CITY OF MORRO BAY

ZONING CODE UPDATE

Plan MORRO BAY

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Module 4: Overlay Districts and Citywide Standards

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Table of Contents

Introduction **1**

Overlay Districts **3**

Chapter 17.10 Coastal Zone (CZ) Overlay District (IP) 3

Chapter 17.11 Cultural Resource Protection (-CRP) Overlay District (IP) 11

Chapter 17.12 Environmentally Sensitive Habitat (-ESH) Overlay District (IP) 13

Chapter 17.13 Mixed Use Residential (-MUR) Overlay District 26

Chapter 17.14 Planned Development (-PD) Overlay District (IP) 27

Chapter 17.15 Waterfront Master Plan (-WMP) Overlay District (IP) 33

Citywide Regulations **34**

Chapter 17.16 Visual Resource Protection (IP) 34

Chapter 17.17 Affordable Housing, Density Bonuses, and Other Incentives 35

Chapter 17.18 Hazards and Shoreline Protection (IP) 41

Chapter 17.19 Landscaping (IP) 48

Chapter 17.20 Nonconforming Uses, Structures, and Lots (IP) 56

Chapter 17.21 Parking and Loading (IP) 62

Chapter 17.22 Performance Standards (IP) 83

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INTRODUCTION

This paper presents draft provisions for overlay districts and citywide development standards—requirements that apply to development in some or all zoning districts. In the new Zoning Code, these provisions will be located in Division II–District Regulations and Division III–Citywide Regulations.

Notations on the differences between current regulations and the draft provisions are included throughout this paper. Certain parts of the Zoning Code are also components of the Coastal Implementation Plan. These are indicated with an (IP) following the chapter name.

Division II-District Regulations, Overlay Districts

Draft base zoning district regulations were provided in a previous paper. Draft provisions for overlay districts are contained herein. Overlay districts are "laid over" or applied to base districts in situations in which modification of permitted uses or required standards is appropriate due to specific conditions, circumstances, or goals. Overlay districts are often used to regulate areas with special physical characteristics such as pedestrian-oriented districts, flood plains, historic preservation areas, and hillsides. In Morro Bay, overlay districts are proposed for the Coastal Zone, cultural resource protection, environmentally sensitive habitat, planned development, and areas within the Waterfront Master Plan.

Division III-Citywide Standards

Zoning codes typically include regulations that apply to more than one or a few districts in a city or that apply citywide. In order to make the code easier to use and administer as well as to reduce its length, these types of regulations are consolidated in one place in the updated code. Division III includes site regulations that apply to multiple districts, requirements for special regulatory programs, and standards that apply to specific uses. Draft general development regulations and standards that apply to specific uses were presented in previous papers. This paper contains site regulations that would apply to development in some or all zoning districts and special regulatory programs.

Sustainability

The City and community members put a high value on sustainability; including resource preservation, resource conservation, and environmental stewardship. As such, sustainability principles have been integrated throughout the draft zoning regulations. 'Sustainability' is a broad concept and is addressed in zoning in a variety of ways. The following page provides an overview of how sustainability principles are integrated into zoning.

Integrating Sustainability Principles into Zoning

Sustainability principles are integrated into zoning in a variety of ways. Popular zoning approaches to climate change include: adopting or broadening mixed-use development (to reduce potential commuting), increasing density in infill areas, reducing the amount of required parking (to discourage driving and reduce impermeable surfacing), and adopting transportation demand requirements (generally requiring larger developments reduce traffic generation below expected values). Techniques for encouraging renewable energy include providing additional height or reduced setbacks for solar panels and wind power generators. Solar panels are often explicitly allowed on rooftops or in parking areas. Solar, geothermal, and wind power generators can also be allowed as primary uses of land in some zone districts. Techniques for encouraging water conservation include requiring water efficient landscaping and allowing rain barrels, rain gardens, and bioswales in setback areas. Limits on paving, requirements for landscaped areas, and allowances for permeable surfaces help conserve water and treat runoff.

In addition to these subjects, several jurisdictions have broadened their definition of sustainability to address issues such as food production and security, and community health and safety. Community health is sometimes promoted in zoning ordinances through requirements for street and walkway connectivity within and between land uses and by encouraging or requiring bicycle parking areas. Food security can be addressed by allowing urban agriculture and farmers markets in a broader range of zoning districts.

It is important to keep in mind that there are many rules, regulations, and programs outside of zoning aimed at sustainability that apply to development, including, but not limited to, CALGreen, the Coastal Act, the California Water Conservation in Landscaping Act, and the National Pollutant Discharge Elimination System (NPDES) stormwater program.

In integrating sustainability principles into zoning regulations, it is important to keep the following principles in mind.

- *Significant improvements in building performance are usually better addressed through the building code than the zoning code. Zoning should focus on issues related to design, use, and review procedures – such as building orientation, parking, landscaping, and use regulation.*
- *Begin by removing zoning barriers that prevent sustainable development from happening. The second consideration is development incentives to encourage sustainable designs and features. If neither of those approaches is likely to produce significant results, consider regulating the inclusion of sustainable features. Regulatory mandates should generally not be the first approach considered.*
- *Where incentives or regulatory requirements are considered, evaluate the costs and benefits of the requirement. Avoid incentives that sound good on paper but do not generate enough additional benefit to motivate builders to use the incentive. Avoid regulations that require expensive building or site changes but produce only marginal sustainability benefits or preclude better solutions.*

Overlay Districts

Chapter 17.10 Coastal Zone (CZ) Overlay District (IP)

Note: This chapter includes information and regulations that apply specifically to the Coastal Zone. Although virtually all of Morro Bay is within the Coastal Zone, this overlay is included in order to highlight the need for a Coastal Development Permit and applicability of the Local Coastal Program. Code users and staff expressed that the requirement for a Coastal Development Permit is not always clear in the current code. General information for development within the Coastal Zone, including permit requirements, exclusions and exemptions, and development within Coastal Commission permit jurisdiction is included in this chapter, with reference to the City's Local Coastal Program Land Use Plan. The requirements for issuance of a Coastal Development Permit are included separately in Division IV, Administration and Permits.

17.10.010 Purpose and Applicability

The Coastal Zone (CZ) Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to ensure that all development in the Coastal Zone of the City of Morro Bay is consistent with the City's Certified Local Coastal Program and the Coastal Act.

17.10.020 Applicability

The CZ Overlay Zone is applied to the "Coastal Zone" as defined by the Coastal Act. Any person (including the City, any utility, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Zone of the City of Morro Bay shall comply with the provisions of this Chapter.

17.10.030 Coastal Development Permit Required

In addition to any other required permits or approvals, a Coastal Development Permit shall be required prior to commencement of any development in the CZ Overlay Zone unless specifically excluded or exempted pursuant to Section TBD, Exclusions and Exemptions, or conducted pursuant to an Emergency Permit in accordance with Chapter TBD, Emergency Permits. The applicable Coastal Development Permit procedure is determined pursuant to Section TBD, below.

