been designed into the project and that the project site utilization plan is sensitive to contiguous land uses. (Zoning ordinance dated 7/94 (part), 1994)

17.30.070 Building site area.

Minimum building site area required shall be one acre; provided, however that any lawfully created parcel of land in existence prior to January 1, 1983, shall remain a building site notwithstanding the minimum building site area specified herein. (Zoning ordinance dated 7/94 (part), 1994)

17.30.080 Building site width.

Average building site width required in the M districts shall be one hundred fifty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.30.090 Front yard.

Minimum front yard required in the M districts shall be thirty feet which shall be landscaped to the satisfaction of the site and architectural design review board. (Zoning ordinance dated 7/94 (part), 1994)

17.30.100 Side yard.

Minimum side yard required in the M districts shall be ten feet which shall be landscaped to the satisfaction of the site and architectural design review board. (Zoning ordinance dated 7/94 (part), 1994)

17.30.110 Rear yard.

Minimum rear yard required in the M districts shall be twenty feet which shall be landscaped to the satisfaction of the site and architectural design review board. (Zoning ordinance dated 7/94 (part), 1994)

17.30.120 Parking.

For parking requirements in M districts see Chapter 17.44. (Zoning ordinance dated 7/94 (part), 1994)

17.30.130 Special regulations and yards.

A thirty-foot yard shall be provided along any property line adjacent to or abutting any residential zoning district notwithstanding any provisions contained herein. Said thirty-foot yard shall be heavily landscaped, in addition, sound attenuation or deadening devices or structures shall be provided as deemed necessary by the director of planning, the site and architectural design review board, the planning commission or city council. The purpose of this section is to protect residential areas located adjacent to zoning districts from deleterious or objectionable impacts that may be associated with uses which could locate in the M zoning district. (Zoning ordinance dated 7/94 (part), 1994)

17.30.140 Landscaping.

All required landscaping in the M district shall be subject to the following regulations:

- A. All landscaped areas shall be accessible for purposes of maintenance to the satisfaction of the site and architectural design review board.
- B. All landscaped areas shall be provided with a fully automatic sprinkler system.
- C. Landscape plans shall provide for a compatible mix of groundcovers, shrubs and trees. (Zoning ordinance dated 7/94 (part), 1994)

17.30.150 Outside storage areas.

- A. Where outside storage of equipment, goods, machinery or materials is permitted, such storage areas shall be screened from view from any adjacent street by a six- to eight-foot masonry, combination wood and masonry, ornamental screen or fence or adequate planting. Nothing in this subsection shall be construed to permit outside storage in any required front, side, rear or special yard.
- B. All outside storage areas shall be permanently surfaced with asphalt, concrete or any other comparable materials that meet city standards for permanent surfaces. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.31

P OR BUSINESS PARK AND PLANNED INDUSTRIAL SMALL LOT COMBINING DISTRICT*

Sections:

- 17.31.010 Establishment of P, or business park and planned industrial small lot combining district.
- 17.31.020 Building site area and general development plan.
- 17.31.030 Lot coverage.
- 17.31.040 Architectural design.
- 17.31.050 Front yard.
- 17.31.060 Interior side yard.
- 17.31.070 Exterior side yard.
- 17.31.080 Rear yard.
- 17.31.090 District boundary buffer.
- 17.31.100 Outside storage areas.
- 17.31.110 Off-street truck maneuvering.

* Prior ordinance history: Ords. 89-7, 93-2, 93-8 and 93-9.

17.31.010 Establishment of P, or business park and planned industrial small lot combining district.

The P district may be combined with the BP, or business park district, and with the M, or industrial district. When combined with the BP district, the title of the P combining district shall be "P, or business park small lot combining district." When combined with the M, or industrial district, the title of the P combining district shall be "P, or planned industrial small lot combining district." The minimum area for designation as a district shall be eight acres, except that lots containing one and one-half acres or less which existed prior to the enactment of the ordinance creating the P district zoning designation (June 20, 1989) shall also be eligible to be zoned P. No more

than half of the acreage within a P district shall be developed with lots of two or more acres. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.020 Building site area and general development plan.

The minimum building site area shall be the same as the underlying district. However, should the P district be combined with the BP district and a general development plan integrating parking, loading, landscaping and/or related facilities is approved for the entire district, the minimum building site area shall be one-half acre. A general development plan shall be approved following the procedures of Chapter 17.50, Site and Architectural Design Review, except that building elevations may not be required. When a general development plan is required for a P district, all design review approvals for developments within the district shall be compatible with an adopted general development plan. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.030 Lot coverage.

Maximum percentage of lot coverage permitted in the P district shall be forty percent. However, should landscaping plans showing a minimum of fifteen percent of the building site area as landscaped area be submitted for approval of the planning director the maximum percentage of lot coverage permitted in the P district shall be forty-five percent. (Ord. 96-12 § 1 (part), 1996: Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.040 Architectural design.

Prior to the development of any property within a P district, design review approval shall be obtained regarding a conceptual architectural design theme and/or written design guidelines to be applied to eventual site development within the entire district. Site development compliance with an approved theme and/or design guidelines shall be a condition of designation of the district in order to insure architectural compatibility of eventual development projects within the district. Determinations of development architectural compatibility shall be made by the planning commission or city council upon appeal during their project site and architectural design review. All roof-mounted equipment shall be screened from ground view by materials compatible with the architectural treatment of the building. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.050 Front yard.

Minimum front yard setbacks for buildings required in the P district shall be ten percent of the average lot depth with a minimum of fifteen feet required and a maximum of thirty feet required. However, as an alternative to the minimum setbacks for buildings as provided above in this section and as provided in Section 17.31.070, the building setbacks for buildings adjacent to a public street may be established on approved subdivision map recorded in the office of the recorder of the county or by an approved general development plan. Said alternative building setbacks shall show or describe both minimum and maximum building setbacks adjacent to all public streets in accordance with the approved general development plan. Such alternatives shall only be granted to accomplish specific urban design objectives defined by the project proponent and approved by the site and architectural design review board. (Ord. 96-12 § 1 (part), 1996: Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.060 Interior side yard.

In the P district, side yards which are not adjacent to a public street shall be required to be a minimum of five percent of the average lot width with the smallest acceptable required yard being equal to one-half the height of the adjacent building wall and the largest required yard being twenty feet. All portions of the required yard

without driveways, parking or loading areas shall be landscaped to the satisfaction of the design review board. However, in the case of a lot under one acre, one interior side yard or rear yard shall be allowed to have a zero-foot setback. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.070 Exterior side yard.

Minimum exterior side yard setbacks for buildings required in the P district shall be ten percent of the average lot depth with a minimum of fifteen feet required and a maximum of thirty feet required. However, as an alternative to the minimum setbacks for buildings as provided above in this section and as provided in Section 17.31.050, the building setbacks for buildings adjacent to a public street may be established on approved subdivision map recorded in the office of the recorder of the county or by an approved general development plan. Said alternative building setbacks shall show or describe both minimum and maximum building setbacks adjacent to all public streets in accordance with the approved general development plan. Such alternatives shall only be granted to accomplish specific urban design objectives defined by the project proponent and approved by the site and architectural design review board. (Ord. 96-12 § 1 (part), 1996: Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.080 Rear yard.

Minimum rear yard required in the P district shall be five percent of the average lot depth with the smallest acceptable required yard being equal to one-half the height of the adjacent building wall and the largest required yard being twenty feet. That portion of the yard which is five or more feet from the lot line may be used for required parking. All portions of the required yard without parking shall be landscaped to the satisfaction of the design review board. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.090 District boundary buffer.

When the district buffer coincides with other yards required in the P district, the provisions of this section shall control except where the district boundary is adjacent to property planned for industrial uses. Minimum distance from the P district boundary to any building within the district shall be twenty feet, all of which shall be landscaped to the satisfaction of the design review board. However, when the district boundary line is adjacent to a railroad right-of-way, only the first four feet adjacent to the right-of-way shall be required to be landscaped. Further, when the approved general development plan orients outdoor parking and truck loading facilities away from the district boundary, the planning commission may reduce the width of the landscaped area within the district boundary buffer to as little as ten feet total width when deemed necessary by the planning commission to accomplish landscape screening to the satisfaction of the design review board. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.100 Outside storage areas.

In addition to the standards for outside storage areas established by Section 17.29.110, or Section 17.30.150 as applicable, proposed outdoor storage shall be permitted only if it is determined through site and architectural design review by the planning commission or city council upon appeal that the location, screening and type of equipment and materials to be stored are such that there will be no significant adverse visual impact on any adjacent property or other property within the P district. (Ord. 95-8 § 3 (part), 1995: zoning ordinance dated 7/94 (part), 1994)

17.31.110 Off-street truck maneuvering.

Parking and loading areas shall be designed so that all maneuvering of trucks in or out of parking and loading spaces shall be conducted on the building site and out of the public right-of-way. (Ord. 95-8 § 3 (part), 1995; zoning ordinance dated 7/94 (part), 1994)

Chapter 17.32

A OR LIMITED AGRICULTURAL USES COMBINING DISTRICT*

Sections:

- 17.32.010 Generally.
- 17.32.020 Accessory permitted uses.
- 17.32.030 Conditional accessory uses.

* Prior ordinance history: Ord. 77-10.

17.32.010 Generally.

The regulations in this chapter shall apply in all districts with which are combined A districts in addition to the regulations hereinbefore specified therefor, and shall be subject to the provisions of Chapter 17.06; provided, however, that if any of the regulations specified in this chapter differ from any of the corresponding regulations specified in this title for any district with which is combined an A district, then in such case, the provisions of this chapter shall govern. (Zoning ordinance dated 7/94 (part), 1994)

17.32.020 Accessory permitted uses.

Additional accessory uses permitted in the A districts shall be as follows:

- A. All uses permitted in the respective district with which the A district is combined;
- B. Animal husbandry and small livestock farming; provided, that not more than one horse, mule, cow, or steer or similar livestock shall be kept for each twenty thousand square feet of area to a maximum of three such animals on land under one ownership;
- C. Crop farming, tree farming and viticulture. (Zoning ordinance dated 7/94 (part), 1994)

17.32.030 Conditional accessory uses.

Additional accessory uses permitted subject to first securing a use permit in each case, in the A districts shall be as follows:

- A. Additional animals may be allowed on land area exceeding two acres;
- B. Dog and cat kennels;
- C. Sales of products produced on the premises;
- D. Riding academies;
- E. Art galleries. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.34

ST OR SPECIAL TREATMENT DISTRICT*

Sections:

- 17.34.010 Generally.
- 17.34.020 Permitted uses.
- 17.34.030 Conditional uses.
- 17.34.040 Accessory buildings and uses.
- 17.34.050 Building height.
- 17.34.060 Site area.
- 17.34.070 Site width.
- 17.34.080 Site depth.
- 17.34.090 Site coverage.
- 17.34.100 Front yards.
- 17.34.110 Side yards.
- 17.34.120 Rear yards.
- 17.34.130 Parking.

* Prior ordinance history: Ord. 77-10.

17.34.010 Generally.

The regulations in this chapter shall apply in all ST districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.34.020 Permitted uses.

Uses permitted in the ST district shall be as follows:

- A. Agriculture and grazing of cattle, horses or sheep;
- B. Single-family residences. (Zoning ordinance dated 7/94 (part), 1994)

17.34.030 Conditional uses.

Uses permitted, subject to securing a use permit in each case, in the ST districts shall be as follows:

A. If the size of a parcel is five acres in one ownership or contiguous properties in individual ownership who have formed a legal corporation for the purpose of development within the special treatment zone, single-family residences and multiple residence to the designated density (e.g., ST max. 4/AC) may be considered for special treatment as demonstrated by a plot plan of the entire plot to be developed. The plot plan shall show:

1. The area to be developed completely dimensioned to a scale which will clearly show size and details of development including roads and parking,
 2. Contours as existing and as they will be after development,
 3. Other outstanding topography including all trees over six inches in diameter or groves of trees where grouped. Trees which will be removed by proposed development shall be so marked,
 4. Location of all proposed buildings with those for immediate construction so designated,
 5. Areas reserved for open space shall be defined and boundaries clearly shown,
 6. Character, materials, color to show development design,
 7. Elevations and perspectives to show relationship of building heights to surrounding topography;
- B. Any addition to or development of buildings on parcels of less than five acres, if sold as a portion of a development approved by the planning commission in an ST district;

C. Any addition to or development of buildings on parcels of less than five acres, if ownership is established prior to the effective date of the applicable ST district;

D. Public and quasi-public uses. (Zoning ordinance dated 7/94 (part), 1994)

17.34.040 Accessory buildings and uses.

Accessory buildings and accessory uses permitted in the ST district shall be accessory buildings and accessory uses when appurtenant to any permitted uses on a parcel of five acres or more. (Zoning ordinance dated 7/94 (part), 1994)

17.34.050 Building height.

Maximum building height limit in the ST district shall be none except as shown on approved plan. (Zoning ordinance dated 7/94 (part), 1994)

17.34.060 Site area.

Minimum building site area required in the ST district shall be five acres, except under conditions specified in subsections B and C of Section 17.34.030. (Zoning ordinance dated 7/94 (part), 1994)

17.34.070 Site width.

Average building site width required in the ST district shall be none except as shown on approved plan. (Zoning ordinance dated 7/94 (part), 1994)

17.34.080 Site depth.

Maximum building site depth allowed in the ST district shall be none except as shown on approved plan. (Zoning ordinance dated 7/94 (part), 1994)

17.34.090 Site coverage.

Percentage of building site coverage permitted in the ST district shall be the maximum determined by density designation shown on map for the particular ST district (e.g., ST 2/AC). (Zoning ordinance dated 7/94 (part), 1994)

17.34.100 Front yards.

Minimum front yards required in the ST district shall be none except as shown on approved plan. (Zoning ordinance dated 7/94 (part), 1994)

17.34.110 Side yards.

Minimum side yards required in the ST district shall be none on interior development; ten feet along property line adjoining another ownership. (Zoning ordinance dated 7/94 (part), 1994)

17.34.120 Rear yards.

Minimum rear yards required in the ST district shall be none on interior development; twenty feet along rear property line adjacent to another ownership. (Zoning ordinance dated 7/94 (part), 1994)

17.34.130 Parking.

For parking requirements in ST districts, see Chapter 17.44. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.36

S OR INTEGRATED COMBINING DISTRICT*

Sections:

- 17.36.010 Generally.
- 17.36.020 Permitted uses.
- 17.36.030 Conditional uses.

* Prior ordinance history: Ord. 77-10.

17.36.010 Generally.

The regulations in this chapter shall apply in all districts with which are combined S districts, in addition to the regulations hereinbefore specified therefor, and shall be subject to the provisions of Chapter 17.06; provided, however, that if any of the regulations specified in this chapter differ from any of the corresponding regulations specified in this title for any district with which is combined an S district, then in such case, the provisions of this chapter shall govern. (Zoning ordinance dated 7/94 (part), 1994)

17.36.020 Permitted uses.

Uses permitted in the S districts shall be all uses permitted in the respective district with which the S district is combined. (Zoning ordinance dated 7/94 (part), 1994)

17.36.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the S districts shall be duplexes, multiple dwellings and dwelling groups, if they comply with the following regulations:

- A. The foregoing dwelling uses shall provide front, side and rear yards as required in the R-4 districts;
- B. Minimum building site area required: one acre;
- C. Dwelling density required: as specified on the zoning map designating any such districts. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.38

X OR CAMP COMBINING DISTRICT*

Sections:

- 17.38.010 Generally.
- 17.38.020 Permitted uses.
- 17.38.030 Conditional uses.

* Prior ordinance history: Ord. 77-10.

17.38.010 Generally.

The regulations in this chapter shall apply in all districts with which are combined X districts, in addition to the regulations hereinbefore specified therefor, and shall be subject to the provisions of Chapter 17.06; provided, however, that if any of the regulations specified in this chapter differ from any of the corresponding regulations specified in this title for any district with which is combined an X district, then in such case the provisions of this chapter shall govern. (Zoning ordinance dated 7/94 (part), 1994)

17.38.020 Permitted uses.

Uses permitted in the X districts shall be all uses permitted in the respective district with which the X district is combined. (Zoning ordinance dated 7/94 (part), 1994)

17.38.030 Conditional uses.

Uses permitted in the X districts, subject to first securing a use permit in each case, and subject to maintaining the density as specified on the zoning maps designating any such districts, shall be as follows:

- A. Campgrounds;
- B. Tent camps;
- C. Trailer camps;
- D. Automobile courts;
- E. Trout farms;
- F. Other uses which are of the same general character as those above enumerated;
- G. Mobile home parks. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.40

B OR SITE AND YARD AREA
COMBINING DISTRICT*

Sections:

17.40.010 Regulations.

* Prior ordinance history: Ord. 77-10.

17.40.010 Regulations.

The following regulations shall apply in all districts which are combined with B districts and shall be applied in lieu of the building site area required, the front yard required, and side yards required, in the combined district, except that in no case shall yard requirements be less than specified in R-1 districts, and shall be subject to the provisions of Chapter 17.06:

Combining Designation	Building Site Area	Front Yard Depths Required	Side Yard Widths Required	Rear Yard Depths Required
B-1	8,000 sq. ft.	25 feet	10% with maximum of 10 feet	10 feet
B-2	10,000 sq. ft.	25 feet	10% with maximum	10 feet

			of 10 feet	
B-3	20,000 sq. ft.	30 feet	10% with maximum of 15 feet	15 feet
B-4	One acre	30 feet	10% with maximum of 20 feet	20 feet
B-5	As specified on the zoning maps designating any such district, except that in no case shall these regulations be less than those required under the B-4 regulations.			
B-6	Building site area as shown on a lot in a minor or standard subdivision which has been approved by the city and said final subdivision map or parcel map resulting from the approved minor subdivision is on record in the office of the recorder of the county of Monterey. Front yard, side yards and rear yards to be not less than B-4 regulations unless otherwise indicated on the subdivision map or parcel map.			

(Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.41

SU OR COASTAL ZONE SECONDARY USE COMBINING DISTRICT*

Sections:

17.41.010 Generally.

* Prior ordinance history: Ord. 82-14.

17.41.010 Generally.

The following regulations shall apply in all districts which are combined with the SU combining district. At such time as it has been determined by the planning commission, after considering the evidence submitted, that the continuation, establishment or re-establishment of coastally dependent use is not feasible (as defined in the LCIP) on any such property combined with the SU district, the following regulations shall become effective and be in full force and effect:

A. Any and all such regulations specified in this code under the P-C planned commercial zoning district regulations shall govern the use of property combined with the SU district.

B. The interpretation of the PC regulations as they pertain to the use of property combined with the SU district shall be liberally interpreted to carry out the spirit and intent of the Marina local coastal program.

C. In the event that an applicant makes an initial showing (at a noticed public hearing before the planning commission), based on substantial evidence, that coastal-dependent uses are not feasible; and in the event that the planning commission affirms this finding, any opponent or any interested party to such application must then demonstrate, by substantial evidence by the next regularly scheduled planning commission meeting that there is a feasible coastal-dependent use for the specific parcel taking into account such factors as the fair market value of the land, its size, location, shape and public access requirements. The planning commission at said next

regularly scheduled planning commission meeting or any continuation thereof shall make a final determination, based on substantial evidence, as to the feasibility of coastal-dependent uses. The planning commission's determination may be appealed to the city council, in writing, within five days of said final determination. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.42

T OR TRANSITIONAL DISTRICT*

Sections:

- 17.42.010 Generally.
- 17.42.020 Permitted uses.
- 17.42.030 Conditional uses.
- 17.42.040 Height.
- 17.42.050 Site area.
- 17.42.060 Site width.
- 17.42.070 Site coverage.
- 17.42.080 Front yard.
- 17.42.090 Rear yard.
- 17.42.100 Special yards.

* Prior ordinance history: Ords. 77-10 and 83-11.

17.42.010 Generally.

A. The transitional district shall be considered as a holding district until more detailed land use studies can be made and more precise zoning adopted for the area covered by said transitional district.

B. The regulations of this chapter shall apply in all T districts and shall be subject to the provisions of Chapter 17.06. (Zoning ordinance dated 7/94 (part), 1994)

17.42.020 Permitted uses.

Uses permitted in the T districts shall be as follows:

- A. One-family dwellings;
- B. All agricultural uses including crop and tree farming, livestock farming and animal husbandry;
- C. Rooming and boarding of not over two persons;
- D. Nameplates not over two square feet, appurtenant to any permitted use, not to be illuminated;
- E. Accessory buildings and accessory uses including barns, stables, and other farm outbuildings, quarters for farm labor and/or servants employed on the premises. (Zoning ordinance dated 7/94 (part), 1994)

17.42.030 Conditional uses.

Uses permitted, subject to first securing a use permit in each case, in the T districts shall be as follows:

- A. One noncommercial guest house (see Section 17.06.040);
- B. Frog farms;
- C. Commercial hog and turkey raising;
- D. Cattle feed yards;

- E. Fertilizer plants or yards;
- F. Animal sales yards;
- G. Dairies;
- H. Agricultural processing plants;
- I. Storage, rental and sales of irrigation equipment;
- J. Stands for sale of agricultural products grown on the premises;
- K. Airports, heliports or landing strips for aircraft;
- L. Art galleries;
- M. Tract offices;
- N. Country clubs;
- O. Golf courses with standard length fairways;
- P. Practice fairway golf course; provided, that the use is established on a minimum of ten acres of property usable for said purpose;
- Q. Kennels for dogs or cats;
- R. Public or quasi-public uses, including churches, firehouses, parks and playgrounds, schools (public and parochial) and schools accredited to the state school system, public utility uses and parking lots;
- S. Riding academies and public stables;
- T. Labor camps;
- U. Animal hospitals;
- V. Poultry farms;
- W. Storage and sale of hay and grain, not grown on the premises; provided, that the use is established on a minimum of five acres;
- X. Riding and roping arena operations on a minimum of ten acres;
- Y. Water well drilling business;
- Z. Recreational vehicle parking and camp facilities where such use does not exceed a continuous period of five days and does not involve construction of permanent structures. (Zoning ordinance dated 7/94 (part), 1994)

17.42.040 Height.

Maximum building height limit in the T district shall be thirty-five feet. (Zoning ordinance dated 7/94 (part), 1994)

17.42.050 Site area.

Building site area required in the T district shall be ten thousand square feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.42.060 Site width.

Average building site width required in the T district shall be sixty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.42.070 Site coverage.

Percentage of building site coverage permitted in the T districts shall be thirty-five percent. (Zoning ordinance dated 7/94 (part), 1994)

17.42.080 Front yard.

Minimum front yards required in the T districts shall be twenty feet, except where combined with any B district. (Zoning ordinance dated 7/94 (part), 1994)

17.42.090 Rear yard.

Minimum rear yards required in the T district shall be twenty feet. (Zoning ordinance dated 7/94 (part), 1994)

17.42.100 Special yards.

Special yards and distances between buildings required in the T districts shall be as follows: Accessory buildings used as guest houses or as barns, stables, or farm outbuildings, shall be not less than twenty feet from any side or rear property line and not less than fifty feet from the front property line and not less than twenty feet from any dwelling unit on the property. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.43

C-P OR COASTAL DEVELOPMENT PERMIT
COMBINING DISTRICT*

Sections:

- 17.43.010 Generally.
- 17.43.020 Uses permitted.
- 17.43.030 Conditional uses.
- 17.43.040 Development regulations.
- 17.43.050 Coastal development permits.
- 17.43.060 Determination of permit requirement.
- 17.43.070 Exemptions.
- 17.43.080 Determination of excluded projects.
- 17.43.090 Excluded projects.
- 17.43.100 Issuance of administrative coastal development permit by the director of planning.
- 17.43.110 Effective date of short form permits.
- 17.43.120 Public notice.

* Prior ordinance history: Ords. 82-14 and 88-17.

17.43.010 Generally.

A. The coastal development permit district is an overlay district to be combined with the districts designated in this chapter. In case of conflict between the coastal permit district and the underlying district with which it is combined, the coastal permit district regulations shall prevail.

B. The coastal development permit district regulations shall be applied to the area within Marina's Designated Coastal Zone except those areas and classes of development categorically excluded by actions of the California Coastal Commission.

C. The purpose of the coastal development permit is to allow proper consideration of the local coastal land use and implementation plans in order to implement said plans by achieving consistency between the plans and developments within the C-P district. (Zoning ordinance dated 7/94 (part), 1994)

17.43.020 Uses permitted.

None. (Zoning ordinance dated 7/94 (part), 1994)

17.43.030 Conditional uses.

Uses permitted subject to first securing a use permit or in the Coastal Zone a coastal development permit in each case: any uses on private land or land held by the city, other municipality or public agency, or on state lands other than tidelands, which are permitted or conditional uses in the zoning district with which the C-P district is combined and which are consistent with the Marina general plan and local coastal land use and implementation plans are conditional uses in the C-P district. Conditional uses may be authorized by planning commission approval of a coastal development permit. (Zoning ordinance dated 7/94 (part), 1994)

17.43.040 Development regulations.

Development regulations for the C-P district shall be as specified in the district with which the C-P district is combined, with whatever additional regulations the planning commission may add as conditions of the coastal development permit in order for the application to be consistent with the local coastal land use and implementation plans. If necessary or desirable in order to achieve consistency with the LCLUP, the underlying district regulations, such as setbacks, may be modified. (Zoning ordinance dated 7/94 (part), 1994)

17.43.050 Coastal development permits.

A. Issuance, Hearing.

1. Coastal development permits may be issued as provided in this section for any of the uses or purposes for which such permits are required or permitted by this title upon conditions designated by the planning commission.

2. The planning commission may impose such conditions as it deems necessary to secure the purpose of this title and may impose such requirements and conditions with respect to location, construction, maintenance and operation, site planning, traffic control and time limits for the coastal development permit as it deems necessary for the protection of adjacent properties, the public interest and the implementation of the LCLUP and LCIP. The commission may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

3. A public hearing shall be held on each application for a coastal development permit; notices of such hearings shall be given to persons designated and in the manner prescribed in Section 65854 et seq. of the California Government Code.

B. Form of Application, Fee, Plans. Application for a coastal development permit shall be made in writing by the owner of the property, or by lessee, purchaser in escrow or optionee with the consent of the owner, on a form prescribed by the city. The application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed use.

