

Article 4

Standards for Specific Land Uses

Chapter 18.40 ADULT ORIENTED BUSINESS REGULATIONS

- 18.40.010 Intent and Purpose
- 18.40.020 Definitions
- 18.40.030 Prohibited Areas and Minimum Proximity Requirements
- 18.40.040 Adult-Oriented Business Permit Required
- 18.40.050 Application Requirements
- 18.40.060 Investigation and Action on Application
- 18.40.070 Judicial Review of Decision to Grant, Deny, or Revoke
- 18.40.080 Permit Expiration
- 18.40.100 Findings
- 18.40.110 Registration of New Employees
- 18.40.120 Adult-Oriented Business Development Standards
- 18.40.130 Display of Permit
- 18.40.140 Persons Under 18 Prohibited
- 18.40.150 Transfer of Adult-Oriented Business Regulatory Permits
- 18.40.160 Permit Revocation
- 18.40.170 Violations
- 18.40.180 Applicability to Other Regulations
- 18.40.190 Conduct Constituting a Public Nuisance
- 18.40.200 Inspections

Chapter 18.42 STANDARDS FOR SPECIFIC LAND USES

- 18.42.010 Purpose and Applicability
- 18.42.020 Accessory Retail and Service Uses
- 18.42.030 Agricultural Accessory Structures
- 18.42.040 Animal Keeping
- 18.42.050 Bed and Breakfast Inns (B&Bs)
- 18.42.060 Child Day Care Facilities
- 18.42.070 Drive-Through Facilities
- 18.42.080 Home Occupations
- 18.42.090 Live/Work Units
- 18.42.095 Medical Marijuana Dispensaries
- 18.42.100 Mixed Use Projects
- 18.42.110 Mobile/Manufactured Homes and Mobile Home Parks
- 18.42.120 Multi-Family Projects
- 18.42.130 Outdoor Displays and Sales
- 18.42.140 Outdoor Storage
- 18.42.145 Pipelines and Transmission Lines
- 18.42.150 Recycling Facilities
- 18.42.160 Residential Accessory Uses and Structures
- 18.42.165 Restaurants
- 18.42.170 Second Units
- 18.42.180 Service Stations

Chapter 18.44 TELECOMMUNICATIONS FACILITIES

- 18.44.010 Purpose
- 18.44.020 Definitions
- 18.44.030 Applicability
- 18.44.040 Permit Requirements
- 18.44.050 Limitations on Location
- 18.44.060 Facility Design and Development Standards

- 18.44.070 Operation and Maintenance Standards
- 18.44.080 Discontinuance and Site Restoration

Chapter 18.40

ADULT ORIENTED BUSINESS REGULATIONS

Sections:

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- 18.40.160 Permit Revocation
- 18.40.170 Violations
- 18.40.180 Applicability to Other Regulations
- 18.40.190 Conduct Constituting a Public Nuisance
- 18.40.200 Inspections

18.40.010 - Intent and Purpose

A. Intent. It is the intent of this Chapter to provide special design guidelines, standards, and development regulations to regulate the time, place, and manner of the operation of Adult-Oriented Businesses in order to minimize the negative secondary effects associated with these businesses including, but not limited to, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of Adult-Oriented Businesses in close proximity to each other or proximity to other incompatible uses, including religious facilities, parks, playgrounds, schools, and residentially zoned districts or uses. The Council finds that it has been demonstrated in various communities that the concentration of Adult-Oriented Businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere.

B. Purpose. It is, therefore, the purpose of this Chapter to:

1. Establish reasonable and uniform regulations to prevent the concentration of Adult-Oriented Businesses or their close proximity to incompatible uses, while allowing the location of Adult-Oriented Businesses in certain areas; and
2. Regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the citizens of the City.

C. Restriction on content and access not intended. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

18.40.020 - Definitions

Definitions of the technical terms and phrases used in this Chapter are under “Adult Oriented Business” in Article 10 (Glossary).

Comment [MJ1]: Staff has not reviewed or modified any part of this chapter. Council may proceed to page 14 to review standards for specific land uses and proposed changes.

18.40.030 - Prohibited Areas and Minimum Proximity Requirements

A. IH (Heavy Industrial) and IL (Light Industrial). Subject to the limitations set forth in this Chapter, Adult-Oriented Businesses may be established in the IH and IL zoning districts.

B. Specified distance separation requirements. Notwithstanding the above, no Adult-Oriented Business shall be established or located within certain distances of certain specified land uses or zoning districts as set forth below. No Adult-Oriented Business shall be established or located:

1. Within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points; or
2. Within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses; or
3. Within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use is located, or property zoned Open Space (OS) or Public Facilities (PF) along a straight line extended between the two points.

C. Separation requirements also apply to specified uses or districts outside of the City. The above distance limitations shall also apply to residential districts or uses and parks, playgrounds, schools, and church uses or property so designated in the General Plan Land Use Element of an adjacent jurisdiction

18.40.040 - Adult-Oriented Business Permit Required

A. Adult-Oriented Business Permit and Business License required. It shall be unlawful for any person to engage in, conduct, establish, carry on, or to permit to be engaged in, conducted, established, or carried on, in or upon any premises in the City of Fort Bragg, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect both an Adult-Oriented Business Permit and a Business License from the City of Fort Bragg.

B. Not allowed by right. No Adult-Oriented Business may be established within the City of Fort Bragg by right. All persons wishing to establish an Adult-Oriented Business within the City shall first apply for and receive an Adult-Oriented Business Permit in compliance with this Chapter.

C. Applicant to supply sufficient evidence. It is the burden of the applicant for an Adult-Oriented Business Permit to supply sufficient evidence to justify the grant of an Adult-Oriented Business Permit.

18.40.050 - Application Requirements

A. Application submittal. Any person desiring to operate or establish an Adult-Oriented Business within the City of Fort Bragg shall file with the Department an Adult-Oriented Business Permit application on a standard application form supplied by the Department.

B. Required information. All applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.

2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names and current addresses of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names, addresses, and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.
4. The notarized signature of the property owner and proof of ownership.
5. A deposit or fee as set forth by the City's Fee Schedule.
6. Signed statement by the applicant verifying that applicant intends to and will comply with all of the adult-oriented business development standards of this Chapter.
7. A description of the Adult-Oriented Business for which the permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of all the owners and lessors of the Adult-Oriented Business site.
8. The address to which notice of action on the application is to be mailed.
9. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
10. A straight-line drawing depicting the building and the portion thereof to be occupied by the Adult-Oriented Business, and:
 - a. The property line of any residential zoning district or use within 300 hundred feet of the nearest exterior wall of the Adult-Oriented Business;
 - b. The property line of any other Adult-Oriented Business within 500 feet of the nearest exterior wall of the Adult-Oriented Business for which a Business Permit is requested; and
 - c. The property lines of any church, school, park, or playground within 500 feet of the nearest exterior wall of the Adult-Oriented Business.
11. A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business showing the location of the lighting system required by this Chapter.

C. Signature of applicant required. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10 percent or greater interest in the business entity shall sign the application.

D. Fictitious name, if applicable. If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.

E. CEQA compliance. All applicants for an Adult-Oriented Business Permit shall also fill out the City's environmental review package/initial study checklist for purposes of complying with the California Environmental Quality Act (CEQA).

F. Other permits or licenses. The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining an Adult-Oriented Business Permit.

18.40.060 - Investigation and Action on Application

The processing, review, and decision by the City on an Adult-Oriented Business Permit shall be the same as required for a Use Permit by Chapter 18.70 (Permit Application Filing and Processing), Section 18.71.060 (Use Permit and Minor Use Permit), and Chapters 18.72 (Environmental Impact Assessment and Mitigation Monitoring), and 18.76 (Permit Implementation, Time Limits, and Extensions), except as provided by Section 18.40.080 (Permit Expiration). Decisions of the Commission on an Adult-Oriented Business Permit may be appealed to the Council in compliance with Chapter 18.92 (Appeals).

18.40.070 - Judicial Review of Decision to Grant, Deny, or Revoke

A. Court challenge. The time for court challenge to a decision by the Council to grant, deny, or revoke an Adult-Oriented Business Permit is governed by California Code of Civil Procedure Section 1094.6.

B. Transmittal of decision to applicant. Notice of the Council's decision and its findings shall be mailed to the applicant and shall include citation to California Code of Civil Procedure Section 1094.6.

C. Prompt judicial review. The Petitioner may seek prompt judicial review of the Council's action in compliance with California Code of Civil Procedure Section 1094.8.

18.40.080 - Permit Expiration

Any Adult-Oriented Business Permit approved in compliance with this Chapter shall become null and void unless the proposed use is established within 180 days of the date from the approval. As to facilities that are a reuse of existing facilities, the Adult-Oriented Business Permit shall become null and void unless the proposed use is established within 180 days from the date of approval, unless before the expiration date the permittee demonstrates to the satisfaction of the Commission that the applicant has a good faith intent to presently commence the proposed use. The extensions shall not exceed a total of two 180-day extensions.

18.40.100 - Findings

A. Required findings. The Commission or Council shall approve or conditionally approve an application for an Adult-Oriented Business Permit where the information submitted by the applicant or other relevant evidence substantiates all of the following findings:

1. The applicant is over the age of 18 years;
2. The required application fee has been paid;
3. The proposed use complies with the development and design requirements of the underlying zoning district in which it is located and with the applicable development standards of this Chapter;
4. The proposed site is not located within a 300-foot radius from any existing residential zoning district or use. The distance between a proposed Adult-Oriented Business use and a residential zoning district or use shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the two points;
5. That the proposed site is not located within 500 feet of any other Adult-Oriented Business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Fort Bragg. The distance between the two Adult-Oriented Business uses shall be measured between the nearest exterior walls of the facilities housing the Adult-Oriented Business use and proposed Adult-Oriented Business use along a straight line extended between the two uses;
6. The proposed site is not located within 500 feet from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior walls of the facilities housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, religious facility, or school use or property zoned Open Space (OS) or Public Facilities (PF) is located, along a straight line extended between the two points;

7. The proposed site is not located within 300 feet of a residential zoning district or use or within 500 feet of a park, playground, religious facility, or school use located in or on property so designated in the General Plan Land Use Element of an adjacent jurisdiction; and
8. Neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded nolo contendere within the past four years of a misdemeanor or a felony classified by the State as a sex or sex-related offense.

B. Conditions imposed on the permit. Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

18.40.110 - Registration of New Employees

A. Employee registration required. As a further condition of approval of every Adult-Oriented Business Permit issued in compliance with this Chapter, every owner or operator of an Adult-Oriented Business shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the Adult-Oriented Business.

B. Color photographs and other information required. Each Employee shall be required to provide two recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification. In addition, each new employee shall provide the following information in a form provided by the Police Department:

1. Name, current resident address, and telephone number;
2. Date of birth;
3. Social Security number;
4. Height, weight, color of eyes and hair; and
5. Stage name, if applicable, and other aliases used within the previous two years.

C. Current employee register required. Each owner or operator of an Adult-Oriented Business shall maintain a current register of the names of all employees currently employed by the Adult-Oriented Business, and shall disclose the registration for inspection by any Police Officer for the purposes of determining compliance with the requirements of this Section.

D. Failure to comply. Failure to register each new employee within five days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the Adult-Oriented Business Permit and may be considered grounds for suspension or revocation of the permit.

18.40.120 - Adult-Oriented Business Development Standards

A. Unlawful hours of operation. It shall be unlawful for any operator or employee of an Adult-Oriented Business to allow the adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of the following day.

B. Observation of activities or materials outside prohibited. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of the establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

C. Outdoor lighting level required. All off-street parking areas and other exterior areas of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light evenly distributed at ground level. The

required lighting level is established in order to provide sufficient illumination of the parking areas, walkways, and outdoor areas serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

D. All areas shall be readily accessible. The operator of an Adult-Oriented Business shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.

E. Posting of California Penal Code Section 314 required. The Adult Oriented Business shall post in plain view inside the front portion of the business, a sign, in two inch print which shall reference California Penal Code Section 314 which shall read as follows:

1. Every person who willfully and lewdly either: (1) exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or (2) procures, counsels, or assists any person so as to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view or the view of any number of persons, which is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.
2. Upon the second and each subsequent conviction under Subparagraph 1. above, or upon a first conviction under Subparagraph 1. above after a previous conviction under [California Penal Code] Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in State prison. California Penal Code Section 314.

F. Open to view by management. All indoor areas of the Adult-Oriented Business within which patrons are permitted, except restrooms and customer changing rooms, if any, shall be open to view by the management at all times.