17.10.040 Determination of Applicable Coastal Development Permit Procedures

A. **Initial Determination.** At the time a Coastal Development Permit application is submitted, the Community Development Director shall determine if the development is located within an area where the Coastal Commission retains permit jurisdiction or if the development otherwise consists of appealable development, and shall inform the applicant of the review procedure requirements for that particular development.

1. ***Within an Area Where the Coastal Commission Retains Permit Jurisdiction.*** Development proposals which are located on lands identified as tidelands, submerged lands, or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Morro Bay, adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a Coastal Permit from the Coastal Commission with review by the City pursuant to Section TBD, Development Within Coastal Commission Permit Jurisdiction.

2. ***Other Areas.*** A Coastal Development Permit pursuant to Chapter TBD, Coastal Development Permits, is required. The Community Development Director shall determine whether or not the proposed development is appealable to the Coastal Commission and shall inform the applicant of the notice and hearing requirements for that particular development.

a. *Appealable Development.* Pursuant to Public Resources Code Section 30603(a), Appealable Development consists of the following types of development.

i. Developments between the sea and the first public road paralleling the sea or closer than 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

ii. Developments that are located on tidelands, submerged lands, public trust lands, closer than 100 feet of any wetland, estuary, or stream, or closer than 300 feet of the top of the seaward face of any coastal bluff.

iii. Developments located in a sensitive coastal resource area.

iv. Any development which constitutes a major public works project or a major energy facility.

B. **Post-LCP Certification Permit and Appeal Jurisdiction Map.** The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Morro Bay, has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In

addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any appealable area, the matter should be referred to the City of Morro Bay or the Executive Director of the California Coastal Commission for clarification and information. The Post-LCP Certification Permit and Appeal Jurisdiction Map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

C. **Challenge of Determination.**

1. If the determination of the Community Development Director is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

2. The Executive Director shall transmit the determination as to whether the development is categorically excluded, within Coastal Commission permit jurisdiction, non-appealable, or appealable.

3. Where there is a dispute between the Executive Director's determination and the City's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation.

17.10.050 Exclusions and Exemptions

A. **Categorical Exclusions.** Pursuant to California Public Resources Code Section 30610(e), the construction or demolition of a single unit dwelling on an existing lot is excluded from the Coastal Development Permit requirements of this Code provided the development does not constitute appealable development pursuant to Public Resources Code Section 30603(a) and Section TBD.B.2.a, Appealable Development.

B. **Exemptions Pursuant to State Law.** The following categories of development are exempt from the Coastal Development Permit requirements of this Title pursuant to Section 30610 of the Public Resource Code and Sections 13250-13253 of Title 14 of the California Administrative Code.

1. ***Improvements to Single Unit Dwellings.*** Improvements to existing single unit dwellings; provided, however, that those improvements which involve a risk of adverse environmental effect shall require a Coastal Development Permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

2. ***Improvements to Other Structures.*** Improvements to any structure, including all fixtures and other structures directly attached to or normally associated with the structure and landscaping on the lot, other than a single unit residence or a public

works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a Coastal Development Permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

3. ***Maintenance of Navigation Channels.*** Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

4. ***Repair or Maintenance Activities.*** Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a Coastal Development Permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.

5. ***Utility Connections.*** The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter, provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

6. ***Replacement of Existing Structures Destroyed by Natural Disaster.*** The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

    a. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

    b. “Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

    c. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

7. ***Time-share Conversion.*** Any activity that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as

defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this Code, no Coastal Development Permit shall be required for that improvement on the basis that it is to be made in connection with a conversion. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this Section.

8. ***Temporary Event Exemption.***

a. *Temporary Event.* A temporary event is an activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

i. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.

ii. Limited Duration. A period of time that does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.

iii. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.

iv. Coastal Resources. Include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

v. Sandy Beach Area. Includes publicly-owned and privately-owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

b. *General Rule.* Every temporary event is exempted from the Coastal Development Permit requirements under this Title, unless the temporary event meets all of the following criteria and is not otherwise exempted pursuant to subparagraph c. below.

i. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,

ii. The event occupies all or a portion of a sandy beach area; and,

iii. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

c. *Other Exemptions.* The Community Development Director may also exempt a temporary event that satisfies all of the criteria specified in subparagraph b. above, if:

i. The fee is for preferred seating only and 75 percent of the provided seating capacity is available free of charge for general public use;

ii. The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources;

iii. The event is less than one day in duration; or,

iv. The event has previously received a Coastal Development Permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.

d. *Special Circumstances.* The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a Coastal Development Permit, even if the criteria specified in subparagraph b above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:

i. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

ii. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic

resources, or other coastal resources as defined in subparagraph a above;

iii. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters; or

iv. The event has historically required a Coastal Development Permit to address and monitor associated impacts to coastal resources.

C. **Record of Categorical Exclusion Determinations.** The Community Development Department shall maintain a record of all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each exclusion determination shall be made to the Coastal Commission within five working days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations.

17.10.060 Development Within Coastal Commission Permit Jurisdiction

Development proposals which are located on lands identified as tidelands, submerged lands, or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Morro Bay, adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a Coastal Development Permit from the Coastal Commission in addition to any permits required by this Code.

A. **Concept Plan.** A Concept Plan shall be submitted and approved by the City Council for any development proposal within Coastal Commission Permit Jurisdiction. The Concept Plan shall be processed in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Use Permits, except that concept plans shall receive final approval from the City Council at a duly noticed public hearing. The Planning Commission shall first review the concept plan by conducting a public hearing. If the Commission consideration is to approve the plan, it shall report such findings and recommendation to the City Council. If the Commission determines to deny the plan, it need not be forwarded to the Council and the Commission decision shall become final unless appealed. The action on the Concept Plan shall include a recommendation to the Coastal Commission regarding the development’s conformance with the certified Local Coastal Program. The City's determination of development conformance with the objectives and requirements of the Local Coastal Program shall be advisory only and not a final action.

B. **Coastal Development Permit.** The City's decision on the Concept Plan shall be forwarded to the Coastal Commission for their consideration in review of the application for a Coastal Development Permit.

C. **Conformance Review.** After the Coastal Commission grants a Coastal Development Permit, the Planning Commission shall review the Coastal Development Permit for conformance with the approved Concept Plan at a duly noticed public hearing. Development shall not proceed until the Coastal Commission grants a Coastal Development Permit for such development and the Planning Commission finds the Coastal Development Permit substantially consistent with the approved Concept Plan.

Chapter 17.11 Cultural Resource Protection (-CRP) Overlay District (IP)

Note: This new chapter includes provisions for the protection of significant archaeological, historic, and paleontological resources, including requirements for preliminary resource surveys, mitigation plans, and actions in the event resources are unearthed or discovered during construction activities.

17.11.010 Purpose

The Cultural Resource Protection (-CRP) Overlay District is intended to protect and preserve cultural resources.