C. Granting. In considering an application for a coastal development permit the planning commission shall consider and give due regard to the Marina general plan and local coastal land use and implementation plans. The planning commission shall determine whether or not the establishment, maintenance and operation of the use applied for will, under the circumstances of the particular case, be consistent with the general plan and local coastal land use and implementation plans, based upon the following findings that the project will:

1. Not impair major view corridors towards the sea from Highway 1 parallel to the sea, including the planning guidelines listed in the LCLUP;
 2. Be subject to approval of the site and architectural design review board, including the Planning Guidelines listed in the LCLUP;
 3. Guarantee that appropriate legal action is taken to insure vertical and lateral coastal access or fees paid in-lieu thereof as required in the LCLUP and LCIP access components. Required improvements shall be completed, or a bond adequate to guarantee their completion shall be posted with the city, prior to issuance of a certificate of occupancy;
 4. Be adequately set back from the shoreline to withstand erosion to the extent that the reasonable economic life of the use would be guaranteed without need for shoreline protection structures;
 5. Protect least disturbed dune habitat areas, primary habitat areas and provide protection measures for secondary habitat areas consistent with the LCLUP and LCIP;
 6. Be consistent with beach parking standards, as established in the LCLUP access component;
 7. Included feasible mitigating measures which substantially reduce significant impacts of the project as prescribed in any applicable EIR;
 8. Not interfere with public access along the beach;
 9. Comply with the access, shoreline structure and habitat protection standards included in the local coastal land use and implementation plans;
 10. Comply with the housing element and housing recommendations of the local coastal land use and implementation plans;
 11. In the case of demolition of a residential structure, except to abate a nuisance, not detrimentally alter the character or housing mix of the neighborhood. The structure shall be moved, if capable of providing comparable housing opportunities at another location. The demolition and replacement structure shall comply with applicable local coastal land use plan policies;
 12. In the case of new surf zone or beach sand mining operations, comply with all standards regarding such operations specified in the LCLUP including standards for significant adverse impacts on shoreline erosion, either individually or cumulatively.
- D. Effective Date Outside the Coastal Appeals Zone. The coastal permit shall be effective the seventh day after planning commission approval unless the commission action is appealed to the city council, in which case, the permit shall not be effective until the city council has acted upon the appeal.
- E. Coastal Commission Appeal. Any coastal development permit decision of the city council within the local coastal appeal zone is subject to appeal to the State Coastal Commission within twenty-one days after the local decision, and will not become effective until after resolution of the appeal. (Zoning ordinance dated 7/94 (part), 1994)

17.43.060 Determination of permit requirement.

- A. The director of planning shall have the authority to determine whether or not any development proposed in the Coastal Zone is exempt from a coastal development permit pursuant to Section 17.43.070.
- B. Any person wishing such determination shall submit to the planning department all plans, applications and information deemed necessary by the planning department to assess the development.
- C. After review, the director of planning shall notify the applicant in writing that the development is:
1. Exempt and state the category of exemption; or
 2. That a coastal development permit is required and, if so, whether or not it is appealable to the California Coastal Commission.
- Notice of such decision shall also be submitted to the Coastal Commission.

D. If the determination of the city is challenged by the applicant or an interested person, or if the city wishes to have a Coastal Commission determination as to the appropriate designation, the city shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion which shall be made pursuant to Section 13569 of the Coastal Commission's regulations. (Zoning ordinance dated 7/94 (part), 1994)

17.43.070 Exemptions.

The types of projects listed below shall be exempt from the requirement for a coastal development permit. Requirements for any other permits are unaffected by this section.

A. Improvements to existing single-family residences. The maintenance, alteration or addition to existing single-family dwellings which comply with the underlying district regulations, including the establishment or expansion of nonhabitable accessory structures normally associated with residential uses such as garages, decks, workshops, landscaping, storage sheds, pools, fences, gazebos, patios, greenhouses, driveway paving and similar improvements but not including guest houses or self-contained residential units. However, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:

1. Improvements to a single-family structure on a beach or wetland; seaward of the mean high tide line or where the residence or proposed improvement would encroach or within fifty feet of the edge of a coastal bluff. Wetland is defined in Section 30121 of the Coastal Act as:

“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Specific wetlands are mapped in the land use plan,

2. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within fifty feet of the edge of a coastal bluff. “Coastal bluff” is defined in the California Administrative Code Section 13577(h),

3. The expansion or construction of water wells or septic systems,

4. On property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridor, improvement that would result in an increase of ten percent or more of internal floor area of an existing structure, or an additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to this section or a coastal permit, increase in height by more than ten percent of an existing structure, the construction of an additional story (including lofts) in an existing structure, and/or any significant nonattached structure such as garages, fences, shoreline protective works, docks or trees or satellite dishes,

5. In areas determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use including but not limited to swimming pools, or construction or extension of any landscaping irrigation system,

6. Additions or expansions to developments which, by conditions of previous permit issued by the city or Coastal Commission, require development permits for such addition or expansion;

B. Improvements to existing structures other than single-family residences or a public works facility. The maintenance, alteration or addition to existing structures other than single-family dwellings and public works facilities including all fixtures and structures directly attached to the structure and landscaping on the lot;

however, the following classes of development shall require a permit because they involve a risk of adverse environmental effect, adversely affect public access or involve a change in use contrary to the certified LCP:

1. Improvements to any structure on a beach, wetland, stream or lake, seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty feet of the edge of a coastal bluff. [For the purposes of this chapter, “beach” shall be as defined in California Administrative Code Section 13577(g); “wetland” shall be as defined in Coastal Act Section 30121; and “stream” shall be as defined in California Administrative Code Section 13577(a).],

2. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within one hundred feet of the edge of a coastal bluff, vernal pond or stream or in areas of natural vegetation designated as a sensitive habitat,

3. The expansion or construction of water wells or septic systems,

4. On property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridors an improvement that would result in an increase of ten percent or more of internal floor area of the existing structure, or constitute an additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to this section or a coastal permit, and/or the increase in height by more than ten percent or construction of an additional story (including lofts) in an existing structure, or satellite dishes,

5. In areas determined to have critically short water supply that must be maintained for the protection of coastal recreation or public recreational use, the construction of any specified major water-using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system,

6. Any improvement to a structure which changes the intensity of use of the structure,

7. Any improvement made pursuant to a conversion of an existing structure from a multiple-unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel time-sharing conversion,

8. Additions or expansions to developments which by conditions of a previous permit issued by the city or Coastal Commission require development permits for such addition or expansion;

C. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers;

D. Repair or maintenance activities and safety improvements that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; however, the following classes of repair and maintenance shall require a permit because they involve a risk of adverse environmental impact:

1. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves:

- a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures,

- b. The placement, whether temporary or permanent, of riprap, artificial berms or sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, waters, streams, wetlands, estuaries and lakes or on a shoreline protective work,

- c. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind, or

- d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty feet of coastal water or streams,

2. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area as defined by Coastal Act Section 30107.5, any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that includes:

a. The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials,

b. The presence, whether temporary or permanent, of mechanized equipment or construction materials;

E. Any category of development requested by the city as a categorical exclusion pursuant to Section 13241 of the Coastal Commission's Regulations and approved by the Coastal Commission pursuant to Coastal Act Section 13241 of the Regulations;

F. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this chapter or previously granted a permit by the Coastal Commission; provided that the city may, where necessary, require reasonable conditions to mitigate any adverse impact on coastal resources, including scenic resources;

G. The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent and shall be sited in the same location on the affected property as the destroyed structure.

1. As used in this subsection, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

2. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

3. As used in this subsection, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster;

H. Harvesting of agricultural crops;

J. Land division brought about in connection with the purchase of land by a public agency for public recreational use;

K. Any project undertaken by a federal agency;

L. Any project which has a valid permit from the Coastal Commission;

M. Tree removal (which is not major vegetation), except as precluded by other section of this chapter;

N. Abatement of dangerous buildings;

O. Repair and maintenance activities, and safety improvements on public roads and traffic-control devices that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activities;

P. Routine maintenance of existing public parks is exempt including repair or modification of existing public facilities where the level or type of public use or the size of structures will not be altered;

Q. All interior remodeling, residential and nonresidential, except where use is being converted to a more intensive use;

R. Any activity anywhere in the Coastal Zone that involves the conversion of any existing multiple-unit residential structure to a timeshare project, estate or use, as defined in Section 11003.5 of the Business and Professional Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a timeshare project, estate or use for purposes of this subsection. (Zoning ordinance dated 7/94 (part), 1994)

17.43.080 Determination of excluded projects.

[Section not effective until action by California Coastal Commission.] (Zoning ordinance dated 7/94 (part), 1994)

17.43.090 Excluded projects.

[Section not effective until action by California Coastal Commission.] (Zoning ordinance dated 7/94 (part), 1994)

17.43.100 Issuance of administrative coastal development permit by the director of planning.

A. Definition. An administrative coastal development permit is a coastal permit issued by the director of planning which does not become effective until its issuance is reported to the city council. If one-third of the members of the city council so request, issuance of the administrative permit shall not become effective and, at the applicant's request, the application shall be considered as a regular coastal development permit at the next regularly scheduled meeting of the city council.

B. Applicability.

1. Following the review of a coastal permit application by the director of planning, said official shall have the authority to issue a coastal permit by virtue of Section 30624 of the California Coastal Act for the following nonemergency developments;

- a. Improvements to any existing structure;
- b. Any single-family dwelling;
- c. Any other developments not in excess of one hundred thousand dollars, other than any division of land;
- d. Any development of four dwelling units or less that does not require demolition.

However, said authority of the director of planning shall not apply to that development which is within the Coastal Commission's continuing permit jurisdiction pursuant to Coastal Act Section 30519 or appealable to the Coastal Commission pursuant to Coastal Act Section 30603 or any division of land. Such permit for nonemergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided, as specified in Section 17.43.120.

2. If the planning director receives an application that is asserted to be for improvements or other development within the criteria established in subsection (B)(1) of this section and if the planning director finds that the application does not qualify as such, he or she shall notify the applicant that the permit application cannot be processed administratively and must comply with procedures for coastal development permits provided in Section 17.43.050 of this chapter. The planning director, with the concurrence of the applicant, may accept the application for filing as a regular permit and shall adjust the application fees accordingly.

3. In the case of any development involving a structure or similarly integrated physical construction which lies partly within and partly outside the Coastal Commission's appeal area, the entire structure or similar integrated physical construction must be subject to at least one public hearing and may not be processed as an administrative permit.

C. Action. The planning director may deny, approve or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 17.43.050 for an ordinary CDP application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified LCP.

D. Administrative Permit Deemed Final. A decision on an administrative permit shall not be deemed final and effective until:

1. The decision on the application has been made, the city council review of the permit is complete, and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP and, when applicable, the public access and recreation policies of Chapter 3 of the Coastal Act; and

2. When all rights of appeal under city ordinances have been exhausted. (Zoning ordinance dated 7/94 (part), 1994)

17.43.110 Effective date of short form permits.

Any administrative permit or waiver authorization issued by the director of planning pursuant to the provisions of this section shall be scheduled on the agenda of the city council at its first scheduled meeting after that permit has been issued. The planning director shall prepare a report in writing with sufficient description of the work authorized to allow the city council to understand the development to be undertaken. Such report shall be available at the meeting and for administrative permits shall be mailed to all persons wishing to receive such notification at the time of the regular mailing of notice for the meeting and any person who requested to be on the mailing list for the project meeting and any person who requested to be on the mailing list for the project as in Section 17.43.130. If, at the meeting, one-third of the appointed members of that governing body so request, the permit or authorization issued by the director of planning shall not go into effect and, if the applicant wishes to pursue the application, the application for a coastal development permit shall be processed by the city pursuant to standard coastal permit procedures listed in this chapter. Unless the city council indicates otherwise, the failure to object to issuance of any waiver or administrative permit shall be presumed to be based upon the findings set forth and adopted. (Zoning ordinance dated 7/94 (part), 1994)

17.43.120 Public notice.

Prior to scheduling any short form permit for city council review, with the exception of categorically excluded projects, the director of planning shall comply with the following public notice procedures:

A. At the time the permit application is submitted the applicant must post, at a conspicuous place, easily read by the public and on the site, or as close as possible to the site, of the proposed development, notice that an application for the proposed development has been submitted to the city using a standardized form(s) provided by the planning director. The notice shall contain a general description of the nature of the proposed development. If the applicant fails to post and keep posted the completed notice form until the waiver or administrative permit becomes effective, the planning director shall refuse to file the application or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. The city shall enforce the administrative permit or waiver authorization pursuant to procedures set forth in Chapter 17.60 if it determines that the administrative permit or waiver authorization was granted without proper notice having been given, and the failure of the noticing may have caused the planning director to act differently in issuing said permit.

B. Within ten calendar days of filing an application for a coastal development permit or at least ten calendar days prior to the first public hearing or to city council review of the planning director's action on the development proposal, the local government shall provide notice by first class mail of pending application for development.

C. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred feet of the perimeter of the parcel on which the development is proposed, to the Coastal Commission; and in cases where public hearings are required under other provisions of Marina's ordinances to property owners within three hundred feet of the perimeter of the parcel on which the development is

proposed, and shall also be published in a newspaper of general circulation. The notice shall contain the following information:

1. A statement that the development is within the Coastal Zone;
2. The date of filing of the application and the name of the applicant;
3. The number assigned to the application;
4. A description of the development and its proposed location;
5. The date, time and place at which the application will be heard by the local governing body or hearing officer;
6. A brief description of the general procedure of local government concerning the conduct of hearing and local actions, including the general procedure concerning the submission of public comments either in writing or orally prior to the decision;
7. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision;
8. The system for local approvals and appeals, including any local fees required;
9. A description of the general procedures concerning administrative permits and/or waiver authorizations. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.44

PARKING REQUIREMENTS*

Sections:

17.44.010	Generally.
17.44.020	Residential.
17.44.030	Commercial and mixed commercial and residential use.
17.44.040	Recreational facilities.
17.44.050	Public buildings.
17.44.060	Industrial.
17.44.070	General requirements.

* Prior ordinance history: Ords. 77-10, 84-7, 86-1, 86-8, 87-5 and 93-6.

17.44.010 Generally.

All uses permitted by this title shall provide minimum parking in accordance with the formulas in this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.44.020 Residential.

Parking requirements for residential use, excluding residential use approved by use permit as pursuant to Section 17.22.030 or 17.24.030 of this title, shall be as follows:

- A. Single-family dwellings: two spaces which shall be in a garage, except single-family dwellings in the R-4 district may as an alternative have one space or two tandem spaces, one of which shall be in a garage as determined by the planning commission and subject to obtaining a use permit;
- B. Duplex dwellings: two spaces, per dwelling unit, one of which shall be covered;

C. Secondary dwelling units and guest houses in conformance with Section 17.06.040 of this title, no additional parking required;

D. Multiple Dwellings.

1. One-bedroom units and efficiencies: one space for each dwelling unit which shall be covered plus one additional space for each five dwelling units or fraction thereof,

2. Two-bedroom units: one and one-half spaces for each dwelling unit, one of which shall be covered plus one additional space for each five dwelling units or fraction thereof,

3. Three or more bedroom units: two spaces for each dwelling unit, one of which shall be covered plus one additional space for each five dwelling units or fraction thereof,

4. General Note. All required on-site parking spaces shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board,

5. General Note. Twenty percent of all required parking spaces, but in no case less than one space, shall be kept unreserved and available for visitor parking. Visitor parking spaces shall be identified by a sign or other means and shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board;

E. Dwellings Approved Under Chapter 17.54 of this Code.

1. One-bedroom units and efficiencies: one space for each dwelling unit which shall be enclosed plus two additional spaces for each five dwelling units or fraction thereof,

2. Two or more bedroom units: two spaces for each dwelling unit which shall be enclosed plus two additional spaces for each five dwelling units or fraction thereof,

3. General Note. All required on-site parking spaces shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board,

4. General Note. Twenty percent of all required parking spaces, but in no case less than one space, shall be kept unreserved and available for visitor parking. Visitor parking spaces shall be identified by a sign or other means and shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board;

F. Rooming and boarding houses: one covered parking space for each bedroom;

G. Hotel, resort hotel, motel and auto court accommodations: one space for each unit; one space for the manager and one and one-half spaces for any unit in a hotel, resort hotel, motel or auto court containing a kitchen or kitchenette. Separate parking requirements remain applicable to other uses which may be associated with such complexes, such as restaurants, conference centers or public coastal access;

H. Mobile home parks: two parking spaces for each mobile home site plus two additional spaces for each five mobile home sites or fraction thereof, except that where a mobile home park has been and continues to be certified by the United States Department of Housing and Urban Development as a mobile home park providing housing for adults fifty-five years old or older, two parking spaces for each mobile home site which may be tandem spaces plus one additional parking space for each six mobile home site or fraction thereof are required. Further, in mobile home parks with more than fifty mobile home sites, an area or areas shall be provided for the storage of boat trailers and recreational vehicles with a total area of not less than twenty square feet per mobile home site;

I. Recreational vehicle park: one parking space for each six recreational vehicle sites;

J. Transitional housing for homeless persons: parking shall be provided at the rates as required elsewhere in this section except that the planning commission or city council on appeal, may grant a use permit or amendment to an existing use permit, for a lesser number of parking spaces associated with transitional housing for homeless persons under the federal McKinney Act on the basis of adequate evidence of a lesser parking demand and the application of any appropriate conditions determined necessary to meet the general purposes of the

zoning ordinance as listed in Section 17.02.030 of this title. Among the conditions applied in each case shall be a requirement that the applicant establish and maintain a program of monitoring parking usage, including submitting periodic reports of such monitoring to the city and that the planning commission or city council on appeal may, after a noticed public hearing, require modifications to the parking provided on the site if the city finds that such modifications are warranted. (Ord. 2005-02 § 1 (Exh. A (part)), 2005; Ord. 2003-09 § 1 (part), 2003; Ord. 99-04 § 1 (part), 1999; Ord. 96-24 § 1, 1996; Ord. 96-7 § 1 (part), 1996; zoning ordinance dated 7/94 (part), 1994)

17.44.030 Commercial and mixed commercial and residential use.

Parking requirements for commercial use and residential use approved by use permit as pursuant to Section 17.22.030 or 17.24.030 of this title, shall be as follows:

- A. Medical and dental offices: one parking space for each three hundred square feet of gross floor area plus one space for each office unit;
- B. Veterinary hospitals and offices: one parking space for each three hundred square feet of gross floor area;
- C. Service establishments, banks, offices: one parking space for each three hundred square feet of gross floor area;
- D. Restaurants: one parking space for each sixty square feet of dining area;
- E. Taverns: one parking space for each four seats;
- F. Retail stores: one parking space for each two hundred seventy-five square feet of gross floor area;
- G. General commercial (nursery, building materials yard, etc.): one parking space for each three regular employees on the largest shift and not less than one parking space for each two thousand square feet of gross floor area;
- H. Take-out food establishment: eight parking spaces plus one space for each one hundred square feet of gross floor area;
- I. Loading space: one loading space for each five thousand square feet of store floor area;
- J. Furniture and major appliance stores: one parking space per five hundred square feet of gross floor area;
- K. One space per residential unit.

(Ord. 2005-02 § 1 (Exh. A (part)), 2005; zoning ordinance dated 7/94 (part), 1994)

17.44.040 Recreational facilities.

Recreational facilities parking requirements shall be as follows:

- A. Ballparks, stadiums, outdoor recreation centers: one parking space for each eight seats;
- B. Bowling alleys: five parking spaces for each alley;
- C. Swimming pools: one parking space for each one hundred square feet of pool area;
- D. Private community centers: one parking space for each four hundred square feet of area provided that a use permit is granted with findings that members of the community center generally live or work in close proximity to the center and are well served by transit and/or a network of walking and bicycling trails to access the center. (Ord. 2006-17 § 1 (part), 2006; zoning ordinance dated 7/94 (part), 1994)

17.44.050 Public buildings.

Public building parking requirements shall be as follows:

A. Theaters, churches, indoor sports arenas, assembly halls, auditoriums, and similar places of public assemblage: one parking space for each four seats, and not less than one parking space for each two hundred square feet of gross floor area;

B. Libraries, museums, art galleries: one parking space for each three hundred square feet of gross floor area;

C. Hospitals: one parking space per bed plus one parking space for each three employees, and not less than one parking space for each three hundred square feet of gross floor area. (Zoning ordinance dated 7/94 (part), 1994)

17.44.060 Industrial.

Industrial, manufacturing and warehousing parking requirements shall be as follows:

A. Industrial, manufacturing, warehousing: one parking space for each three employees on the largest shift, and not less than one parking space for each one thousand square feet of gross floor area;

B. Office space in conjunction with permitted uses: one parking space for each two hundred square feet of floor area;

C. Truck loading and truck parking spaces: one space for each establishment and not less than one parking space for each five thousand square feet of gross floor area to a maximum of four spaces;

D. Other uses shall provide parking as determined by the planning commission.
(Zoning ordinance dated 7/94 (part), 1994)

17.44.070 General requirements.

General requirements shall be as follows:

A. Any off-street parking space, whether or not required by the terms of this title for any building or use wherein more than two automobile parking spaces are required, shall be designed so as to provide for maneuvering of the vehicles on the building site in such a way that they may leave the building site to enter any public or private road in a forward direction;

B. Off-street parking spaces shall not be permitted in the required front nor the required side yard and driveways shall not be permitted in the required front yard nor the required side yard abutting a street except as necessary for ingress and egress from the street. However, off-street parking spaces for handicapped persons as required by federal or state law may be located in the required front yard or the required side yard abutting a street;

C. All parking areas and driveway surfaces shall be permanently paved and maintained to the satisfaction of the city engineer;

D. As defined by this title, a required parking space shall be a minimum of nine feet by nineteen feet.

E. Parking Demand Management Program. Parking shall be provided at the rates as required elsewhere in this chapter and parking shall have minimum dimensions as defined by subsection D, except that the planning commission or the city council on appeal, may grant a use permit or amendment to an existing use permit, to allow 1) a given parking space or spaces to be counted towards the parking requirements for two or more uses, 2) a lesser number of parking spaces, and 3) minimum dimensions of less than defined in said subsection; subject to the implementation of an ongoing and continuous parking demand management program as described below and determined necessary to meet the general purposes of the zoning ordinance as listed in Section 17.02.030.

1. A given parking space or parking spaces may be counted towards parking requirements for two or more uses in circumstances where a parking demand management program identifies specific parking spaces to be shared by two or more uses having peak parking demands occurring at different times of the day or week.

Such shared parking spaces may serve two or more uses on separate lots where any permanent and non-revocable agreements bind the property owners and operators of the uses to share parking as described in an approved parking demand management program. The parking demand management program shall identify specific parking spaces to be shared, the times of the day and days of the week each parking space will be available for each use to be served, and the proximity and ease of access of shared parking spaces to uses to be served. Any such shared parking space shall be located within three hundred feet of site proposed to be served.

2. A lesser number of parking spaces may be approved in circumstances where a parking demand management program for employment sites with over fifty employees or places of assembly with more than fifty seats in one assembly location defines and implements permanent transportation programs to the employment site or the assembly location, respectively. Said transportation programs shall provide transportation to work or place of assembly by bus, van or car pools, bicycles or other alternative forms of transportation to the private automobile.

3. Lesser parking space dimensions may be approved in circumstances where a parking demand management program for places of assembly with fifty or more seats in one assembly location defines and permanently implements a program of staffed valet parking during all times of assembly.

F. Landscaped planting areas shall be incorporated into the design of all parking areas in accordance with adopted city design guidelines and standards. (Ord. 2003-03 § 1 (part), 2003; Ord. 2001-08 § 1, 2001; zoning ordinance dated 7/94 (part), 1994)

Chapter 17.45

AFFORDABLE HOUSING

Sections:

- 17.45.010 Purpose and intent.**
- 17.45.020 Definitions.**
- 17.45.030 Inclusionary housing.**
- 17.45.040 Density bonus.**
- 17.45.050 Types of incentives and concessions allowed.**
- 17.45.060 Affordable housing standards.**
- 17.45.070 Affordable housing plan.**
- 17.45.080 Affordable housing agreement.**
- 17.45.090 Affordable housing trust fund.**
- 17.45.100 Administration fees.**
- 17.45.110 Enforcement and monitoring.**
- 17.45.120 Waivers of inclusionary housing requirement.**

17.45.010 Purpose and intent.

It is the intent of the city of Marina to attain a jobs-housing balance through economic development that generates a substantial number of high-quality jobs and through the construction of a diverse mix of housing types to accommodate a broad range of life styles and income levels, especially with respect to matching the needs of the city's current and projected workforce. This Chapter 17.45 of the zoning ordinance is intended to facilitate the development of housing affordable to all income segments of the community through discretionary policies and regulatory incentives. (Ord. 2006-14 § 1 (part), 2006)

17.45.020 Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established in this section:

“Adjusted for household size appropriate for the unit” means a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, five persons in the case of a four-bedroom unit and six persons in a six-bedroom unit.

“Affordable housing agreement” means a legally binding, written agreement between the city and a developer, in form and substance satisfactory to the city attorney and approval body, ensuring the compliance of the requirements of this chapter, whether through the provision of inclusionary units, density bonus target units, or through an alternative method.

“Affordable housing plan” means the plan referenced in Section 17.45.070, which sets forth the manner in which the requirements of this chapter will be implemented for a particular residential development.

“Approval body” means the person, board, commission, or council given the final authority to review and approve or disapprove a development or building permit application.

“Childcare facility” means a child day care facility other than a family day care home, including, but not limited to, infant center, preschool, extended day care facility, and school-age child care center.

“Common interest development” means any of the following as defined in Section 1351 of the California Civil Code:

1. A community apartment project;
2. A condominium project;
3. A planned development;
4. A stock cooperative.

“Density bonus” means a density increase over the otherwise maximum allowable residential density as specified by this chapter.

“Density bonus target units” means, in exchange for a density bonus, the housing units within a residential development that are required to be reserved for sale or rent to, and made available at affordable housing costs to very low, low, or moderate income households, or is a unit in a senior housing development.

“Density bonus units” means the residential units granted pursuant to the provisions of this chapter, which exceed the maximum residential density for the development site.

“Developer” means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks city approvals for all or part of a residential development. The term “developer” also means the owner for any such property for which such approvals are sought.

“Director” means the community development director of the city of Marina or his/her designee.

“Discretionary approval” means any entitlement or approval pursuant to this chapter and the subdivision ordinance, including but not limited to general plan amendments, zoning ordinance amendments, specific plans, use permit, variance, design review, and subdivision map and other legislative approvals.

“Inclusionary units” means housing units developed pursuant to an affordable housing agreement that will be offered for rent or sale to very low, low, moderate, and middle income households, at an affordable housing cost, pursuant to this chapter.