G. Additional "Adult Arcade" provisions. Any adult-oriented business which is also an "Adult Arcade" shall comply with the following additional provisions:

1. The interior of the premises shall be configured so that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms and customer changing rooms. Restrooms and customer changing rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this Subparagraph shall be direct line of sight from the manager's station.
2. The view area specified in Subparagraph 1. above shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
3. No viewing room or changing room may be occupied by more than one person at any one time.
4. The walls or partitions between viewing rooms or booths, changing rooms, restrooms, and stalls or spaces contained therein shall be maintained in good repair at all times, with no holes between any two of the rooms that would allow viewing from one booth or room into another or that would allow physical contact of any kind between the occupants of any two of the booths or rooms.
5. Customers, patrons, or visitors who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing, shall not be allowed to stand idly by in the vicinity of any video booths, or to remain in the common area of the business, other than the restrooms. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any of the booths shall be evidence of improper maintenance and inadequate sanitary controls; instances of these conditions may justify suspension or revocation of the Adult-Oriented Business permit.

H. Indoor lighting level required. All interior areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Location	Minimum Illumination Level (foot-candles)
Adult arcades	10
Bookstores and other retail establishments	20
Modeling studios	20
Motels/Hotels	20 in public areas
Theaters and cabarets	5, except that a minimum of 1.25 shall be required during performances

I. Separate restrooms required. The Adult-Oriented Business shall provide and maintain separate restrooms for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using a restroom for females, and female patrons and employees shall be prohibited from using a restroom for males, except to carry out duties of repair, maintenance, and cleaning of the restroom facilities. The restrooms shall be free from any Adult-Oriented Material. Restrooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment. The foregoing provisions of this Subparagraph shall not apply to an Adult-Oriented Business that deals exclusively with sale or rental of sexually oriented material or merchandise that is not used or consumed on the premises and which does not provide restroom facilities to its patrons or the general public.

J. Additional requirements for live entertainment. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities, except for businesses regulated by the Alcoholic Beverage Control Commission:

1. No employee, owner, operator, responsible managing employee, manager, or permittee of an Adult-Oriented Business providing live entertainment shall allow any person below the age of 18 years upon the premises or within the confines of the business if no alcoholic beverage is served, or under the age of 21 if alcoholic beverages are served.
2. No entertainer shall dance with or otherwise be within four feet of a patron while performing for compensation or while on the Adult-Oriented Business's premises. This four-foot separation shall be marked by a railing or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).
3. No owner, operator, responsible managing employee, manager, or permittee shall permit or allow at licensed premises any patron to approach within four feet of an entertainer, or permit or allow an entertainer to approach within four feet of a patron.
4. All employees, other than entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.
5. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
6. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

7. The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If a separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three-foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

8. No entertainer, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after performances by the entertainer. This Subparagraph shall only apply to physical contact on the premises of the Adult-Oriented Business.

9. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

K. Security guards required. Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, consistent with the following standards:

1. Adult-Oriented Businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.

2. All Adult-Oriented Businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The individual designated as the on-site manager shall be registered with the Police Chief by the owner to receive all complaints and be responsible for all violations taking place on the premises.

3. All Adult-Oriented Businesses shall provide a security system that visually records and monitors the exterior premises of the property including all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the exterior premises of the property, including the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two by three feet and shall at a minimum be one foot by one and a half feet.

4. Security guards shall be uniformed in a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of State law. No security guard required in compliance with this Subparagraph shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

L. X-rated movies or videos. X-rated movies or videos shall be restricted to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to persons under 18 years of age sells, rents, or displays videos or other motion picture media that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, the videos shall be located in a specific section of the establishment where persons under the age of 18 shall be prohibited. All access to sexually oriented material or merchandise shall be restricted to persons over 18 years of age.

M. Disposal in locked garbage receptacles only. Any and all sexually oriented materials or sexually oriented merchandise discarded by an Adult-Oriented Business shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to sexually oriented materials or sexually oriented merchandise.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business permit approvals, and failure to comply with every requirement shall be grounds for revocation of the permit issued in compliance with these regulations.

18.40.130 - Display of Permit

Each Adult-Oriented Business shall display at all times during business hours the Adult-Oriented Business permit issued in compliance with the provisions of this Chapter for an Adult-Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

18.40.140 - Persons Under 18 Prohibited

It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires an Adult-Oriented Business permit, to any person who is not at least 18 years of age.

18.40.150 - Transfer of Adult-Oriented Business Regulatory Permits

A. Only at approved address. A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business permit at any place other than the address of the Adult-Oriented Business stated in the application for the Adult-Oriented Permit.

B. No transfer without permit amendment. A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business permit to another person unless and until the transferee obtains an amendment to the permit from the Commission stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Commission in compliance with Sections 18.40.040 (Adult-Oriented Business Permit Required) and 18.40.050 (Application Requirements), above, accompanies the application with a transfer fee as set forth in the City's Fee Schedule, and the Commission determines in compliance with Sections 18.40.060-100 that the transferee would be entitled to the issuance of an original Adult-Oriented Business permit. The transfer fee shall be paid in lieu of the filing fee required by Section 18.40.050.

C. No transfer when subject to suspension or revocation. No Adult-Oriented Business permit may be transferred when the permittee has been notified that the Adult-Oriented Business Permit has been or may be suspended or revoked.

D. No transfer in violation of this Section. Any attempt to transfer an Adult-Oriented Business permit either directly or indirectly in violation of this Section is hereby declared void, and the Adult-Oriented Business permit shall be deemed revoked.

18.40.160 - Permit Revocation

A. Findings required for revocation. Any Adult-Oriented Business permit issued in compliance with the provisions of this Chapter may be revoked by the City on the basis of any of the following:

1. The business or activity has been conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits for the building in which the use is located set by the Fire Marshal;
2. The permittee has misrepresented a material fact in the application for permit or in any report required to be filed with the City or has not answered each question in the application truthfully;
3. The permittee has failed to obtain or maintain all required City, County, and State licenses and permits;
4. The permit is being used to conduct an activity different from that for which it was issued;
5. The building or structure in which the Adult-Oriented Business is conducted is hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing, or Uniform Fire Code;
6. The permitted business creates sound levels which violate the Noise Ordinance of the City;
7. The permittee, if an individual, or any of the officers or general partners, if a corporation or partnership, is found guilty or pleaded nolo contendere to a misdemeanor or felony classified by the State as a sex or sex-related offense during the period of the Adult-Oriented Business's operation;

8. The permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business:

- a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;
- b. Use of the Adult-Oriented Business site as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;
- c. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code;
- d. The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of California Penal Code Sections 315, 316, 318, or 647(b);
- e. Any act constituting a violation of provisions of the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4; or
- f. Any conduct prohibited by this Chapter.

9. Failure to abide by any action previously imposed by an appropriate City official; and

10. The use for which the approval was granted has ceased to exist or has been suspended for 180 days or more.

B. Notice and public hearing required. Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee, shall be personally delivered or sent by certified mail to the permittee at least 10 days before the hearing.

1. The Commission shall hold a public hearing on the proposed revocation of the permit.
2. Notice of the public hearing shall be given in compliance with California Government Code Section 65091, as the same may be amended from time to time.
3. In reaching a decision on the proposed revocation, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

C. Commission action. The Commission shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.

D. Transmittal of Commission decision. The Commission's decision shall be in writing, and shall be hand delivered or mailed to the applicant and mailed to all property owners within 300 feet of the use.

E. Decision within 30 days. The Commission shall make its final decision within 30 days of the public hearing.

F. Appeal of Commission decision. Any interested person may appeal the decision of the Commission to the Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the Council shall have the authority to direct that the Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the Council.

G. De novo public hearing. Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the Council. In reaching its decision, the Council

shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

H. Council action on appeal. The Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the Council shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Adult-Oriented Business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located. The Council's decision shall be final and conclusive.

I. No new permit within 12 months after revocation. In the event a permit is revoked pursuant to this Chapter, another adult use development permit to operate an adult business shall not be granted to the permittee within 12 months after the date of the revocation.

18.40.170 - Violations

Any violation of this Chapter shall constitute a public nuisance and any person who violates any section of this Chapter shall be guilty of a misdemeanor and is subject to a fine and/or imprisonment in compliance with the limits set forth in California Government Code section 36901, as it may be amended from time to time, or any other legal remedy available to the City including but not limited to all enforcement options under Municipal Code 6.12.

18.40.180 - Applicability to Other Regulations

The provisions of this Chapter are not intended to provide exclusive regulation of the Adult-Oriented Business uses. These uses shall comply with any and all applicable regulations imposed in other articles of this Development Code, other City ordinances, and State and Federal law.

18.40.190 - Conduct Constituting a Public Nuisance

The conduct of any business within the City in violation of any of the terms of this Chapter is hereby found and declared to be a public nuisance, and the City Attorney or the District Attorney may, in addition or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the abatement, removal, and injunction thereof, in the manner provided by law; and shall take other steps and shall apply to other courts as may have jurisdiction to grant relief that will abate or remove the Adult-Oriented Business and restrain and enjoin any person from conducting, operating, or maintaining an Adult-Oriented Business contrary to the provisions of this Chapter.

18.40.200 - Inspections

An applicant or permittee shall permit representatives of the Police Department, Health Department, Planning Department, or other City Departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of ensuring compliance with the law and the development standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. A person who operates an Adult-Oriented Business or his or her agent or employee is in violation of the provisions of this Section if he/she refuses to permit the lawful inspection of the premises at any time it is occupied or open for business.

Chapter 18.42

STANDARDS FOR SPECIFIC LAND USES

Sections:

- 18.42.010 Purpose and Applicability
- 18.42.020 Accessory Retail and Service Uses
- 18.42.030 Agricultural Accessory Structures
- 18.42.040 Animal Keeping
- 18.42.050 Bed and Breakfast Inns (B&Bs)
- 18.42.060 Child Day Care Facilities
- 18.42.070 Drive-Through Facilities
- 18.42.080 Home Occupations
- 18.42.090 Live/Work Units
- 18.42.095 Medical Marijuana Dispensary
- 18.42.100 Mixed Use Projects
- 18.42.110 Mobile Homes and Mobile Home Parks
- 18.42.120 Multi-Family Projects
- 18.42.130 Outdoor Displays and Sales
- 18.42.140 Outdoor Storage
- 18.42.145 Pipelines and Transmission Lines
- 18.42.150 Recycling Facilities
- 18.42.160 Residential Accessory Uses and Structures
- 18.42.165 Restaurants
- 18.42.170 Second Units
- 18.42.180 Service Stations

18.42.010 - Purpose and Applicability

A. Purpose. This Chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by Article 2 (Zoning Districts and Allowable Land Uses) within individual or multiple zoning districts, and for activities that require special standards to ensure their compatibility with site features, and existing uses and structures in the site vicinity.

B. Applicability. The land uses and activities covered by this Chapter shall comply with the provisions of the Sections applicable to the specific use, in addition to all other applicable provisions of this Development Code.

- 1. Where allowed.** The uses that are subject to the standards in this Chapter shall be located only where allowed by Article 2 (Zoning Districts and Allowable Land Uses).
- 2. Planning permit requirements.** The uses that are subject to the standards in this Chapter are allowed only when authorized by the planning permit required by Article 2, except where a planning permit requirement is established by this Chapter for a specific use.
- 3. Development standards.** The standards for specific uses in this Chapter supplement and are required in addition to those in Articles 2 (Zoning Districts and Allowable Land Uses), 3 (Site Planning and Project Design Standards), 5 (Resource Management), and Article 6 (Site Development Regulations).
 - a. The applicability of the standards in this Chapter to the specific land uses listed is determined by Chapter 18.20 (Development and Land Use Approval Requirements).
 - b. In the event of any conflict between the requirements of this Chapter and those of Articles 2 or 3, the requirements of this Chapter shall control.

18.42.020 - Accessory Retail and Service Uses

This Section provides standards for specific retail sales and service uses, including restaurants, pharmacies, and the sale of retail merchandise, that are accessory to a primary commercial, industrial, or institutional use, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. General standard. ~~There shall be no external evidence of any commercial activity accessory retail or service use shall be subordinate to - other than the primary use of the site (e.g., no signs, windows with merchandise visible from adjoining streets, etc. shall be limited and subordinate).~~ ~~nor~~ Additionally access to any space used for the accessory retail or service ~~shall be accessed use other than from within through the primary structure use entrance.~~

Comment [MJ2]: This seems overly restrictive. Consider modifications.

B. IL (Light Industrial) zoning district. Accessory retail service uses within the IL zoning district shall be limited to businesses that the review authority determines will manufacture, refine, repair, finish, or store their products or services on-site, will provide adequate parking and street access, and will not generate significant customer traffic.