17.11.020 Applicability

The provisions of this Chapter apply to development within areas known to contain or are suspected of containing cultural resources, including archaeologically sensitive areas and paleontologically sensitive areas.

A. **Archaeologically Sensitive Areas.** The following areas are defined as archaeologically sensitive:

   1. Any parcel which is located within an archaeologically sensitive area as delineated on the Zoning Map.

   2. Any other parcel containing a known archaeological site recorded by the California Archaeological Site Survey Office.

B. **Paleontologically Sensitive Areas.** Any parcel which is located within a paleontologically sensitive area as delineated on the Zoning Map.

17.11.030 Requirements

A. **New Development.** New development shall be sited and designed to avoid adverse impacts to archaeological and paleontological resources to the maximum extent feasible. If there is no feasible alternative that can eliminate all impacts to archaeological and paleontological resources, then the alternative that would result in the fewest or least significant impacts shall be selected. Reasonable mitigation measures shall be required for proposed developments where impacts to archaeological and paleontological resources cannot be avoided through siting and design alternatives.

B. **Preliminary Site Survey Required.** Before issuance of a land use or construction permit for development within an Archaeologically Sensitive Area or Paleontological Sensitive Area, a preliminary site survey shall be required. The survey shall be conducted by a qualified archaeologist knowledgeable in local Native American culture, paleontologist, or other qualified expert subject to the approval of the Director.

C. **Mitigation Plan.** If the preliminary site survey determines that proposed development may have an adverse impact on existing, known or suspected cultural resources and avoidance is infeasible, a plan for mitigation shall be prepared by a qualified archaeologist, paleontologist, or other qualified expert subject to the approval of the Director. Culturally affiliated persons shall be consulted during the preparation of the plan. The purpose of the plan is to protect the resource through construction activities, project redesign, or other actions to mitigate the impacts on the resource. Highest priority shall be given to avoiding disturbance of sensitive resources. Lower priority mitigation measures may include use of fill to cap the sensitive resources. As a last resort, the review authority may permit excavation and recovery of those resources. The mitigation plan shall be submitted to and approved by the Director, and considered in the evaluation of the development request by the review authority.

D. **Cultural Resources Discovery.** In the event cultural resources are unearthed or discovered during any construction activities, the standards of Section TBD, Cultural Resources Discovery, shall apply. Construction activities shall not commence until a mitigation plan, prepared by a qualified professional archaeologist reviewed and approved by the Director, is completed and implemented. If applicable, the Director shall provide pertinent project information to the affected Native American tribe(s) and consider comments prior to approval of the mitigation plan. The mitigation plan shall include measures to avoid the resources to the maximum degree feasible and shall provide mitigation for unavoidable impacts. A report verifying that the approved mitigation plan has been completed shall be submitted to the Director prior to occupancy or final inspection, whichever occurs first.

Chapter 17.12 Environmentally Sensitive Habitat (-ESH) Overlay District (IP)

Note: The Environmentally Sensitive Habitat (-ESH) Overlay District applies to areas identified as environmentally sensitive habitat and areas within 100 feet of a habitat area where there is evidence of the presence of a wetland or ESHA. This chapter contains standards for the protection of habitat types found in Morro Bay identified through the habitat surveys conducted for the General Plan/LCP and specific provisions to implement LCP habitat protection policies. Where possible, specific mitigation measures are incorporated as standards.

17.12.010 Purpose

The Environmentally Sensitive Habitat (-ESH) Overlay District is intended to:

A. Protect environmentally sensitive habitat areas against any significant disruption of habitat values.

B. Maintain and, where feasible, restore the biological productivity and the overall quality of terrestrial habitat and coastal waters, streams, wetlands, estuaries, and lakes.

C. Protect wetlands for their commercial, recreational, water quality, and habitat value.

17.12.020 Applicability

The provisions of this Chapter apply to development within areas known to contain or are suspected of containing sensitive habitat, including:

A. Areas located within or within 100 feet of an Environmentally Sensitive Habitat Area (ESHA) indicated in Figure C-2, Environmentally Sensitive Habitat Areas, of the Coastal Land Use Plan, or in the City of Moro Bay ESHA Review and Current Conditions Mapping report; or

B. Areas containing or located within 100 feet of a habitat area where there is evidence of the presence of an ESHA, wetland, or other sensitive habitat.

17.12.030 Initial Site Resource Survey

A. An initial site resource survey, prepared within one year of permit application, is required for all Coastal Development Permit applications for development within the -ESH Overlay District.

B. The initial site resource survey shall identify the presence or potential for wetlands or sensitive habitat, vegetation or wildlife species on the site. If the site contains the potential for monarch overwintering or rookeries due to the presence of appropriately sized trees and groves, a seasonally timed survey appropriate for detecting the target species shall be included in the study.

C. **ESHA Determination.** If the initial site resources survey indicates the presence or potential for sensitive habitat vegetation or wildlife species on the site, a report shall be prepared with recommendations as to whether a habitat area constitutes an ESHA.

1. ***Evaluation.*** The report shall include a site-specific survey, prepared within one year of completion of the report, and shall evaluate the following attributes when recommending whether a habitat area constitutes an ESHA:

   a. The presence of natural communities that have been identified as rare by the California Department of Fish and Wildlife.

   b. The recorded or potential presence of plant or animal species designated as rare, threatened, or endangered under State or Federal law.

   c. The presence or potential presence of plant or animal species that are not listed under State or Federal law, but for which there is other compelling evidence of rarity, such as designation as a 1B or 2 species by the California Native Plant Society.

   d. The presence of coastal streams.

   e. The degree of habitat integrity and connectivity to other natural areas.

   Attributes to be evaluated when determining a habitat's integrity/connectivity include the habitat's patch size and connectivity, dominance by invasive/nonnative species, the level of disturbance, the proximity to development, and the level of fragmentation and isolation.

2. ***Recommendation.*** If an area is recommended as an ESHA, the boundaries of the ESHA and the appropriate buffers shall be identified and shown on the project site plan.

17.12.040 Environmentally Sensitive Habitat Areas

A. **ESHA Designation.** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments shall be designated as an ESHA except existing developed areas.

B. **Protection Required.** ESHAs shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed. Development in areas adjacent to ESHAs shall be sited and designed to prevent impacts

which would significantly degrade such areas, and shall be compatible with the continuance of the ESHA.

C. **ESHA Buffers.** A protective open space buffer shall be required to horizontally separate ESHA from development areas and provide distance and physical barriers to human and domestic pet intrusion.

1. ***Size.*** ESHA buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Terrestrial ESHA shall have a minimum buffer width of 50 feet.

   a. *Exceptions*: Smaller ESHA buffers may be allowed only where it can be demonstrated that:

      i. A 50-foot-wide buffer would render a lot undevelopable; and

      ii. The proposed narrower buffer would be protective of the biological integrity of the ESHA given the site-specific characteristics of the resource and of the type and intensity of disturbance.