“Low income households” means households whose income does not exceed the lower income limits applicable to Monterey County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

“Low income units” means housing units restricted to occupancy by low income households at affordable housing cost.

“Lower income households” means the inclusion of both low income and very low income households.

“Market-rate units” means housing units where the rental rates or sales prices are not restricted either by this chapter or by requirements imposed through other local, state, or federal affordable housing programs.

“Maximum residential density” means the maximum number of residential units permitted by the Marina General Plan, applicable to the subject property at the time an application for the construction of a residential development or redevelopment is deemed complete by the city, excluding the density bonus units permitted by this chapter.

“Median income” means the median family income of the county of Monterey, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. Median income limits, as adjusted for household size, are revised annually and published by the State Department of Housing and Community Development.

“Middle income households” means households whose gross household income is between one hundred twenty-one and one hundred fifty percent of the median income for Monterey County, adjusted for household size. Housing affordable to middle income households created as a result of provisions in this chapter is intended to address the workforce housing needs in Marina.

“Middle income units” means housing units restricted to occupancy by middle income households at affordable housing cost.

“Moderate income households” means households whose income does not exceed the moderate income limits applicable to Monterey County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

“Moderate income units” means housing units restricted to occupancy by moderate income households at affordable housing cost.

“Monterey County area median income” means the annual median income for Monterey County, adjusted for household size, as published in the California Code of Regulations, Title 25, Section 6932, or its successor provision.

“Redevelopment agency” means the redevelopment agency of the city of Marina.

“Regulatory agreement” means one or more legally binding written agreements to ensure continued affordability of the unit to a very low, low, moderate or middle income household, in form and substance satisfactory to the city attorney and approval body, executed and recorded against the residential development at the time of the final map recordation pursuant to the terms of this chapter and may include a deed restriction, resale restriction or regulatory agreement.

“Residential development” means one or more groups of projects for residential units constructed in the city. Residential development also includes a subdivision or common interest development approved by the city and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily project, where the result of the rehabilitation would be a net increase in available units. For purposes of this chapter, residential development shall not include a residential care facility as that term is defined in the zoning ordinance.

“Senior housing” means a residential development that has been “designed to meet the physical and social needs of senior citizens,” and which otherwise qualifies as “housing for older persons,” as that phrase is used in the Federal Fair Housing Amendments Act of 1988 and its implementing regulations, and as that phrase is used in California Civil Code Section 51.3 and the California Fair Employment and Housing Act.

“Substantial rehabilitation” or “substantially rehabilitated” means the rehabilitation of a dwelling unit that has substantial building and other code violations, such that the unit is returned to the city’s housing supply as

decent and safe housing, and the cost of such work exceeds twenty-five percent of the after rehabilitation value or thirty thousand dollars, whichever is less.

“Total housing costs” means the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and reasonable utilities and all mandatory fees charged for use of the property. For an ownership unit, total housing costs include the mortgage payment (principal and interest), utilities, homeowner’s association dues, homeowner’s insurance, property taxes and assessments, maintenance costs, mortgage insurance and any other related assessments.

“Very low income households” means households whose income does not exceed the very low income limits applicable to Monterey County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

“Very low income units” means housing units restricted to occupancy by very low income households at affordable housing cost. (Ord. 2006-14 § 1 (part), 2006)

17.45.030 Inclusionary housing.

A. Purpose and Intent. It is the intent of this Section 17.45.030 to establish standards and procedures that facilitate the development of housing affordable to a range of households with varying income levels as mandated by State Law California Government Code Section 65580. The purpose of this section is to encourage the development and availability of such housing by ensuring that the addition of affordable housing units to the city’s housing stock is in proportion with the overall increase in housing units.

B. Applicability and Exemptions.

1. Applicability.

- a. All residential developments of twenty or more units;
- b. Existing occupied housing in Marina’s former Fort Ord.

2. Exemptions.

- a. Residential developments proposed to contain fewer than twenty units;
- b. Market-rate units produced as a density bonus pursuant to Section 17.45.040 of this chapter;
- c. Any housing unit or residential development which is damaged or destroyed by fire, natural catastrophes, or act of public enemy, subject to the following conditions:

i. The unit or development is damaged or destroyed to the extent to not more than seventy-five percent of the assessed value thereof, as shown on the latest Monterey County assessment roll, prior to such destruction,

ii. The use of the reconstructed building and number of housing units remain the same as prior to the damage or destruction,

iii. The square footage of the reconstructed building is not increased or reduced by more than ten percent,

iv. The unit or development is reconstructed within four years of the damage or destruction, and

v. Should the reconstructed development result in an increased number of housing units, only the net increase in units shall incur an inclusionary housing requirement.

C. Inclusionary Housing Requirement.

1. All new residential development of twenty or more units and all existing occupied housing in Marina’s former Fort Ord shall be required to provide at minimum a specified percentage of housing units affordable to specific income groups according to the affordability distribution set forth in Table 17.45.030-1.

2. Provision of affordable for-sale housing for middle income households is voluntary and incentive-based. The developer must submit a request for incentives as part of the affordable housing plan for review by the director.

**Table 17.45.030-1
Inclusionary Housing Requirements**

Planning Area	Percentage of Required Affordable Housing by Income				Total Affordable Requirement (Percentage of Total Units)
	Very Low	Low	Moderate	Middle	
Citywide For-Sale or Rental Housing: New Construction or Substantially Rehabilitated	6 Percent	7 Percent	7 Percent	10 Percent — Voluntary and Incentive-Based	20+ percent
Former Fort Ord: Existing Occupied Housing	15 Percent	15 Percent	10 Percent	0 Percent	40 Percent ¹

¹ Inclusionary housing requirement for existing occupied housing on the former Fort Ord can be fulfilled by providing fewer moderate income housing units than required above if a greater percentage of very low and low income housing units are provided and the total number of very low, low and moderate income units is not less than forty percent.

3. Existing Housing on Former Fort Ord.

a. The inclusionary housing requirement shall apply to all existing, occupied housing transitioning from the Army, Fort Ord Reuse Authority (FORA), or other entity to the city of Marina or the redevelopment agency of the city of Marina or some other entity (including Abrams B and Preston Park housing), except that existing occupants of such housing, shall be “grandfathered” in and shall not be displaced as a result of enactment of this inclusionary housing provision.

b. Timing for Implementation.

i. Within the later of six months of adoption of this chapter or six months of transfer of existing occupied housing at Fort Ord from FORA, property owners of existing residential development subject to this subsection C shall submit, for review by the director and approval by the city council, an affordable housing plan detailing compliance with this subsection. Contents of the affordable housing plan shall adhere to requirements set forth in Section 17.45.070.

ii. Within one year of adoption of this chapter, property owners of existing residential development subject to this subsection C shall execute and record an affordable housing agreement with the city of Marina pursuant to Section 17.45.080 and begin implementation of the agreement.

c. Inclusionary housing requirements for existing occupied housing on the former Fort Ord can be fulfilled with fewer moderate income housing units than specified in Table 17.45.030-1 if a greater percentage of very low and low income housing units are provided and the total number of very low, low and moderate income units is not less than forty percent, and the allocation of the inclusionary units is approved as part of the affordable housing agreement. The trading of units is one-way only from moderate income to low and very low income, or from low income to very low income.

4. Calculation of Inclusionary Units.

a. In calculating the required number of inclusionary units, fractional units of 0.50 or above shall be rounded up to a whole unit.

b. The number of inclusionary units required for a particular project will be determined at the time of an application for discretionary approval is filed by the developer for a residential development or redevelopment with the city's community development department.

c. Second units included as part of a residential development or redevelopment project are not included in the base for calculating the number of inclusionary units required and cannot be used to fulfill the inclusionary housing requirements.

d. For purposes of calculating the number of inclusionary units required by this section, any additional units authorized as a density bonus under Section 17.45.040 of this chapter and California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of inclusionary units.

D. Alternatives Allowed with Findings.

1. The city council may approve alternatives, as outlined in subsection (D)(2) of this section or other alternatives, to the construction of inclusionary units on-site where the proposed alternative supports specific housing element policies and goals and assists the city in meeting its state housing requirements and the city council finds that the alternative proposed will provide more affordable units or units that provide a greater level of affordability than compliance with subsection C. In order to approve alternatives to the construction of inclusionary units on-site, the city council shall make findings that new construction would be infeasible or present unreasonable hardship in light of such factors as project size, site constraints, market competition, price and product type disparity, developer capability, and financial subsidies available and shall be based upon an economic analysis prepared by the developer and accepted by the director supporting the findings.

2. Alternatives for Meeting the Inclusionary Housing Requirement.

a. Land Dedication. Dedicate without cost to the city, a lot or lots within or contiguous to the residential development, sufficient to accommodate at least the required inclusionary units for the residential development. An election to dedicate land in lieu of compliance with other provisions of this chapter shall be allowed only if:

i. The value of the lot or lots to be dedicated is sufficient to make development of the otherwise required inclusionary units economically feasible, and financing or a viable financing plan is in place for at least the required number of inclusionary units,

ii. The lot or lots are suitable for construction of affordable housing at a feasible cost, appropriately zoned, served by utilities, streets and other infrastructure and there are no hazardous material or other material constraints on development of affordable housing on the lot or lots, including liens or other encumbrances that would prevent the development of affordable housing on the lot or lots, and

iii. All city approvals necessary for construction of inclusionary units on the lots or lots to be dedicated have been obtained prior to dedication;

b. Acquisition and rehabilitation of affordable units at the same level of affordability as required for the inclusionary units. Any such units acquired and rehabilitated must be subject to a regulatory agreement ensuring the long-term affordability of the inclusionary units, and must not currently be subject to a regulatory agreement requiring long-term affordability;

c. Preservation of publicly assisted rental units at risk of converting to market-rate housing;

d. Conversion of a sufficient number of existing market-rate units to inclusionary units to provide the same number of affordable units as would be required on-site;

e. Construction of special needs housing (shelters, transitional housing, etc.) meeting the housing needs for special needs groups as identified in the housing element;

f. Acquisition/rehabilitation of affordable housing, preservation of at-risk housing, and conversion of market-rate units to affordable units shall comply with the requirements of Section 65583.1 of the California Government Code in addition to the standards and affordability controls specified in this chapter;

g. For residential developments with five hundred or more dwelling units developed pursuant to a specific plan or development agreement, the city council may approve an affordable housing program consistent with the housing element of the general plan that is tailored to the development and may differ from the provisions set forth in this chapter;

h. Such other alternative as may be approved by the city council subject to the required findings set forth in subsection (D)(1) of this section.

E. Procedures.

1. At the times and in accordance with the standards and procedures set forth in Section 17.45.070, a developer shall:

a. Submit an affordable housing plan for review by the director, setting forth in detail the manner in which the provisions of this section will be implemented for the proposed residential development;

b. Execute and record an affordable housing agreement with the city of Marina;

c. Execute and record a regulatory agreement against each inclusionary unit.

2. No discretionary approval (or building permit, if discretionary approval is not required) shall be issued for all or any portion of a residential development or redevelopment subject to this section until the developer has submitted an affordable housing plan. If discretionary approval is not required, an affordable housing plan shall be submitted at the time of building permit application.

3. No building permit or final or parcel map shall be issued for the residential development, or any portion thereof, subject to this section unless the approval body has approved the affordable housing plan and the affordable housing agreement, if required, is recorded.

4. No final inspection shall be conducted for the residential development, or any portion thereof, subject to this section unless the approved affordable housing plan and/or regulatory agreement, has been fully implemented. The time requirements set forth in this subsection for final inspection for nonrestricted units may be modified to accommodate phasing schedules, model variations, or other factors in a residential project, if the city determines that this will provide greater public benefit and an affordable housing agreement acceptable to the approval body so provides. (Ord. 2006-14 § 1 (part), 2006)

17.45.040 Density bonus.

A. Intent and Purpose. The purpose of this Section 17.45.040 is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with Government Code Sections 65915 through 65918. In enacting this section, it is the intent of the city of Marina to facilitate the development of affordable housing and to implement the goals, objectives and policies of the housing element of the city's general plan.

B. Applicability. This section applies to any residential development of five or more units when the written request of an applicant proposes density beyond the maximum residential density in exchange for an agreement that a portion of the total housing units in the proposed development is reserved for very low income or low income households, seniors, or moderate income households in a common interest development.

C. Density Bonus Requirements. The city shall grant a density bonus and additional incentives to a developer of a residential development who agrees to provide one of the following:

1. Very Low Income Units. Designate at least five percent of the total units of a residential development as density bonus target units affordable to very low income households;

2. Lower Income Units. Designate at least ten percent of the total units of a residential development as density bonus target units affordable to lower income households; or

3. Moderate Income Units in a Common Interest Development. Designate at least ten percent of the total units of a common interest development as density bonus target units affordable to moderate income households, provided that all units in the development are offered to the public for purchase;

4. Any senior housing development;

5. Donation of land pursuant to Government Code Section 65915(h).

D. Calculation of Density Bonus. In determining the number of density bonus units to be granted pursuant to this section, the maximum residential density for the site shall be computed as follows and summarized in Table 17.45.040-1:

1. Very Low Income Households. The maximum allowable residential density for the site shall be increased by twenty percent provided, however, that for each additional one percent increase above the minimum five percent of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of thirty-five percent.

2. Lower Income Households. The maximum allowable residential density for the site shall be increased by twenty percent provided, however, that for each additional one percent increase above the minimum ten percent of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of thirty-five percent.

3. Moderate Income Common Interest Development. The maximum allowable residential density for the site shall be increased by five percent provided, however, that for each additional one percent increase above the minimum ten percent of units affordable to moderate income households, the density bonus shall be increased by one percent up to a maximum of thirty-five percent.

4. Senior Housing Development. The maximum allowable residential density for the site shall be increased by twenty percent.

**Table 17.45.040-1
Summary of Density Bonus**

Target Group	Minimum % Target Units	Bonus Granted	Additional Bonus for Each 1% Increase in Target Units	% Target Units Required for Maximum 35% Bonus
Very Low Income	5%	20%	2.5%	11%
Lower Income	10%	20%	1.5%	20%
Moderate Income (Common Interest Development Only)	10%	5%	1%	40%
Senior Citizen Housing Development	100%	20%	—	—

5. In calculating the required number of density bonus target units, fractional units of 0.50 or above will be rounded up to a whole unit. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded to the next larger integer. The density bonus shall not be included when determining the percentage of density bonus target units.

6. The developer can request a lesser density bonus than the project is entitled to, but no reduction shall be permitted in the number of required density bonus target units pursuant to subsection C.

7. Each residential development is entitled to only one density bonus, which may be selected based on the percentage of either very low income density bonus target units, lower income density bonus target units, or

moderate income density bonus target units, or the project's status as a senior housing development. Density bonuses from more than one category may not be combined.

8. In accordance with state law, neither the granting of a concession or incentive nor the granting of a density bonus shall be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

9. Example. The following example in Table 17.45.040-2 illustrates the calculation of density bonus in conjunction with the inclusionary housing requirements pursuant to subsection C.

**Table 17.45.040-2
Calculation of Density Bonus**

	For Sale
Initial Project Size Proposed	100 units
Inclusionary Housing Requirements	6% very low 7% low 7% moderate
Maximum Density Bonus Qualified	For providing 6% very low income units: 20% + 1*2.5% = 22.5% density bonus (5% very low income units qualify for 20% density bonus; each additional 1% very low income units is eligible for 2.5% density bonus)
Total Project Units	123 units
Income Distribution of Project Units	6 very low 7 low 7 moderate 103 market-rate

E. Incentives or Concessions. When a developer seeks a density bonus, the city shall grant incentives or concessions listed as follows and summarized in Table 17.45.040-3:

1. One incentive or concession for projects that include at least five percent of the total units for very low income households, at least ten percent for lower income households, or at least ten percent for moderate income households in a common interest development;

2. Two incentives or concessions for projects that include at least ten percent for very low income households, at least twenty percent of the total units for lower income households, or at least twenty percent for moderate income households in a common interest development;

3. Three incentives or concessions for projects that include at least fifteen percent for very low income households, at least thirty percent of the total units for lower income households, or at least thirty percent for moderate income households in a common interest development;

4. Refer to Section 17.45.050 for types of incentives and concessions that may be considered by the city.

Table 17.45.040-3
Number of Incentives and Concessions

Target Group	Target Units		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%
Moderate Income (Condo or PD only)	10%	20%	30%
Maximum Incentives/Concessions	1	2	3

5. Application Requirements for Incentives, Concessions, Waivers, Modifications.

a. Economic Feasibility. Any development incentive granted shall be needed to make the project economically feasible and shall result in identifiable, financially sufficient and actual cost reductions.

b. Rate of Return Analysis. A developer seeking an incentive, concession, waiver or modification of development or zoning standards shall demonstrate in a financial analysis that the incentive, concession, waiver or modification is necessary to make the residential development economically feasible assuming a reasonable rate of return (e.g., at a minimum, an application shall include itemized accounting of projected costs and revenues of the development).

c. Revenue. Project revenues shall include moneys from the sale or rental of all units, including the density bonus units.

d. Costs. Projected costs:

i. Shall not include the “lost opportunity” cost of the density bonus target units (e.g., the amount that would have been generated had the density bonus target units been rented or sold at market rate);

ii. May include items that are required solely because of the inclusion of the density bonus units and would not have been required without the density bonus target units.

e. Developers proposing waivers and modifications shall also show that the development standard being waived would otherwise preclude development at the densities or with the incentives and concessions permitted.

F. Land Donation.

1. When a developer of a residential development donates land to the city as provided for in this section, the developer shall be entitled to a fifteen-percent increase above the otherwise maximum allowable residential density under the land use element of the general plan for the entire development. For each one percent increase above the minimum ten percent land donation, the density bonus shall be increased by one percent, up to a maximum of thirty-five percent. This increase shall be in addition to any increase in density allowed by subsection D, up to a maximum combined density bonus of thirty-five percent if a developer seeks both the increase required pursuant to this subsection and subsection D. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded to the next larger integer.

2. A residential development shall be eligible for the density bonus described in this section if the city makes all of the following findings:

a. The developer will donate and transfer the land no later than the date of approval of the final subdivision map, parcel map, or development application for the residential development.

b. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than ten percent of the number of residential units of the proposed development, or will permit construction of a greater percentage of units if proposed by the developer.

c. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty units, has the appropriate general plan designation, is appropriately zoned for development as very low income housing, and is now or at the time of construction will be served by adequate public facilities and infrastructure. No later than the date of approval of the final subdivision map, parcel map, or development application for the residential development, the transferred land will have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land.

d. The transferred land and the very low income units constructed on the land will be subject to a deed restriction ensuring continued affordability of the units consistent with this section, which restriction will be recorded on the property at the time of dedication.

e. The land will be transferred to the city of Marina redevelopment agency or to a housing developer approved by the city. The city reserves the right to require the developer to identify a developer of the very low income units and to require that the land be transferred to that developer.

f. The transferred land is within the boundary of the proposed residential development. The transferred land may be located within one-quarter mile of the boundary of the proposed housing development if the city so approves.

G. Child Care Facilities.

1. When a developer proposes to construct a residential development that includes density bonus target units as specified in subsection D and includes a child care facility that will be located on the premises of, as part of, or adjacent to the residential development, the city shall grant either of the following if requested by the developer:

a. An additional density bonus for residential space that is equivalent or greater than the amount of square feet in the child care facility;

b. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

2. A residential development shall be eligible for the density bonus or concession described in this subsection if the city makes all of the following findings:

a. The child care facility will remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus target units are required to remain affordable pursuant to Section 17.45.060.

b. Of the children who attend the child care facility, the percentage of children of very low income households, lower income households, or moderate income households shall be equal to or greater than the percentage of dwelling units that are proposed to be affordable to very low income, low income, or moderate income households.

3. Notwithstanding any requirement of this section, the city shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community already has adequate child care facilities.

H. Condominium Conversions.

1. The city shall grant either a density bonus or other incentives of equivalent financial value if the applicant for a conversion of existing rental apartments to condominiums agrees to provide thirty-three percent of the total units of the proposed condominium project as density bonus target units affordable to low or moderate income households, or to provide fifteen percent of the total units in the condominium conversion project as density bonus target units affordable to lower income households. All such target units shall remain affordable for the period specified in Section 17.45.060.

2. For purposes of this specific subsection, a “density bonus” means an increase in units of twenty-five percent over the number of apartments to be provided within the existing structure or structures proposed for conversion.

3. No condominium conversion shall be eligible for a density bonus if the apartments proposed for conversion constitute a residential development for which a density bonus or other incentives were previously provided pursuant to this section.

I. Parking Standards.

1. Upon request of the applicant for any residential development qualifying for a density bonus under subsections (C)(1), (2) and (3), the following maximum parking standards shall apply, inclusive of handicapped and guest parking, for the entire residential development:

- a. One on-site parking space per dwelling unit that has up to one bedroom;
- b. Two on-site parking spaces per dwelling unit that has up to three bedrooms;
- c. Two and one-half parking spaces per dwelling unit that has more than three bedrooms.

2. All parking calculations for the development resulting in a fraction shall be rounded up to the next whole number.

3. Parking may be provided by tandem parking and need not be covered or garaged, but may not be on-street parking.

J. Procedures.

1. An affordable housing plan serving as an application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this section shall be submitted with the first application for approval of a residential development and processed concurrently with all other applications required for the residential development.

2. Before approving an application for a density bonus, incentive, concession, waiver, or modification, the approval body shall make the following findings:

- a. If the density bonus is based all or in part on donation of land, the findings included in subsection F;
- b. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, the findings included in subsection G;
- c. If the incentive or concession includes mixed use development, the finding included in subsection (E)(3);
- d. If an incentive or concession is requested, the developer has shown that it results in identifiable, financially sufficient and actual cost reductions;
- e. If a waiver or modification is requested, the developer has shown that the waiver or modification is necessary to make the housing units economically feasible and that the development standard being waived would otherwise preclude development at the densities or with the incentives and concessions permitted.

3. If a request for a concession or incentive is not otherwise consistent with this section, the approval body may deny a concession or incentive if it makes a written finding, based upon substantial evidence, of either of the following:

- a. The concession or incentive is not required to provide for affordable rents or affordable ownership costs.
- b. The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, and 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. For the purpose of this subsection, “specific adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified,

written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

4. If a request for a waiver or modification is not otherwise consistent with this section, the approval body may deny a waiver or modification only if it makes a written finding, based upon substantial evidence, of either of the following:

a. The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment, and 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. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

b. The waiver or modification would have an adverse impact on any real property that is listed in the California Register of Historical Resources. (Ord. 2006-14 § 1 (part), 2006)

17.45.050 Types of incentives and concessions allowed.

The allocation of incentives in exchange of inclusionary for-sale housing for middle income households or a density bonus shall be determined on a case-by-case basis by the director or the approval body in approving the affordable housing plan. The incentives include one of the following:

A. Additional density provided the density bonus received for the entire residential development does not exceed thirty-five percent;

B. A reduction in site development standards or a modification of the requirements of this chapter, which exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. The incentives include one or more of the following:

1. Reduced minimum lot sizes and/or dimensions,
2. Reduced minimum lot setbacks,
3. Reduced minimum outdoor and/or private outdoor open space,
4. Increased maximum lot coverage,
5. Increased maximum building height,
6. Reduced on-site parking standards,
7. Reduced minimum building separation requirements,
8. Other site or construction conditions applicable to a residential development;

C. Mixed use zoning to allow the residential development to include nonresidential uses and/or allow the residential development within a nonresidential zone, if other land uses will reduce the cost of the residential development, and the other land uses are compatible with the residential development and the existing or planned development in the area;

D. A developer may seek a waiver or modification of development standards that will have the effect of precluding the construction of a residential development meeting the criteria of subsection D at the densities or with the concessions or incentives permitted by this subsection. The developer shall show that the waiver or modification is necessary to make the housing units economically feasible, and that the standards would preclude development with the densities, concessions and incentives proposed. (Ord. 2006-14 § 1 (part), 2006)

17.45.060 Affordable housing standards.

A. Affordable Housing Costs. The total housing costs paid by a qualifying household, which shall not exceed a specified fraction of their gross income, adjusted for household size appropriate for the unit, as follows:

1. Very low income households, rental units: thirty percent of fifty percent of the Monterey County median income;
2. Very low income households, for-sale units: thirty percent of fifty percent of the Monterey County median income;
3. Low income households, rental units: thirty percent of sixty percent of the Monterey County median income;
4. Low income households, for-sale units: thirty percent of seventy percent of the Monterey County median income;
5. Moderate income households, rental units: thirty percent of one hundred ten percent of the Monterey County median income;
6. Moderate income households, for-sale units: thirty-five percent of one hundred ten percent of the Monterey County median income;
7. Middle income households, for-sale units: thirty-five percent of one hundred thirty-five percent of the Monterey County median income.

B. Development Standards.

1. All inclusionary units and density bonus target units shall be reasonably dispersed throughout the residential development; and shall be comparable with the market-rate units in terms of the design, infrastructure (including sewer, water and utilities), construction quality, exterior appearance, exterior materials and finished quality.

2. The bedroom mix of the inclusionary and density bonus target units shall be equivalent to the bedroom mix of the market-rate units of the residential development, except that the developer may include a higher proportion of inclusionary and density bonus target units with more bedrooms, unless both the approval body and developer agree within the affordable housing agreement to an alternative bedroom mix for the inclusionary and density bonus target units.

3. All inclusionary units and density bonus target units in a residential development shall be constructed concurrently with or prior to the construction of the market-rate units, unless both the approval body and developer agree within the affordable housing agreement to an alternative schedule for construction.

C. Length of Affordability.

1. Inclusionary Units.

a. Inclusionary units shall be reserved for very low, low, and moderate income households at the ratios established in Table 17.45.030-1, and shall be provided at the applicable affordable housing cost.

b. All affordable units provided through the inclusionary requirement shall be retained in perpetuity if permitted by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the residential development. If not permitted by the affordable housing funding programs, then affordable rental units shall be reserved for income-eligible households for a minimum of fifty-five years, while affordable owner-occupied units shall be reserved for income-eligible households for a minimum of forty-five years, with the forty-five year time restriction beginning again at the time of resale.

c. Notwithstanding anything to the contrary in this subsection, no inclusionary rental unit shall be rented for an amount which exceeds ninety percent of the actual rent charged for a comparable market unit in the same development, if any.

d. After the initial sale of the inclusionary for-sale units at a price affordable to the required income level group, inclusionary for-sale units shall remain affordable to subsequent income-eligible buyers pursuant to a resale restriction with a term of forty-five years.