C. Review and approval requirements. Accessory retail and service uses may require Design Review in compliance with Section 18.71.050. Accessory Retail and service uses require a Minor Use Permit in compliance with Table 2-10 in Section 18.24.030. In order to approve an accessory retail or service use, the review authority shall first find that there will be no adverse effects on adjacent existing or potential residential uses from excessive traffic, noise or other effects of the accessory use.

18.42.030 - Agricultural Accessory Structures

The following standards apply to agricultural accessory structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Timing of installation. An agricultural accessory structure shall only be constructed concurrent with or after the construction of an approved primary structure on the same site, unless:

1. The site is one acre or larger, and the proposed structure is a barn, or other structure used for confining animals and/or housing farm equipment or supplies, or is a noncommercial greenhouse; or
2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

B. Setback requirements. An agricultural accessory structure shall comply with the setback requirements of the applicable zoning district, except where Section 18.42.040 (Animal Keeping) establishes a greater setback requirement for an animal keeping structure.

18.42.040 - Animal Keeping

Animal keeping within the City shall comply with requirements of this Section, and shall occur only where allowed by Article 2 (Zoning Districts and Allowable Land Uses) and this Section. The provisions of this Section are intended to assist in ensuring that animal keeping does not create adverse impacts on adjacent properties by reason of bright lights, dust, insect infestations, noise, odor, or visual blight.

Comment [MJ3]: This section was updated in 2014. No new changes are recommended at this time

A. Pre-existing uses. Any legally established animal keeping use that became nonconforming upon adoption of this Section shall be permitted to continue subject to Chapter 18.90 (Nonconforming Uses, Structures, and Parcels).

B. Allowable animal keeping activities and permit requirements.

1. **Activities and permit requirements.** Animal keeping, including related animal husbandry activities (breeding, judging, etc.) is allowed only in compliance with the limitations on use and permit requirements in Table 4-1, and the animal keeping standards in Subsection C. The keeping of imported animals may require approval by the U.S. Department of Agriculture Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game, and/or the California Department of Food and Agriculture, and the Mendocino County Agricultural Commissioner, in addition to any City approval required by this Section.

Table 4-1 - ALLOWABLE ANIMAL-KEEPING AND PERMIT REQUIREMENTS

Type of Animal	Permit Requirement by Zoning District		
	RR & RS	RL & RM	RH, RVH
Beekeeping	P	P*	MUP
Fowl, poultry, aviary (except roosters)	P	P	MUP
Hogs and swine	P	-	-
Two or fewer horses and cows	MUP	-	-
Household pets	P	P	P
Roosters	MUP	-	-
Other large animals (defined in Table 4-2)	P	MUP	-
Other small animals (defined in Table 4-2)	P	P	P

Key to permit requirements:

P	Permitted animal keeping, no City approval required for the animal keeping activity, provided that it complies with the standards in Subsections C. through F.
P*	Beekeeping, as a permitted use, is limited to one hive per parcel. A Use Permit is required for more than one hive per parcel in residential and commercial zoning districts.
MUP	Minor Use Permit approval required in compliance with Section 18.71.060.
-	Type of animal or activity not allowed.

2. Minor Use Permit review. Where Table 4-1 requires a Minor Use Permit for keeping a specified animal type, the purpose of the discretionary review shall include evaluation of how the proposed animals will be housed and/or confined, and whether the location, size, and design of the area on the site for animal keeping will be adequate to allow compliance with the other standards of this Section without unreasonable effort on the part of the animal manager. In approving a Minor Use Permit in compliance with this Section, the review authority may limit the maximum number of animals allowed on the site as appropriate to the characteristics of the site, the surrounding land uses, and the species of animals proposed.

C. Animal keeping standards. All animal keeping shall comply with the standards in Table 4-2, where allowed by Subsection B., Table 4-1, except that more animals may be allowed by Minor Use Permit.

Table 4-2 - ANIMAL-KEEPING STANDARDS

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum Setbacks (3)	
			From Side/Rear Property Lines	From Streets and Dwellings
Dogs and cats	5 animals total on a site less than 1 acre; 5 of each species on a site	None required	None required	None required

Type of Animal or Facility	Maximum Number of Animals per Site (1)	Minimum Lot Area (2)	Minimum Setbacks (3)	
			From Side/Rear Property Lines	From Streets and Dwellings
	of 1 acre or more			
Fowl, poultry, aviary	6 for parcels less than 10,000 SF; 12 per acre for larger parcels	6,000 SF	10 ft	25 ft
Hogs and swine	1 per acre	2 acres	50 ft	100 ft
Horses and cows	2 per acre	1 acre	25 ft	25 ft
Other small animals - Including chinchillas, rabbits, non-poisonous reptiles, rodents, and other non-poisonous small animals.	6 animals total on a site less than 10,000 SF; 20 animals per acre for larger sites, where allowed by Table 4-1.	None	10 ft	25 ft
Other large animals - Emus, goats, llamas, miniature horses and donkeys, ostriches, pot belly pigs, sheep, and similar sized animals.	4 per acre	1 acre	25 ft	25 ft

Notes:

- (1) Offspring allowed in addition to maximum number until market-ready.
- (2) Minimum lot area required for the keeping of animals.
- (3) Minimum setbacks from all property lines for barns, shelters, pens, coops, cages, and other areas and structures where animals are kept in concentrated confinement; but not including areas continuously maintained as pasture. Animals shall not be kept in any required front yard setback except in pasture areas.

D. Maintenance and operational standards. All animal keeping shall comply with all of the following maintenance and operational standards.

- 1. Odor and vector control.** All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Manure shall also not be allowed to accumulate. Each site shall be maintained in a neat and sanitary manner.
- 2. Containment.** All animals shall be effectively contained on the site, and shall not be allowed to run free off the parcel or in a public right-of-way.
- 3. Waterway protection.** The keeping of horses, cattle, hogs or other large animals within 50 feet of any waterway shall first require Director approval of a good housekeeping plan to protect the waterway from the polluting effects of runoff from the animal keeping area. The plan shall provide for regular manure removal, the maintenance of pasture vegetation to minimize the exposure and potential erosion of bare soil, site grading to direct runoff to detention and settling areas rather than the waterway, and/or other measures approved by the Director.
- 4. Erosion and sedimentation control.** In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation on any public road, adjoining property, or in any drainage channel or other waterway. In the event sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement.
- 5. Noise control.** Animal keeping shall comply with the Municipal Code Chapter 9.44.

E. Animal husbandry project exception. The keeping or raising of a calf, horse, goat, sheep, hog, chickens, rabbits, birds or other animals (excluding roosters) as a 4-H or Future Farmers of America (FFA) project shall comply with the following requirements.

1. **Minimum site area.** A minimum of one acre of site area shall be required for the keeping of horses, cows, or other large animals.
2. **Setback requirements.** The project animals shall be confined in a pen or fenced area that is located no closer than 25 feet to any dwelling other than on the project site; except that a hog or swine shall not be located closer than 100 feet from any dwelling other than on the project site.
3. **Maximum number of animals.** The number of animals shall comply with the limitations in Subsection C.
4. **Maintenance.** The animal keeping shall comply with all standards in Subsection D.

F. Kennels and animal boarding. Each kennel and other small animal boarding facility shall comply with the following standards.

1. **Minimum site area.** An animal boarding facility may be approved only on a parcel of 2 acres or larger.
2. **Enclosure within building.** All animal boarding (sleeping and night-time confinement) shall occur within an entirely enclosed building.
3. **Noise control.** The building used for animal boarding shall be insulated, or otherwise constructed and maintained so that no noise from animals within the building is audible to an average person at the property line of the site.
4. **Management.** A manager of the facility shall be present on the site at all times.

18.42.050 - Bed and Breakfast Inns (B&Bs)

This Section establishes standards for the development and operation of Bed and Breakfast Inns (B&B), where allowed by Article 2 (Zoning Districts and Allowable Land Uses). The intent of these provisions is to ensure the compatibility between the B&B and nearby residential uses.

~~**A. Limitation on number within the RL zoning district.** No bed and breakfast inn shall be allowed within the RL zoning district, except those which existed in the RL zone as of December 2, 2002. These existing B&Bs may be expanded as allowed by Use Permit approval.~~

~~**B. Exterior appearance.** The exterior appearance of an existing structure housing an existing B&B in the RL zoning district shall not be altered from its residential character except for allowed signs, and any structural modifications necessary to comply with California Code of Regulations Title 24. An addition to an existing B&B in the RL zoning district shall require Design Review in compliance with Section 18.71.050, to ensure that the structure is designed consistent with the residential character of the surrounding neighborhood.~~

AC. Limitation on services provided. Service shall be limited to the rental of bedrooms or suites; and meal/beverage service shall be provided for registered guests only. Separate/additional kitchens for guests are not allowed. Additional services and special events may be allowed only as specifically provided by the Use Permit approval for the facility, where the review authority determines that the type and frequency of the approved services and events will not adversely affect the residential character of the neighborhood, or allow for a use more intensive than typically associated with a B&B within the City.

BD. Off-street parking. Off-street parking shall be provided at a ratio of one space for each guest room, plus two spaces for the on-site owner/manager of the B&B. Parking shall not be located in the required front and side setbacks; and any night lighting for the parking area shall be limited to the minimum number of fixtures and illumination levels necessary for safety, and shall comply with Section 18.30.070 (Outdoor Lighting).

CE. Signs. See Chapter 18.38.

Comment [MJ4]: These requirements are not necessary as B&Bs are not allowed in residential districts. The one legal non-conforming B&B will have to comply with that section of the code.

18.42.060 - Child Day Care Facilities

A. Applicability. Where allowed by Article 2 (Zoning Districts and Allowable Land Uses) child day care facilities shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by the California Department of Social Services (DSS). DSS Licensing is required for all facilities.

B. Definitions. Definitions of the child day care facilities regulated by this Section are in Article 10 (Glossary) under "Day Care."

C. Standards for large family day care homes. As required by State law, a Minor Use Permit for a large family day care home shall be approved if it complies with the following standards.

1. Location requirements. In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no large family day care home shall be located within 200 feet of an existing large family day care home, or child day care center. In no case shall a residential property be directly abutted by a large family day care center on two or more sides.

2. Parking, drop-off area.

a. At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 18.36.040 (Number of Parking Spaces Required) for a single-family dwelling, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be required by the review authority based on traffic and pedestrian safety considerations.

b. A home located on a street with a speed limit of 30 miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g., circular driveway).

3. Outdoor activity areas.

a. Any side or rear setback areas intended for day care use shall be enclosed with a fence or wall to separate the children from neighboring properties.

b. Outdoor recreation equipment over eight feet in height shall not be located within a required side setback, and shall be set back a minimum of five feet from a rear property line.

4. Noise. Noise generated from the large family day care home shall not exceed the standards in Municipal Code Chapter 9.44.

5. Additional standards. Each large family day care home shall comply with applicable building and fire codes, and standards adopted by the State and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).

D. Standards for child day care centers.

1. Fencing. Design Review shall be required for any proposed fencing.

2. Parking and loading.

a. Off-street parking shall be provided as required through the Minor Use Permit process, but shall be a minimum of one space per employee on the largest shift, plus one space for each 10 children authorized by the State license. An exception to these off-street parking requirements may be granted if the facility complies with the following criteria:

i) The exception shall be granted only for uses in an existing building, and shall not be granted for any expansion of gross floor area or new construction;

Comment [MJ5]: This section was updated in 2014. No additional edits are required.

- ii) Off-street parking shall be provided on the site in the maximum amount feasible;
 - iii) The exception shall only be granted in a situation where the City Engineer has determined that the exception will not result in potentially unsafe conditions for vehicles or pedestrians;
 - iv) Each Minor Use Permit that grants an off-street parking exception shall be reviewed annually, and if it is found that the use of on-street parking spaces by the facility is creating a nuisance, the City may initiate proceedings to revoke the Minor Use Permit.
- b. Picking up and dropping off of children shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.
3. **Noise.** Potential noise sources shall be identified during the Minor Use Permit process, and noise attenuation and sound dampening shall be addressed.

18.42.070 - Drive-Through Facilities

This Section establishes standards for the development and operation of drive-through facilities for very limited types of retail or service activities (e.g., ATMs, banks, or pharmacies) where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. General standards.

1. **Design objectives.** Drive-through facilities shall only be permitted if the design and operation avoids congestion, excessive pavement, litter, and noise.
2. **Limitation on location.** A drive-through facility shall only be located to the rear of a building. A drive-through facility shall be located within the CBD zone only if the review authority determines that the facility is ancillary to a use that is primarily pedestrian oriented.

B. On-site circulation standards. A drive-through facility shall be provided internal circulation and traffic control as follows.