2. ***Vegetation.***

   a. ESHA buffers shall be maintained exclusively with native vegetation to serve as transitional habitat.

   b. Fuel modification zones shall be maintained outside of ESHA buffers.

   c. Invasive plant species shall be prohibited.

D. **Design and Siting.** Development outside, but within 100 feet of, an ESHA shall incorporate the following design and site characteristics:

1. Development adjacent to an ESHA shall be designed and sited to protect ESHA resources against any significant disruption of habitat values.

2. Development adjacent to an ESHA shall be compatible with the continuance of ESHA habitat areas.

3. Development adjacent to an ESHA shall be limited to low-impact land uses, such as open space and passive recreation whenever feasible.

4. Development shall not necessitate fuel modification in an ESHA or ESHA buffer.

5. Development lighting adjacent to an ESHA shall minimize impacts to wildlife.

   a. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to direct lighting away from environmentally sensitive habitat areas (ESHA) and ESHA buffers and to minimize glare, sky glow, and light trespass.

   b. Buildings shall be designed to minimize light trespass from interior lighting.

c. All lighting shall utilize the best available "dark sky" practices, including the use of lights with the lowest intensity possible for safety purposes and that utilize wavelengths that are the most environmentally protective of organisms active at night and dawn and dusk.

6. Unauthorized structures that impact, or encroach into, ESHA or ESHA buffer shall be removed.

E. **Limits on Land Uses.** ESHA shall be protected against any significant disruption of habitat values. Uses within ESHA shall be limited to only those uses that are dependent on those resources. Limited public access improvements (e.g., hiking and educational trails and low-impact camping), minor educational, interpretative and research activities and development, and habitat restoration projects may be considered resource-dependent uses. Measures, including, but not limited to, trail creation, signage, placement of boardwalks, and fencing, shall be implemented as necessary to protect ESHA.

F. **Required Findings.** No development shall be allowed in an ESHA or ESHA buffer area unless the following findings are made:

1. The resource as identified will not be significantly degraded or disrupted by the proposed development and the development will be compatible with the continuance of the resource.

2. There is no feasible less environmentally damaging alternative.

3. All feasible mitigation measures capable of reducing or eliminating project-related impacts have been adopted.

17.12.050 Wetlands, Deepwater Areas, and Other Water Areas

A. **Protection Required.**

1. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes shall be protected, maintained and, where feasible, restored.

2. All uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

3. Marine resources shall be maintained, enhanced, and, where feasible, restored.

4. Special protection shall be provided to marine resource areas and species of special biological or economic significance.

B. **Wetland Delineation.** If the initial site resources survey indicates the presence or potential for wetland species or indicators, a site survey, prepared within one year of the wetlands delineation analysis, and wetlands delineation analysis shall be prepared.

1. ***Methodology.*** Wetland delineations shall be conducted in accordance with the definitions of wetland boundaries contained in Section 13577(b) of the California Code of Regulations.

    a. *Other Factors.* Where ambiguities in wetland delineation exist due to the demonstrated presence of both upland and wetland characteristics, factors other than the standard field indicators of wetland hydrology, wetland vegetation and wetland soils may be analyzed as part of the delineation. Such factors may include topography, soil permeability, drainage patterns, adjacency to identified wetlands, and comparisons of hydrology at the ambiguous site and at nearby upland and wetland reference sites following significant rainfall events.

2. ***Recommendation.*** If a wetland is delineated, appropriate buffers shall be identified.

C. **Wetland Buffers.** A protective open space buffer shall be required to horizontally separate wetlands from development areas. Wetland buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland. Wetlands shall have a minimum buffer width of 50 feet.

1. ***Exception:***

    a. *Where Allowed.* Smaller wetland buffers may be allowed only where it can be demonstrated that:

        i. The project is separated from the wetland by topography; or

        ii. A 50-foot-wide buffer is not possible due to site-specific constraints, the site is unusable for the principal purpose if the buffer is not reduced, and the reduction is the minimum necessary that allows the use after all practical design modifications are evaluated.

    b. *Additional Requirements.* Where smaller wetland buffers are allowed, the following additional requirements apply:

        i. Site drainage shall be evaluated to ensure development does not cut off hydrology.

        ii. Stormwater from the development shall be managed such that it does not contribute sediment or pollutants into the wetland.

        iii. Native vegetation shall be planted between the wetland and the development.

D. **Channelizations.** Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to:

1. Necessary water supply projects.
2. Flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development.
3. Developments where the primary function is the improvement of fish and wildlife habitat.

E. **Removal of Unauthorized Structures.** All unauthorized structures that impact, or encroach into, wetlands, deepwater areas, or other water areas shall be removed.

F. **Diking, Filling, and Dredging Projects.**

1. ***Limits on Development.*** Development involving the diking, filling, or dredging of open coastal waters, wetlands, or estuaries shall only be permitted consistent with Section 30233 of the Coastal Act and under the following circumstances:
   a. Only if there is no feasible, less environmentally damaging alternative.
   b. If there is no feasible, less environmentally damaging alternative, mitigation measures shall be provided to minimize adverse environmental effects.
   c. Diking, filling or dredging projects shall sustain the functional capacity of the wetland, or estuary. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:
      i. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project.
      ii. That the project does not harm or destroy a species or habitat that is rare or endangered.
      iii. That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary.
      iv. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.
2. ***Limits on Uses.*** Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to the following:
   a. Construction or expansion of port/marine facilities.

b. Construction or expansion of coastal-dependent industrial facilities, including commercial fishing facilities, and commercial ferry facilities.

c. In open coastal waters, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

d. Recreational docks and piers within the intertidal areas, including wetlands.

e. Maintenance of existing and restoration of previously dredged depths in navigational channels, turning basins, vessel berthing, anchorage, and mooring areas, and boat launching ramps.

f. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines.

g. Sand extraction for restoring beaches, except in environmentally sensitive areas.

h. Restoration purposes.

i. Nature study, aquaculture, or similar resource-dependent activities.

3. ***Dredged Material Disposal.***

a. Dredged material disposal shall be planned and carried out to limit turbidity and to avoid significant disruption to marine and wildlife habitats and water circulation.

b. Dredged material suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.

c. Dredged material suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

17.12.060 Coastal Dunes

A. **Purpose.** This Section provides requirements for development in areas with or adjacent to coastal dunes. The intent of this Section is to protect coastal dunes as natural habitats and for shoreline protection.

B. **Applicability.** The requirements of this Section shall apply to development in areas with coastal dune habitats.

C. **Earthmoving.** Earthmoving of beach sand in dune habitat areas shall be limited to dune restoration projects necessary for the protection of coastal resources and existing development.

D. **Public Access and Recreation.** Public beach access improvements shall be designed, sited, and maintained in a manner to avoid impacts to dune habitats through the use of well-defined footpaths, boardwalks, protective fencing, signage, and similar methods. Recreation improvements shall be designed and sited to avoid dune habitat areas.

E. **Restoration of Native Vegetation.** Plant materials in coastal dune habitat areas shall be restricted to native plant species appropriate to the habitat type.