2. Density Bonus Target Units.

a. Density bonus target units used to also fulfill the city's inclusionary housing requirements shall adhere to the affordability requirements of the inclusionary housing provisions as set forth in subsection (C)(1) and the duration requirements for affordability set forth in this subsection (C)(2).

b. Density target units provided above and beyond the inclusionary requirements shall adhere to the following affordability requirements:

i. Density bonus target units offered for rent to low income and very low income households shall remain restricted and affordable to the designated income group for a minimum period of thirty years.

ii. Density bonus target units offered for sale to very low, low, or moderate income households shall be sold at an affordable sales price and reserved for income-eligible households for a minimum of thirty years, with the thirty-year time restriction beginning again at the time of resale.

iii. A longer affordability period may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the residential development.

c. Notwithstanding anything to the contrary in this subsection, no density bonus target unit designated as a rental unit shall be rented for an amount which exceeds ninety percent of the actual rent charged for a comparable market unit in the same development, if any. (Ord. 2006-14 § 1 (part), 2006)

17.45.070 Affordable housing plan.

A. Concurrent with the developer's first application for a discretionary approval (or building permit, when discretionary approval is not required) for a residential development or redevelopment, the developer shall submit to the director an affordable housing plan for review. The affordable housing plan shall be accompanied by a processing fee in an amount prescribed by resolution of the city council. No discretionary approval (or building permit) shall be granted without submission of the affordable housing plan.

B. The affordable housing plan shall contain the following information:

1. A brief description of the residential development, including the number of market-rate units, inclusionary units, and density bonus target units proposed, and the basis for the calculation of the number of inclusionary and density bonus target units;

2. The unit mix, location, structure type (attached or detached), size of the market-rate, inclusionary, and density bonus target units, and a statement as to whether the residential development is an ownership or rental project. A site plan or floor plan depicting the location of the inclusionary and target units shall be provided;

3. The income levels of the inclusionary and density bonus target units and an acknowledgment that city will verify tenant and homebuyer incomes to maintain the affordability of the inclusionary and target units;

4. In the event the developer proposes a phased project, a phasing plan that provides for the timely development of the inclusionary and density bonus target units as the residential development is built out shall be required. The phasing plan shall provide for development of the inclusionary and density bonus target units prior to or concurrently with the market-rate units;

5. A description of the specific incentives, concessions, waivers or modifications being requested of the city for provision of inclusionary units for middle income households or in conjunction of a density bonus, if any.

a. If a density bonus or concession is requested for a land donation, the affordable housing plan shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 17.45.040(F) can be made.

b. If a density bonus or concession is requested for a child care facility, the affordable housing plan shall show the location and square footage of the child care facilities and provide evidence that each of the findings included in Section 17.45.040(G) can be made.

6. Any other information reasonably requested by the director and the approval body to assist with the evaluation of the affordable housing plan.

C. Review and Approval of Affordable Housing Plan.

1. The director shall review the affordable housing plan for completeness within forty-five days from the date the application for the discretionary approval is deemed complete. If the affordable housing plan is rejected for incompleteness or if the director requires further information, the affordable housing plan shall be returned to the developer along with a list of the deficiencies or additional information required.

2. In the case of substantial rehabilitation where discretionary approval is not required, the director shall approve, conditionally approve or reject the affordable housing plan within forty-five days from the date the application for the building permit is submitted.

3. For residential development requiring discretionary action, the approval body shall approve, conditionally approve, or reject affordable housing plan as part of the development review process. At any time during the review process, the approval body may require additional information from the developer.

4. Approval of the affordable housing plan by the approval body in accordance with this section shall be a condition of approval of any discretionary approval or building permit for the residential development. (Ord. 2006-14 § 1 (part), 2006)

17.45.080 Affordable housing agreement.

A. General Provisions.

1. Developers subject to this chapter shall demonstrate compliance with this chapter by executing an affordable housing agreement prepared by the city attorney and approved by the approval body.

2. Following the approval and execution by all parties, the affordable housing agreement with approved entitlement shall be recorded against the entire residential development, including market-rate units and the relevant terms and conditions filed and subsequently recorded as a separate deed restriction or regulatory agreement on the individual inclusionary or density bonus target units.

3. The approval and execution of the affordable housing agreement shall take place prior to final map approval and shall be recorded upon final map recordation or, where a map is not being processed, prior to the issuance of building permits. The affordable housing agreement shall bind all future owners and successors in interest for the term of years specified therein.

4. An affordable housing agreement shall establish, but not be limited to, the following:

- a. The number of inclusionary and density bonus target units proposed;
- b. The unit size and number of bedrooms of the inclusionary and density bonus target units;
- c. The proposed location of the inclusionary and density bonus target units;
- d. Level and tenure of affordability for the inclusionary and density bonus target units;
- e. Schedule for production of the inclusionary and density bonus target units;
- f. Approved incentives, if any, provided by the city;
- g. Where applicable, requirements for other documents to be approved by the city, such as marketing, leasing and management plans; financial assistance/loan documents; resale agreements; and monitoring and compliance plans. (Ord. 2006-14 § 1 (part), 2006)

17.45.090 Affordable housing trust fund.

A. There is established a separate fund of the city, to be known as the affordable housing trust fund. All moneys collected in compliance with Section 17.45.110 (Enforcement and monitoring), shall be deposited in the affordable housing trust fund.

B. Moneys recovered pursuant to Section 17.45.110 (Enforcement and monitoring) shall be distributed to the affected tenants or buyers, to the extent the tenants or buyers are very low, low, or moderate income households eligible to occupy the inclusionary and density bonus target units and made payments in excess of the applicable affordable housing cost or sales price. (Ord. 2006-14 § 1 (part), 2006)

17.45.100 Administration fees.

The city council may by resolution establish reasonable fees and deposits for the administration of this chapter. (Ord. 2006-14 § 1 (part), 2006)

17.45.110 Enforcement and monitoring.

A. The provisions of this chapter shall apply to all developers and their agents, successors and assigns proposing a residential development governed by this chapter. No building permit or occupancy permit shall be issued, nor any entitlement granted, for a project which is not exempt and does not meet the requirements of this chapter. This chapter shall be administered in accordance with administrative policies and procedures adopted by the city council and amended from time to time. The administrative policies and procedures may address policies and procedures such as the process for random drawings and waiting lists to select renters and homebuyers, documentation of employment and residence eligibility, annual certification and monitoring, refinancing and resale procedures, and ongoing homeowner education requirements.

B. All inclusionary units and density bonus target units shall be rented or owned in accordance with this chapter.

C. The city attorney shall be authorized to enforce the provisions of this chapter and all affordable housing agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deeds of trust and other requirements placed on inclusionary units and density bonus target units by civil action and any other proceeding or method permitted by law. The city may, at its discretion, take such enforcement action as is authorized under the Marina Municipal Code and/or any other action authorized by law or by any regulatory document, restriction or agreement executed under this chapter. The city shall be entitled to all attorneys' fees arising out of any action or proceeding to ensure compliance.

D. Any individual who sells or rents an inclusionary or density bonus target unit in violation of the provisions of this chapter shall be required to forfeit all monetary amounts so obtained. Any individual who violated the terms of this chapter or any regulatory agreement may be forced to vacate or sell the unit to an eligible participant.

E. The remedies provided for herein 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. (Ord. 2006-14 § 1 (part), 2006)

17.45.120 Waivers of inclusionary housing requirement.

A. Notwithstanding any other provision of this chapter, the inclusionary housing requirements of Section 17.45.030 of this chapter may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that there is not reasonable relationship between the impact of a proposed residential development and the requirements of this section or that applying the requirements of this chapter would take property in violation of the United States or California Constitution.

B. Any request for a waiver, adjustment, or reduction under this section shall be submitted concurrently with the affordable housing plan required by Section 17.45.070. The request for a waiver, reduction, or adjustment shall set forth in detail the factual and legal basis for the claim.

C. The request for a waiver, adjustment, or reduction shall be revised and considered in the same manner and at the same time as the affordable housing plan. In making a determination on an application for waiver, adjustment or reduction, the applicant shall bear the burden of presenting substantial evidence to support the claim. The city may assume each of the following when applicable:

1. That the applicant will provide the most economically inclusionary units feasible meeting the requirements of this chapter;

2. That the applicant is likely to obtain housing subsidies when such funds are reasonably available;

3. The extent to which the applicant will benefit from inclusionary incentives under Section 17.45.050.

D. The waiver, adjustment, or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section. (Ord. 2006-14 § 1 (part), 2006)

Chapter 17.46

VARIANCES*

Sections:

- 17.46.010 Generally.
- 17.46.020 Authority.
- 17.46.030 Application and fees.
- 17.46.040 Public hearing.
- 17.46.050 Action by planning commission.
- 17.46.060 Appeal.
- 17.46.070 Revocation.
- 17.46.080 Effects.

* Prior ordinance history: Ords. 77-10 and 82-14.

17.46.010 Generally.

Variances to the yard, height, coverage and area regulations of this title may be authorized by a variance permit granted in accordance with the provisions of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.46.020 Authority.

The planning commission shall hear and decide all applications for variance permits. (Zoning ordinance dated 7/94 (part), 1994)

17.46.030 Application and fees.

Application for a variance shall be made in writing on a form prescribed by the planning commission and shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, and by statements, plot plans, and other evidence showing:

A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and

B. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated;

C. That any variance granted for development in the Coastal Zone is found to be consistent with all applicable local coastal land use plan recommendations and requirements. (Zoning ordinance dated 7/94 (part), 1994)

17.46.040 Public hearing.

A public hearing shall be held after filing application, and not less than ten calendar days prior thereto the planning commission shall give notice of hearing thereon by one publication in a newspaper of general circulation. In addition, the planning commission may also give notice of such hearing by mailing postage prepaid a notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually occupied or to be occupied by the use for which the variance was applied. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses. (Zoning ordinance dated 7/94 (part), 1994)

17.46.050 Action by planning commission.

After conclusion of the public hearing, the planning commission shall make its decision in writing, which decision shall include findings of fact as to whether the qualifications under subsections A and B of Section 17.46.030 apply to the land, building or use of which variance is sought. The planning commission may include such conditions in connection with the variance as they deem reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title. Such conditions may include, but are not limited to architectural and site approval, time limitations, street dedications, and street and drainage improvements. The planning commission may also require such bonds and guarantees as they deem appropriate to assure the compliance of the conditions. (Zoning ordinance dated 7/94 (part), 1994)

17.46.060 Appeal.

A. An appeal to the city council may be filed by any person aggrieved by a decision of the planning commission. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant other than the applicant, shall pay a filing fee to be established by resolution of the city council from time to time hereinafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the planning commission.

B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section 17.46.040. The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and such action shall be final. (Zoning ordinance dated 7/94 (part), 1994)

17.46.070 Revocation.

A. Where one or more of the conditions of the granting of a variance have not been, or are not being complied with, or when a variance was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the planning commission may revoke or modify such variance following

a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to said hearing. Notice of such hearing shall also be given as described in Section 17.46.040. Following the hearing, the planning commission may revoke or modify the variance.

B. An appeal may be taken from such revocation or modification in the same manner as described in Section 17.46.060.

C. All variances issued by the planning commission shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the planning commission, all such permits shall expire one year from the date of granting said permit unless construction on, or use of, the subject property has started within this period. (Zoning ordinance dated 7/94 (part), 1994)

17.46.080 Effects.

No building permit shall be issued nor any use conditions and terms of the variance granted, until ten days after the mailing of notice of granting of such variance by the planning commission or after granting of such variance by the city council in the event of appeal. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.48

USE PERMITS*

Sections:

- 17.48.010 Generally.
- 17.48.020 Application and fees.
- 17.48.030 Public hearing.
- 17.48.040 Action by appropriate authority.
- 17.48.050 Appeal.
- 17.48.060 Revocation.
- 17.48.070 Effect.

* Prior ordinance history: Ords. 77-10 and 82-14.

17.48.010 Generally.

A. Use permits, revocable, conditional, or valid for a term period may be issued for any of the uses or purposes for which such permits are required or permitted by the terms of this title.

B. The planning commission shall have the power to hear and decide applications for, and issue use permits, for all uses for which a use permit is required or permitted.

C. As used in this chapter, the words “appropriate authority” means the planning commission when the application for a use permit is one which is within its power to issue. (Zoning ordinance dated 7/94 (part), 1994)

17.48.020 Application and fees.

A. Application for a use permit shall be made to the appropriate authority in writing on a form prescribed by it, and shall be accompanied by statement, plans and elevations necessary to show the detail of the proposed use or building.

B. Such application shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the applicant. (Zoning ordinance dated 7/94 (part), 1994)

17.48.030 Public hearing.

A public hearing shall be held after filing of application, and after the determination of the planning commission that the information submitted by the applicant is sufficient to consider the matter, and not less than ten calendar days prior thereto the appropriate authority shall give notice of hearing thereon by one publication in a newspaper of general circulation. In addition, the appropriate authority may also give notice of such hearing by mailing postage prepaid notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually occupied or to be occupied by the use for which the use permit was applied. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses in the opinion of the appropriate authority. (Zoning ordinance dated 7/94 (part), 1994)

17.48.040 Action by appropriate authority.

A. In order to grant any use permit, the findings of the appropriate authority shall be that the establishment, maintenance or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city; and in the Coastal Zone the use is consistent with all applicable local coastal land use plan recommendations and requirements.

B. The appropriate authority may designate such conditions in connection with the use permit as it deems necessary to secure the purposes of this title. Such conditions may include, but are not limited to, architectural and site approval, time limitations, street dedication, and street and drainage improvements. The appropriate authority may also require such bonds and guarantees as it deems appropriate to assure the compliance of the conditions. (Zoning ordinance dated 7/94 (part), 1994)

17.48.050 Appeal.

A. An appeal to the city council may be filed by any person aggrieved by a decision of the appropriate authority. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant shall pay a filing fee to be established by resolution of the city council from time to time hereinafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority.

B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section 17.48.030. The city council may reverse or affirm, wholly or partly, or may modify the order, make such order, requirements, decision, or determination as should be made, and such action shall be final. (Zoning ordinance dated 7/94 (part), 1994)

17.48.060 Revocation.

A. Where one or more of the conditions of the granting of a use permit have not been, or are not being complied with, or when a use permit was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the appropriate authority may revoke or modify such use permit following a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to

said hearing. Notice of such hearing shall be given as described in Section 17.48.030. Following the hearing, the appropriate authority may revoke or modify the use permit.

B. An appeal may be taken from such revocation or modification in the same manner as described in Section 17.48.050.

C. All use permits issued by the appropriate authority shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the appropriate authority, all such permits shall expire one year from the date of granting said permit unless construction on, or use of the subject property has started within this period. (Zoning ordinance dated 7/94 (part), 1994)

17.48.070 Effect.

No building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the use permit granted, nor until ten days after the mailing of notice of granting of such use permit by the appropriate authority, or, after granting of such use permit by the city council, in the event of appeal. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.50

SITE AND ARCHITECTURAL DESIGN REVIEW*

Sections:

17.50.010 Site and architectural design review board—Approval required when.

17.50.020 Appointment to board.

17.50.030 Application and fees.

17.50.040 Board action.

17.50.050 Planning commission action.

17.50.060 Appeal.

* Prior ordinance history: Ords. 77-10, 82-14, 86-2 and 94-1.

17.50.010 Site and architectural design review board—Approval required when.

The Marina planning commission shall appoint a site and architectural design review board, hereinafter referred to as the board, as a subcommittee of the Marina planning commission. The board shall have the power to review and make recommendations to the planning commission regarding all applications for developments in the city. A building permit shall not be issued for any of the following uses until site and architectural design approval has been obtained: public buildings and grounds; public and private schools; colleges, libraries, art galleries, and museums; public and private hospitals and other institutions; churches and other religious buildings and grounds; clubs, lodges, mortuaries, meeting halls, and other places of public assembly; motels and hotels; office buildings; all commercial and industrial uses; mobile home parks; parking lots; public utility structures and installations, except poles and towers carrying overhead lines; and more than one dwelling unit on a single parcel; and one dwelling unit on a single parcel where said parcel abuts upon and has legal access to two or more non-intersecting public streets. Also, no occupancy permit shall be issued pursuant to Municipal Code Title 15 for civilian reuse projects on former United States military land until site and architectural design approval has been obtained. (Ord. 2001-07 § 1 (part), 2001; Ord. 97-12 § 1 (part), 1997; zoning ordinance dated 7/94 (part), 1994)

17.50.020 Appointment to board.

The board members shall be appointed and the board shall operate in accordance with Chapter 2.12 and in the following prescribed manner:

A. The board shall be established and appointed on an annual basis by a majority vote of the city council upon a recommendation from the planning commission.

B. The board shall consist of five members plus one alternate as follows:

1. Members 1 through 3: At least three board members shall be members of the public-at-large. One public-at-large member may reside outside the city. All other public-at-large members shall be residents of the city. All public-at-large members should preferably have a background, or some knowledge, of planning, real estate, engineering, architecture, contracting, or any related field.

2. Member 4: One board member shall be a member of the tree committee.

3. Member 5: One board member shall be a member of the planning commission.

4. Alternate: The alternate board member shall be a member of the planning commission.

C. The board should include at least:

1. Two architects/design professionals; and

2. One landscape architect/landscape contractor/nurseryman.

D. The board shall not include more than one member of any firm.

E. A quorum shall consist of any three members of the board.

F. The board shall yearly appoint a chairman and vice-chairman. Term of chair shall not exceed two successive years. Elections shall be held every January. The chair shall preside at all meetings of the board, make appointments to any subcommittees and shall perform all the duties necessary or incidental to the office. The vice-chair shall serve as chair in the absence or inability of the chair to serve.

G. The board shall not include more than one member of any firm.

H. The board shall yearly appoint a chairman and vice-chairman.

(Ord. 2006-19 § 1 (part), 2006: zoning ordinance dated 7/94 (part), 1994)

17.50.030 Application and fees.

A. Applications for site and architectural design review shall be accompanied by drawings showing front, side and rear elevations of the proposed building, structure signs, fences, developments, or improvements or additions thereto. The applicant shall also submit plans or drawings showing in reasonable detail, proposed building or structural locations, topography, existing vegetation, proposed parking layout and location, proposed landscaping plans and proposed color schemes.

B. Such applications shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the applicant. (Zoning ordinance dated 7/94 (part), 1994)

17.50.040 Board action.

The board shall consider all necessary plans, drawings and statements in an endeavor to encourage buildings, structures, or other improvements to be designed and constructed, and so located, that they will not be unsightly, undesirable or obnoxious in appearance to the extent that they will hinder the orderly and harmonious development of the city, impair the desirability of residence or investment or occupation in the city, limit the opportunity to obtain the optimum use and value of the land and improvements, impair the desirability of living conditions on or adjacent to the subject site, conform with the standards included in the local coastal land use plan and/or otherwise adversely affect the general welfare of the community.

A. Preliminary Design Review. The board shall suggest any changes in plans of such proposed buildings, structures, or other improvements, as it may deem necessary to accomplish the purposes of this section, and shall not recommend to the commission approval of any such plans until it is satisfied that such purposes will be accomplished thereby.

B. Final Design Review. In those situations where the site and architectural design approval by the planning commission as described in Section 17.50.050 of this chapter or by city council on appeal as described in Section 17.50.060 requires additional review by the board, the board shall review submitted final plans and other required final review submittal materials for conformance with the site and architectural design review approval. (Zoning ordinance dated 7/94 (part), 1994)

17.50.050 Planning commission action.

The planning commission shall review the preliminary design review recommendation of the board in acting upon the site and architectural design approval. All improvements which have received site and architectural design approval shall be constructed substantially in accordance with the approved plans, and no change shall be made subsequently without the review and approval of the planning director. (Zoning ordinance dated 7/94 (part), 1994)

17.50.060 Appeal.

A. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the planning commission, said person may file an appeal with the city council in writing within ten days after written notice of the decision of the planning commission has been mailed to the applicant. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The city council shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. The city council may reverse or affirm or modify the decision of the planning commission and such action shall be final.

B. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the design review board relative to final design review, or the decision of the planning director or the design review board with respect to any proposed plan modification, said individual may file an appeal with the city clerk in writing within ten days after the said action or decision. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The appeal shall be considered by the planning commission unless the city council granted design review approval on appeal in which case the appeal shall be considered by the city council. Said appeal body shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. Said body may reverse or affirm or modify the decision of the design review board or the decision or interpretation of the planning director and such action shall be final. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.51

TREE REMOVAL, PRESERVATION AND PROTECTION*

Sections:

17.51.010 Purpose and intent.

- 17.51.020 Definitions.**
- 17.51.030 Unlawful actions upon trees.**
- 17.51.040 General exemptions.**
- 17.51.050 Exemptions for governmental entities.**
- 17.51.060 Tree removal permit.**
- 17.51.070 Landmark trees.**
- 17.51.080 Fees relating to landmark trees.**
- 17.51.090 Tree committee.**

* Prior ordinance history: Ords. 96-3 and 97-3.

17.51.010 Purpose and intent.

A. The city recognizes that the maintenance and new growth of healthy trees facilitates drainage, combats soil erosion, reduces global warming, adds real property and aesthetic values, and provides habitat for wildlife. To enhance the beauty of the city, while at the same time recognizing individual rights to develop private property, the city council adopts this chapter, establishing basic standards and measures to preserve and maintain existing trees and to encourage new tree planting.

B. It is the intent of the city by the adoption of these regulations to limit and restrict the removal of healthy and desirable trees in the city. However, regarding single-family residential properties which cannot be further subdivided, the intent is to limit and restrict only the removal of landmark trees. (Ord. 2006-19 § 1 (part), 2006)

17.51.020 Definitions.

As used in this chapter:

“Compensation plan” means a site plan outlining the planting location and species of replacement trees.

“Damage” means any action undertaken which causes or may cause death or significant injury, or which places the tree in a hazardous condition or in an irreversible state of decline. This includes, but is not limited to, cutting, topping, girdling, poisoning, trenching or excavating within the dripline or setting a tree on fire or allowing a tree or any portion of a tree to burn.

“DBH” or “diameter at breast height in inches” means the diameter of a tree measured at four and one-half feet above the ground while standing on the high side of the tree. The diameter may be calculated by use of the following formula: diameter equals circumference divided by 3.142.

“Development proposal” means and includes:

1. Proposed land subdivisions;
2. Proposed building projects for uses requiring site and architectural design approval by Section 17.50.010; and
3. Government and utility company construction projects.

“Drip line” means the greater of the outermost edge of the tree’s canopy or fifteen times DBH measured from the center point of the tree.

Land, City. “City land” means and includes all publicly owned land including, but not limited to, parks, beaches, street right-of-way and parts of any public right-of-way devoted to plantings or park-like use.

“Person” means any individual, firm, association, corporation or other legal entity and agents, employees or representatives thereof.

“Tree” means any living woody perennial plant having a single stem of six inches or more DBH or a multistemmed plant having an aggregate diameter of ten inches or more measured at DBH and any living woody

perennial plant which was planted in accordance with requirements of an approved compensation plan or was planted as part of a landscaping plan approved by the city.

Tree, City. "City tree" means any tree with more than one-half of either its trunk or branches on or above city-owned land, including any street right-of-way.

"Tree expert" means professional forester or certified arborist.

Tree, Healthy. "Healthy tree" means a tree that is continuing to thrive and is not in decline as determined by a tree expert.

Tree, Landmark. "Landmark tree" means any tree which has been identified by resolution of the planning commission as a landmark tree pursuant to Section 17.51.070.

Tree, Public Nuisance. "Public nuisance tree" means any tree or shrub growing or standing on city land or private property so its roots damage curbs, street paving or sidewalks in the public right-of-way or so it restricts the flow of traffic or visibility of any person using such streets and public rights-of-way shall constitute a public nuisance.

"Tree removal permit" means an authorization by the city for the removal of a tree or trees.

"Tree replacement" means any tree planted in accordance with requirements of an approved compensation plan.

Tree Stand, Landmark. "Landmark tree stand" means any grouping of two or more trees which has been identified by resolution of the planning commission as a landmark tree stand unless subsequently excluded by resolution of the planning commission.

Tree, Street. "Street tree" means any city tree with more than one-half of either its trunk or branches on or above any street right-of-way. (Ord. 2006-19 § 1 (part), 2006)

17.51.030 Unlawful actions upon trees.

Unless otherwise exempted, it is unlawful for any person to:

A. Remove, damage or relocate or cause to be removed, damaged or relocated any tree within the city without first obtaining a tree removal permit following the provisions of Section 17.04.060, unless said removal, damage or relocation is exempted by Section 17.04.040 or 17.04.050;

B. Conduct construction activities within the drip line of any tree unless these activities are conducted in compliance with tree protection guidelines adopted by resolution of the planning commission. (Ord. 2006-19 § 1 (part), 2006)

17.51.040 General exemptions.

A tree removal permit is not required in order to remove or relocate a tree under any of the following listed circumstances:

A. When removing, damaging or relocating nonlandmark trees or conducting construction activities within the drip line of nonlandmark trees on a property in the R-1, or single-family district, which is developed with one single-family residential dwelling unit and the size and shape of the property or the location of the dwelling on said property is such that the property may not be subdivided into two or more lots in conformance with Marina's zoning and subdivision ordinances;

B. When performing normal maintenance, trimming and pruning for trees located on private property or for a street tree abutting said property when authorized by the owner of said property;

C. When removing a tree which (1) was planted as part of an approved compensation plan when such removal and the replacement of said tree are accomplished in accordance with the conditions of an existing tree removal permit as determined by the community development director or designee or (2) was planted as part of a

landscaping plan approved by the city when such removal is accomplished in accordance with a modified landscaping plan approved by the community development director or designee;

D. In the event of an emergency whereby immediate action is required because of danger to life or property, any tree may be removed upon approval of the community development director or designee. Upon authorization of such removal, the community development director or designee shall file a report with the planning commission describing the facts and circumstances constituting the emergency and said report shall be provided to the tree committee. (Ord. 2006-19 § 1 (part), 2006)

17.51.050 Exemptions for governmental entities.

A tree removal permit is not required in order to remove or relocate a tree by a governmental entity under any of the following listed circumstances. However, removal of a city tree shall be accompanied by the removal of the stump to a level no higher than two inches below the adjoining finish grade elevation:

A. When removal is determined necessary by fire department personnel actively engaged in fighting a fire;

B. When trees are injured by and determined to be dangerous by a peace officer or firefighter in their official capacity;

C. When trees are unintentionally damaged during the conduct of a drill by an agency of federal, state or city government, to train for emergency or public safety operations, provided the drill is approved in advance by the city. In the case of a drill, all possible effort will be made to protect existing trees;

D. When the city performs normal maintenance, trimming and pruning of city trees;

E. Up to three trees when corrective measures are taken to control or remove trees deemed detrimental to public health, safety or general welfare under the provisions of the Street and Highway Code. Such corrective measures shall be accomplished in the least intrusive manner. The removal of more than three trees in this manner shall require a tree removal permit;

F. Up to three trees when the location of a nonlandmark street tree conflicts with the construction of street or sidewalk improvements, storm drain, traffic signals or signs. The removal of more than three trees in this manner shall require a tree removal permit;

G. When corrective measures are taken to control or remove nonlandmark public nuisance trees.
(Ord. 2006-19 § 1 (part), 2006)

17.51.060 Tree removal permit.

A. Application. A person who desires to remove or relocate any tree on any property unless exempted by Section 17.51.040 or 17.51.050 shall first secure a tree removal permit from the city. An application for such a permit shall be made on an application form provided by the city accompanied by fees established pursuant to action by the city council. The application shall contain the following:

1. The number, species, size, location of each tree proposed for removal and that may potentially be affected by the proposed development;

2. A statement on the reason for the requested action; and

3. Any other pertinent information determined necessary by the community development director or designee, such as an arborist report, prepared by a tree expert, that includes the following:

a. Physical identification of each tree on-site that is addressed by the report, either by number or colored tag that is attached to each tree and keyed to the report,

b. A site plan that identifies the location of each tree on-site that is addressed by the report, its root zone and canopy in relation to proposed development,

c. Size, species, health, and impacts anticipated by the proposed development, and

- d. Whether the tree is proposed for preservation or removal;
4. That identifies all existing and proposed site improvements and the location, root zone drip line, and canopy of each tree in the arborist report.