1. Aisle design.

- a. The entrance/exit of any drive aisle shall be a minimum of 50 feet from an intersection of public rights-of-way (measured at the closest intersecting curbs) and at least 25 feet from the edge of any driveway on an adjoining parcel.
- b. Drive aisles shall be designed with a minimum 10-foot interior radius at curves and a minimum 10-foot width.

2. Stacking area. A clearly identified area shall be provided for vehicles waiting for drive-up or drive-through service that is physically separated from other on-site traffic circulation.

- a. The stacking area shall accommodate a minimum of three cars for each drive-up or drive-through window in addition to the vehicle receiving service.
- b. The stacking area shall be located at and before the service window (e.g., pharmacy, teller, etc.).
- c. Separation of the stacking area from other traffic shall be by concrete curbing or paint striping on at least one side of the lane.
- d. Stacking areas adjacent and parallel to streets or public rights-of-way shall be prohibited.

3. Walkways. An on-site pedestrian walkway shall not intersect a drive-through aisle.

4. Exceptions. The review authority may approve alternatives to the requirements of Subsections B.1 through B.3 where it first finds that the alternate design will, given the characteristics of the site, be equally effective in ensuring on- and off-site pedestrian and vehicular traffic safety and minimizing traffic congestion.

C. Signs. Each entrance to, and exit from, a drive-through aisle shall be clearly marked to show the direction of traffic flow by signs and pavement markings or raised curbs. Signage shall also be provided to indicate whether the drive-through facility is open or closed.

18.42.080 - Home Occupations

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). For home occupations located in single-family residences within Commercial zoning districts, the Director may waive or modify the standards below to allow: 1) uses that are permitted by right within the commercial zoning district as a home occupation; and 2) home occupation operating standards 18.42.080 C & D.

A. Business License required. A home occupation shall require a City Business License.

B. Limitations on use. The following are examples of business activities that may be approved as home occupations, and uses that are prohibited as home occupations.

1. Uses allowed as home occupations. The following and other uses determined by the Director to be similar may be approved by the Director in compliance with this Section.

- a. Art and craft work (ceramics, painting, photography, sculpture, etc.);
- b. Tailors, sewing, etc.; and
- c. Office-only uses, including an office for an architect, attorney, consultant, counselor, insurance agent, planner, tutor, writer, etc., and electronic commerce.

2. Uses prohibited as home occupations. The following are examples of business activities that are not incidental to or compatible with residential activities, and are, therefore, prohibited as home occupations:

- a. Adult entertainment activities/businesses;
- b. Animal hospitals and boarding facilities;
- c. Automotive and other vehicle repair and service (body or mechanical), painting, storage, or upholstery, or the repair, reconditioning, servicing, or manufacture of any internal combustion or diesel engines, or of any motor vehicle, including automobiles, boats, motorcycles, or trucks;
- d. Contractor's and other storage yards;
- e. Dismantling, junk, or scrap yards;
- f. Fitness/health facilities (except that one-on-one personal trainers may be allowed);
- g. Medical clinics, laboratories, or doctor's offices;
- h. Personal services as defined in Article 10 (Glossary), except that licensed massage therapy and physical therapy may be allowed as home occupations in compliance with this Section;
- i. On-site sales, except that mail order businesses may be allowed where there is no stock-in-trade on the site;
- j. Uses which require explosives or highly combustible or toxic materials;

Comment [MJ6]: As single family homes located in commercial districts are likely to be located adjacent to existing commercial businesses, the strict adherence to this regulation seem unwarranted.

- k. Welding and machine shop operations;
- l. Wood cutting businesses; or
- m. Other uses the Director determines to be similar to those listed above.

C. Operating standards. Home occupations shall comply with all of the following operating standards.

- 1. Accessory use.** The home occupation shall be clearly secondary to the full-time use of the property as a residence.
- 2. Location of home occupation activities.**
 - a. RR zoning district.** Allowed home occupation activities may be conducted within an approved accessory structure in the RR zoning district, provided that two covered parking spaces are continually maintained.
 - b. Other zones.** All home occupation activities shall be confined completely to one room within the primary dwelling, which shall not occupy more than 25 percent of the gross floor area of the ground floor. Garages or other enclosed accessory structures may be used for home occupation purposes only if required off-street parking spaces are continually maintained. Horticulture activities may be conducted outdoors, but only within the rear one-third of the site.
- 3. Visibility.** The use shall not require any exterior modification to the structure not customarily found in a dwelling, nor shall the home occupation activity be visible from a public right-of-way, or from neighboring residential properties.
- 4. Signs.** There shall be no advertising signs, other than one name plate, not exceeding one square foot in area, and only if attached flush to a wall of the structure.
- 5. Safety.** Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with a residential use.
- 6. Off-site effects.** No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.
- 7. Outdoor display or storage.** There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.
- 8. Employees.** A home occupation shall have no on-site employees other than full-time residents of the dwelling.
- 9. Client/customer visits.** The home occupation shall be operated so as to not require more than eight vehicle trips per day of clients, customers, visitors, and/or service visits to the residence. On-site presence of clients or customers shall be limited to one client or family at a time, and only between the hours of 9:00 a.m. and 8:00 p.m.
- 10. Motor vehicles.** There shall be no motor vehicles used or kept on the premises, except residents' passenger vehicles, and/or one pickup truck, van, or similar vehicle not exceeding 1.5 ton carrying capacity. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises in a manner different from normal residential usage, except for FedEx, UPS, or USPS-type home deliveries/pick-ups. The Commission may authorize other types and/or additional vehicles with Use Permit approval.
- 11. Utility service modifications.** No utility service to the dwelling shall be modified solely to accommodate a home occupation, other than as required for normal residential use.

D. Home working operations. Small-scale commercial wood and metal working may be authorized by Minor Use Permit as a home occupation, provided that the review authority may require conditions of approval limiting hours of operation, noise levels, and/or any other aspect of the operation, to ensure compatibility with on-site and adjacent residential uses.

18.42.090 - Live/Work Units

A. Purpose. This Section provides standards for the development of new live/work units and for the reuse of existing commercial and industrial structures to accommodate live/work opportunities where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A live/work unit shall function predominantly as work space with incidental residential accommodations that meet basic habitability requirements. The standards of this Section do not apply to mixed use projects, which are instead subject to Section 18.42.100 (Mixed Use Projects).

B. Application requirements. In addition to the information and materials required for a Use Permit application by this Development Code, the review authority may require a Use Permit application for a live/work unit to include a Phase I Environmental Assessment for the site, including an expanded site investigation to determine whether lead based paint and asbestos hazards are present in an existing structure proposed for conversion to live/work. The purpose of this requirement is to assess whether there are any hazardous or toxic materials on the site that could pose a health risk to the residents. If the Phase I assessment shows potential health risks, a Phase 2 Environmental Assessment shall be prepared and submitted to the Department in order to determine if remediation may be required.

C. Limitations on use. The nonresidential component of a live/work project shall only be a use allowed within the applicable zoning district. A live/work unit shall not be established or used in conjunction with any of the following activities:

1. Adult businesses;
2. Vehicle maintenance or repair (e.g., body or mechanical work, including boats and recreational vehicles), vehicle detailing and painting, upholstery, etc.);
3. Any other activity or use, as determined by the Director to not be compatible with residential activities and/or to have the possibility of affecting the health or safety of live/work unit residents, because of the potential of exposure to dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes within the residential (living) portion of the live/work unit.

D. Residential density. Live/work units shall not exceed a maximum density of 15 units per acre.

E. Occupancy requirement. The residential space within a live/work unit shall be occupied by at least one individual employed in the business conducted within the live/work unit.

F. Design standards.

1. **Floor area requirements.** No more than 40 percent of the floor area shall be reserved for living space as defined under "Live/Work Unit" in Article 10 (Glossary). All remaining floor area shall be reserved and regularly used for working space.
2. **Separation and access.** Each live/work unit shall be separated from other live/work units or other uses in the structure. Access to each live/work unit shall be provided from a public street, or common access areas, corridors, or halls. The access to each unit shall be clearly separate from other live/work units or other uses within the structure.
3. **Facilities for commercial or industrial activities, location.** A live/work unit shall be designed to accommodate commercial or industrial uses as evidenced by the provision of flooring, interior storage, ventilation, and other physical improvements of the type commonly found in exclusively commercial or industrial facilities used for the same work activity.
4. **Integration of living and working space.** The living and work space of the Live/work unit shall be combined within one integrated structure. The living space of a live/work unit shall be accessed only by means

Comment [MJ7]: This section was updated in 2014.

of an interior connection from the work space, and shall have no exterior access except as required by the Building Code.

5. Mixed occupancy structures. If a structure contains mixed occupancies of live/work units and other nonresidential uses, occupancies other than live/work shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the live/work units and other occupancies, as determined by the Building Official.

G. Operating requirements.

1. Sale or rental of portions of unit. No portion of a live/work unit may be separately rented or sold as a commercial or industrial space for any person not living in the premises or as a residential space for any person not working in the same unit.

2. Notice to occupants. The owner or developer of any structure containing live/work units shall provide written notice to all live/work occupants and users that the surrounding area may be subject to levels of dust, fumes, noise, or other effects associated with commercial and industrial uses at higher levels than would be expected in more typical residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the applicable zoning district.

3. On-premises sales. On-premises sales of goods is limited to those produced within the live/work unit, provided the retail sales activity shall be incidental to the primary production work within the unit. These provisions shall allow occasional open studio programs and gallery shows.

4. Nonresident employees. Up to two persons who do not reside in the live/work unit may work in the unit, unless this employment is prohibited or limited by the Use Permit. The employment of three or more persons who do not reside in the live/work unit may be allowed, subject to Use Permit approval, based on an additional finding that the employment will not adversely affect parking and traffic conditions in the immediate vicinity of the unit. The employment of any persons who do not reside in the live/work unit shall comply with all applicable Uniform Building Code (UBC) requirements.

5. Client and customer visits. Client and customer visits to live/work units are allowed subject to any applicable conditions of the Use Permit to ensure compatibility with adjacent commercial or industrial uses, or adjacent residentially-zoned areas.

H. Changes in use. After approval, a live/work unit shall not be converted to either entirely residential use or entirely business use unless authorized through Use Permit approval. No live/work unit shall be changed to exclusively residential use in any structure where residential use is not allowed, where two or more residential units already exist, or where the conversion would produce more than two attached residential units.

I. Required findings. The approval of a Use Permit for a live/work unit shall require that the review authority first make all of the following findings, in addition to those findings required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The proposed use of each live/work unit is a bona fide commercial or industrial activity consistent with Subsection C. (Limitations on use);
2. The establishment of live/work units will not conflict with nor inhibit commercial or industrial uses in the area where the project is proposed;
3. The structure containing live/work units and each live/work unit within the structure has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations; and
4. Any changes proposed to the exterior appearance of the structure will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses.

18.42.095 - Medical Marijuana Dispensaries

Medical Marijuana Dispensaries, as defined in Section 18.100.020, shall be allowed per the requirements of Fort Bragg Municipal Code Chapter 9.30. (Ord. 851 §3, 2005.)

18.42.100 - Mixed Use Projects

This Section provides standards for the design of mixed use projects, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). A mixed use project combines residential and nonresidential uses on the same site, with the residential units typically located above the nonresidential uses (vertical mixed use). Residential units may be also allowed at ground level behind street-fronting nonresidential uses (horizontal mixed use) only under the limited circumstances specified by this Section.

Comment [MJ8]: This section was updated in 2014.

A. Design considerations. A mixed use project shall be designed to achieve the following objectives.

1. The design shall provide for internal compatibility between the residential and non-residential uses on the site.
2. Potential glare, noise, odors, traffic, and other potential nuisance conditions for residents shall be minimized to allow a compatible mix of residential and nonresidential uses on the same site.
3. The design shall take into consideration existing and potential future uses on adjacent properties and shall include specific design features to minimize potential impacts.
4. The design shall ensure that the residential units are of a residential character, and that appropriate privacy between residential units and other uses on the site is provided.
5. Site planning and building design shall provide for convenient pedestrian access from the public street into the nonresidential portions of the project, through such means as courtyards, plazas, walkways, and street furniture.
6. Site planning and building design shall be compatible with and enhance the adjacent and surrounding residential neighborhood in terms of building design, color, exterior materials, landscaping, lighting, roof styles, scale, and signage.

B. Mix of uses. A mixed use project may combine residential uses with any other use allowed in the applicable zoning district where allowed by Article 2 (Zoning Districts and Allowable Land Uses); provided, that where a mixed use project is proposed with a use that is required to have Minor Use Permit or Use Permit approval in the applicable zoning district, the entire mixed use project shall be subject to that permit requirement.

C. Maximum density. The residential component of a mixed use project shall comply with the density requirements of the applicable General Plan designation and zoning district.