17.12.070 Mitigation and Monitoring

A. **When Required.** Mitigation and monitoring programs, including restoration plans and management programs, are required to minimize adverse impacts to sensitive habitat.

1. ***ESHA.*** Mitigation shall be required for allowable impacts to ESHA and other sensitive resources that cannot be avoided through the implementation of siting and design alternatives. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

2. ***Wetlands.*** Feasible mitigation measures shall be required to minimize adverse environmental effects of diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes where the proposed use is consistent with Section 30233 of the Coastal Act and there is no feasible less environmentally damaging alternative.

B. **Mitigation Programs.** Mitigation programs shall include the following components:

1. Specific mitigation objectives and performance standards designed to measure the success of the restoration and/or enhancement.

2. Provisions for acquiring title or other property interest to the mitigation site.

3. Provisions for the dedication of the restored or created habitat or wetland and associated buffer areas to a public agency or nonprofit entity acceptable to the reviewing authority, or permanent restriction of their use to open space purposes.

4. A monitoring and management program with mitigation objectives and performance standards.

5. ***Additional Components for Open Coastal Waters, Wetlands, Estuaries, and Streams.***

a. *Wildlife Contingency Plan.* A Marine Wildlife Contingency Plan (Plan) shall be developed and approved by the Community Development Director prior to the initiation of any pile driving activities. That plan shall describe

specific methods that will be used to reduce pile-driving noise and comply with the standards of this Section. Power to the pile driver shall be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full-power noise levels are produced. The Plan shall identify a US Fish & Wildlife Service (USFWS)-approved biologist to monitor all construction within the water-lease area who shall be retained by the applicant. The Plan shall describe on-site marine wildlife monitoring and reporting requirements, as well as identify specific conditions when the biological monitor shall be allowed to stop work, such as observance of a marine mammal within 100 feet of the project area. The biologist shall be responsible to monitor for compliance with all environmental mitigation measures, and regulatory permit conditions (as applicable). The approved biological monitor shall be present onsite during construction and shall have the authority to stop construction if any individuals of southern sea otter are seen within 100 feet of the project area. Construction will be allowed to resume after sighted otters have left the 100-foot radius of the project area. The species shall not be disturbed or forced from the project site by equipment, noise, or other disruptive activity. The monitor will have discretionary authority to temporarily halt the Project if it is determined any otter, or other marine mammal, could be affected by the Project, even if the animal is beyond the 100-foot boundary. All construction crew employees shall be informed on the requirements of this condition.

b. *Oil Spill Response and Recovery Plan.* A project-specific Oil Spill Response and Recovery Plan that includes specifics on reporting and response procedures, available on-site equipment and contracted services, and responsibilities shall be completed and approved prior to the initiation of construction activities. Specifically, the Project shall include the following Best Management Practices (BMPs) and shall be included on building plans submitted for approval:

i. No refueling of equipment without adequate containment and spill response equipment. The barge shall have only double contained fuel storage below decks, with the spill containment and clean up kits on-site and easily accessible. Spill containment and clean up kits shall include the following:

(1) 150 feet Absorbent Boom 200 square feet Absorbent Tarp (for use during pile driving operations)

(2) Barrel Absorbent Pads

(3) Container Absorbent Granules

ii. Rainwater runoff pollution from equipment stored on deck shall be prevented through ongoing equipment maintenance and appropriate double containment.

iii. The work area shall be contained within a boom to prevent debris from falling into the water.

iv. All equipment fueling shall take place on the barge, with containment in-place. No refueling between vessels shall occur.

v. An Absorption Tarp shall be placed underneath any portable equipment while in use.

vi. No equipment shall be permitted to enter the water with any petroleum products.

vii. All equipment used during pile driving operations shall be in good condition without fuel or oil leakage.

viii. Should any equipment begin to leak, that equipment shall be removed immediately from the barge and repaired or replaced.

ix. All vessels shall have portable, regularly serviced sanitation equipment. No overboard discharge is permitted.

c. *Pre- and Post-construction Surveys.* A survey identifying areas of eelgrass within the lease areas shall be completed within 60 days before start of construction and prior to issuance of a building permit. The survey shall be submitted to the Community Development Director for review as part of the final plans. If additional eelgrass is identified that would be directly shaded by the proposed project, then the report shall identify remedial measures to offset such reduction within the eelgrass beds at a ratio of 1.2:1 in line with the specifications for mitigation of eelgrass habitat as provided for in the California Eelgrass Mitigation Policy. A post construction survey identifying areas of eelgrass shall be completed within 30 days and the report due within 90 days after completion of construction. Any change in eelgrass extent shall be documented and reported to the Community Development Director. If the report identifies a reduction in eelgrass coverage then a plan shall be prepared to identify the appropriate mitigations necessary and in line with the specifications for mitigation of eelgrass habitat as provided for in the California Eelgrass Mitigation Policy, dated October 2014.

d. *Noise Mitigation Plan*. Prior to issuance of a building permit, a pile driving plan and hydro-acoustical noise mitigation plan shall be submitted to the Community Development Director to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent

feasible and does not exceed: (i) an accumulated 187 dB SEL as measured 5 meters from the source; and (ii) peak dB above 208 dB as measured 10 meters from the source as determined by the Fisheries Hydroacoustic Working Group. In the instance anything other than a vibratory hammer is to be used for pile driving activities, the plan shall provide for a hydro-acoustical monitor to ensure that underwater noise generated by pile driving activities does not exceed such limits. The plan shall identify the type of method used to install pilings. Vibratory hammers shall be used where feasible; if another method is used, a bubble curtain shall be employed to contain both noise and sediment. The plan shall also provide for additional acoustical BMPs to be applied if monitoring shows underwater noise above such limits (including, but not limited to, alternative pile driving methods (press-in pile placement, drilling, dewatered isolation casings, etc.) and additional noise dampening measures (sound shielding and other noise attenuation devices).

e. Netting or fencing around and underneath the project site shall be installed to catch and remove debris released during and after construction.

f. To reduce potential turbidity-associated impacts, silt screens should be used when and where they will be effective. The relatively high tidal currents within Morro Bay could reduce the effectiveness of silt screens and should be considered prior to placing of these screens.

C. **Habitat Creation/Restoration.**

1. ***ESHA.*** Mitigation for impacts to ESHA and other sensitive resources shall be in the form of habitat creation or substantial restoration. The mitigation shall occur on site wherever possible. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on site.

2. ***Wetlands.*** Mitigation shall occur in the same watershed and in the form of in-kind wetland restoration or creation whenever possible. Where out-of-kind mitigation is necessary, restoration or creation of wetlands shall be of equal or greater biological productivity to the wetland that was filled or dredged. Mitigation may also be permitted in the form of restoration that includes opening equivalent areas to tidal action or providing other sources of surface water.

D. **Mitigation Ratios.** Adverse impacts shall be mitigated at a ratio necessary to achieve the specific mitigation objectives and performance standards identified in the mitigation and monitoring program and approved by the review authority.