B. Review Process. The community development director or designee, upon review and recommendation by the tree committee, may approve, deny or conditionally approve a request for removal. If the request is a part of a development proposal that requires review by the site and architectural design review board, the minor subdivision committee, and/or the planning commission, the community development director or designee shall refer the application together with a recommendation for action thereon to the appropriate reviewing body.

C. Required Findings for Approval of Tree Removal Permit. The following findings are required prior to approval or conditional approval of a tree removal permit:

1. The tree is in poor condition and is in danger of falling within proximity to existing structures, high pedestrian traffic areas such as parking lots, playgrounds and pedestrian walkways, or interference with utility services that cannot be controlled or remedied through reasonable preservation and/or preventive procedures and practices; or
2. The tree is host to a plant, or insect, or other parasitic organism which endangers other adjacent healthy trees; or
3. The location of more than three trees conflicts with the construction of street or sidewalk improvements, storm drain, traffic signals or signs; or
4. The number of trees on the site is in excess of the number of healthy trees the site is able to support, based on such considerations as tree species, growth characteristics, general health of the stand, tree age, solar orientation and soil condition; or
5. The applicant outlines other clearly documented and compelling reasons for the removal or relocation of a tree which do not include the elimination of falling leaves or shade, or improving a view; and
6. The tree does not serve as part of a windbreak system, or assist in drainage or in the avoidance of soil erosion, or serve as a component of a wildlife habitat, or otherwise play a prominent role in maintaining the existing urban forest; and
7. Due to the tree's contribution to the aesthetic beauty of the area, the removal would not have a substantial detrimental effect on neighboring property values; and
8. If the removal request is concurrent with development plans for the property and the development plans indicate that it is necessary to remove or relocate the tree to enable reasonable and conforming use of the property which is otherwise prevented by the location of the tree.

D. Conditions of Approval. If it is determined by the appropriate approval authority that adverse effects of tree removal can be mitigated, conditions shall be imposed on the removal including, but not limited to, one or more of the following:

1. Tree Removal and Protection Plan. Tree removal information shall be provided on the grading permit prior to issuance. All tree protection shall be installed and approved by the grading inspector prior to removal or retention of any trees. The tree removal and protection plan shall include:

- a. Trees approved for removal;
- b. Trees required to be preserved or relocated;
- c. Tree protection guideline notes to include an objectively observable maintenance and care plan and program to be implemented to insure the continued health and care of other trees on the property during construction in accordance with tree protection guidelines adopted by resolution of the planning commission.

2. Compensation Plans. Requiring the replacement or placement of additional trees on the property and/or the payment to the city to fund the purchase, the planting and the maintenance of off-site replacement trees by the city pursuant to a city-adopted public tree planting plan. Such replacement trees and/or payment shall be based upon having the combined DBH of the replacement trees equal to the combined DBH of the healthy trees to be removed unless the compensation plan is appealed, in which case the city council may ap-

prove tree replacement at a lesser rate. However, until such time as said public tree planting plan is adopted, such replacement trees and/or payment shall be based upon the replacement of the healthy trees to be removed on a minimum two-for-one basis or multiplied by three for each tree removed in violation of this chapter, unless the compensation plan is appealed, in which case the city council may approve tree replacement at a lesser rate.

3. Site Restoration Plan. Requiring restoration of ground surface area in the vicinity of tree removals. Such restoration shall include but not be limited to the removal of tree stumps and the filling of any holes left by the tree removals.

E. Public Notice.

1. In the event that the tree removal request is associated with a development proposal, the public shall be informed of said request following the noticing procedures for said development proposals pursuant to Marina's subdivision and zoning ordinances.

2. In the event that the tree removal request is not associated with a development proposal and the city manager or designee grants a tree removal permit, a notice of such action shall be posted on the site together with information relative to appeal rights.

F. Display of Tree Removal Permit. Prior to and during the removal of any tree approved for removal, a copy of the tree removal permit shall be displayed on-site. If no tree removal permit is displayed, the city will issue a stop work order and commence the city's administrative fine process. (Ord. 2006-19 § 1 (part), 2006)

17.51.070 Landmark trees.

This section establishes criteria for designation of landmark tree(s) and landmark tree stand(s) and establishes a process for conferring such a designation upon a tree or stand of trees.

A. Minimum Criteria. To be eligible for consideration as a landmark tree or landmark tree stand, trees or a group of trees must meet the following minimum criteria:

1. Prominently visible from public streets, public parking areas, parks or open space, from a minimum distance of one hundred feet;

2. Indicate at least a seventy percent chance of surviving more than ten years, and be able to be maintained without excessive threat to the public health, safety and welfare.

B. Additional Criteria. Landmark trees shall meet at least one of the following additional criteria:

1. Possesses special beauty, or horticultural or historic interest;

2. Is of such substantial size or prominence that it has significant visibility from city streets, parks or open space;

3. Is of such substantial size that it makes a significant contribution to the forested skyline of the city;

4. Is a rare or unusual species for this area;

5. Is a particularly outstanding representative of the species.

C. The designation or removal of such designation of landmark trees pursuant to this section shall be by resolution of the planning commission. The tree committee shall review nominations for landmark tree and landmark tree stand designations and removal of such designation and make recommendations to the planning commission for final action upon such designations. Prior to review of designation or removal of such designation of landmark trees by the tree committee and the planning commission, the owner of the property or the city council, in the case of trees on city property or right-of-way, and owners of property adjacent to the trees proposed for designation shall be provided with ten days' written notice of the action under consideration and the opportunity to provide comments on the proposed designation or removal of such designation; said period for comments to the tree committee or planning commission shall be extended upon good cause being provided to the community development director or designee.

D. Landmark Tree Map. The location of all designated landmark trees and all designated landmark tree stands shall be shown on one or more drawings or maps maintained by the city manager or designee. (Ord. 2006-19 § 1 (part), 2006)

17.51.080 Fees relating to landmark trees.

No fee or charge shall be assessed against any member of the public for any application or appeal regarding the designation of landmark trees or landmark tree stands or for the removal of such designation except an owner of property upon which the tree or trees are located when such application or appeal is associated with an application for use or development under the subdivision or zoning ordinance. (Ord. 2006-19 § 1 (part), 2006)

17.51.090 Tree committee.

The committee members shall be appointed and the committee shall operate according to Chapter 2.12 and in the following prescribed manner:

A. The committee shall be established and appointed on an annual basis by a majority vote of the city council upon a recommendation from the planning commission.

B. The committee shall consist of five members plus one alternate as follows:

1. Members 1 through 3: At least three committee members shall be members of the public-at-large. One public-at-large member may reside outside the city. All other public-at-large members shall be residents of the city. All public-at-large members should preferably have a background, or some knowledge, of planning, landscaping, and/or trees, or any related field.

2. Member 4: One committee member shall be a member of the site and architectural review board.

3. Member 5: One member of the committee shall be a member of the planning commission.

4. Alternate: The alternate committee member shall be a member of the planning commission.

C. A quorum shall consist of any three members of the committee.

D. The committee shall not include more than one member of any firm.

E. The committee shall yearly appoint a chairman and vice-chairman. Term of chair shall not exceed two successive years. Elections shall be held every January. The chair shall preside at all meetings of the committee, make appointments to any subcommittees and shall perform all the duties necessary or incidental to the office. The vice-chair shall serve as chair in the absence or inability of the chair to serve.

F. The committee shall meet regularly to:

a. Review required tree removal permit application materials and provide recommendation to staff or to the planning commission on removal, mitigation measures, and conditions of approval;

b. Review landmark tree designation proposals and provide recommendation to the planning commission;

c. Review projects for consistency with tree preservation ordinance;

d. Review and possibly prepare lists of preferred species for street trees and trees to be included in required landscape plans; and

e. Support purpose and intent of the tree ordinance.

(Ord. 2006-19 § 1 (part), 2006)

Chapter 17.52

NONCONFORMING USES*

Sections:

- 17.52.010 General guidelines.**
- 17.52.020 Continuance of nonconformity.**
- 17.52.030 Uses requiring a use permit.**
- 17.52.040 Damaged buildings.**
- 17.52.050 Abandonment.**
- 17.52.060 Nonconforming buildings.**
- 17.52.070 Start of construction before effective date.**
- 17.52.080 Changing of districts.**
- 17.52.090 Nonconforming parcels.**

* Prior ordinance history: Ord. 77-10.

17.52.010 General guidelines.

The lawful use of land, including lands of former Fort Ord that are conveyed from the federal government, existing at the time any provisions of the ordinance codified in this title becomes applicable to such land, although such use does not conform to such provision, may be continued, except that:

A. No such use shall be enlarged or increased, nor extended to occupy a greater area than that occupied by such use at the time such provision became applicable, and except that if any such use ceases, as hereinafter provided, any subsequent use of such land shall be in conformity with the regulations specified by this title for the district in which such land is located.

B. All nonconforming outdoor advertising signs and outdoor advertising structures shall be removed entirely on or before January 1, 1979, except those in U districts and those in C-1, C-2 and M districts for which a use permit has been obtained.

C. All nonconforming outdoor advertising signs and outdoor advertising structures located on property in a U district shall be removed entirely within five years from the date such property is reclassified into some other zoning district, unless the reclassification is to be a C-1, C-2 or M district and a use permit has been obtained within such five-year period.

D. All nonconforming wrecking yards and junkyards shall be enclosed by a solid board or masonry fence at least six feet in height for fire prevention and prevention of the spread of litter and debris, except that no junk, dismantled cars or machinery shall be stacked higher than the fence. Wrecking yards and junkyards shall comply with these special regulations. (Ord. 2005-12 § 1 (Exh. A (part)), 2005; Ord. 96-23 § 1 (part), 1996: zoning ordinance dated 7/94 (part), 1994)

17.52.020 Continuance of nonconformity.

The lawful use of a building existing at the time any provisions of the ordinance codified in this title becomes applicable thereto may be continued, although such building and/or use does not conform to such provision. (Zoning ordinance dated 7/94 (part), 1994)

17.52.030 Uses requiring a use permit.

Any use for which a use permit is required by the terms of this title shall be considered a nonconforming use unless and until a use permit is obtained in accordance with Chapter 17.48. (Zoning ordinance dated 7/94 (part), 1994)

17.52.040 Damaged buildings.

If at any time any building is in existence at the time any provision of the ordinance codified in this title becomes applicable to it, which does not conform to such provision, is damaged or destroyed by fire, explosion, act of God, or act of public enemy, to the extent to more than seventy-five percent of the assessed value thereof, as shown on the latest Monterey County assessment roll, prior to such destruction, the land and building shall be subject to all the regulations specified by this title for the district in which such land and building are located; provided such building may be rebuilt to a total floor area not exceeding that of the building destroyed and may continue as herein provided for nonconforming uses, if a use permit is first secured. (Zoning ordinance dated 7/94 (part), 1994)

17.52.050 Abandonment.

If the actual operation of a nonconforming use of a building or land ceases for a continuous period of six months, it shall be presumed that such use has been abandoned; and without further action by the planning commission, the said building or land shall be subject to all the regulations specified by this title for the district in which such building and land are located. (Zoning ordinance dated 7/94 (part), 1994)

17.52.060 Nonconforming buildings.

The following additional regulations shall apply to nonconforming buildings:

A. The nonconforming use of a building may be changed to a use of the same or more restricted nature provided that in each case a use permit is first secured.

B. The nonconforming use of a portion of a building may be extended throughout the building provided that in each case a use permit is first secured.

C. The enlargement, extension, reconstruction or structural alteration of a nonconforming building may be permitted in circumstances and in accordance with the limitations as described below:

1. Nonconforming building, nonconforming only as to height and yard regulations, may be permitted said additions or improvements, if said additions or improvements conform to all the regulations of the district in which they are located.

2. In the R-1 district, additions or improvements conforming to all other regulations of the district may be allowed under either of the following circumstances for single-family residences which do not meet the parking requirements of Sections 17.44.020(A) and 17.44.070(D):

a. The garage for the residence has one parking space as defined by Section 17.44.070(D) plus one non-standard parking space defined for this section as a space with a minimum of seven feet by seventeen feet, and the building is nonconforming only as a result of Ordinance No. 84-7 adopted on October 16, 1984 to require two parking spaces in a garage.

b. Said additions or improvements will not increase the number of bedrooms, and the garage for the residence has one parking space as defined by Section 17.44.070(D) provided in an originally constructed and unmodified garage.

D. Ordinary maintenance and repairs may be made to any nonconforming building, provided no structural alterations are made and provided that such work does not exceed twenty-five percent of the assessed value in any one-year period.

E. No nonconforming building, structure or sign shall be moved in whole or in part to any other location unless every portion of such building, structure or sign which is moved is made to conform to all the regulations of the district in which it is located. (Ord. 2000-14 § 1, 2000; Ord. 96-23 § 1 (part), 1996; Ord. 95-16 § 1, 1995; zoning ordinance dated 7/94 (part), 1994)

17.52.070 Start of construction before effective date.

Nothing contained in this title shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the effective date of the ordinance codified in this title. "Actual construction" is defined to be: the actual placing of construction materials in their permanent position, fastened in a permanent manner; actual work in excavating a basement, or the demolition or removal of an existing structure begun preparatory to rebuilding; provided, that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved. (Zoning ordinance dated 7/94 (part), 1994)

17.52.080 Changing of districts.

The foregoing provisions shall also apply to nonconforming uses in districts hereinafter changed. (Zoning ordinance dated 7/94 (part), 1994)

17.52.090 Nonconforming parcels.

A parcel of land which does not comply with the size, shape, dimension or frontage requirements of the district in which it is located shall be deemed a lawful building site if:

A. Such parcel was a lawful building site immediately prior to the time said requirements became applicable to it; and

B. At the time said requirements became applicable to it, the owner or owners thereof owned no adjoining land, unless said parcel is:

1. A lot in a minor subdivision which has been approved by the city and when all conditions of said minor subdivision have been complied with, or

2. A lot in a subdivision which has been approved by the city, with the exception of lots twenty-five feet or less in width. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.54

DEVELOPMENT STANDARDS FOR CONDOMINIUM/PLANNED DEVELOPMENT PROJECTS AND CONDOMINIUM CONVERSIONS*

Sections:

17.54.010 Purpose.

17.54.020 Driveways and walkways.

17.54.030 Parking.

17.54.040 Public safety.

17.54.050 Landscaping/landscape irrigation.

17.54.060 Open space.

17.54.070 Private storage space.

17.54.080 Rubbish collection.

- 17.54.090 Laundry facilities.**
- 17.54.100 Building code requirements.**
- 17.54.110 Property owners association or association of separate interest.**
- 17.54.120 Density standard.**
- 17.54.130 Minimum unit size.**
- 17.54.140 Setbacks.**
- 17.54.150 Condominium conversions.**

* Prior ordinance history: Ords. 77-10, 79-11, 83-13, 93-1, 93-4 and 94-7.

17.54.010 Purpose.

A. The intent of the development standards for condominium/planned development projects is to permit greater flexibility and, consequently, more creative and imaginative design of the development of residential areas than generally is possible under conventional zoning regulations. The development standards are intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choice, a higher level of amenities, as well as to preserve and create useable open space for the residents of the city. While flexibility in lot sizes, setbacks and building coverage are permitted to accommodate a master-planned project with unique design features and topography, the project must meet the standards for average density of the underlying zoning district. Such flexibility can be approved through the use permit process to ensure that open space and/or amenities are otherwise provided to compensate for such flexibility and the density requirements are met.

B. Also, although Section 17.54.150 regarding condominium conversions provides for some flexibility within the zoning ordinance due to the separate unique circumstances of each individual condominium conversion proposal, it is the intent of this chapter that such condominium conversion projects meet all sections of this chapter applying to new condominium construction as closely as the planning commission or the city council on appeal determines is possible. To achieve this, the bodies should limit the number and extent of deviations allowed pursuant to Section 17.54.150 to be the minimum necessary to make a condominium conversion project physically and economically feasible while still meeting the intent of this chapter and its component standards to achieve quality condominium projects. However, nothing in this section shall be construed in any manner as establishing an intent on the part of the city to approve any particular subsequent condominium conversion project which may hereafter be presented to it. (Ord. 2006-17 § 1 (part), 2006; Ord. 2004-13 § 1 (part), 2004)

17.54.020 Driveways and walkways.

A. Principal Driveways.

1. A "principal driveway" is defined as a private road or driveway serving more than four units, exceeding a length of one hundred feet or exceeding an alternative length as may be determined by the fire chief under subsection (B)(1) of this section.

2. All principal driveways shall be designed with two traffic lanes over the entire length and shall be a loop, cul-de-sac, or hammerhead design, or have other provisions for turning vehicles, such as a garbage or fire truck as approved by the fire chief.

3. Where no on-street parking is permitted, principal driveways shall be a minimum of twenty feet wide curb to curb, or if gutters are required, lip-to-lip of gutters. Where parking is permitted on one side, the width shall be increased to twenty-eight feet curb to curb and with parking on both sides the width shall be increased to thirty-two feet curb to curb. The minimum centerline radius of curvature shall be twenty-five feet. The maximum grade shall be seven percent within twenty feet of a garage or carport and fifteen percent elsewhere. The maximum length of a cul-de-sac principal driveway shall be four hundred feet.

4. The structural section for principal driveways shall be designed on the basis of "R Value" of base soil and a calculated traffic index if not less than 4.5.

5. Principal driveways shall be bordered with a concrete curb or flush concrete edging on each side. Vertical concrete curbs and gutters or concrete valley gutters shall be used where stormwater runoff is involved. Alternates providing pavement edge protection and drainage conveyance structures will be considered by the public works department. Vertical curbs or alternatives may be required where necessary to protect landscaping or buildings from damage by vehicles.

6. Connections of principal driveways to public streets shall be designed to provide for safe and efficient movement of the expected traffic volumes. Driveway width, curb return radii, control of turning movement and similar features shall be subject to approval of the department of public works.

7. Backfill of all trenches in all principal driveways shall meet city public street standards for trench backfill.

B. Minor Driveways.

1. A "minor driveway" is defined as a private road or driveway serving four or less units and not exceeding a length of one hundred feet, unless additional length approved by the fire chief.

2. A minor driveway shall be at least twelve feet wide from edge to edge and shall have a maximum grade of seven percent within twenty feet of a garage or carport and fifteen percent elsewhere. The minimum centerline radius of curvature shall be twenty-five feet. The structural section for minor driveways shall be designed on the basis of "R Value" of base soil and a calculated traffic index of not less than four.

3. Minor driveways shall be bordered with redwood or pressure-treated headers, concrete curbs or flush concrete edging.

C. Pedestrian Walkways. Public sidewalks shall be provided along both sides of any public street within the boundary of the project and along any public street abutting the project site in accordance with city standards. An internal pedestrian walkway system shall be provided which connects each unit and each building with the project with public sidewalk system in accordance with a plan reviewed and approved by the design review board and in accordance with adopted design guidelines. A minor driveway may serve purposes of a walkway system for the connection of up to four units. (Ord. 2005-10 § 1 (Exh. A (part)), 2005; Ord. 2004-13 § 1 (part), 2004)

17.54.030 Parking.

For every dwelling unit there shall be no less than two parking spaces, one of which must be a private garage. The use and assignment of these parking spaces shall be clearly defined in the conditions, covenants and restrictions. Screened and protected areas for boat trailer and recreational vehicle storage are desirable and shall be required by the city unless such vehicles are prohibited by any private restrictive covenants. Such areas shall be allocated at not less than one hundred square feet per unit. (Ord. 2004-13 § 1 (part), 2004)

17.54.040 Public safety.

A. Fire Protection.

1. Access Roads for Firefighting Purposes.

a. When any part of a structure is more than one hundred fifty feet from a public street, access roads shall be provided for firefighting purposes. Access roads may serve as driveways for the residents of the development, or may be provided solely for public safety access.

b. All access roads required by this section shall meet the following requirements:

- i. Roads shall be a hard-surfaced material capable of supporting a weight of sixteen tons at all times;
- ii. Required width shall be not less than twelve feet at the narrowest point;

iii. All buildings, building projections or other obstructions (including trees or wires) over access drive-ways, shall have not less than thirteen and one-half feet vertical clearance from the finished driveway surface and such obstructions shall not be closer than one and one-half feet from the edge of the roadway;

iv. No grade shall exceed fifteen percent;

v. Access roads or driveways exceeding one hundred feet in length shall be provided with a turnaround for fire trucks;

vi. All turns, including turnaround, shall have a minimum outside turning radius of thirty-five feet at curb height and thirty-nine feet above curb height to a minimum height of thirteen and one-half feet, inside radius of fifteen feet or other provisions for turning fire trucks.

2. Access to Buildings.

a. Any single-story building shall be located so that the farthest point from an approved access road shall not exceed one hundred fifty feet.

b. For each additional story in height, the above distance shall be reduced twenty feet per floor.

3. On-Site Protection—Hydrants.

a. Fire hydrants shall be located on the public streets at the entry to the private vehicle accessways as required by the director of public safety;

b. Any premises where buildings or portions of buildings are located more than one hundred fifty feet from a public street providing access to such premises, additional hydrants shall be provided as required by the director of public safety;

c. Hydrants required by subsection (A)(3)(b) of this section shall provide a fire flow to the satisfaction of the director of public safety;

d. Type of hydrant, location and method of installation shall be approved by the director of public safety prior to installation;

e. When approved by the director of public safety, other built-in fire protection devices such as automatic sprinkler systems and automatic fire detection systems may be used to reduce the required flow.

4. General Information Required. A site plan shall be provided to the director of public safety with submission of the final subdivision map showing the location of all buildings and the following additional information:

a. Size of mains supplying on-site hydrants, location of all valves, meters and locations of connection to Marina County water district;

b. Location of portable fire extinguishers, with type of extinguisher to be indicated;

c. Location of any fire alarm equipment and main control panel;

d. Location of wet or dry standpipes or other fire protection appliances, and any fire department connection supplying such systems;

e. Numbering system of units.

B. Security Provisions. Security provisions shall be provided to the satisfaction of the director of public safety. Safety lighting shall be provided to the satisfaction of the director of public safety and shall be directed towards the illumination of private vehicle accessways, bikeways, pedestrian walkway facilities, and along abutting public streets as required by the city. Individual illuminated unit identification will be required to the satisfaction of the director of public safety. (Ord. 2004-13 § 1 (part), 2004)

17.54.050 Landscaping/landscape irrigation.

Plans for landscaping and landscape irrigation of all common open space shall be approved by the design review board in accordance with adopted design guidelines. Landscaping and landscape irrigation system shall be installed and maintained in compliance with approved plans to the satisfaction of the planning director. No

change shall be made subsequently without the review and approval of the planning director. (Ord. 2004-13 § 1 (part), 2004)

17.54.060 Open space.

A. Common Open Space. Common open space shall be provided at the rate of four hundred square feet per one bedroom, four hundred fifty square feet per two bedroom and five hundred square feet for three or more bedroom units.

B. Private Open Space. Each unit shall have an appurtenant private patio, deck, balcony, atrium, or other outdoor private area contiguous with the unit and having not less than fifteen percent of the unit floor area or not less than one hundred eighty square feet, whichever is less.

C. Recreation. Projects having thirty or more units shall be required to provide structured recreation facilities in conjunction with the common usable open space as determined necessary by the planning commission. (Ord. 2006-03 § 1 (Exh. A (part)), 2006; Ord. 2004-13 § 1 (part), 2004)

17.54.070 Private storage space.

Each unit within the project shall have at least three hundred cubic feet of enclosed, weatherproofed and lockable storage space at a single location. This space shall be in addition to interior closet space provided within the unit. Such space shall have a minimum interior dimension of four feet with a ceiling height of no less than seven and one-half feet and no more than ten feet. (Ord. 2004-13 § 1 (part), 2004)

17.54.080 Rubbish collection.

Plans for the storage and screening of trash and recycled materials shall be reviewed and approved by the design review board in accordance with adopted design guidelines. Unless alternatively approved by the planning commission, said plans shall provide for use of individual containers for the trash and recycled materials for each unit. (Ord. 2004-13 § 1 (part), 2004)

17.54.090 Laundry facilities.

Each unit shall be designed and plumbed for its own washing and drying machine facilities. (Ord. 2004-13 § 1 (part), 2004)

17.54.100 Building code requirements.

A. Sound Transmission. A descriptive report shall be required containing acoustical test data which indicates the noise attenuation characteristics of existing party walls and ceilings after complying with the sound transmission class and impact insulation class ratings required by the current Uniform Building Code and to the satisfaction of the chief building official. This report shall be compiled by a qualified person experienced in the fields of acoustical testing and engineering.

B. Smoke Detectors. Compliance shall be maintained with the current requirements of the Uniform Building Code to the satisfaction of the chief building official.

C. Energy Requirements. Compliance shall be maintained with the requirements of the Uniform Building Code and the California Administrative Code to the satisfaction of the chief building official.