D. Site layout and project design standards. Each proposed mixed use project shall comply with the property development standards of the applicable zoning district and the following requirements.

1. **Location of units.** Residential units shall not occupy ground floor street frontage on the primary street frontage. Residential units are allowed on the first floor of alleys and secondary street frontages. The ground floor street frontage space within a mixed use building shall be reserved for commercial uses, except for a lobby or other feature providing access to the residential units.
2. **Parking.** In order to encourage the development of residential uses in existing and new commercial areas, the use of shared parking provisions shall be incorporated into mixed use projects in compliance with Section 18.36.080 (Reduction of Parking Requirements).
3. **Loading areas.** Commercial loading areas shall be located away from residential units and shall be screened from view from the residential portion of the project to the maximum extent feasible.
4. **Refuse and recycling areas.** Areas for the collection and storage of refuse and recyclable materials shall be located on the site in locations that are convenient for both the residential and nonresidential uses.

E. Performance standards.

- 1. Lighting.** Lighting for commercial uses shall be appropriately shielded to limit impacts on the residential units.
- 2. Noise.** Each residential unit shall be designed and constructed to minimize nonresidential project noise levels, in compliance with the City's Noise Ordinance. Night-time commercial uses shall minimize noise levels, in compliance with the City's Noise Ordinance.

18.42.110 - Mobile/Manufactured Homes and Mobile Home Parks

This Section provides requirements and development standards for the use of mobile homes and manufactured homes as single-family dwellings outside of mobile home parks, and for mobile home parks, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Mobile home outside of a mobile home park.

- 1. Site requirements.** The site, and the placement of the mobile home on the site, shall comply with all zoning, subdivision, and development standards applicable to a conventional single-family dwelling on the same parcel.
- 2. Mobile home design and construction standards.** A mobile home outside of a mobile home park shall comply with the following design and construction standards.
 - a. The exterior siding, trim, and roof shall be of the same materials and treatment found in conventionally built residential structures in the surrounding area, and shall appear the same as the exterior materials on any garage or other accessory structure on the same site.
 - b. The roof shall have eave and gable overhangs of not less than 12 inches measured from the vertical side of the mobile home, and the roof pitch shall be no less than 3:12.
 - c. The mobile home shall be placed on a foundation system, subject to the approval of the Building Official.
 - d. The mobile home is certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC Section 4401 et seq.), and has been constructed after January 1, 1989.

B. Mobile home park standards. The site for the mobile home park shall comply with the following requirements.

- 1. Planning and design objectives.** The City intends that each mobile home park be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving an environment of stable, desirable character not out of harmony with the surrounding area.
- 2. Permit requirements.** A mobile home park shall require Design Review in compliance with Section 18.71.050, in addition to the Use Permit approval required by Section 18.21.030 (Residential Zoning District Allowable Land Uses and Permit Requirements).
- 3. Allowable uses.** Use Permit approval for a mobile home park may authorize the following uses in addition to individual mobile homes.
 - a. Accessory uses, limited to awnings, portable, demountable or permanent carports, fences or windbreakers, garages, porches, and storage cabinets.
 - b. A golf course, lake, park, playground, riding and hiking trails, equestrian facilities, other similar recreational structures and facilities, clubhouses, community centers, laundries, and similar uses; provided that all of these are not allowed on the individual mobile home lots within the mobile home park.
 - c. Public utility and public service uses and structures.

4. Standards. This Section identifies standards for mobile home park development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the parks and the City as a whole.

a. Phased development. Development may be in phases, so long as each phase complies with the minimum standards of this Section, and no mobile home is occupied in any phase until at least 10 mobile home lots are developed and improved on a minimum of two acres, and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.

b. Density. The Commission shall determine the allowable density for each mobile home park, based on the following criteria:

- i) The provision of the space necessary for compliance with this Section;
- ii) Individual mobile home lots shall be a minimum of 2,400 square feet; and
- iii) In no case shall the density of a mobile home park exceed the maximum density of the General Plan and zoning district designation for the subject site.

c. Building lines. Each structure and mobile home shall have a minimum setback of 15 feet from all exterior property lines; and a minimum setback of 20 feet from the right-of-way of any street adjoining the mobile home park. The resulting setback area shall be landscaped and continually maintained, in compliance with Chapter 18.34 (Landscaping Standards).

d. Parking. Parking shall be provided in compliance with Chapter 18.36 (Parking and Loading).

e. Utilities. All utility distribution facilities (including cable television, communication and electric lines and boxes) within a mobile home park shall be placed underground. The developer is responsible for complying with the requirements of this Subparagraph, and shall make the necessary arrangements with the utility companies for the installation of the required facilities.

f. Tenant storage. A minimum of one 75 cubic foot storage cabinet shall be provided on each mobile home site. Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with Section 18.30.110.

g. Accessory uses. Accessory uses are those that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are customarily found in multi-family developments, and do not alter the character of the residential use.

- i) Any structure used for an accessory use shall meet all requirements for a primary structure.
- ii) Allowable accessory uses include a management facility, laundry facility, swimming facilities, recreation room, recreational vehicle storage areas, vending machines, and other uses that, in the opinion of the Commission, are of a similar nature.
- iii) A mobile home park may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with Section 18.42.020 (Accessory Retail and Service Uses).

h. Travel trailers. An occupied travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 (42 USC Section 4401 et seq.) shall not be allowed within a mobile home park. Unoccupied trailers and other recreational vehicles may be stored in an approved on-site storage area where authorized by Use Permit.

i. Fencing. A solid masonry wall, fence, or other decorative landscape screening of the maximum height allowed by this Development Code shall be installed as required by the review authority as part of the Use Permit approval for the mobile home park.

- j. **Landscaping.** Landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).
- k. **Signs.** A mobile home park may be allowed one externally illuminated identification sign not exceeding six feet in height or 24 square feet in area. The sign shall be integrated into the mobile home park landscaping, at a location specified in the Use Permit approval.
- l. **Skirting.** Skirting shall be provided along all sides of each mobile home.
- m. **Internal streets.** Internal street design shall comply with City street standards except where superseded by a standard required by State law.

18.42.120 - Multi-Family Projects

New or remodeled multi-family projects shall comply with the standards of this Section, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). For the purposes of this Section, the term “remodeled” means the reconstruction or remodeling of at least 50 percent of the gross floor area of the original structure.

A. Accessory structures. Accessory structures and uses (e.g., bicycle storage, garages, laundry rooms, recreation facilities, etc.) shall be designed and constructed with an architectural style, exterior colors and materials similar to the structures in the project containing dwelling units.

B. Building facades adjacent to streets. A multi-family project of three or more dwelling units shall be designed so that at least 75 percent of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least one pedestrian entry into the structure.

C. Front setback pavement. No more than 40 percent of the front setback area shall be paved for walkways, driveways, and/or other hardcover pavement.

D. Parking location. Off-street parking for a multi-family structure of three or more units shall be located so that it is not visible from the street fronting the parcel. A garage providing parking for a duplex may be located in compliance with the following standards, in addition to the requirements of Chapter 18.36 (Parking and Loading).

1. **Front setback.** A garage shall be set back from the front property line at least 10 feet further than the facade of the dwelling, to reduce visual impact from the street.
2. **Side setback.** When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a garage may be built to the side property line on that side, but shall be located at least eight feet from the other side property line. Otherwise, a garage shall be set back a minimum of five feet from each side property line.
3. **Rear setback.** A garage shall be set back a minimum of five feet from a rear property line.
4. **Facade width, parking orientation.** The front facade of a garage shall not exceed a width of 25 feet. Tandem parking is allowed.

E. Open space. Each multi-family residential project, except a duplex, shall include permanently maintained outdoor open space for each dwelling unit (private space), and for all residents (common space), except where the review authority determines that existing public park or other usable public open space is within convenient walking distance, or that the residential units are part of a mixed use project and/or located in a commercial zoning district.

1. **Area required.** Private and common open space shall be provided as required by Table 4-3.

TABLE 4-3 - MULTI-FAMILY PROJECT OPEN SPACE REQUIREMENTS

Project Size	Minimum Common Open Space Required	Minimum Private Open Space Required

Comment [MJ9]: This section was updated in 2014.

Comment [SP10]: Duplexes removed from definition of multifamily.

Project Size	Minimum Common Open Space Required	Minimum Private Open Space Required
3 or 4 units	200 sf	100 sf for each unit
5 to 10 units	500 sf	150 sf for each unit with patios
11 and more units	100 sf per unit	100 sf for each unit with balconies

2. Configuration of open space. Required open space areas shall be designed and located as follows. Landscaping shall comply with the requirements of Chapter 18.34 (Landscaping Standards).

a. Common open space. All required open space shall be: easily accessible; continuous, usable site elements; separated from parking areas; safe and secure. Each common open space area shall have a minimum dimension of 12 feet for three and four unit projects, and 20 feet for projects with five or more units.

b. Private open space. Private open space shall be at the same elevation as, and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of eight feet; except that the review authority may authorize different minimum dimensions for upper-floor balconies where the private open space is provided as a balcony or upper floor court.

The review authority may allow required open space to be in different locations and/or with different dimensions where it determines that the alternative approach will provide open space of equivalent utility and aesthetic quality.

3. Maintenance and control of common open space. Required common open space shall be controlled and permanently maintained by the Home Owners Association (HOA). Provisions for control and maintenance shall be included in property covenants of all common interest developments.

F. Outdoor lighting. Outdoor lighting shall be installed and maintained along all vehicular access ways and major walkways, in compliance with 18.30.070 (Outdoor Lighting). The lighting shall be directed onto the driveways and walkways within the development and away from adjacent properties. Lighting of at least one foot candle shall also be installed and maintained within all covered and enclosed parking areas and shall be screened to minimize glare onto public sidewalks. Lighting fixtures/lamps shall be the most energy efficient available. All proposed lighting shall be shown on the required landscape plan.

G. Storage. A minimum of 100 cubic feet of lockable storage area shall be provided for each dwelling outside of the unit, with no dimension less than 30 inches.

H. Universal Design. For projects of more than ten units, one unit shall be designed according to the principles of universal design to ensure handicapped accessibility of the unit.

I. Television antennas. Exterior television antennas, other than satellite dishes less than 39 inches in diameter, are not allowed, except for a single common, central antenna, with underground cable service to each dwelling unit. This restriction shall be included in any property covenants of a common interest development.

J. Window orientation. Where one or more windows are proposed 10 feet or less from a side lot line, or 10 feet from another residential structure on the same site, Design Review shall ensure, to the extent feasible, that the windows are located and/or screened to provide privacy for residents of both structures.

18.42.130 - Outdoor Displays and Sales

A. Applicability. The provisions of this Section apply to temporary and permanent facilities for outdoor display, sales (e.g., garden supply sales, news and flower stands, and similar uses where merchandise is displayed for sale), and outdoor eating areas, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

B. Temporary outdoor displays and sales. See Section 18.71.030 (Limited Term Permit).

C. Permanent outdoor displays and sales. The permanent outdoor display and sale of merchandise is allowed subject to the following standards.

1. The outdoor display of merchandise shall not exceed a height of six feet above finished grade, unless a greater height is allowed through Minor Use Permit approval.
2. Outdoor display and sales areas shall not encroach into required setback areas or the public right-of-way. In zoning districts where no setback area is required, the outdoor sales area shall be set back a minimum of 10 feet from adjoining property lines unless otherwise allowed through Minor Use Permit approval.
3. Displayed merchandise shall occupy a fixed, specifically approved, location that does not disrupt the normal function of the site or its circulation, and does not encroach upon driveways, landscaped areas, required parking spaces, or pedestrian walkways. A display shall not obstruct intersection visibility or otherwise create hazards for pedestrian or vehicle traffic.
4. The outdoor display and sales area shall be directly related to a business occupying a permanent structure on the subject parcel.
5. The Director may require that outdoor sales and activity areas other than vehicle sales lots, produce stands, and nursery product sales be screened from the view of adjoining public rights-of-way by decorative walls, fences, or landscaping.
6. Additional signs shall not be provided for the outdoor display and sales area beyond those normally allowed for the primary use.

D. News and flower stands. See the City's Mobile Vending Unit regulations in the Municipal Code.

~~1. Location requirements. A news or flower stand shall:~~

- ~~a. Be located parallel and adjacent to the wall of a structure. A freestanding news or flower stand is allowed only as a roofed kiosk;~~
- ~~b. In the case of a privately owned stand, not be located within the public right-of-way, within three feet of a display window of any structure abutting the sidewalk, or so as to interfere with or restrict the reasonable use of the window for display purposes;~~

~~2. Design and construction requirements.~~

- ~~a. A stand shall be soundly constructed of wood, metal, or other suitable permanent material, and designed in a manner and color to be compatible with the adjacent structures whether the stand is opened or closed. Security doors shall be designed as an integral part of the structure;~~
- ~~b. Shelving shall not exceed eight feet in height nor two feet in depth;~~

~~3. Maintenance.~~ Each news or flower stand shall be maintained in a clean and neat condition and in good repair, at all times.