E. **Restoration Plans.** A restoration and management plan shall be submitted. Restoration plans shall be reviewed and approved by a qualified professional prior to accepting sites for mitigation.

F. **Timing.** Restoration/mitigation shall occur before or simultaneously with construction of the approved development.

1. Any off-site mitigation site shall be purchased and legally restricted and/or dedicated before impacts to the development site can proceed.

G. **In-Lieu Fee for Wetland and/or Eelgrass Impacts.** An in-lieu fee may be paid to an appropriate public agency to mitigate wetland and/or eelgrass impacts, if no appropriate mitigation site can be acquired. Payment of an in-lieu fee would only be an option if an applicant is unable to find a potential restoration site. The fee shall be based on the following factors:

1. The habitat type.
2. The costs of acquisition.
3. The cost per acre to restore or create a comparable wetland within the region where the impact occurred.
4. The acreage of the habitat affected, based on the final approved project.

H. **Monitoring.** Monitoring of mitigation measures shall be for a period of sufficient time to determine if mitigation objectives and performance standards are being met. Midcourse corrections shall be implemented if necessary to meet the objectives or performance standards.

1. ***Responsible Party.*** A responsible party shall be identified for each aspect of monitoring and completing the mitigation measures.
2. ***Period.*** Monitoring shall be conducted a period of not less than five years following completion, unless the Director determines that a longer mitigation monitoring schedule is appropriate. If performance standards are not met by the specified monitoring period, the monitoring period shall be extended until the standards are met or the applicant shall submit an amendment application proposing alternative mitigation measures and implement the approved changes.
3. ***Reports.*** Monitoring reports that document the success or failure of the mitigation shall be provided to the Department annually and at the conclusion of the monitoring period.
4. ***Completion.*** The restoration shall be considered successful after the success criteria have been met for a period of at least three years with no remediation or maintenance activities other than weeding.

I. **Easements and Dedications.** Where on-site or off-site preservation of an ESHA, wetland, stream, or mitigation area and buffers to each are required as a condition of approval of a Coastal Development Permit or other authorization, a guarantee of protection through direct dedication, offer to dedicate, or conservation easement shall be required. The protection guarantee shall identify the precise location and area to be set aside for preservation along with evidence of the legal ability over that area to restrict that area and/or convey a property interest in that area.

1. ***Timing.*** Prior to the approval of a coastal development permit, the method and form of the protection guarantee shall be approved by City Attorney. The protection guarantee shall be recorded in the office of the County Recorder prior to the issuance of a building permit

2. ***Management and Funding.*** A management plan and funding plan shall be required to ensure appropriate management of the habitat area in perpetuity.

3. ***Method of Protection Guarantee.*** A method of access guarantee shall be chosen according to the following criteria:

   a. *Deed Restriction.* A deed restriction shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the habitat area, subject to approval by the reviewing authority.

   b. *Grant of Fee Interest or Easement.* A grant of fee interest or easement shall be used when a public agency or private organization approved by the reviewing authority is willing to assume ownership, maintenance and liability for the habitat.

   c. *Offer of Dedication.* An offer of dedication shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for habitat maintenance and liability. These offers shall not be accepted until maintenance responsibility and liability is established.

Chapter 17.13 Mixed Use Residential (-MUR) Overlay District

Note: This new chapter is intended to implement the Mixed-Use Residential Overlay being considered in Plan Morro Bay.

17.13.010 Purpose

The Mixed Use Residential (-MUR) Overlay District is intended to allow additional opportunities for residential development within certain Zoning Districts.

17.13.020 Applicability

The Mixed Use Residential (-MUR) Overlay District applies to all areas within the boundaries of the MUR Overlay District shown on the Official Zoning Map.

17.13.030 Allowed Residential Development

In addition to the uses and development configuration allowed pursuant to base district regulations, residential development is allowed as follows.

A. **VSC District.** In the VSC District, attached Single-Unit Dwellings and Multi-Unit Residential development up to 27 units per acre are allowed with Conditional Use Permit approval when provided as part of a visitor-serving, mixed-use development.

B. **NC District.** In the NC District, residential housing types on the ground floor or developed as stand-alone residential development are allowed subject to Conditional Use Permit approval.

Chapter 17.14 Planned Development (-PD) Overlay District (IP)

Note: This chapter revises and reformats the existing provisions for Planned Development. In the current code, the Planned Development (PD) Overlay District is proactively applied to parcels and land areas that meet certain criteria. Any development within the PD Overlay District requires Concept Plan and Precise Plan review by the Planning Commission and City Council.

Generally, Planned Development (PD) is a planning tool that offers a degree of flexibility to allow for coordinated development and creativity in land planning, site design, and the protection of environmentally sensitive areas that would not be possible through strict application of conventional zone or land use regulations. They typically provide extensive flexibility for the applicant and the community to negotiate an appropriate land use and design approach. When properly utilized, PDs are a tool that can result in creative development projects that provide greater amenities than would likely result from conventionally developed land. They are one of a number of tools jurisdictions use to provide flexibility in land use and development regulations. PDs are typically used for large-scale, integrated developments, where the size and scale of the project would allow a quid-pro-quo where the applicant is granted flexibility and the City gains a superior development project rather than for flexibility of specific standards on a project-by-project basis.

The draft PD Overlay District provisions reflect this approach. Rather than being proactively assigned to parcels and land areas that meet certain criteria, the PD Overlay District must be applied for and will only be available for integrated development on large parcels. The new PD Overlay District provisions include a set of procedures and requirements for development and redevelopment of larger parcels and allow greater flexibility in design than would be possible through strict application of conventional zone or land use regulations when substantial community benefits are provided. Specific development standards will be as specified in approved plans, but this chapter includes some basic standards applicable to all planned developments, including minimum area requirements and maximum residential densities set in relation to the General Plan.

17.14.010 Purpose

The purpose of this Chapter is to establish a Planned Development (-PD) Overlay District that provides for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions in order to:

A. Provide for greater flexibility in the design of the development than is otherwise possible through the strict application of zoning district regulations;

B. Ensure compliance with the General Plan/Local Coastal Land Use Plan and provide various types of land use which can be combined in compatible relationship with each other as a part of a totally planned development; and

C. Allow for creative development projects that incorporate design features that are more sensitive to site conditions and provide greater amenities than would likely result from conventionally planned development.

17.14.020 Zoning Map Designation

A -PD Overlay District shall be noted on the Zoning Map by the designation "-PD," followed by the number of the Planned Development based on order of adoption.

17.14.030 Land Use Regulations

No use other than an existing use is permitted in a -PD Overlay District except in accordance with a valid PD Plan. Any permitted or conditional use authorized by this Code may be included in an approved PD Plan consistent with the General Plan/Local Coastal Land Use Plan land use designation(s) for the property.