D. Condominium Conversion Report. A condominium conversion report prepared by a licensed architect or structural, mechanical or electrical engineer, describing the condition and remaining useful life of the foundations, roofs, and the mechanical, electrical, structural and plumbing elements of all buildings and structures shall be submitted to and approved by the chief building official.

E. Building Inspection Report. A building inspection report prepared by the department of building inspection of the city describing the condition of the building and listing all relevant code violations, if any, which are detrimental to the health, safety and welfare of the public, of the owners, or the occupants of the building shall be accomplished to the satisfaction of the building director. Such inspections shall be made for a fee based upon the building inspection fee schedule.

F. Structural Pest Report. A structural pest report prepared by a licensed pest control operator describing any pest-related damage and listing all improvements necessary to correct such damage, if any, shall be submitted to the building division.

G. Public Utility Facilities and Hookups. All utilities shall be undergrounded to the satisfaction of the city engineer. Public utility facilities and hookups, including, but not limited to, water, sewer, gas and electric, shall be independently metered and charged to each unit. Public utility facilities serving individual units shall not cross property lines other than the living unit which they serve. In condominium conversions water may be on a common meter if approved by the water purveyor and if provisions for maintenance, repair and liability satisfactory to the city are included in the covenants, conditions and restrictions. All condominium conversion projects where any public utility facilities cross property lines or where public utility facilities, by necessity, are used by more than one unit shall include within the covenants, conditions and restrictions provisions for maintenance, repair and liability satisfactory to the city. All condominium conversion projects where any units are connected to common meters for water service shall include a disclosure statement to that fact within the covenants, conditions and restrictions to the satisfaction of the city. (Ord. 2004-13 § 1 (part), 2004)

17.54.110 Property owners association or association of separate interest.

A. For all condominium/planned development projects, a property owners association shall be established by recordation of the following:

1. Articles of incorporation of the association;
2. Declaration of covenants, conditions and restrictions;
3. Bylaws of the association.

B. Notwithstanding subsection A of this section and as an alternative to the requirements of said subsection, residential subdivision developments, containing two or more rights of exclusive occupancy, may establish an association of owners of separate interest by the recordation of a declaration of restrictions and maintenance agreement subject to the approval of the city. The approval of the use of such an alternative shall be at the sole discretion of the city and shall be limited to developments not exceeding twenty-five dwelling units.

C. Included in the recorded document or documents shall be provisions for, at least, but not limited to, the following:

1. Any amendment or modification to the documents, as approved by the city, must have the approval of the city prior to completion of the amendment or modification;
2. The maintenance of the common areas and exterior of all structures and walls of any such project by the city in the event of default in the maintenance of such areas by individual owners of the units and for reimbursement to the city for any costs incurred thereby, by collection as a property tax assessment shared on a pro rata basis by all parcels;
3. Each individual unit owner's exclusive right to the use of specifically designated covered parking space for each unit and joint use of all common parking areas;
4. Except where maintained by a public utility agency, all on-site property improvements, including common areas, vehicular accessways, sewers, storm drains, street lighting, and fire prevention water systems including fire alarms, fire extinguishers and the like, shall be maintained at the expense of the association;

5. During a one year minimum warranty period, commencing from the date of the last building occupancy permit issued by the city, the developer shall fulfill all responsibilities of the association for maintenance of all facilities which may require maintenance during the warranty period. The expiration of the warranty period shall not limit or relieve the developer from satisfactory performance of any agreement executed with the city;

6. A sinking fund shall be established for the maintenance and repair of all commonly owned structures, mechanical equipment, open space and landscaped areas. (Ord. 2004-13 § 1 (part), 2004)

17.54.120 Density standard.

All projects shall be subject to the density standards set forth in the underlying zone districts. (Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2004-13 § 1 (part), 2004)

17.54.130 Minimum unit size.

All units shall be subject to the following minimum gross floor areas, exclusive of parking areas, open decks and patios:

	Single Story	Two or More Stories
A. One-bedroom dwelling	700 sq. ft.	850 sq. ft.
B. Two-bedroom dwelling	850 sq. ft.	1,000 sq. ft.
C. Three-bedroom dwelling	1,100 sq. ft.	1,250 sq. ft.
D. For each additional bedroom in excess of three	100 sq. ft.	100 sq. ft.

(Ord. 2006-03 § 1 (Exh. A (part)), 2006: Ord. 2004-13 § 1 (part), 2004)

17.54.140 Setbacks.

A minimum ten-foot building setback and a minimum four-foot wide landscape area shall be provided around the periphery of the project site; provided, however, that nothing contained in this section shall limit the authority of the planning commission, or the city council on appeal, to require a greater setback. On project sites with an average site width of less than one hundred feet, the planning commission or city council on appeal may reduce the minimum ten-foot building setback from the interior side yard of the project site from ten feet to the minimum side yard setback of district in which the project is located. (Ord. 2005-10 § 1 (Exh. A (part)), 2005: Ord. 2004-13 § 1 (part), 2004)

17.54.150 Condominium conversions.

A. Within the context of Section 17.54.010, the planning commission or the city council on appeal may adjust the requirements of Sections 17.54.020, 17.54.030, 17.54.040, 17.54.060, 17.54.070, 17.54.080, 17.54.090, 17.54.130 and 17.54.140 of this chapter for condominium conversions of apartment buildings and complexes completed and occupied prior to the effective date of this section with the following limitations:

1. Parking. Parking shall not be reduced to less than what is required by Section 17.44.020.
2. Public Safety. Fire protection and security provisions shall not be modified without approval of the fire commander or the director of public safety, as appropriate.
3. Common Open Space. Common open space combined with private open space shall not be reduced to less than what is required by the requirements for open space of the district in which the property is located.
4. Private Open Space. Private open space shall not be reduced to less than fifty square feet for each condominium unit with a minimum horizontal dimension of not less than four feet.

5. Private Storage Space. Private storage space shall not be reduced to less than eighty cubic feet with a minimum interior dimension of two feet for those condominium units where the private storage space is to be provided in an existing carport or garage. Further, such space shall not be reduced to less than two hundred cubic feet with a minimum interior dimension of three feet for those condominium units where the private storage space is to be provided in a proposed carport or garage.

6. Minimum Unit Size. Minimum unit size for each category shall not be reduced to less than eighty-five percent of that which would otherwise be required by Section 17.54.130.

7. Perimeter Setback. Perimeter building setback shall not be reduced to a setback which is less than the yard requirements of the district in which the condominium conversion is located.

B. The adjustments described above may be approved only by individual and separate action of the planning commission based upon their findings that approved adjustments are necessary to meet other provisions of this chapter including Section 17.54.010 or that the approved adjustments will accomplish other specific project design objectives enumerated by the planning commission. Any adjustments approved by the city council as provided by in this section shall be generally described in a disclosure statement in the covenants, conditions and restrictions satisfactory to the city. Adjustments not described above may only be accomplished as provided by Chapter 17.46. (Ord. 2004-13 § 1 (part), 2004)

Chapter 17.55

SURFACE MINING AND RECLAMATION STANDARDS*

Sections:

17.55.010	Purpose and intent.
17.55.020	Definitions.
17.55.030	Scope.
17.55.040	Permit, reclamation plan and reporting requirements.
17.55.050	Review procedure.
17.55.060	Performance bond.
17.55.070	Public record.
17.55.080	Amendments.
17.55.090	Variance.
17.55.100	Appeal.
17.55.110	Enforcement.
17.55.120	Separability.

* Prior ordinance history: Ord. 82-14.

17.55.010 Purpose and intent.

A. This chapter is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code.

B. The city council finds and declares that the extraction of minerals is essential to the continued economic well-being of the city and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

C. The city council further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

D. The city council further finds that surface mining takes place in areas where the geologic, topographic, climatic, biological and social conditions are different and that reclamation operations and the specifications therefore may vary accordingly. (Zoning ordinance dated 7/94 (part), 1994)

17.55.020 Definitions.

“Environmental assessment” means the study of the environment of an area proposed to be mined including the flora, fauna, geologic, erosion potential and other factors deemed to be important by qualified experts of appropriate disciplines.

“Environmental impact report” means a report on the environmental effects of a project prepared according to the standards and provisions of the California Environmental Quality Act (CEQA).

“Exploration” or “prospecting” means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent or quality of minerals present.

“Local coastal program” means the adopted local coastal land use and implementation plans for the city as certified by the California Coastal Commission.

“General plan” means the adopted general plan for the city of Marina.

“Mined lands” includes the surface, subsurface and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

“Minerals” means any naturally occurring chemical element or compound or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, sand, but excluding geothermal resources, natural gas and petroleum.

“Mining waste” means and includes the residual of soil, rock, mineral liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, surface mining operations.

“New mining” means and includes any significant increase in the rate of extraction or change in location.

“Operator” means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf.

“Overburden” means soil, rock or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal, by surface mining operations.

“Permit” means any formal authorization from or approval by, the city without which surface mining operations cannot occur.

“Person” means any individual, firm, association, corporation, organization or partnership, or any city, county, district or the state or any department or agency thereof.

“Reclamation” means the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

“State board” means State Mining and Geology Board in the Department of Conservation, State of California.

“State geologist” means the individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.

“Surface mining operations” means all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: (1) in-place distillation, retorting or leaching; (2) the production and disposal of mining waste; and (3) prospecting and exploratory activities. (Zoning ordinance dated 7/94 (part), 1994)

17.55.030 Scope.

- A. The provisions of this chapter shall apply to the incorporated areas of the city.
- B. The provisions of this chapter are not applicable to:
 - 1. Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster;
 - 2. Such other mining operations that the city determines to be of an infrequent nature, and which involve only minor surface disturbances and are categorically identified by the State Board pursuant to Sections 2714(d) and 2758(c), California Surface Mining and Reclamation Act of 1975 (SMARA). (Zoning ordinance dated 7/94 (part), 1994)

17.55.040 Permit, reclamation plan and reporting requirements.

A. Reclamation Plan Requirements. Reclamation plans as defined in this chapter shall be required of all mining operations undertaken since January 1, 1976. Any person who proposes to engage in new mining operations as defined in this chapter shall also be required to prepare a reclamation plan prior to commencing new mining operations.

1. Existing Mining Operations. A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall submit and receive city approval of a reclamation plan within two years from the effective date of the ordinance codified in this chapter for all mining operations conducted after January 1, 1976. Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were lawfully conducted prior to, but not after January 1, 1976.

2. Reclamation Plan Review. Approved reclamation plans shall be reviewed by the planning commission at least every five years. It shall be the sole responsibility of the operator to submit a written request to the planning commission prior to the expiration of each five-year period. Operator shall provide the planning commission with ample evidence that compliance is being maintained with the provisions of the approved reclamation plan. The planning commission retains the right subsequent to reclamation plan review to modify the terms of any reclamation plan to assure continuing compliance with the local coastal program. Furthermore, the planning commission may consider and approve modification of any reclamation plan requested by the operator so long as it finds that the reclamation plan is in compliance with the local coastal program.

B. Permit Requirements. The planning commission shall issue a mining permit for any new surface mining operation, which the planning commission finds is in conformance with the local coastal program. No new mining activity shall take place prior to the issuance of a mining permit by the planning commission.

1. Existing Mining Operations. Existing mining operations are required to obtain a mining permit from the city in accordance with the requirements of this chapter within two years from the date of adoption of the ordinance codified in this chapter except as provided in subsection (B)(4) of this section.

2. Mining Permit Review. The planning commission shall review mining permits issued pursuant to this chapter every five years. It shall be the sole responsibility of the operator to submit a written request to the planning commission prior to the expiration of each five-year period. Operator shall provide the planning commission with ample evidence that compliance is being maintained with the local coastal program and the approved reclamation plan for the site. The planning commission retains the right subsequent to mining permit review to modify the terms of any mining permit required to assure continuing compliance with the local coastal program. Furthermore, the planning commission may consider and approve modifications of any mining permits so long as it finds that any such modification is in compliance with the local coastal program and reclamation plan.

3. Review Period Adjustment. It is the intent of the city to review mining permits concurrent with reviewing reclamation plans, whenever possible, for any individual mining operation. In order to assure that the city's intent is realized the planning commission may permit reasonable adjustments in the timing of mining permit review.

4. Permit Limitations. No person who has obtained a legal vested right to conduct a surface mining operation prior to January 1, 1976 shall be required to secure a mining permit pursuant to the provisions of this chapter so long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this chapter.

5. Mining Permit Revocation. Mining permits may be revoked by the planning commission following a hearing. Operator shall be notified in writing at least ten days prior to such hearing. Grounds for revocation shall be noncompliance with the provisions of this chapter, the approved reclamation plan, coastal development permit (if applicable) and the local coastal program (if applicable).

6. Notification of State Geologist. The State Geologist shall be notified of the filing of all permit applications.

7. Periodic Review. This chapter shall be reviewed and revised, as necessary to ensure that it is consistent with the state policy for mined lands reclamation and the city's local coastal plan and general plan.

C. Reporting Provision. In order to establish reference base data for the purpose of determining whether or not any particular mining activity constitutes new mining activity and to monitor shoreline erosion it is required that all operators of existing mining operations submit to the planning department a brief written statement specifying the approximate annual volume of sand being removed and an accurate cronaflex orthotopographic map, at a scale of one inch equals two hundred feet with two-foot contour intervals, preferably prepared by a licensed photogrammetric engineer. All elevations on said map shall be based on city datum. Said maps may also be prepared by a licensed surveyor or civil engineer. All areas being mined shall be clearly and accurately outlined on said topographic map. The information specified above shall be certified for accuracy and be submitted by the operator to the city.

1. Initial Submittal. Initial submittal of the reference base data shall be completed by existing operators within six months from the effective date of the ordinance codified in this chapter.

2. Subsequent Resubmittal. Updated reference base data shall be resubmitted to the planning department by January 1, 1984 and every January 1st thereafter.

3. New Mining Operations. New mining operations will be required to submit reference base data concurrent with the application for a mining permit and reclamation plan approval and shall also be required to resubmit updated reference base data every January 1st thereafter. If initial submittal of reference base material takes place after July 1st in any given year operator shall be exempted for resubmitting updated reference base information the following January 1 but shall be required to resubmit updated reference base material every January 1st thereafter.

D. Permit and Reclamation Plan Fee. A fee shall be established by the city council and shall be paid to the city at the time of filing a permit application or reclamation plan.

E. Reclamation Plan Requirements. The planning commission shall review reclamation plans and find that they include the following:

1. The name and address of the operator and the names and addresses of any persons designated by him as his agent for the service of process;
2. The anticipated quantity and type of materials for which the surface mining operation is to be conducted;
3. The proposed dates for the initiation and termination of such operation;
4. The maximum anticipated depth and area of the surface mining operation;
5. The size and the legal description of the land, that will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the geology of the area in which surface mining is to be conducted; if, in the Coastal Zone, a line indicating the tsunami run-up line; the location of all rare and endangered plant and animal species and their habitat in the area where surface mining is to be conducted; the location of all streams, roads, railroads and utility facilities within, or adjacent to such lands; the location of all proposed access roads to be constructed in conducting such operation; and the names and address of the owners of all surface and mineral interests of such lands;
6. A description of the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that the reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation;
7. A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;
8. A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including:
 - a. A description of the manner in which contaminants will be controlled, and mining waste will be disposed, and
 - b. A description of the manner in which rehabilitation of affected natural habitat areas to their original condition will occur, and
 - c. A description of the manner in which the tsunami run-up zone will be preserved to protect the public safety of the community;
9. An assessment of the effect of implementation of the reclamation plan on future mining in the area;
10. A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan; and acknowledgement that the obligations of the plan transfer from one operator to another on a site;
11. An environmental assessment of the area to be mined executed by at least a qualified biologist and a qualified geologist selected from the city's list;
12. If in the environmental assessment, any rare and endangered species habitats and/or shoreline erosion are found to be present on the site, an environmental impact report must be completed and all mitigations, including those for rare and endangered species and/or shoreline erosion, included in the proposed reclamation plan;
13. Compliance and conformance with the Marina local coastal program and city's general plan, zoning ordinance and any other pertinent city ordinances and regulations;
14. Map of all areas mined prior to January 1, 1976;
15. Any other information which the planning commission may require as pertinent to the determination of the adequacy of the proposed plan.

F. Time Limits. Time limits for the approval of a reclamation plan or mining permit for existing operations may be extended for a period of up to one year by the planning commission or city council on appeal subject to the following conditions:

1. Written request is provided by the operator prior to expiration of initial two-year time period.
2. Operator shall submit evidence to planning commission or city council showing good cause for the extension request.

G. Transferability. Whenever one operator succeeds to the interest of another in any uncompleted surface mining operation by sale, assignment, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.55.050 Review procedure.

The planning commission shall review the permit application and the reclamation plan and shall schedule a public hearing within thirty days of accepting the completed application. The public hearing will be held for the purpose of considering a permit or reclamation plan for the proposed surface mining operation. (Zoning ordinance dated 7/94 (part), 1994)

17.55.060 Performance bond.

Upon a finding by the planning commission that a supplemental guarantee for the reclamation of the mined land is necessary, and upon the determination by the city planner of the cost of the reclamation of the mined land according to the reclamation plan, a surety bond, lien, or other security guarantee conditioned upon the faithful performance of the reclamation plan shall be filed with the city. Such surety shall be executed in favor of the city and reviewed and revised, as necessary. Such surety shall be maintained in an amount to complete the remaining reclamation of the site as prescribed in the approved or amended reclamation plan during the succeeding two-year period, or other reasonable term. (Zoning ordinance dated 7/94 (part), 1994)

17.55.070 Public record.

Reclamation plans, reports, applications and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the city that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The city shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished upon request of the District Geologist of the State Division of Mines and Geology by the city. Proprietary information shall be made available to persons other than the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975. (Zoning ordinance dated 7/94 (part), 1994)

17.55.080 Amendments.

A. Amendments to an approved reclamation plan may be submitted to the city at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the city.

B. Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan. (Zoning ordinance dated 7/94 (part), 1994)

17.55.090 Variance.

Variances from an approved reclamation plan may be allowed upon request of the operator and applicant, if they are not one and the same, upon findings by the planning commission that each requested variance is necessary to achieve the prescribed or higher use of the reclaimed land and is consistent with the Marina local coastal program if property is located within the Coastal Zone. (Zoning ordinance dated 7/94 (part), 1994)

17.55.100 Appeal.

Any person aggrieved by an act or determination of the planning commission in exercise of the authority granted herein shall have the right to appeal to the city council. Any appeal must be filed, on forms provided, within ten working days after the rendition, in writing, of the decision. (Zoning ordinance dated 7/94 (part), 1994)

17.55.110 Enforcement.

The provisions of this chapter shall be enforced by any authorized member of the planning department or such other persons as may be designated by the city council. (Zoning ordinance dated 7/94 (part), 1994)

17.55.120 Separability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.56

APPEALS*

Sections:

17.56.010	Planning commission authority.
17.56.020	Application.
17.56.030	Action by planning commission.
17.56.040	Appeal.

* Prior ordinance history: Ord. 77-10.

17.56.010 Planning commission authority.

The planning commission shall have the power to hear and decide appeals based on the enforcement of this title or the interpretation of the provisions thereof. (Zoning ordinance dated 7/94 (part), 1994)

17.56.020 Application.

Application for appeal or interpretation shall be made in writing to the planning commission. (Zoning ordinance dated 7/94 (part), 1994)

17.56.030 Action by planning commission.

The planning commission shall consider application and render its decision within sixty days after the receipt thereof. (Zoning ordinance dated 7/94 (part), 1994)

17.56.040 Appeal.

In case the applicant is not satisfied with the decision of the planning commission, he may, within ten days, appeal in writing to the city council. A copy of such appeal shall be submitted by the applicant to the planning commission. The city council shall render its decision within sixty days after receipt by said council and the planning commission of such appeal. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.58

AMENDMENTS*

Sections:

- 17.58.010 Procedure generally.**
- 17.58.020 Initiation.**
- 17.58.030 Public hearings.**
- 17.58.040 Conditions.**

* Prior ordinance history: Ords. 77-10 and 82-14.

17.58.010 Procedure generally.

This title may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by following the procedure of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.58.020 Initiation.

An amendment may be initiated by:

- A. The verified petition of one or more owners of property affected by the proposed amendment, which petition shall be filed with the planning commission and shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the petitioner; or by
- B. Resolution of intention by the city council;
- C. Resolution of intention by the planning commission. (Zoning ordinance dated 7/94 (part), 1994)

17.58.030 Public hearings.

A. The planning commission shall hold at least one public hearing on any proposed amendment. At least ten days prior to the first public hearing, said planning commission shall give notice thereof by at least one publication in a newspaper of general circulation within the city of such public hearing.

B. In case the proposed amendment consists of a change of the boundaries of any district so as to reclassify the property from any district to any other district, the planning commission shall give additional notice of the time and place of such hearing and on the purpose thereof by mailing a notice of the time and place of such hearing to all persons owning real property within three hundred feet of the property which is the subject of the proposed zoning change.

C. Following the aforesaid hearing, the planning commission shall make a report of its findings and recommendations with respect to the proposed amendment and shall file with the city council an attested copy of such report.

D. 1. Upon receipt of such report from the planning commission, when the planning commission has recommended a proposed amendment, the city council shall set the matter for public hearing and shall give notice thereof by one publication in a newspaper of general circulation within the city at least ten days prior to such hearing. After conclusion of the hearing, the city council may adopt the proposed amendment or any part thereof in such form as said council may deem advisable.

2. When the planning commission recommendation is to disapprove the proposed amendment, the matter shall not be set for public hearing and no further action shall be taken unless the amendment was initiated by the adoption of a resolution of intention by the city council, or unless or until the applicant requests such hearing. Such request shall be made by filing with the city clerk of the city council and with the planning commission, within ten days after written notice of the decision has been mailed, a written request for hearing before the city council. The planning commission shall thereupon forthwith transmit to the city council all of the papers constituting the record upon which the recommended action was taken. Upon receipt of such request, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to this section. After the conclusion of the hearing, the city council may adopt the proposed amendment or any part hereof in such form as said council deems advisable.

3. Upon the consent of the planning commission, any petition for an amendment may be withdrawn upon the written application of a majority of all the persons who sign such petition.

4. The city council or the planning commission, as the case may be, may by resolution of intention abandon any proceedings for an amendment initiated by its own resolution of intention; provided, that such abandonment may be made only when such proceedings are before such body for consideration and provided that any hearing of which public notice has been given shall be held. (Zoning ordinance dated 7/94 (part), 1994)

17.58.040 Conditions.

The city council may impose conditions to the zoning reclassification of property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city. Any amendment which changes the zoning within the Coastal Zone or changes in any manner the allowed uses or development regulations within the Coastal Zone shall not be effective until approved by the State Coastal Commission. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.59

SIGNS*

Sections:

17.59.010	Purpose and intent.
17.59.020	Application.
17.59.030	Responsibility.
17.59.040	Design review board approval required.
17.59.050	Sign permit required.
17.59.060	Enforcement.
17.59.070	Remedies.

17.59.080	Exemptions.
17.59.090	Nonconforming signs.
17.59.100	Maintenance and construction provisions.
17.59.110	Safety provisions.
17.59.120	Abandoned signs and abatement thereof.
17.59.130	Illumination of signs.
17.59.140	Abatement of signs on public property and signs presenting health or safety hazards.
17.59.150	Definitions.
17.59.160	Prohibited signs.
17.59.170	Permitted signs.
17.59.180	Sign regulations for commercial and industrial districts.
17.59.190	Sign regulations for residential districts.
17.59.200	Sign regulations for districts other than commercial, industrial and residential.
17.59.210	Real estate signs.
17.59.220	Signs not otherwise regulated.
17.59.230	Neighborhood signs.
17.59.240	Service stations.
17.59.250	Highway signs.
17.59.260	Signs for advertising purposes.
17.59.270	Signs in the Coastal Zone.
17.59.280	Billboard signs.
17.59.290	Severability.

* Prior ordinance history: Ords. 83-11, 86-9 and 91-1.

17.59.010 Purpose and intent.

A. It is the purpose and intent of this chapter to provide the city with a viable and practical set of sign regulations that will promote the orderly growth of the community; facilitate the continual upgrading of the community; preserve the natural beauty of Marina while simultaneously protecting the rights of property and business owners to display signs and the right of individuals to live, work and visit a city that is free from the usual blight that would result from under or nonregulation of signs.

B. These sign regulations, pursuant to the provisions of the Marina general plan, set forth the minimum acceptable standards necessary to protect and safeguard the life, peace, health, safety, property and general welfare of the public by regulating among other things the location, placement, size, number, area, type, illumination and maintenance of signs and sign structures.

C. In addition to the standards specified above, it is hereby set forth that a primary goal of these regulations shall be to insure that signs and sign structures are considered in light of the architectural and landscape design of the buildings and properties along with individual setting or location of the buildings and properties. (Zoning ordinance dated 7/94 (part), 1994)

17.59.020 Application.

No sign shall be placed, displayed, painted, posted, printed, tacked, fastened, erected, relocated, constructed or otherwise except as provided in this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.59.030 Responsibility.

It shall be the sole responsibility of the person making application to place, construct, erect, alter, relocate, tack, fasten, paint, post or display any sign in the city to obtain the necessary authorization from the owner or lessee of the property. (Zoning ordinance dated 7/94 (part), 1994)

17.59.040 Design review board approval required.

A. Design review board (site and architectural design review board) approval shall be required of all signs unless otherwise specified in this chapter. A fee shall be collected by the planning department prior to consideration of any sign by the site and architectural design review board. The fee shall be established from time to time by resolution of the city council.

B. In order to facilitate the site and architectural design review board review and approval process, any person seeking to obtain site and architectural design review board approval shall submit accurate plans, drawings, color boards, examples of materials or any such other information specified by the director of planning showing the size, shape, location, color, materials and physical relationship to the site of the sign and sign structure. Any decision of the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of the decision. Any decision of the planning commission may likewise be appealed to the city council. Written appeals shall be filed with the planning department no later than ten days after the decision of the site and architectural design review board or the planning commission.

C. During the course of review and approval, the site and architectural design review board or the planning commission on appeal or the council on appeal may approve, disapprove, conditionally approve or modify the plans as submitted in order to insure compliance with the spirit and intent of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.59.050 Sign permit required.

A. In order to insure that the building department is provided with an opportunity to review the placement, construction, erection, relocation or alteration of any and all signs in the city, it is required, unless otherwise specified herein, that a sign permit shall be obtained from the building department prior to the placement, construction, erection, relocation, alteration or otherwise of the sign.