~~4. Signs.~~

- ~~a. The stands shall not be used for advertising or publicity purposes. Signs shall be for identification only, with size and design in compliance with Chapter 18.38 (Signs);~~
- ~~b. The owners or operators of the outdoor news or flower stand shall display, in a place readily visible to the public, a telephone number and address where the owners may be reached;~~

~~5. Additional product sales.~~ In addition to the sale of newspapers, magazines, and other periodicals, for newsstands, and flowers and plants, for flower stands, the owners or operators may sell other related accessory products, not to exceed 10 percent of the total merchandise displayed.

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Comment [MJ11]: This section has been replaced by the new Mobile Vending Unit regulations of the Muni Code.

E. Outdoor dining areas.

1. An outdoor dining area may be allowed accessory and incidental to a restaurant with indoor eating area on the same site; provided the outdoor eating area shall also comply with the parking requirements of Section 18.36.040 (Number of Parking Spaces Required) for restaurants.
2. Signs shall comply with Chapter 18.38.

18.42.140 - Outdoor Storage

An outdoor storage or work area shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

- A. Enclosure and screening required.** Outdoor storage areas shall be entirely enclosed by a solid wall or fence as approved by the review authority with a minimum height of six feet and a maximum height of eight feet.
- B. Maximum height of stored materials.** The materials within the storage area shall not be higher than the fence, except where authorized by the Use Permit for the storage area.
- C. Landscaped setback.** In any case where an outdoor storage area abuts a street right-of-way, the required screening wall or fence shall be set back from the right-of-way as required by the applicable zoning district, and the set back area shall be landscaped to the approval of the Director, and in compliance with Chapter 18.34 (Landscaping Standards).

18.42.145 - Pipelines and Transmission Lines

Pipelines and transmission lines shall comply with the following requirements, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

- A. Local service facilities.** Lines and facilities for local utility service are permitted in all zones.
- B. Electric transmission lines.** The location of proposed electric transmission lines shall be reviewed by the Commission and approved by the Council prior to right-of-way acquisition.

18.42.150 - Recycling Facilities

This Section establishes standards and procedures for the siting and operation of ~~various types and sizes of~~ commercial recycling facilities, where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

~~**A. Reverse vending machines.** Reverse vending machines shall comply with the following standards.~~

- ~~1. Accessory use only.~~ Each machine shall be installed only as an accessory use to an allowed primary use.
- ~~2. Location requirements.~~ If located outside of a structure, a machine shall not occupy parking spaces required by the primary use.
- ~~3. Signs.~~ Sign area shall not exceed four square feet for each machine, exclusive of operating instructions. The sign area shall be subject to the overall site sign area limitations in Section 18.38.070 (Zoning District Sign Standards).
- ~~4. Lighting.~~ Each machine shall be illuminated to ensure comfortable and safe operation if the machine is accessible between dusk and dawn. The light source shall be shielded so that glare and reflections are confined within the boundaries of the site.

B. Small collection facilities. A small collection facility shall comply with the following standards.

1. **Location requirements.** A small collection facility shall:
 - a. Not be located within 50 feet of any parcel zoned or occupied for residential use; and

Comment [MJ12]: Removed from use tables

- b. Be set back at least 10 feet from any public right-of-way, and not obstruct pedestrian or vehicular circulation.

2. Maximum size. A small collection facility shall not occupy more than 350 square feet. ~~nor three parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers.~~

3. Appearance of facility. Collection containers and site fencing shall be of a color and design that is compatible and harmonious with the surrounding uses and neighborhoods.

4. Operating standards for small collection facilities. Small collection facilities shall:

- a. Not use power-driven processing equipment, except for reverse vending machines;
- b. Accept only glass, metal, or plastic containers, paper, and reusable items;
- c. Use containers that are constructed with durable waterproof materials, secured from unauthorized removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule; and
- d. Be screened where determined by the review authority to be necessary because of excessive visibility.

5. Signs. Non-illuminated signs may be provided as follows:

- a. Identification signs are allowed with a maximum area of 15 percent for each side of the structure or 12 square feet, whichever is greater. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container;
- b. Additional directional signs, consistent with Chapter 18.38 (Signs), may be approved by the Director if found necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.

6. Parking requirements.

- a. No additional parking space shall be required for customers of a small collection facility located in the established parking lot of the primary use. One additional space shall be provided for the attendant, if needed.
- b. Use of parking spaces by the patrons and the attendant shall not reduce available parking spaces below the minimum number required for the primary use unless a parking study, determined to be acceptable by the Director, shows that existing capacity is not fully utilized during the time the recycling facility would be on the site.

C. Large collection facilities. A collection facility that is larger than 350 square feet, or on a separate parcel not accessory to a primary use, shall comply with the following standards.

- 1. Location requirements.** The facility shall not abut a parcel zoned for residential use.
- 2. Container location.** Any containers provided for “after hours” donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy materials, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of materials.
- 3. Screening.** The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.

4. **Setbacks, landscaping.** Structure setbacks and landscaping shall be provided as required for the applicable zoning district.
5. **Outdoor storage.** Exterior storage of material shall be in sturdy containers that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.
6. **Operating standards.**
 - a. The site shall be maintained clean, sanitary, and free of litter and any other trash or rubbish, shall be cleaned of loose debris on a daily basis, and shall be maintained free from rodents and other disease vectors.
 - b. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

D. Processing facilities. Processing facilities shall comply with the following standards.

1. **Location requirements.** The facility shall not abut a parcel zoned or occupied for residential use.
2. **Limitation on activities.** Allowed activities are limited to baling, briquetting, compacting, crushing, grinding, shredding, and sorting of source-separated recyclable materials and repairing of reusable materials. The facility shall not bale, compact, or shred ferrous metals, other than beverage and food containers. Outbound truck shipments from the site shall not exceed an average of two each day.
3. **Maximum size.** The facility shall not exceed 45,000 square feet of floor or ground area.
4. **Container location.** Containers provided for “after hours” donation of recyclable materials shall be permanently located at least 100 feet from any residential zoning district, constructed of sturdy, rustproof materials, have sufficient capacity to accommodate materials collected, and be secured from unauthorized entry or removal of the materials.
5. **Screening.** The facility shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.
6. **Outdoor storage.** Exterior storage of material shall be in sturdy containers or enclosures that are secured and maintained in good condition. Storage shall not be visible above the height of the required solid masonry walls.
7. **Operating standards.** Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.

18.42.160 - Residential Accessory Uses and Structures

This Section provides standards for residential accessory uses and structures, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). These requirements do not apply to residential second units, which are instead regulated by Section 18.42.170 (Second Units).

A. Limitation on number. Only one residential accessory structure shall be allowed on any parcel in addition to a detached garage, except in the RR and RS zoning districts, and except where a site is two times or more the minimum lot area required for a new parcel in the applicable zoning district.

B. Relationship to primary use. An accessory use and/or structure shall be incidental to the primary residential use of the site, and shall not alter the character of the primary use.

C. Timing of installation. A residential accessory structure shall only be constructed concurrent with or after the construction of the primary structure on the same site, unless:

1. The site is within the RR zoning district, is one acre or larger, and the proposed structure is a garage; or

2. Construction in advance of a primary structure is authorized through Minor Use Permit approval.

D. Attached structures. An accessory structure attached to the primary structure shall comply with all zoning district requirements applicable to the primary structure, including height limits, site coverage, and setbacks; and shall also comply with any applicable requirements of Subsection F.

E. Detached structures. An accessory structure that is detached from the primary structure shall comply with the following standards, except where Subsection F. establishes a different requirement for a specific type of accessory structure.

1. **Setbacks.**

- a. **Front setback.** An accessory structure shall not be located within a required front setback.
- b. **Side and rear setbacks.** An accessory structure not exceeding 10 feet in height shall maintain side and rear setbacks of at least five feet. An accessory structure with a height greater than 10 feet shall comply with the setback requirements of the applicable zoning district.
- c. **Separation between structures.** An accessory structure shall maintain at least a five-foot separation from other accessory structures and the primary dwelling unit.
- d. **Double-frontage lot.** An accessory structure shall not occupy the front half of a parcel, or either front quarter of a double-frontage lot.
- e. **Garage accessible from an alley.** Where an accessory garage is accessible to vehicles from an alley, it shall be located not less than 25 feet from the opposite side of the alley.

2. **Height limit.** The height of an accessory structure other than a detached garage shall not exceed 12 feet, except where a greater height is authorized through Minor Use Permit approval. The height limit of a detached garage including any accessory uses, structures, and additions built into or on the detached garage shall not exceed 16 feet, except where a greater height is authorized through Minor Use Permit approval.

3. **Coverage and size limitations.** Where permitted, the aggregate coverage of accessory structures in required side and rear setbacks shall not exceed 500 square feet. The maximum site coverage for all structures on a parcel shall comply with the requirements of the applicable zoning district.

F. Standards for specific accessory uses and structures. The following requirements apply to the specific types of accessory structures listed, in addition to the requirements of Subsection A., as applicable.

1. **Antennas.** Antennas shall comply with the requirements of Chapter 18.44 (Telecommunications Facilities).
2. **Garages.** A garage for a single-family dwelling shall comply with the following requirements. A garage for a multi-family project shall comply with the requirements of Section 18.42.120 (Multi-Family Projects). This limitation does not apply to double lots.
 - a. **Limitation on number.** A single parcel shall have only one attached or detached garage, except that this limitation shall not apply in the RR and RS zoning districts, or to a site that is two times or more the minimum lot area required for a new parcel in the applicable zoning district
 - b. **Front setback.** Garages shall comply with the garage front setback requirements of the applicable zoning district.
 - c. **Side setbacks.** When a maintenance easement is granted by the owner of the adjacent parcel to the approval of the Director, a ~~detached or attached~~ garage may be built to the side property line on that side, ~~but shall be located at least eight feet from the other side property line.~~ Otherwise, a garage shall be set back a minimum of five feet from side property lines.

- 18.42.165 - Restaurants**

Comment [MJ14]: This section was updated in 2014

A. Operating standards. Restaurants shall comply with the following operating standards.

- 1. Installation and maintenance of grease trap/interceptor.** Grease interceptor installation and maintenance must comply with the City's Food Service Establishment Wastewater Discharge Permit and the City's Municipal Code section regarding Fats, Oil and Grease Control.
- 2. Washing of restaurant floor mats, exhaust filters.** Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

18.42.170 - Second Units – Accessory Dwelling Unit (ADU)

This Section establishes standards for residential second units also known as an Accessory Dwelling Unit (ADU), where allowed by Article 2 (Zoning Districts and Allowable Land Uses). The standards set forth in this Section are intended to be consistent with Government Code Section 65852.2 and to the extent that any such standards are determined by the review authority or a court of competent jurisdiction to be inconsistent with Government Code Section 65852.2, such standards shall not apply to residential second units. An application for a second unit that complies with the standards of this Section shall be approved ministerially. “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

A. Limitation on location. A ~~second unit~~ ADU is ~~not allowed~~ on any parcel that is zoned for residential development and has one primary residence. An ADU shall be exempted from the calculation of the maximum allowable density for the lot on which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designation for the lot. ~~on a parcel where access to the parking required for the second unit is from the same street as the access to the parking for the primary dwelling, and the curb-to-curb width of the street is less than 36 feet. Access from an alley may be approved only if the alley has adequate drainage facilities, and has adequate width and, in the case of a dead-end alley, adequate turnaround area for emergency vehicles.~~

B. Limitation on number of units. No more than one ~~second unit~~ ADU shall be approved on a single parcel.

C. Minimum site area. A parcel proposed for an ADU ~~second unit~~ shall be a minimum of 6,000 square feet. ~~must be of adequate size to meet the lot coverage requirements of the applicable zoning district after development of the second unit.~~

D. Relationship to primary use.

1. Size, style. An ~~second unit~~ accessory dwelling unit shall may be incidental and subordinate to the primary single-family residential use of the site in terms of size and location and shall not alter the character of the primary structure. It can be: 1) a remodeled portion of a primary dwelling unit; 2) attached to a primary dwelling unit; 3) one of the units of a duplex; or 3) a detached unit. An accessory dwelling unit may also be an efficiency unit (Section 17958.1 of Health and Safety Code) or a manufactured home (Section 18007 of the Health and Safety Code).