17.14.040 Development Standards

A. **Minimum Area.** The minimum area of a -PD Overlay District shall be one-half acre; however, the City Council may approve a district smaller than one-half acre if it finds that a Planned Development would provide greater benefits to the general welfare of Morro Bay's residents and property owners than development under conventional zoning because of unique characteristics of the site or the proposed use.

B. **Residential Unit Density.** Except where a density bonus is granted in compliance with Chapter TBD, Affordable Housing, Density Bonuses, and Other Incentives, the total number of dwelling units in a -PD Overlay District shall not exceed the maximum number permitted by the General Plan/Local Coastal Plan density for the total area of the planned development designated for residential use, excluding areas devoted to public and private streets.

C. **Performance Standards.** The Performance Standards prescribed by Chapter TBD, Performance Standards, apply.

D. **Other Development Standards.** Other development standards shall be as prescribed by the PD Plan.

17.14.050 Procedures

A. **Decision-Making Body.** A -PD Overlay District must be adopted by the City Council. A public hearing before the Planning Commission is required prior to City Council review; and the Planning Commission shall make a recommendation to the City Council.

B. **Review Procedures.**

1. ***Zoning/LCP Amendment.*** An application for a -PD Overlay District shall be processed as a Zoning amendment, according to the procedures of Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map; Chapter TBD, Amendments to the Local Coastal Program; and shall include a PD Plan.

2. ***PD Plan.*** The PD Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Use Permits.

3. ***Tentative Subdivision Map.*** When a PD requires the submission of a tentative subdivision map, this map and all supporting documents shall be prepared and submitted concurrently with the application of the PD.

C. **Initiation.** An application for a -PD Overlay District may be initiated by any qualified applicant identified in Section TBD, Application Forms and Fees, or a motion of the City Council. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.

D. **Application Content.** A qualified applicant shall submit an application for a -PD Overlay District on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application.

17.14.060 Required Findings

A -PD Overlay District and PD Plan shall only be approved if all of the following findings are made:

A. The proposed development is consistent with the General Plan/Local Coastal Land Use Plan and any applicable specific plan, including the density and intensity limitations that apply;

B. The subject site is physically suitable for the type and intensity of the land use being proposed;

C. Adequate transportation facilities and public services exist or will be provided in accord with the conditions of development plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic

levels of service or public services so as to be a detriment to public health, safety, or welfare;

D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;

E. The development generally complies with applicable design guidelines; and

F. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base zoning district, and will achieve superior community design, resource protection, and/or substantial public benefit.

17.14.070 Conditions

In approving a -PD Overlay District and PD Plan, the City Council may impose reasonable conditions deemed necessary to:

A. Ensure that the proposal conforms in all significant respects with the General Plan, Local Coastal Land Use Plan, and with any other applicable plans or policies that the City has adopted;

B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;

C. Achieve the findings listed above; or

D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the requirements of the California Environmental Quality Act.

17.14.080 Expiration and Renewal

A. **Expiration.**

1. ***PD Plan.*** A PD Plan shall be effective on the same date as the ordinance creating the -PD Overlay District for which it was approved and shall expire two years after the effective date unless actions specified in the conditions of approval have been taken, or a building permit has been issued and construction diligently pursued. An approved PD Plan may specify a development staging program exceeding two years.

2. ***Tentative Map.*** Where a tentative map has been approved in conjunction with a PD Plan, the PD Plan shall expire upon the expiration of the tentative map.

3. ***Phased Development.*** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the PD Plan

shall remain in effect so long as not more than one-year lapses between the end of one phase and the beginning of the next phase.

B. **Renewal.** An approved PD Plan that has not been inaugurated may be renewed for a two-year period approved by the City Council after a duly-noticed public hearing. Application for renewal shall be made in writing between 30 and 120 days prior to expiration of the original approval. The City Council may renew a PD Plan if it finds the renewal consistent with the purposes of this Chapter.

17.14.090 Amendments of Approved Plans

A. **Changed Plans.** Amendments to a -PD Overlay District or PD Plan may be requested by the applicant or its successors. Amendments to the approved Plan shall be classified as major or minor amendments. Upon receipt of an amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment.

B. **Major Amendments.** Major Amendments to an approved -PD Overlay District or PD Plan shall be considered by the City Council at a duly noticed public hearing. An amendment will be deemed major if it involves one or more of the following changes:

1. A change in the boundary of the -PD Overlay District;
2. An increase or decrease in the number of dwelling units for the -PD Overlay District that is greater than the maximum or less than the minimum stated in the PD Plan;
3. An increase or decrease in the floor area for any non-residential land use that results in the floor area exceeding the minimum or maximum stated in the PD Plan;
4. Any change in land use or density that is likely to negatively impact or burden public facilities and utilities infrastructure as determined by the Public Works Director;
5. Any change in land use or density that is likely to negatively impact or burden circulation adjacent to the -PD Overlay District or to the overall major street system, as determined by the Public Works Director; or
6. Any other proposed change to the PD Plan or the conditions of approval that substantively alters one or more of its components as determined by the Director.

C. **Minor Amendments.** Amendments not meeting one or more of the criteria listed in Subsection B above shall be considered minor if they are consistent with and would not change any original condition of approval. Minor Amendments may be approved by the Director.

17.14.100 Project Review

Plans for a project in a -PD Overlay District shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved PD Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved PD Plan.

Chapter 17.15 Waterfront Master Plan (-WMP) Overlay District (IP)

Note: This new chapter is intended to clearly identify which properties are subject to the Waterfront Master Plan and provide a cross reference to that document.

17.15.010 Purpose

The purpose of this Chapter is to identify the applicability of the Waterfront Master Plan.

17.15.020 Applicability

The Waterfront Master Plan applies to all use and development of properties within the boundaries of the Waterfront Master Plan (-WMP) Overlay District boundaries on the Official Zoning Map.

17.15.030 Waterfront Master Plan

All development within the Waterfront Master Plan (-WMP) Overlay District shall be in accordance with the Waterfront Master Plan.

Citywide Regulations

Chapter 17.16 Visual Resource Protection (IP)

Note: Specific standards for the height and bulk of development and for landscaping are included in other sections of the Code. This chapter includes provisions for visual resource protection, carrying forward the provisions of Section 17.48.190, Protection of Visual Resources and Compatible Design, of the current code with revisions to eliminate redundancies with other parts of the Code and to reference viewpoint and scenic views identified in the General Plan.

17.16.010 Visual Resource Protection

New development shall protect and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meet the following standards:

A. **Protection of Public Views.** Significant public views to and along the coast are protected.

B. **Natural Landform Protection.** Alterations to natural landforms are minimized.

C. **Compatibility.** The development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the city.

D. **Visual Quality.** Visual quality in visually degraded areas is restored and enhanced.

E. **Scenic Area Standards.** The following standards apply to the viewpoints and scenic views described in Figures C-6 and C-7 of the General Plan.

   1. View corridors shall be incorporated into the development to protect significant public views to and along the shoreline and other scenic areas.