B. Any person seeking to obtain a sign permit shall provide the building department with any and all necessary plans, drawings or other materials or information required by the building department along with written evidence that the site and architectural design review board approval has been obtained for the sign. Following a review of the materials submitted, the building department may issue the sign permit or as an alternative may require that a building permit be obtained pursuant to the provisions of the Uniform Building Code (UBC) in lieu of a sign permit. A fee shall be collected by the building department prior to the issuance of any sign or building permit. The fee for a sign permit shall be established from time to time by resolution of the city council. The fee for a building permit shall be as specified in the UBC. (Zoning ordinance dated 7/94 (part), 1994)

17.59.060 Enforcement.

The regulations contained in this chapter shall be enforced as are other zoning, building and safety regulations as set forth in this code. (Zoning ordinance dated 7/94 (part), 1994)

17.59.070 Remedies.

Notwithstanding the procedures for enforcement set forth in this code, the city is authorized to proceed in any other fashion, way or procedure permitted by law. (Zoning ordinance dated 7/94 (part), 1994)

17.59.080 Exemptions.

The provisions and regulations of this chapter shall not apply to the following signs provided, however, that the following signs shall be subject to all safety provisions contained in this chapter:

- A. Official signs and notices, public utility signs, public directional signs;
- B. Professional nameplates not exceeding three square feet in area;
- C. Temporary signs of a directional nature approved by the director of planning;
- D. Emergency, public service or other temporary nonadvertising signs as approved by the city council;
- E. Memorial signs on tablets, names and dates of buildings when cut into any masonry surface or when flush mounted and constructed of bronze or other noncombustible materials;
- F. Rural mailboxes designating the name and address of the person serviced by the mailbox;
- G. Signs placed by the city on the pedestrian overpass over Del Monte Boulevard at intersection with Palm Avenue. (Ord. 95-10 § 1 (part), 1995; zoning ordinance dated 7/94 (part), 1994)

17.59.090 Nonconforming signs.

- A. Any permanent sign lawfully existing prior to the adoption of this chapter and not conforming to the provisions contained in this chapter is declared to be a lawfully nonconforming sign and may remain as such.
- B. No such nonconforming sign shall in any way be altered, relocated, replaced or reworded unless the sign can be made to conform to all provisions of this chapter. Nothing in this section shall be construed to prohibit the normal maintenance and repair of lawfully nonconforming signs. (Zoning ordinance dated 7/94 (part), 1994)

17.59.100 Maintenance and construction provisions.

The appropriate sections of the Uniform Building Code, (UBC) the Uniform Electric Code (UEC) or any amendment thereto adopted by the city shall apply to the construction, placement or display of signs in the city. All signs having internal or built-in illumination shall be constructed wholly of noncombustible materials or other such fire resistive materials as approved by the building department. Guy wires or exposed strut like sign structures shall not be utilized. Signs and sign structures shall at all times be maintained in a state of good repair including all braces, bolts, structural parts, supporting frames and fastenings. (Zoning ordinance dated 7/94 (part), 1994)

17.59.110 Safety provisions.

In addition to all other maintenance and construction provisions contained in this chapter, all signs within the city shall comply with the following provisions:

- A. Obstructions to Doors, Windows or Fire Escapes. No sign shall be erected, relocated, altered, maintained or otherwise so as to prevent ingress to or egress from any door, window or fire escape. No sign shall be attached to a standpipe, gutter, drain or fire escape, except signs referring specifically to the standpipe, gutter, drain or fire escape to which it is attached.
- B. Signs Not to Obstruct Traffic Signals. No sign regulated by this chapter shall be erected at any location where, by reason of its position, it will obstruct or confuse the view of any authorized traffic sign, signal or device.
- C. Exterior of Signs. On all signs which are erected within five feet of a public street or sidewalk, no nails, tacks or wires shall be permitted to protrude therefrom. All structural trim maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure. (Zoning ordinance dated 7/94 (part), 1994)

17.59.120 Abandoned signs and abatement thereof.

A. No person shall maintain or permit to be maintained on any premises owned or controlled by said person any sign which has been abandoned. Any such sign shall be promptly abated. Any sign which is located on property which becomes vacant for a period of six months or more and any sign which was erected for an occupant or business unrelated to the present occupant or his business and any sign which pertains to a time, event or purpose which no longer obtains, shall be presumed to have been abandoned.

B. Unless some other form of abatement is approved by the director of planning in writing, abatement of abandoned signs shall be accomplished in the following manner:

1. Signs painted on buildings, walls, fences, structures shall be abated by removal of the paint constituting the sign or by painting over the sign in such a way that the sign shall not thereafter become visible.

2. Other types of signs may be abated by removal of the sign including its dependent structures and supports, unless the sign conforms to the provisions contained in this chapter in which case all faces of the sign shall be screened from view in a manner satisfactory to the director of planning. (Zoning ordinance dated 7/94 (part), 1994)

17.59.130 Illumination of signs.

All illuminated signs in the city shall comply with the following standards:

A. The use of high intensity, unshielded or undiffused lights shall not be permitted.

B. Lights or illumination shall be shielded, oriented or diffused so as to eliminate undue glare onto adjacent properties.

C. Lights shall be shielded or diffused in such a manner as to eliminate the possibility of conflict with safe traffic movement.

D. The site and architectural design review board or planning commission and city council, on appeal, shall retain the right to require reduction in the intensity of illumination after the installation of any illuminated sign if said illumination creates any undue glare, annoyance or hazard. (Zoning ordinance dated 7/94 (part), 1994)

17.59.140 Abatement of signs on public property and signs presenting health or safety hazards.

A. Signs on Private Property Presenting Health or Safety Hazards. No sign may be placed upon any privately owned property in a manner which creates a public health or safety hazard. Any sign placed on, above or adjacent to any street, sidewalk or right-of-way which creates a health or safety hazard through obstructing vision or use of such street, sidewalk or right-of-way may be summarily removed by the public safety, public works or planning directors or their respective delegates. Any sign so removed shall be returned to the owner upon payment of the costs of removal and storage. Any sign placed on or about private property which creates a health or safety hazard, including obstructing vision in the public right-of-way, may be removed by the public safety, public works or planning directors or their respective delegates to a position on the private property where it does not create a health or safety hazard.

B. Signs on Public Property. No sign may be placed in or upon any public right-of-way, the exterior of any public building, any public grounds or property thereon, any public utility pole or appurtenance thereof, wherever located, or any tree on public property. Any such sign may be summarily removed and impounded by the public safety, public works or planning director or their respective delegates.

C. Impounded Signs. Any sign impounded under the provisions of subsections A or B of this section shall be stored for a period of not less than thirty days at which time the signs may be salvaged, sold or destroyed in order to defray the costs of removal and storage. The person responsible for the placement of such sign shall

be liable for the cost incurred in the removal and storage of the sign and the departments of public safety and public works are authorized to effect the collection of said cost.

D. Noticing Sign Owners. If the person who owns a sign which has been removed pursuant to this section can be identified, the city official who has removed said sign shall notify that person of the reasons the sign has been removed, the location of the sign and the procedures for the return of the sign. (Ord. 95-10 § 1 (part), 1995; zoning ordinance dated 7/94 (part), 1994)

17.59.150 Definitions.

As used in this chapter:

“Official signs and notices” means signs and notices placed by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and placed by state or local government agencies or nonprofit historical societies shall be considered as official signs.

“Primary business frontage” means that frontage of a building containing the primary or most important entrance to the occupancy thereon. In such cases where there are multiple entrances, the director of planning shall determine which frontage is the primary frontage. In no case shall more than one primary business frontage be permitted.

“Public directional signs” means signs containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly owned natural phenomena, historic, cultural, scientific and educational sites; and publicly owned or operated areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

“Public utility signs” means warning signs, informational signs, notices or markers which are customarily placed by public or private utilities, as essential to their operations.

“Secondary business frontage” means that frontage of a building containing any entrance other than a primary business frontage. In no case shall more than two secondary business frontages be permitted.

“Service station” means a business which is primarily in the business of providing service to vehicles such as gasoline, oil, tire, mechanical assistance, parts, etc., and not including convenience markets that sell gasoline, diesel fuel or oil.

“Shopping center” means commercial and retail buildings and associated facilities which have been designed and developed as an integrated unit containing more than five separately owned and operated businesses which function as an integral unit and which utilize common off-street parking.

“Sign” means any letters, figures, design, symbol, trademark or illuminating device intended to attract attention to any person, partnership, corporation or unincorporated association, or any place, subject, public performance, article, machine or merchandise, whatsoever, and painted, printed, constructed, erected or displayed in any manner whatsoever.

“Sign area” means that area enclosed by a square, rectangle, triangle or other shape which connects the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper. The area of a sign composed of characters, words or individual letters attached directly to a surface, shall be the smallest shape that encloses the whole group. Sign area shall include only one face of any double-faced sign and shall include all faces of any multi-faced sign containing more than two faces. For the purpose of this definition, the faces of a double-faced sign shall be parallel.

“Sign area allotment” means the maximum area of signs that may be displayed on any site, premises, business, building, parcel, lot or otherwise not including signs specifically exempted in this chapter.

“Uniform Building Code, Uniform Electrical Code, Uniform Mechanical Code” means those codes which are currently in full force and effect as adopted by the city council including any amendments or additions thereto adopted from time to time by the city council. (Ord. 95-10 § 1 (part), 1995; zoning ordinance dated 7/94 (part), 1994)

17.59.160 Prohibited signs.

The following signs shall be prohibited in the city. Definitions and descriptions of these signs are included in this section. Additional definitions pertaining to this chapter are contained in Sections 17.59.150 and 17.59.170.

A. Portable Signs. Signs such as A-board or other such signs capable of standing without support or attachment to a structure or the ground.

B. Animated Signs. Signs that involve animation, rotation, flashing, projections, scintillation, or any type of movement not including barber pole signs or time, date and temperature signs.

C. Billboard Signs. Off-site advertising signs that are designed to direct attention to a business, commodity, service or entertainment, sold or offered elsewhere than on the premises or property on which the sign is located, not including temporary signs or banners that are approved by the city council and which are to be used for the purpose of advertising an event of general civic interest or that are to be used as temporary off-site directional signs as approved by the planning commission.

D. Vehicle Signs. Signs that are attached to, painted on or placed on top of any vehicle, trailer or other means of conveyance, for the purpose of advertising a commercial enterprise not including signs attached to or painted on a vehicle for the primary purpose of identifying the ownership or use of the vehicle.

E. Roof Signs. Signs that are attached to, supported by, mounted on or project above a roof or other architectural feature including, but not limited to mansards, parapets and the like.

F. Projecting Signs. Signs that are suspended from or that are supported by a wall, building or structure and project more than three feet outward therefrom or signs that project into the public right-of-way. No provision contained herein shall be construed to prohibit the display or construction of freestanding signs.

G. Characterization Signs. Signs characterizing a person, object, place, etc. (Zoning ordinance dated 7/94 (part), 1994)

17.59.170 Permitted signs.

The following signs shall be permitted in the city subject to the provisions contained in this section and this chapter. Definitions of permitted signs are included in this section. Additional definitions pertaining to this chapter are contained in Sections 17.59.150 and 17.59.160.

A. Accessory Signs. A sign of a secondary nature, e.g., savings stamp signs, credit card signs not exceeding one square foot. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.

B. Barber Pole Signs. A striped pole characteristic of barbershops. Such signs may rotate. One such sign may be permitted per business in addition to any other signs permitted by this chapter. Site and architectural design review board approval is required. A sign permit is required.

C. Directional and Public Service Signs. Public service signs including time and temperature devices and signs indicating the location or direction of a place or area on the premises upon which the sign is located. Such signs are not included in the maximum sign area allotment if they are deemed necessary and appropriate by the director of planning. Site and architectural design review board approval is not required. A sign permit is not required.

D. Freestanding Signs. Freestanding signs of a permanent nature not attached to any portion of a building and not projecting over or through a roof, eaves of a building or any public right-of-way. Such signs may be placed within required yard or setback areas. Site and architectural design review board approval is required. A sign permit is required.

E. Awning Signs. A sign attached to the face of or supported by an awning. (Awning: a roof-like cover, usually of canvas extending over or before a place). Such signs must be parallel to the face to which attached and must not hang lower or project above the face to which attached. Site and architectural design review board approval is required. A sign permit is required.

F. Marquee or Canopy Signs. A sign attached to or supported by a marquee or canopy. Such signs must be parallel to the face to which they are attached and may not be made of cloth, canvas or other material of a similar nature nor shall such signs hang lower or project above the face to which attached. Site and architectural design review board approval is required. A sign permit is required.

G. Nameplates. Professional nameplates and occupation signs exceeding three square feet in area. Site and architectural design review board approval is required. A sign permit is required.

H. Readerboard Signs. A sign with detachable or interchangeable letters. Site and architectural design review board approval is required. A sign permit is required.

I. Under Canopy Signs. A sign attached to the underside of a canopy. The canopy must be of a permanent nature attached to and supported by a building. Such signs that do not exceed four square feet will not be included in the maximum sign area allotment. Any such sign exceeding four square feet shall be included in the maximum sign area allotment. Such signs shall have a minimum clearance of seven feet six inches above the sidewalk. Site and architectural design review board approval is required. A sign permit is required.

J. Wall Signs. A sign of either solid face construction or individual letters placed against the exterior wall of any building or structure. Such signs shall not extend more than one foot beyond the wall. Site and architectural design review board approval is required. A sign permit is required.

K. Window Signs—Temporary. Signs that are painted, placed, taped, displayed or otherwise suspended within three feet of any window that are visible from outside the place of business and that are designed to be displayed for a maximum of thirty days. Such signs are permitted to cover no more than fifty percent of the area of the window. Such signs may not be displayed more than thirty days. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.

L. Window Signs—Permanent. Signs that are painted, placed, taped, displayed or otherwise suspended within three feet of any window that are visible from outside the place of business and that are designed to be displayed for more than thirty days. Such signs are permitted to cover no more than ten percent of the area of the window. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.

M. Monument Sign. A low profile freestanding sign incorporating the design and building materials and accenting the architectural theme of buildings within the same development. Such signs shall be considered the same as a freestanding sign.

N. Real Estate Signs. Real estate signs shall be permitted as specified in Section 17.59.210 of this chapter.

O. Signs in General. Any sign which is not listed under permitted or prohibited signs (Section 17.59.160 and this section, respectively) shall be considered individually by the planning commission who shall determine whether the sign falls in the permitted or prohibited category. If the planning commission determines that such sign falls in the permitted category, permission to display such sign, signs or signing program shall be granted subject to any and all conditions the planning commission may find necessary to achieve the spirit, purpose and

intent of this chapter. The conditions of approval may include but not be limited to requiring site and architectural design review board approval and a sign permit. (Zoning ordinance dated 7/94 (part), 1994)

17.59.180 Sign regulations for commercial and industrial districts.

C-1, C-2, P-C, L-M and M Districts.

A. Sign Area. One and one-half square feet are permitted for every foot of primary business frontage to a maximum of two hundred square feet per business. One-half square foot is permitted for every foot of secondary business frontage to a maximum of twenty-five square feet for each secondary business frontage.

B. Number of Signs. No more than four signs may be permitted per business. Under canopy signs are not counted for the purposes of this section.

C. Type of Sign. Any sign specified under Section 17.59.170, may be displayed in accordance with the provisions of this chapter.

D. General Provisions. All signs and signing programs specified below shall be subject to review and approval by the site and architectural design review board and shall require a sign permit.

1. Shopping centers may be permitted to erect a freestanding identification sign which may also indicate the principal tenant and other services available on the site. Said sign shall be located adjacent to the principal street frontage and shall not exceed one hundred square feet in area or twenty-five feet in height. If the shopping center has more than one principal street frontage, two such signs may be permitted. The sign area and sign height specified in this section are the maximum limits and the site and architectural design review board reserves the right to approve lesser sign area or height.

2. Shopping centers containing more than twenty-five acres approved under a single development permit shall be permitted to erect two freestanding identification signs which may also indicate the principal tenants along with other pertinent information deemed appropriate by the site and architectural design review board. Such signs shall not exceed two hundred fifty square feet in area nor fifty feet in height. The sign area and height specified in this section are the maximum limits and the site and architectural design review board reserves the right to approve lesser sign area or height.

3. Industrial parks containing more than four buildings designed to be architecturally compatible, whether or not on the same parcel of land, shall be permitted to place monument signs along, at, or adjacent to principal entrances to the park. Such signs shall not exceed two hundred square feet or ten feet in height. The actual size, height and number of signs shall be specified by the site and architectural design review board.

4. Real estate signs shall be permitted subject to the provisions of Section 17.59.210.

E. Master Signing Program Approval Required.

1. Any and all commercial, office or industrial developments designed to contain more than four occupancies, businesses or buildings are required to obtain approval of a master signing program from the site and architectural design review board. Said master signing program plans must be prepared, reviewed and approved by the site and architectural design review board prior to the issuance of any occupancy permit in the development. Plans for the master signing program shall include specifications, descriptions and locations of all signs to be displayed on the site including but not limited to advertising, identification, directional and public service signs. The site and architectural design review board may approve, conditionally approve or modify said plans in order to insure that the master signing program is in accordance with the purpose, spirit and intent of this chapter. Any decision of the site and architectural design review board on a master signing program may be appealed to the planning commission. Appeals shall be in writing and shall be filed with the planning department within ten days of the decision. Any decision of the planning commission may be appealed to the city council in the same manner as decisions of the site and architectural design review board are appealed.

2. Approved master signing programs may be modified from time to time by the site and architectural design review board or by the planning commission or city council through the appeal process. (Zoning ordinance dated 7/94 (part), 1994)

17.59.190 Sign regulations for residential districts.

R-1, R-2, R-3, R-4 and S-T Districts.

A. Single-Family Dwellings, Duplexes, Triplexes, and Fourplexes. One nameplate not exceeding three square feet per dwelling. Site and architectural design review board approval is not required. A sign permit is not required.

B. Multiple-Family Dwellings. Dwellings containing more than four dwelling units may be permitted a maximum of two signs, each containing a maximum of thirty square feet. Site and architectural design review board approval is required. A sign permit is required.

C. Church Signs. Same as subsection B of this section.

D. Public, Quasi-Public, Halls, Organizations, Clubs, Lodges and All Similar Uses. Same as subsection B of this section.

E. Nonresidential uses not otherwise specified herein including but not limited to hotels, motels, professional offices and other nonresidential uses that may be permitted in residential zoning districts. Signs for such uses shall be regulated by Section 17.59.180.

F. Real Estate Signs. Real estate signs shall be permitted subject to the provisions of Section 17.59.210.

G. All signs not permitted by subsections A through F of this section are prohibited. (Zoning ordinance dated 7/94 (part), 1994)

17.59.200 Sign regulations for districts other than commercial, industrial and residential.

U, O, K and T Districts. All signs, other than real estate signs which are regulated in Section 17.59.210, shall require approval by the site and architectural design review board or the planning commission or city council through the appeal process. Appeals may be made of any decision of the site and architectural design review board or planning commission as specified in Section 17.59.040. No sign shall be approved unless and until a finding is made that the proposed sign is consistent with the purpose, spirit and intent of this chapter. (Zoning ordinance dated 7/94 (part), 1994)

17.59.210 Real estate signs.

The following regulations shall apply to real estate signs in the city:

A. Sale, Rental or Lease Signs. Except as provided in subsection D of this section any property being advertised for sale, rent or lease may have one such sign on the property. Such sign shall not exceed twelve square feet in area. Site and architectural design review board approval is not required. A sign permit is not required.

B. Subdivision Signs. In the subdivision of land, the land being subdivided may have no more than two signs posted upon it advertising the subdivision. Each sign shall not exceed thirty-two square feet in area. Site and architectural design review board approval is not required. A sign permit is required.

C. Under Construction Signs. Under construction signs shall not exceed twenty square feet in area. No more than one such sign shall be permitted. Site and architectural design review board approval is not required. A sign permit is required. Such signs shall be removed prior to the issuance of the final occupancy permit.

D. Portable, Temporary Signs Displayed on Private Property. In advertising a property for sale, rental or lease, a portable sign, not exceeding six square feet in area may be placed off the site on private property for the purpose of advertising that the subject property is open for inspection. One additional such sign may be dis-

played on the premises that is open for inspection. Such signs shall only be displayed when the premises are open for inspection. Site and architectural design review board approval is not required. A sign permit is not required.

E. Model Home Signs. Signs identifying model homes may be displayed on the property upon which the model homes are located. Such signs shall be located adjacent to the entrance of the model home. Such signs shall not exceed eight square feet in area nor three feet in height. Site and architectural design review board approval is not required. A sign permit is not required.

F. General Provision. Any signs not specifically permitted under the provisions of this section are prohibited unless and until a use permit is secured from the planning commission. (Zoning ordinance dated 7/94 (part), 1994)

17.59.220 Signs not otherwise regulated.

A. General Provisions. The following provisions apply to all signs expressing a political, religious or sociological viewpoint, including elections signs:

1. No such sign shall be located upon any public street, alley, sidewalk, right-of-way, easement, or other governmental property.

2. All such signs shall be erected, altered and maintained in accordance with the Uniform Building Code and the safety provisions set forth in Section 17.59.110 of this chapter.

3. All such signs must be stationary and unlighted.

4. Any freestanding sign shall be located at least five feet from any right-of-way line and may not encroach upon required parking or driveways.

5. The posting of any sign regulated by this section shall not in any way effect a property owner's right to erect signs permitted by other provisions of this chapter.

6. Site and architectural design review board approval is not required. A sign permit is not required.

7. Consent of Owner or Occupant. No sign regulated by this section may be posted without the consent of the owner or legal occupant of the premises on which the sign is posted.

8. Area of Signs. No sign regulated by this section shall exceed thirty-two square feet of sign area, except that in the R-1 district the total sign area shall not exceed eight square feet.

9. Signs in the R-1 District. The total area of all signs regulated by this section on any one property in the R-1, single-family residential district shall not exceed eight square feet. However, in this district, the number of such signs on any one property is not limited, provided the total area of all signs does not exceed eight square feet. All signs shall be freestanding, or attached to buildings, fences or windows of buildings.

10. Signs in All Districts Other than the R-1 District. In all zoning districts except the R-1 district, signs regulated by this section shall be freestanding or attached to buildings, fences or windows of buildings. Any freestanding sign shall be placed only upon those vacant portions of a property which are not covered by structures, landscaping, parking areas or driveways. The total area of all signs on any one property which includes at least four thousand square feet of such vacant area shall be limited to not more than one square foot of sign area for each one hundred twenty-five square feet of such vacant area. For properties which include less than four thousand square feet of vacant area, each such property shall still be allowed up to thirty-two square feet of total sign area with no limitation upon the number of signs composing the thirty-two square feet.

11. Time Limitations. Signs regulated by this section may be posted not more than sixty days prior to an event to which they pertain. All such signs must be removed within five days after the event to which they pertain or within sixty-five days of their initial posting, whichever occurs first.

12. Responsibility for Removal. It shall be the property owner's responsibility to remove all signs regulated by this section within the time limitations specified above, whether or not the owner has consented to the posting or construction of such signs.

B. Greater Sign Area and Time Limitations Allowable Pursuant to Use Permit and Design Review Board Approval.

1. Upon application to the planning commission for a use permit, a sign area greater than otherwise allowed by this section may be allowed so long as the planning commission finds, after receiving a recommendation from the site and architectural design review board, that:

a. The sign will not materially conflict with the character of the neighborhood in which it will be displayed; and

b. The value of property in the zone will not be significantly decreased by the erection or maintenance of the sign.

2. Use permits for such signs shall be granted for a period of not more than one year. (Ord. 98-6 § 1, 1998)

17.59.230 Neighborhood signs.

Signs identifying a neighborhood or development not exceeding fifty square feet in area, may be permitted. Site and architectural design review board approval is required. A sign permit is required. (Zoning ordinance dated 7/94 (part), 1994)

17.59.240 Service stations.

In addition to the signing permitted under Section 17.59.180, service stations may be permitted to display two additional signs each of which shall not exceed sixteen square feet. Such signs shall be permanently affixed to the ground or a structure. Site and architectural design review board approval is required. A sign permit is required. (Zoning ordinance dated 7/94 (part), 1994)

17.59.250 Highway signs.

Commercially zoned properties having frontage on Highway 1 are declared to be sites of special significance and any and all signs and signing programs shall be approved by the planning commission or the city council on appeal. The site and architectural design review board shall act in an advisory capacity to the planning commission. The site and architectural design review board shall review, consider and make a recommendation to the planning commission concerning all such signs and signing programs. In considering a sign or signing program for a site of special significance, the following items shall be considered: the signing needs of the proposed use; and the location of the site in relation to the freeway access; the responsibility of the city to protect and preserve the natural beauty of Highway 1 while balancing the city's need for a healthy highway-oriented visitor-serving industry. Any decision of the planning commission concerning a site of special significance may be appealed, in writing, within ten days of the decision of the planning commission. (Zoning ordinance dated 7/94 (part), 1994)

17.59.260 Signs for advertising purposes.

Unless otherwise provided in this chapter, no permanent sign shall be erected, constructed, placed, tacked, fastened, displayed, painted, posted, printed or otherwise where more than twenty-five percent of the area of such sign is used for advertising purposes. Seventy-five percent of the area of such signs shall be used solely for naming, designating or identifying the enterprise or calling. (Zoning ordinance dated 7/94 (part), 1994)

17.59.270 Signs in the Coastal Zone.

Notwithstanding any provision contained herein, all signs to be erected, constructed, placed, tacked, fastened, displayed, painted, posted, printed or otherwise in the Coastal Zone shall comply first and foremost with the provisions of the Marina local coastal program (LCP) along with the spirit and intent of this chapter. In the case of any conflicts between the documents, the provisions of the LCP shall prevail. It is anticipated that signs and signing programs will be considered as a part of the coastal permit process. (Zoning ordinance dated 7/94 (part), 1994)

17.59.280 Billboard signs.

(Reserved). (Zoning ordinance dated 7/94 (part), 1994)

17.59.290 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion is a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.60

ENFORCEMENT—PENALTIES*

Sections:

- 17.60.010 Conformance required.
- 17.60.020 Enforcement.
- 17.60.030 Violation deemed misdemeanor—Penalty.
- 17.60.040 Unlawful structures—Abatement.
- 17.60.050 Remedies to be cumulative.

* Prior ordinance history: Ord. 77-10.