2. Timing of construction. An accessory dwelling unit ~~second unit~~ may be constructed simultaneously with, or after the primary dwelling. In addition, an existing dwelling that complies with the design standards for second units in Subsection E. may be considered a second unit, and a new primary unit may be constructed which would then be considered the primary dwelling unit.

E. Second unit standards. A second unit shall comply with the following standards.

1. Height limit. A detached accessory dwelling unit ~~second unit~~ shall be limited to 18 feet and one story. A second unit located over a garage may be allowed with a maximum height of 25 feet with Minor Use Permit approval. An attached accessory dwelling unit shall comply with the height limit in the zoning district.

Comment [MJ15]: All of the changes made to this section are to bring it into compliance with new state law.

Comment [MJ16]: As duplexes and second units within primary structures must now be allowed, this edit will make second units that are part of primary structures feasible as some may be on the second floor.

2. **Setbacks.** An accessory dwelling unit ~~second unit~~ shall comply with the setback requirements of the applicable zoning district, unless the second unit is located in a nonconforming structure as defined by Section 18.90.020. No second unit may be permitted above a garage unless the unit complies with the setback standards of the applicable zoning district.

3. **Maximum floor area.**

a. The floor area of an accessory dwelling unit ~~second unit~~ shall not exceed 960 square feet.

~~b. For purposes of computing the floor area of a second unit that is detached from the primary unit, all enclosed areas accessed from within the second unit shall be included.~~

~~c. An on-site enclosed storage area, or garage of up to 400 square feet, shall not be included when calculating the floor area of the second unit, provided that no internal doorway or passage connects the storage or garage and the second unit.~~

4. **Separate entrance required.** An attached accessory dwelling unit ~~second unit~~ shall have an entrance separate from the entrance to the primary dwelling.

5. **Window placement.** An accessory dwelling unit ~~second unit~~ that is placed 20 feet or less from a residential unit on the same parcel or an adjacent parcel shall not have windows that directly face windows in the other unit. An accessory dwelling unit ~~second unit~~ that is two stories or located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation applies only to side yards, not to windows facing alleys.

~~6. **Site coverage.** The maximum site coverage by structures and impervious surfaces shall not exceed 50 percent of the net site area or the maximum coverage allowed by the applicable zoning district, whichever is less.~~

Comment [MJ17]: Verbiage not needed

F. **Off-street parking requirements.** At least one off-street paved parking space shall be provided for an accessory dwelling unit ~~second unit or carriage house~~ in addition to the parking required for the primary dwelling by Chapter 18.36 (Parking and Loading). The parking space shall comply with the location and design requirements of Chapter 18.36, however tandem parking on an existing driveway is allowed. Additionally, the off-street parking space shall not be required for the ADU in any of the following instances:

1. The accessory dwelling unit is located within one-half mile of public transit;

2. The accessory dwelling unit is located within an architecturally and historically significant historic district;

3. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;

4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit;

5. When there is a car share vehicle located within one block of the accessory dwelling unit; and/or

6. If the primary dwelling was legally constructed at a time when off-street parking was not required (before November 22, 1982), off-street parking shall only be required for the accessory dwelling unit ~~second unit~~. If feasible, driveway access to required off-street parking shall not eliminate on-street parking spaces. If required driveway access for one off-street space eliminates one on-street parking space, the off-street space shall not be required.

Comment [SP18]: Covered in Article 2 – lot coverage maximums.

G. **Utilities & Fees**

1. For an accessory dwelling unit that is constructed entirely within the footprint of an existing primary unit, no new or separate utility connection is required directly between the accessory dwelling unit and the

Comment [MJ19]: This is fairly cumbersome. Council might want to consider eliminating the requirement for off-street parking entirely as it seems unfair to include all of these State required exceptions, and then require off street parking in the rare case where one of these exceptions does not apply.

utility. Additionally, such accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

2. For any other accessory dwelling unit, a new or separate utility connection may be required directly between the accessory dwelling unit and the utility per the Director of Public Works. The connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system.

3. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

18.42.180 - Service Stations

This Section establishes standards for the development and operation of motor vehicle service stations (not including card lock facilities), where allowed by Article 2 (Zoning Districts and Allowable Land Uses).

A. Permit and application requirements. A service station shall require Design Review in compliance with Section 18.71.050, in addition to the planning permit required by Article 2. Each application for a new or remodeled service station shall include a photometric plan identifying all proposed light sources and their illumination levels, to assist in evaluating compliance with the outdoor lighting requirements of Subsection D.5 and Section 18.30.070 (Outdoor Lighting). The City may require an applicant to pay the cost for a lighting consultant engaged by the City to evaluate photometric plans and recommend alternatives to proposed lighting.

B. Limitations on location.

1. **Prohibited locations.** A service station site shall not abut a residential zoning district or residential use.
2. **Separation between stations.** A service station shall not be closer than 500 feet to another service station except when both are at the same street intersection. The distance shall be measured in a straight line from the nearest property line of the sites for each service station. No more than two service stations shall be located at the same street intersection.

C. Site requirements. A site proposed for a new service station shall:

- ~~1. Be located on an arterial street (Main Street and Highway 20) on a site with a minimum of 150 feet of frontage; and~~
- ~~2. Have a minimum area of 15,000 square feet and a minimum depth of 100 feet.~~

The Commission may grant an exception to this requirement for a service station within a retail complex site if the Commission determines that the exception improves traffic circulation or reduces traffic. Approval of the exception shall also require that the Commission ensure that the service station is effectively integrated into the architecture and design of the overall retail complex.

D. Site planning standards. The layout of a service station site and its site features shall comply with the following standards.

1. **Site access and driveways.**
 - a. Curb cuts for service station driveways shall be separated by a minimum of 30 feet from edge-to-edge.
 - b. A driveway shall not be located closer than 50 feet to the end of a curb corner nor closer than 25 feet to an interior property line.
 - c. The width of a driveway shall not exceed 25 feet, measured at the sidewalk.

- d. Each pump island shall be provided a stacking area that can accommodate a minimum of three waiting vehicles.

2. Setback requirements.

- a. Pump islands shall be located a minimum of 15 feet from any property line to the nearest edge of the pump island.
- b. A canopy or roof structure over a pump island shall be a minimum of 10 feet from any property line.

3. Pavement. A service station site shall be paved with a permanent surface of concrete or asphalt material and shall contain drainage facilities in compliance with all Federal, State, and local laws, rules, and regulations. Any unpaved portion of the site shall be landscaped and separated from the paved area by curbs or other barrier approved as part of the Design Review for the site.

4. Landscaping. Landscaping, consisting of trees, ground cover, shrubs, vines, and/or other plant materials approved by the review authority shall be installed, permanently maintained and, if necessary, replaced, in compliance with the following standards, and the requirements of Chapter 18.34 (Landscaping Standards).

- a. A minimum of 15 percent of the entire site shall be landscaped.
- b. Boundary landscaping is required along all property lines abutting streets, except for driveways.
- c. Landscaped areas shall have a minimum width of eight feet, and shall be separated from abutting vehicular areas by a wall or curbing at least six inches higher than the abutting pavement.
- d. A corner site shall be provided a planter area of at least 200 square feet at the street corner, except where a building is located at the corner.
- e. Additional landscaping may be required by the Commission to screen the service station from adjacent properties.
- f. All landscaping on the site shall be placed and maintained to provide safe sight distances for pedestrians and drivers.

5. Lighting. Exterior lights, including canopy, perimeter, and flood shall be stationary, and shielded or recessed within the roof canopy to ensure that all light is directed away from adjacent properties and public rights-of-way. Lighting shall not be of a high intensity so as to cause a traffic hazard, be used as an advertising element, or adversely affect adjacent properties, in compliance with Section 18.30.070 (Outdoor Lighting). Lighting fixtures/lamps shall be the most energy efficient available, including fluorescent, compact fluorescent, low pressure sodium, high pressure sodium, or other lighting technology that is of equal or greater energy efficiency.

6. Signs and banners. Signs, banners, and promotional flags shall comply with Chapter 18.38 (Signs).

7. Solid waste and recyclables storage. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements. Outdoor solid waste and recyclable storage areas shall be screened by a solid masonry wall with a height of six feet, or as approved by the review authority. The wall design, materials, and colors shall be compatible with the primary structures on the site, as determined by the review authority.

E. Building design standards. Each new service station shall comply with the following standards.

- 1. Architectural character.** Subject to the requirements of Design Review, service station architecture shall fit with the existing or intended character of the surrounding area as determined by the review authority.
- 2. Bay orientation.** Service bay openings shall not face a public street.

3. **Restrooms.** Each service station shall maintain one or more restrooms available for use by the general public without charge. Restroom entrances shall be screened from the view of the public right-of-way.

F. Facility operating standards.

1. **Restriction on outdoor activities.** Outdoor activities on a service station site shall be limited to fueling, replenishing air, water, oil and similar fluids, and the replacement of minor parts (e.g., lamp bulbs, wiper blades, and other similar items) requiring only the use of small hand tools while a vehicle is being serviced at the pump island. Where minor auto repair is permitted by Article 2, all repair activities shall occur entirely within an enclosed structure.
2. **Display.** There shall be no outdoor display of equipment or merchandise, except as allowed in compliance with Subsection G.1 (Outdoor storage).
3. **Vehicle parking.** Vehicles shall not be parked on sidewalks, parkways, driveways, or alleys, and shall not be parked on the premises for the purpose of sale.

G. Appurtenant uses. The following appurtenant uses are prohibited unless specifically allowed as part of Use Permit approval.

1. **Outdoor storage.** One or more outdoor storage and display cabinets or enclosures other than the primary structure may be approved by the review authority, provided that their combined total area shall not exceed 50 square feet. The construction and finish of storage and display cabinets shall be compatible with the primary structures on the site, as determined by the review authority. Outdoor storage and display cabinets may be used only for the display and sale of brake fluid, gasoline additives, oil, transmission fluid, windshield wipers and fluid, and other similar merchandise. The outdoor storage of tires shall be prohibited. No outdoor vending machines are allowed.
2. **Tow truck operations.** Where tow truck operations are approved as part of a service station by the review authority, no abandoned, disabled, junked, wrecked, or otherwise non-operational motor vehicles shall remain on site for more than five days, and shall be stored entirely within an enclosed structure.
3. **Convenience sales - Parking.** Where allowed, the sale of beer and wine, other drinks, food, and/or other merchandise shall be provided off-street parking in compliance with Chapter 18.36 (Parking and Loading).
4. **Prohibited uses.** The following uses are prohibited.
 - a. The rental, sale, or storage of garden supplies, tools, trailers, travel trailers, vehicles, and other similar materials and merchandise, except the short term storage of vehicles allowed in compliance with Subsection G. 2. (Tow truck operations), above.

~~b. Incidental uses such as pinball or video game machines, pool tables, or laundry facilities.~~

H. Removal of tanks upon cessation or change of use. If, for any reason, a service station ceases to sell gasoline for more than 115 out of 120 days, all gasoline pumps and signs shall be removed from the site and all gasoline storage tanks shall be removed or treated in compliance with Federal and State regulations, subject to the approval of the Fire Department.

18.42.190 - Vacation Home Rentals

A. Purpose. This section provides requirements and standards for the operation of Vacation Home Rentals. These standards are intended to ensure that Vacation Home Rentals are compatible with and do not adversely impact residential or commercial uses.

B. Applicability. The provisions of this section shall apply to all Vacation Home Rentals. This section does not apply to legally established Hotel/Motel or Bed and Breakfast uses, which are regulated separately.

Comment [MJ20]: New standards for vacation rentals per City Council direction.

C. Application Requirements. In addition to the information and materials required for a Minor Use Permit application by this Development Code, the review authority may require additional information to ensure compliance with this section.

D. Limitations on use.

1. Location.

- a. Where permitted by Chapter 18.20, Vacation Home Rentals shall be located on second or third floors above a commercial use.
- b. A Vacation Home Rental shall only be permitted within a legal dwelling unit, as defined in 18.100.020(D).