17.60.010 Conformance required.

All departments, officials and public employees of the city which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this title, and shall issue no such permits or licenses for uses, building or purposes where the same would be in conflict with the provisions of this title, and any such permits or licenses, if issued in conflict with the provisions of this title, shall be null and void. (Zoning ordinance dated 7/94 (part), 1994)

17.60.020 Enforcement.

It shall be the duty of the planning commission to enforce the provisions of this title pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure. It shall be the duty of the police department of the city and all officers of said city herein and/or otherwise charged by law with the enforcement of this title, to enforce this title, and all the provisions of the same. (Zoning ordinance dated 7/94 (part), 1994)

17.60.030 Violation deemed misdemeanor—Penalty.

Any person, firm or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this title, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the city jail. Such persons, firms or corporations shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this title is committed, continued or permitted by such person, firm, or corporation, and shall be punishable as herein provided. (Zoning ordinance dated 7/94 (part), 1994)

17.60.040 Unlawful structures—Abatement.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained, contrary to the provisions of this title, and/or any use of any land, building or premises, established, conducted, operated or maintained contrary to the provisions of this title, is unlawful and a public nuisance, and the city attorney shall, upon order of the city council, immediately commence action or proceedings for the abatement and removal and injunction thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction, to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation, from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this title. (Zoning ordinance dated 7/94 (part), 1994)

17.60.050 Remedies to be cumulative.

The remedies provided for herein shall be cumulative and not exclusive. (Zoning ordinance dated 7/94 (part), 1994)

Title 18

TRANSPORTATION MANAGEMENT

Chapters:

- 18.04 Travel Demand Management
and Trip Reduction**
- 18.06 Definitions**
- 18.08 Employer Trip Reductions**
- 18.10 Facilities Trip Reductions**
- 18.12 Enforcement and Penalties**
- 18.14 Appeals**

Chapter 18.04

TRAVEL DEMAND MANAGEMENT AND TRIP REDUCTION

Sections:

18.04.010 Purpose and intent.

18.04.010 Purpose and intent.

A. The purpose of this title is to comply with the adopted congestion management plan for Monterey County which requires the city to take measures to relieve congestion and air pollution. This title sets standards and establishes required processes for employers and their employees, and for existing and proposed developments to achieve the goals of congestion management.

B. The intent of this title is to achieve the following goal by July 1997:

1. A 1.6 percent trip reduction per year; or
2. An average vehicle ridership (AVR) of 1.35; or
3. A drive-alone rate of sixty percent. (Ord. 93-5 § 1 (part), 1993)

Chapter 18.06

DEFINITIONS

Sections:

- 18.06.010 Alternative transportation modes.**
- 18.06.030 Applicable development.**
- 18.06.040 Average vehicle ridership (AVR).**
- 18.06.050 Buspool.**
- 18.06.060 Carpool.**
- 18.06.070 Commercial developer.**
- 18.06.090 Complex.**
- 18.06.110 Congestion management program (CMP).**
- 18.06.120 Developer.**
- 18.06.160 Facility(ies).**
- 18.06.180 Mixed-use development.**
- 18.06.190 Monterey Bay unified air pollution control district (MBUAPCD).**
- 18.06.200 Park-and-ride lot.**
- 18.06.205 Parking cash-out.**
- 18.06.230 Residential developer.**
- 18.06.240 Site development plan/permit.**
- 18.06.270 Telecommuting.**
- 18.06.290 Transportation demand management (TDM).**
- 18.06.300 Transportation management association.**
- 18.06.320 Trip reduction.**
- 18.06.330 Trip reduction checklist.**

- 18.06.380 Vanpool.**
18.06.390 Vehicle trip.

18.06.010 Alternative transportation modes.

“Alternative transportation modes” means any mode of travel that serves as an alternative to the single-occupant vehicle. This can include all forms of ridesharing such as carpooling or vanpooling, public transit, bicycling, walking or telecommuting. (Ord. 93-5 § 1 (part), 1993)

18.06.030 Applicable development.

“Applicable development” means any new development project that is determined to meet or exceed the fifty-employee threshold or any existing development that applies to increase its floor areas by twenty-five thousand gross square feet. Applicable developments include complexes exceeding the fifty-employee threshold. The following factors shall be applied to determine employment at the applicable development:

Land Use Category	Number of Employees
Commercial (regional, community or neighborhood)	1/500 gross sq. ft.
Office/professional	1/250 gross sq. ft.
Industrial	1/525 gross sq. ft.
Hotel/motel	0.8 per room
Mixed use	Sum of individual figures for each use
Restaurant	1 per 10 seats
Hospital/other medical	1 per 4 beds

Locally generated figures using springtime (January to May) employment may be approved by the transportation agency for Monterey County (TAMC). (Ord. 93-5 § 1 (part), 1993)

18.06.040 Average vehicle ridership (AVR).

“Average vehicle ridership” (AVR) means the figure derived by dividing the number of employees (including those telecommuting) at a regulated work site who commute to and from work between six a.m. to nine a.m. Monday through Friday, by the number of vehicles driven by these employees between home and the work site over that five-day period. The methodology for calculating AVR is contained in Appendix 2, set out at the end of this title. (Ord. 93-5 § 1 (part), 1993)

18.06.050 Buspool.

“Buspool” means a heavy duty vehicle occupied by at least sixteen passengers and the routing/scheduling for which is arranged between employer(s) and transit operators. (Ord. 93-5 § 1 (part), 1993)

18.06.060 Carpool.

“Carpool” is a light-duty motor vehicle occupied by at least two but not more than six employees traveling together. (Ord. 93-5 § 1 (part), 1993)

18.06.070 Commercial developer.

“Commercial developer” means a developer of a commercial project that falls under the definition of “applicable development” above. (Ord. 93-5 § 1 (part), 1993)

18.06.090 Complex.

“Complex” means any business park, shopping center or mixed use development in separate or common ownership, which can be identified by two or more of the following characteristics:

- A. It is known by a common name given to the project by its developer.
- B. It is governed by a common set of covenants, conditions and restrictions.
- C. It was approved, or is to be approved as an entity by the city.
- D. It is covered by a single tentative or final subdivision map or has been represented to the city as a single site and development.
- E. It is located on a single assessor’s parcel. At the discretion of the city, a complex may also include the central business district and/or strip commercial areas. (Ord. 93-5 § 1 (part), 1993)

18.06.110 Congestion management program (CMP).

“Congestion management program (CMP)” is the countywide program developed in accordance with California Government Code Sections 65088 et seq., requiring local jurisdictions and congestion management agencies to adopt and implement a trip reduction and travel demand element. The CMP law also requires designation of a CMP principal arterial network, a transit network, a land use impact analysis program, a deficiency plan and level of service monitoring system, and a seven-year capital improvement program. (Ord. 93-5 § 1 (part), 1993)

18.06.120 Developer.

“Developer” means the individual or company who is responsible for the planning, design and/or construction of an applicable development project. The developer is the individual who signs all permit applications on behalf of the property owner. (Ord. 93-5 § 1 (part), 1993)

18.06.160 Facility(ies).

“Facility(ies)” means the total of all buildings, structures and grounds that encompass a development site, at either single or multiple locations, that comprise or are associated with an applicable development project. (Ord. 93-5 § 1 (part), 1993)

18.06.180 Mixed-use development.

“Mixed-use development” means any development projects that combine residential with any one of these land uses: day care, office, commercial, light industrial, retail and business park. (Ord. 93-5 § 1 (part), 1993)

18.06.190 Monterey Bay unified air pollution control district (MBUAPCD).

“Monterey Bay unified air pollution control district (MBUAPCD)” is the regional governmental body responsible for the development and enforcement of regulations for control of air pollution within the counties of Monterey, Santa Cruz and San Benito. (Ord. 93-5 § 1 (part), 1993)

18.06.200 Park-and-ride lot.

“Park-and-ride lot” means a parking lot located near a residential area or along a highway which is served by a transit route or can be used by commuters as a staging area for carpool formation or for catching a bus. A park-and-ride lot may also be used by visitors as a staging area for tourist shuttle buses. Parking is free for commuters or visitors using a park-and-ride lot. (Ord. 93-5 § 1 (part), 1993)

18.06.205 Parking cash-out.

“Parking cash-out” means an employer-funded, tax deductible program where employers provide a cash allowance to an employee equivalent to the parking subsidy the employer would otherwise provide. Cities and counties are required to grant appropriate parking requirement reductions for developments that implement parking cash-out programs. (Ord. 93-5 § 1 (part), 1993)

18.06.230 Residential developer.

“Residential developer” shall mean an individual, group or designee responsible for the development of single-family or multiple-family housing units in which twenty-five or more housing units will be constructed as a part of a single application. (Ord. 93-5 § 1 (part), 1993)

18.06.240 Site development plan/permit.

“Site development plan/permit” means a precise plan of development that may be subject to a public hearing before the planning commission, or that may or may not be subject to a discretionary permit. (Ord. 93-5 § 1 (part), 1993)

18.06.270 Telecommuting.

“Telecommuting” means a method of conducting work without leaving one’s residence and thereby eliminating the commute roundtrip. (Ord. 93-5 § 1 (part), 1993)

18.06.290 Transportation demand management (TDM).

“Transportation demand management” (TDM) means the implementation of programs, plans or policies designed to encourage changes in individual travel behavior. TDM can include the following:

A. An emphasis on alternative travel modes to the single-occupant vehicle (SOV) such as carpools, vanpools and transit;

B. Reduction or elimination of vehicle trips, or shifts in the time of vehicle commutes to other than the peak period;

C. A listing of TDM techniques is included as the Appendix 1, set out at the end of this title. (Ord. 93-5 § 1 (part), 1993)

18.06.300 Transportation management association.

“Transportation management association” means a group of employers or other uses joining together in a formal association with the intent to reduce trips. (Ord. 93-5 § 1 (part), 1993)

18.06.320 Trip reduction.

“Trip reduction” means reducing the number of trips made in single occupant vehicles. (Ord. 93-5 § 1 (part), 1993)

18.06.330 Trip reduction checklist.

“Trip reduction checklist” is the mechanism to be used by developers to outline TDM measures they will implement to reduce trips. (Ord. 93-5 § 1 (part), 1993)

18.06.380 Vanpool.

“Vanpool” means seven or more persons traveling to work in one vehicle. (Ord. 93-5 § 1 (part), 1993)

18.06.390 Vehicle trip.

“Vehicle trip” means a point to point journey or trip in one direction utilizing a motorized vehicle. For example, an employed mother driving a car and dropping off two children at two day care facilities and then going to an instant cash facility on the way to her job, makes a total of four vehicle trips. (Ord. 93-5 § 1 (part), 1993)

Chapter 18.08

EMPLOYER TRIP REDUCTIONS

Sections:

18.08.010 Implementation.

18.08.010 Implementation.

The transportation agency, local jurisdictions, AMBAG, MST and the private sector will implement a two-year voluntary trip reduction demonstration program focused on areas experiencing traffic congestion, LOS deficiencies, and/or parking congestion. The trip reduction demonstration program will begin on July 1, 1993. Preparatory work to begin the trip reduction demonstration program will begin upon TAMC approval of this paragraph and will utilize AB 2766 funds. The effectiveness of the demonstration program will be evaluated by TAMC and summarized at the end of the two-year program. Program evaluations will also be performed by TAMC as specific programs are implemented so that programs can be fine-tuned as needed. (Ord. 96-17 § 1, 1996; Ord. 93-5 § 1 (part), 1993)

Chapter 18.10**FACILITIES TRIP REDUCTIONS****Sections:**

- 18.10.010 Purpose.**
- 18.10.020 Applicability.**
- 18.10.030 Compliance.**
- 18.10.040 Responsibilities of residential developers and developments.**
- 18.10.050 Responsibilities of tourist-oriented developers and developments.**
- 18.10.060 Provisions for commercial developers and developments.**
- 18.10.070 Implementation.**
- 18.10.080 Reporting requirements.**

18.10.010 Purpose.

A. The purpose of this section is to outline the requirements for facilities trip reductions and includes residential, tourist-oriented and commercial land use considerations to assist in achieving the overall goals shown in Section 18.04.010 of this title.

B. The intent is to insure that new development, redevelopment, and expansion of existing development contains the needed infrastructure and programs to both reduce the need to travel, and encourage alternative transportation mode usage. (Ord. 93-5 § 1 (part), 1993)

18.10.020 Applicability.

This title shall apply to all developers and applicable developments. (Ord. 93-5 § 1 (part), 1993)

18.10.030 Compliance.

The city shall determine compliance of applicable developments as part of the development review process. The city shall exercise whatever action is necessary to achieve compliance with conditions of approval of applicable developments. (Ord. 93-5 § 1 (part), 1993)

18.10.040 Responsibilities of residential developers and developments.

A. All developers of applicable new residential developments with twenty-five or more units must submit a trip reduction checklist as part of the plan check process prior to the issuance of a development permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation usage by residents of the development.

B. The city shall consider the nature and size of the project when reviewing the trip reduction checklist and determine the necessary programs as part of the permit approval process. After review of the trip reduction checklist prepared by the developer, the city may require, but not be limited to, one or more of the following programs:

1. Provide ridesharing, public transportation and nearby licensed child care facility information to tenants/buyers as part of move-in materials;
2. Print transit scheduling information on all promotional material;
3. Install bicycle facilities, such as bicycle racks and bicycle lanes, paths or routes, where appropriate;
4. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the project site plan, as described in the MST Development Review Guidebook or subsequent documents if the development is on a current or proposed transit route;
5. Provide locked and secure transportation information centers or kiosks with bus route/schedule information, as part of common areas if the development is on a current or proposed transit route;
6. Provide pedestrian facilities linking transit stops and common areas;
7. Provide resources for site amenities that reduce vehicular tripmaking;
8. Provide park-and-ride facilities;
9. Provide on-site child care facilities;
10. Implement local TSM improvements defined as shuttle bus services/buspools or improved transit service as part of the development;
11. Include facilities to encourage telecommuting;
12. Assess trip generation fees with proceeds to go toward provision of transit service, transportation management associations, ridesharing services and other alternative transportation services;
13. Encourage mixed land use projects designed to reduce the length and number of vehicle trips;
14. Improve pedestrian and bicycle systems;
15. Encourage transit and pedestrian-oriented design;
16. The city may require other measures to be added to or substituted for any or all of the above to achieve the intent of this chapter. (Ord. 93-5 § 1 (part), 1993)

18.10.050 Responsibilities of tourist-oriented developers and developments.

A. All developers of applicable new tourist-oriented developments must submit a trip reduction checklist as part of the plan check process prior to the issuance of a development permit or a special event permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation use by visitors to the development.

B. The city shall consider the nature and size of the project when reviewing the trip reduction checklist and determine the necessary programs as part of the permit approval process and in consultation with the transit operator. After review of the trip reduction checklist prepared by the tourist-oriented developer or special event promoter, the city may require, but not be limited to, one or more of the following programs:

1. Provide park-and-ride, public transportation shuttles and associated marketing to special event ticket purchasers as part of the special event promotion or site/business promotion;
2. Print transit scheduling information on all promotional materials;

3. Install bicycle facilities, such as bicycle racks and bicycle lanes, paths or routes, where appropriate, and at intermodal connection points;
4. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the project site plan, as described in the MST Development Review Guidebook or subsequent documents if the development is on a current or proposed transit route;
5. Provide locked and secure transportation information centers or kiosks with bus route/schedule information as part of common areas and at intermodal connection points;
6. Provide pedestrian facilities linking transit stops and common areas and at intermodal connection points;
7. Provide resources for site amenities that reduce vehicular tripmaking;
8. Provide park-and-ride facilities;
9. Implement local TSM improvements defined as shuttle bus services/buspools or improved transit service as part of a proposed development;
10. Assess trip generation fees with proceeds to go toward provision of transit service, transportation management associations, ridesharing services and other alternative transportation services;
11. Encourage mixed land use development designed to reduce the length and number of vehicle trips;
12. Provide pedestrian and bicycle system improvements;
13. Provide alternative transportation from the airport, provide airport information displays, contribute to the marketing or fare promotions of transit service and transit passes, provide concierges as sources of tourist transit promotion, rent bicycles to visitors, and provide transit information displays;
14. Implement educational and marketing strategies designed to induce tourists to reduce their vehicular trips;
15. Programs and projects to provide alternatives to automobile transportation into Monterey County;
16. The city may require other measures to be added to or substituted for any or all of the above to achieve the intent of this chapter. (Ord. 93-5 § 1 (part), 1993)

18.10.060 Provisions for commercial developers and developments.

A. All developers of applicable new commercial developments must submit a trip reduction checklist as part of the plan check process prior to the issuance of a development permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation usage.

B. The city shall consider the nature and size of the project when reviewing the trip reduction checklist and determine the necessary programs as part of the permit approval process. After review of the trip reduction checklist prepared by the developer, the city may impose trip reduction requirements to mitigate the impacts of the proposed development, except that any employee trip reduction program to be implemented by an employer shall be voluntary, not mandatory. Available trip reduction programs include, but are not limited to, the following:

1. Provide ridesharing, public transportation and nearby child care facility information to employees as part of orientation materials;
2. Provide on-site day care for customers and employees;
3. Provide on-site banking ATMs, restaurants, dry cleaners, grocery, and other typically needed services to reduce the need to travel. Link these uses with convenient pedestrian-oriented paths. Provide transit access that allows bus passengers convenient access to uses with a minimum of walking distance;
4. Locate building entrances close to bus stops with access uninterrupted by parking lots, parking aisles or interior roadways. Place parking at the rear of the development and the transit stop at the front of the development near the main entrance;
5. Provide employees with transit information with their paychecks. Provide on-site transit information displays;

6. Install bicycle racks and lanes, paths or routes;
7. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the development as described in the MST Development Review Guidebook or subsequent documents if development is on a current or proposed transit route;
8. Provide locked and secure alternative mode information kiosks;
9. Offer a parking cash-out program for employees;
10. Provide park-and-ride facilities within the development which are not limited to the site's customers or employees;
11. Provide preferential parking for employees who rideshare;
12. Provide local TSM improvements defined as shuttle bus services/buspools or improved transit service as part of the development;
13. Provide facilities and policies to encourage telecommuting;
14. Provide pedestrian, bicycle and transit system improvements;
15. The city may require other measures to be added to or substituted for any or all of the above. (Ord. 96-17 § 2, 1996; Ord. 93-5 § 1 (part), 1993)

18.10.070 Implementation.

A. Appropriate development-related ordinances will be reviewed and considered for measures and amenities in support of this title.

B. This title will be implemented through application of the city's zoning ordinances, subdivision ordinances and development standards whenever a developer is seeking a specific permit including but not limited to use permits, zoning permits, and tentative and final subdivision maps. (Ord. 93-5 § 1 (part), 1993)

18.10.080 Reporting requirements.

A. As part of the annual conformance process of the congestion management program, the city shall provide the TAMC with material and documentation as needed. Compliance shall be ascertained also by reviewing tourist shuttle implementation, special event transportation shuttles and parking programs, park-and-ride lot development, provisions for bicyclists and pedestrians, and other parking, pricing, marketing efforts, and educational strategies to induce reduced trips.

B. The TAMC staff will from time to time audit the implementation of the trip reduction program in order to assure that it is being implemented. In addition, feedback from the transit operator(s) will be obtained to ascertain whether the operator's needs are being met by the development standards in place. The TAMC will from time to time monitor the effectiveness of various TRO implementation programs and provide reports and information on effectiveness to the city and other interested parties. (Ord. 93-5 § 1 (part), 1993)

Chapter 18.12

ENFORCEMENT AND PENALTIES

Sections:

18.12.020 Violations.

18.12.030 Enforcement.

18.12.040 Fines.

18.12.020 Violations.

A. The following actions are considered violations of this title:

1. Failure to submit the trip reduction checklist, for an applicable development, or implement provisions of an approved checklist as set forth in the permit conditions;
2. Falsifying information on project plans;
3. Failure to implement items on the checklist or approved project plans;
4. Failure to provide surveys and trip logs to the city TRO program manager or TAMC.

B. Failure to achieve the 1.35 AVR, sixty percent drive-alone rate or the 1.6 percent trip reduction goals of this title does not constitute a violation of this title and no developer, property owner or tenant shall be subject to any fines based on lack of attainment. (Ord. 93-5 § 1 (part), 1993)

18.12.030 Enforcement.

For purposes of ensuring that the provisions of this title are fully adhered to, the city shall, following written notice, initiate enforcement action(s) against the appropriate parties which may include, but not be limited to, the following:

- A. Withhold approval of development permits;
- B. Issue stop work order;
- C. Initiate proceedings to revoke the development and land use permits;
- D. Withhold issuance of a certificate of occupancy;
- E. Prosecute the violation. (Ord. 93-5 § 1 (part), 1993)

18.12.040 Fines.

Violation(s) of this title shall be prosecuted as infractions. Revenues received from fines shall be used to support alternative transportation programs. Each and every day that a provision(s) of this title or the terms and conditions or any approved worksite trip reduction plan is violated, shall constitute a separate offense. (Ord. 93-5 § 1 (part), 1993)

Chapter 18.14

APPEALS

Sections:

18.14.010 Appeals.

18.14.010 Appeals.

A. Any decision regarding the application of this title to a site may be appealed to the city council who may affirm, reverse or modify the decision.

B. A developer or property owner required to revise a submittal pursuant to this title may, within thirty days and upon notice to the city, appeal such action to the city council. The hearing shall be held before the city council within sixty days of receipt of the notice of appeal. (Ord. 93-5 § 1 (part), 1993)

Appendix 1

TRANSPORTATION DEMAND MANAGEMENT (TDM) TECHNIQUES:

TDM techniques may include the following:

1. Ridesharing.
 - a. Carpool/vanpool matching;
 - b. Preferential parking for carpools and vanpools;
 - c. Carpool/vanpool financial subsidies or rewards;
 - d. Employer-provided vehicle for carpools/vanpools;
 - e. Employer-sponsored vanpools;
 - f. Rideshare marketing campaigns;
 - g. Financial subsidy of vanpool liability insurance.
2. Transit.
 - a. Work site transit ticket sales;
 - b. Transit ticket financial subsidies;
 - c. Transit route maps and schedules distributed and displayed on-site at the workplace;
 - d. Shuttle to transit lines.
3. Trip Elimination.
 - a. Compressed work weeks;
 - b. Work-at-home programs;
 - c. Telecommuting.
4. Parking Pricing.
 - a. Establishing monetary fees for employee parking;
 - b. Elimination of any employer parking financial subsidy;
 - c. Transition from employer parking financial subsidy to general transportation monetary allowance for all employees;
 - d. Reduced parking rates for carpools and vanpools;
 - e. Parking cash-out.
5. Bicycle and Pedestrian.
 - a. Bicycling financial subsidies or rewards;
 - b. Financial subsidy to employees for the purchase of bicycles for commute trip use;
 - c. Bicycle lockers or other secure, weather-protected bicycle parking facilities;
 - d. Bicycle access to building interior;
 - e. Bicycle and/or walking route information;
 - f. On-site bicycle registration.
6. On-Site Facilities/Services.

- a. Employee shower facilities and clothes lockers;
 - b. Site modifications that would encourage walking, transit, carpool, vanpool and bicycle use;
 - c. On-site services to reduce mid-day vehicle trips, e.g., direct deposit of payroll, cafeteria, automatic teller machines, apparel cleaning, etc.;
 - d. On-site transportation fair to promote commute alternatives.
7. Other.
- a. Membership in a transportation management association that provides services and incentives;
 - b. Establishment of employee committee to help design, develop and monitor the trip reduction program;
 - c. Guaranteed ride home program;
 - d. Financial subsidies or rewards for using walking and other nonmotorized transportation modes, transit or carpools;
 - e. Shuttles between multiple work sites;
 - f. Providing child day care at/near work site;
 - g. Enhanced trip reduction efforts.
8. Any additional techniques not listed which have potential to achieve the desired reductions in vehicle trips.

Appendix 2

AVERAGE VEHICLE RIDERSHIP (AVR) CALCULATION METHODOLOGY

Average Vehicle Ridership Methodology (AVR) Survey Week.

The averaging period used for the survey week cannot contain a holiday and shall represent a normal work week situation so that a representative projection of the AVR is obtained. For vehicle use during the survey week, bicycle, transit vehicles, buses serving several work sites, and cars stopping en route to other work sites shall be excluded from the vehicles counted, as shall low emission vehicles as approved by the MBUAPCD.

The AVR for a work site shall be calculated by dividing the total “employee-days” for the survey week by the total “vehicle trip-days” for the survey week.

Employee-Days. “Employee-days” are the total number of employees reporting or assigned to a work site during the peak period each work day of the survey week. The following procedures are used in totaling employee-days:

1. Employees who telecommute or are off due to a compressed work week schedule are counted as reporting to the work site in calculating the total employee-days.
2. The following employees are not included in the employee-days total:
 - a. Employees not working because of vacation, sickness or other time off;
 - b. Employees who report to a different work site or an off-site work-related activity;
 - c. Disabled employees.

Vehicle Trip-Days. The total number of vehicles used by employees in reporting to the work site each work day of the survey week. A vehicle trip-day is based on the means of transportation used for the greatest distance of an employee’s home to work commute trip. The following numerical values are used in calculating vehicle trip-days:

1. Single-occupant vehicle (drive alone) equals one;
2. Employee dropped off via vehicle by nonworking person equals one;

3. Carpool equals one divided by the number of employees in the carpool, regardless of whether or not the other employee(s) in the carpool work for the employer or at the work site;
4. Vanpool equals one divided by the number of employees in the vanpool, regardless of whether or not the other employee(s) in the carpool work for the employer or at the work site;
5. Motorcycle, moped, scooter or motor bike equals one;
6. The following all equal zero vehicle trip-days:
 - a. Public transit,
 - b. Private buspool,
 - c. Bicycle,
 - d. Walking and other nonmotorized transportation modes,
 - e. Employees who telecommute (only on the days those employees work at home for the entire day), f. Employees who work a compressed work week schedule (only on their compressed day(s) off),
 - g. Disabled employee vehicles at all times.

Sample Calculation: What is the AVR for an employer with one hundred employees all commuting to and from work, on weekdays between six a.m. and ten a.m. and between three p.m. and six p.m.?

Employees reporting to work during the survey week:

Monday	100
Tuesday	100
Wednesday	100
Thursday	100
Friday	<u>100</u>
Total:	<u>500</u>

Number of vehicles driven to the work site by these employees:

Monday	77
Tuesday	79
Wednesday	72
Thursday	68
Friday	<u>74</u>
Total:	<u>370</u>

AVR is derived from dividing the number of employees reporting to work during the hours of six a.m. to ten a.m. during the week (e.g., 500) by the number of vehicles driven to the work site between the same hours (e.g., 370):

$$\frac{500 \text{ Employees}}{370 \text{ Vehicles}} = 1.35 \text{ Average Vehicle Ridership (AVR)}$$