2. Operating Standards.

- a. The quantity of ~~permits available for~~ Vacation Home Rentals ~~permits~~ shall be determined by Council resolution. ~~Permits application shall be reviewed and approved on a first-come first-served basis.~~ The City shall maintain a waiting list for new permits, once all authorized permits are awarded.
- b. Each ~~individual~~ Vacation Home Rental ~~unit~~ shall require a separate permit. The maximum quantity of permits ~~(units) available~~ per property shall be determined by Council resolution.
- c. The maximum occupancy permitted for a Vacation Home Rental shall be limited to two persons per bedroom, plus one person (not including children under age 12). The maximum occupancy shall be stated as an approval condition of a permit authorizing a Vacation Home Rental use.
- d. The maximum ~~quantity number~~ of vehicles permitted for guests of a Vacation Home Rental shall ~~be limited equal to the number of bedrooms in the unit, unless additional vehicles are permitted by the review authority for a specific Vacation Home Rental.~~ The maximum ~~quantity number~~ of vehicles shall be stated as an approval condition of a ~~permit authorizing a~~ the Vacation Home Rental ~~use~~ permit.
- e. All advertisement listings for Vacation Home Rentals shall ~~state~~ include the following:
 - i) City of Fort Bragg business license number and Minor Use Permit number;
 - ii) Maximum permitted occupancy, as stated on the approved permit; and
 - iii) Maximum vehicles permitted, as stated on the approved permit.
- f. Vacation Home Rentals shall have a property manager who is available 24 hours per day, 7 days per week during all times that the property is rented or used on a transient basis. Operation of a Vacation Home Rental without a property manager shall be considered a violation of this Section. The name and contact information of the property manager shall be provided to any interested party upon request.
- g. A permit authorizing a Vacation Home Rental shall be revoked under ~~any of~~ the following conditions:
 - i) The City ~~receives any combination of-~~ processes three or more ~~substantiated code~~ enforcement cases ~~for against the property as a result of Vacation Home Rental use~~ within a two year period;

- ii) The Vacation Home Rental is found to be ~~operating in any way non-compliant with this any portion of the zoning ordinance -Development Code~~ or the terms of the permit approving the use;
 - iii) Failure to maintain a business license for the use; ~~or~~
 - iv) Abandonment of the use for a period of 12 months or more (~~as demonstrated by a lack of payment of Transient Occupancy Taxes~~); ~~or~~
 - v) ~~Any instance of Transient Occupancy Tax fraud or Transient Occupancy Tax delinquency of more than three months~~
- h. A permit for a Vacation Home Rental use shall transfer with the sale of the property, provided the new owner ~~continuance of~~ complies with all permit ~~approval~~ conditions and ~~compliance with the provisions of this Development Code~~ zoning ordinance.

Comment [MJ21]: Consider new grounds for termination of the Use Permit as underreporting of TOT and non-payment of TOT are both problems with vacation rentals

Chapter 18.44

TELECOMMUNICATIONS FACILITIES

Comment [MJ22]: This section was updated in 2014

Sections:

- 18.44.010 Purpose
- 18.44.020 Definitions
- 18.44.030 Applicability
- 18.44.040 Permit Requirements
- 18.44.050 Limitations on Location
- 18.44.060 Facility Design and Development Standards
- 18.44.070 Operation and Maintenance Standards
- 18.44.080 Discontinuance and Site Restoration

18.44.010 - Purpose

This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of communication facilities so as to preserve the unique visual character of the City, promote the aesthetic appearance of the City, and to ensure public safety and welfare; pursue additional benefits from the facilities to the public by encouraging the leasing of publicly owned properties where feasible for the development of communication facilities; and to provide the community with full coverage (no service gaps) by the cell phone and telecommunication providers that require cell tower facilities within the City.

18.44.020 - Definitions

The technical terms and phrases used in this Chapter are defined in Article 10 (Glossary) under "Telecommunications Facility."

18.44.030 - Applicability

The location, permit requirements, and other provisions of this Chapter shall apply to all communications facilities within the City, except the following, which are exempt from this Chapter. All communication facilities shall also comply with all applicable requirements of State and Federal law.

- A. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.
- B. An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:
 - 1. To receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996 Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or
 - 2. For subscribing to a multipoint distribution service.
- C. A satellite earth station (SES) antenna of two meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the creation of an attractive nuisance, these antennas shall be placed whenever possible, on the top of buildings as far from the edge of rooftops as possible.

18.44.040 - Permit Requirements

A. Use Permit or Minor Use Permit. Use Permit approval is required for all communication facilities subject to this Chapter, except for the following, which shall require Minor Use Permit approval. The Director shall ensure through the Minor Use Permit approval that each of the following facilities complies with all applicable requirements of this Chapter. The Director may also choose to defer action and refer any of the following facilities to the Commission for consideration as a Use Permit application.

1. An antenna that is installed, placed, and maintained under the roofline of an existing structure, or above, behind, and below an existing approved roof screen and does not extend above the highest point of the structure, or is camouflaged within an existing structure so as not to be visible from a public right-of-way or other property.
2. A communication facility in which the antenna is mounted on a mast less than 10 feet high, is not located on a historic structure, and is not visible from a public right-of-way.
3. An amateur and/or citizens band antenna operated by a person holding a license issued by the FCC in compliance with 47 C.F.R. Part 97, and used solely in connection with that license, and which shall be subject to the “minimum practicable regulation to accomplish the local authority’s legitimate purpose,” in keeping with the order of the FCC known as “PRB-1,” FCC 85-506, released September 19, 1985; provided that there shall be no more than one antenna support structure on a single parcel and that the antenna structure complies with the height limits of the applicable zoning district.

B. Application requirements. In addition to the information required for Use Permit or Minor Use Permit application by Chapter 18.70 (Permit Application Filing and Processing) the application for a communication facility shall include:

1. An analysis of the proposed facility in combination with existing adjacent facilities that illustrates that the facility complies with State and Federal health requirements and standards pertaining to electromagnetic and/or radio frequency radiation; and
2. A report, as required by the Police Department, to evaluate the potential for interference (e.g., HF, UHF, VHF, 800 MHz). The applicant shall be responsible for paying any costs incurred by the City, including the costs of retaining consultants, to review and analyze the report.

C. Master Use Permit. A service provider who intends to establish multiple wireless Telecommunications Facilities within the City is encouraged to apply for the approval of all facilities under a Master Use Permit. Under this approach, all proposed facilities may be acted upon by the City as a single application, ensuring feasibility of long range company projections.

D. Communications consultant may be required. In the event that the City needs assistance in understanding the technical aspects of a particular proposal, the services of a communications consultant may be requested to determine the engineering or screening requirements of establishing a specific wireless communications facility. This service will be provided at the applicant’s expense.

E. Required findings for approval. The approval of a Use Permit or Minor Use Permit for a communication facility shall require that the review authority first make the following findings, in addition to those required for Use Permit approval by Section 18.71.060 (Use Permit and Minor Use Permit):

1. The communication facility complies with all applicable requirements of this Chapter; and
2. The communication facility will not adversely impact the character and aesthetics of any public right-of-way.

18.44.050 - Limitations on Location

A. Zoning district priorities. A communication facility that requires a Use Permit shall be approved or located only within the PF (Public Facility) zoning district; except that the review authority may approve a facility within a commercial or industrial district if it first determines that the applicant has demonstrated that all PF zoning district options are infeasible, and/or there is no site within a PF district where the communication facility would provide adequate coverage.

B. Co-location required. A new communication facility shall be co-located with existing facilities and with other planned new facilities whenever feasible, and whenever determined by the review authority to be aesthetically desirable. A service provider shall co-locate a new communication facility with non-communications facilities (e.g.,

light standards, water tanks, and other utility structures) where the review authority determines that this co-location will minimize the overall visual impact.

1. A service provider shall exhaust all reasonable measures to co-locate their communications facilities on existing towers or with or within existing ancillary support equipment facilities before applying for a new communication facility site.
2. Each service provider shall provide the City with evidence that they have contacted all other potential providers who have, or who are reasonably likely to be installing facilities within the vicinity of the proposed facility and have offered to participate in a joint installation project on reasonable terms.
3. In order to facilitate co-location, Use Permit conditions of approval for a new facility shall require each service provider to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where determined by the review authority to be feasible and aesthetically desirable.

C. City-owned property. A communication facility shall not adversely affect the public health, peace, safety or welfare. In order to best benefit the citizens of Fort Bragg from this necessary community impact, the Commission shall always consider City-owned sites as the highest priority for the location of communication facilities.

18.44.060 - Facility Design and Development Standards

Each proposed communication facility shall comply with the following standards; except that any standard may be modified or waived by the review authority upon a determination that effective signal reception and transmission will not occur if the facility complies with these standards.

A. Facility placement.

1. Standards for all facilities.

- a. A roof-mounted antenna on a structure that complies with applicable height limits shall be set back from the nearest roof edge the equivalent of the height of the tower or a minimum of 10 feet, whichever is greater.
- b. A ground-mounted communication facility (including towers and antennas) shall be located as far as possible from all property boundaries, and set back from the property line at a ratio of 1.5 horizontal feet for every one foot of height, where feasible.
- c. A tower or antenna shall be set back from any site boundary or public right-of-way by a minimum of 25 feet. No part of any tower shall extend into a required front setback or beyond a property line of the site.
- d. Communication facilities other than towers and antennas shall be located either within a structure, underground, in a rear yard (not visible from a public right-of-way) or on a screened roof top area. A ground-mounted facility that is located within a front or side setback or within a public right-of-way shall be underground so that the facility will not detract from the image or appearance of the City.

2. **Facilities within commercial and industrial districts.** Within an industrial zoning district, a minimum distance of 500 feet shall be provided between towers, and there shall be no more than two towers on a single Assessor's parcel or developed site, unless the towers are located on a public facility as described in A.1, above.

B. Height limitations.

1. All ground mounted communication equipment, antennas, poles, or towers shall be of a minimum functional height.
2. The height of a tower located on the ground shall not exceed 60 feet in the PF zoning district and 40 feet in a commercial or industrial zoning district. The review authority may grant an exception to allow towers of up

to 80 feet where the review authority determines that the increased height is necessary for adequate coverage, and the tower will co-locate service providers.

3. The height of a communications facility located on a structure other than a dedicated support tower shall not exceed 20 feet above the highest point of the structure and shall at no time exceed the height allowed by the subject zoning district.

4. An antenna mounted on the side of a structure shall not extend above the structure's parapet so that it is visible from below against the sky.

C. Colors and materials. All antennas, poles, towers, or equipment, including ancillary support equipment, shall have a non-reflective finish and shall be painted or otherwise treated to match or blend with the primary background and minimize visual impacts. Antennas attached to a structure shall be painted or otherwise treated to match the exterior of the structure or the antenna's background color. All ground-mounted equipment shall be covered with a clear anti-graffiti type material of a type approved by the Director or shall be adequately secured to prevent graffiti.

D. Screening, landscaping. All ground mounted equipment, antennas, poles, or towers shall be sited to be screened by existing development, topography, or vegetation. Ground mounted facilities shall be located within structures, underground, or in areas where substantial screening by existing structures or vegetation can be achieved. Additional new vegetation or other screening may be required by the Director or by the Commission. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

E. Additional screening and landscaping. As part of project review, the Director, the Commission, or the Council (on appeal) may require additional screening and/or landscaping, undergrounding, an alternative color scheme, or relocation of a tower or ancillary equipment to a less obtrusive area of the site where it would have a less prominent visual presence due to slope, topography, size, or relationship to public rights-of-way.

F. Power lines. All power lines to and within a communication facility site shall be underground.

G. Backup power supplies. A backup power supply (i.e., generator) shall be enclosed within a structure and operated in compliance with Section 18.44.060.D (Screening). In any zoning district, ancillary power supplies and fuel storage tanks to support backup power supplies shall require Use Permit approval.

18.44.070 - Operation and Maintenance Standards

A. Contact and site information. The owner or operator of any facility shall submit and maintain current at all times basic contact and site information. The applicant shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include the following:

1. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;
2. Name, address, and telephone number of a local contact person for emergencies;
3. Type of service provided; and
4. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

B. Facility maintenance. All communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed by the service provider from any facility or equipment as soon as practicable, and in no instances more than 48 hours from the time of notification by the City.

C. Landscaping maintenance. All trees, foliage, and other landscaping elements on a communication facility site, whether or not used as screening, shall be maintained in good condition at all times in compliance with the approved landscape plan. The facility owner or operator shall be responsible for replacing any damaged, dead, or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall require approval by the Director. The Commission may also require a landscape maintenance agreement.

D. Noise. Each communication facility shall be operated so as to minimize the generation of noise that is audible from off the site. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line.

E. Site inspection required. Each owner or operator of a facility shall routinely and regularly inspect each site to ensure compliance with the standards identified in this Chapter.

F. Exterior lighting. Any exterior lighting shall be manually operated and used only during night maintenance or emergencies, unless otherwise required by applicable Federal law or FCC rules. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Light fixtures shall be low wattage, hooded, and downward directed.

18.44.080 - Discontinuance and Site Restoration

All equipment associated with a communication facility shall be removed within 30 days of the discontinuance of the use and the site shall be restored to its original pre-construction condition, subject to the approval of the Director. The service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days before site vacation. This removal requirement, and appropriate bonding requirements, shall be included in the terms of a lease for a facility on public property. A private lease for a facility located on private property is encouraged to include terms for equipment removal, since the property owner shall be ultimately responsible for removal of the equipment.