   2. Building and landscaping design and location shall provide for the preservation and enhancement of significant public views to and along the shoreline and other scenic areas.

Chapter 17.17 Affordable Housing, Density Bonuses, and Other Incentives

Note: Regulations and permit procedures governing the density bonus incentive program in Chapter 17.50, Affordable Housing, Density Bonuses and Incentives, of the existing code are updated consistent with State law (Cal. Gov. Code §65915) and the Housing Element. Existing provisions for inclusionary housing, in-lieu fees for affordable housing, and requirements for an affordable housing agreement are carried forward. Density bonus provisions, consistent with State law, are included.

17.17.010 Purpose

The purpose of this Chapter is to:

A. Meet the requirements to provide affordable housing contained in Government Code Sections 65580-65589.8 through inclusionary housing; and

B. Promote and facilitate the provision of very-low, low, and moderate-income housing and housing for seniors, foster youth, veterans, and homeless persons consistent with the provisions of Government Code Sections 65915-65918 and the Housing Element of the General Plan.

17.17.020 Inclusionary Housing

A. **Inclusionary Housing Required.** Pursuant to the requirements of Government Code Sections 65580-65589, all new residential developments of five or more for-sale units shall provide a minimum of one inclusionary unit or ten percent of the total number of units, whichever is greater, to be affordable to families with incomes in the very low-, low-, or moderate-income ranges, depending on the needs of the City at the time of approval. The lower-income units may be either for rent or for sale, but shall remain affordable for at least 55 years, or such other term approved by the City, consistent with State law.

   1. For the purposes of calculating the number of affordable inclusionary units required by this Section, any additional units authorized as a density bonus will not be counted in determining the required number of inclusionary units.

B. **Location of Inclusionary Units.** In accordance with Government Code Section 65590, the City shall require the developer to provide affordable housing on-site where feasible. If the City determines that this is not feasible based on a detailed economic analysis prepared by a City-contracted consultant at the cost of the applicant, the City shall require

the developer to provide such housing at another location in Morro Bay. If the City determines that it is not feasible for the developer to provide such affordable housing off-site, the developer shall pay a fee in lieu of providing such housing. Said fee shall be as prescribed in Section TBD, In-Lieu Fees for Affordable Housing.

17.17.030 In-Lieu Fees for Affordable Housing

In cases where the provisions for the required affordable housing are not being met on-site or off-site, the applicant may contribute in-lieu fees.

A. **Timing.** In-lieu fees shall be paid prior to issuance of a building permit or final tract map.

B. **Calculation.** In-lieu fees shall be established on a project basis by multiplying construction cost by the percent of fee based on project size shown in Table TBD, In-Lieu Fees for Affordable Housing, where construction costs include all expenses related to the development of housing units, including land, construction, on- and off-site infrastructure, and associated soft costs.

TABLE TBD: IN-LIEU FEES FOR AFFORDABLE HOUSING

Project Size	*Percent of Each Unit Cost or Fraction Thereof*
5 Units	10%
9 Units	15%
10 Units	20%
11 Units	30%
12 Units	40%
13 Units	50%
14 Units	60%
15 Units	70%
16 Units	80%
17 Units	90%
18 Units	100%

C. **Use.** Fees accepted for affordable housing shall be used by the City to construct or assist in the construction of housing for rent or sale to very low, low and moderate income families or to purchase land for the purpose of affordable housing or to assist very low, low and moderate income families to afford adequate housing or for other measures to provide housing for low and moderate income families. The City may, at its option,

transfer in-lieu fees to another public agency as a nonprofit housing provider for the purpose of providing affordable housing in the city of Morro Bay.

17.17.040 State Density Bonus

The provisions of this Section apply to proposed developments which comply with the eligibility requirements specified in Government Code Sections 65915 through 65918. Where regulations are not specifically addressed in this Section or where conflicts exist between these provisions and the provisions of Government Code Sections 65915 through 65918, the provisions of the Government Code, as they may be amended over time, shall apply.

A. **Housing Developments.** A density bonus pursuant to Government Code 65915(f) and applicable incentives/concessions shall be granted if an applicant seeks and agrees to construct a housing development as defined in Government Code Section 65915, consisting of five or more residential units and containing low-income, very low-income, moderate-income, and/or senior housing, transitional foster youth, veteran, or homeless person units, the required percentages of which are outlined in Government Code Section 65915(b)(1).

B. **Land Donation.** When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with Government Code Section 65915(g), the City shall grant density bonus as required by Government Code Section 65915(g).

C. **Childcare Facility Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of Government Code Section 65915(b) and includes a childcare facility other than a Family Day Care Home that will be located on the premises of, as part of, or adjacent to the project, the City shall grant additional density bonus or additional concession or incentive as required by Government Code Section 65915(h).

D. **Commercial Development.** When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in Government Code Section 65915.7(c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the City shall grant to the commercial developer a development bonus as prescribed in Government Code Section 65915.7(b). Housing shall be constructed on the site of the commercial development or on a site that meets the criteria in Government Code Section 65817(a)(1). This Subsection shall remain in effect only until January 1, 2022, and as of that date is repealed.

E. **Incentives or Concessions.** Where a project is eligible for a State Density Bonus, an applicant may submit to the City a request for specific concessions or incentives as follows.

1. ***Available Concessions or Incentives.*** A qualifying project shall be entitled to one, two, or three of the following incentives, as allowed by Government Code Section 65915, in addition to the density bonus allowed:

    a. A reduction in the site development standards of this Title (e.g., lot coverage, parking requirements, reduced lot dimensions, and/or setback requirements);

    b. Approval of mixed-use zoning not otherwise allowed by this Title in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development and the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the project will be located; and/or

    c. Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable and actual cost reductions.

2. ***Required Findings to Reject Concession or Incentive.*** The concession or incentive requested by the applicant shall be granted unless the Review Authority makes a written finding, based upon substantial evidence, of one or more of the following:

    a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set in compliance with Government Code Section 65915(c); or

    b. The concession or incentive would have a specific adverse impact, as defined by Government Code Section 65589.5(d)(2), upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households; or

    c. The concession or incentive would be contrary to State or federal law.

3. ***Effect of Incentive or Concession.*** The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan, Local Coastal Program, or Zoning amendment or other discretionary approval.

F. **Application Requirements and Process.**

1. ***Timing.*** Applicants shall submit applications for a density bonus, incentive, or concession, as part of a project application.

2. ***Materials Required.***

    a. *Application for a Density Bonus.*

i. Total number of units in the development;

ii. Number of units that will be limited by income, to seniors, transitional foster youth, veteran, or homeless person;

iii. Income limits that will be applied to each unit; and

iv. Amount of density bonus requested.

b. *Application for an Incentive or Concession.*

i. Description of incentives or concessions requested;

ii. An explanation of how the development standard would physically preclude the construction of a development that meets the criteria of Government Code Section 65915(b); and

iii. Financial information describing how each incentive or concession requested is necessary to provide for affordable housing costs or rents.

3. ***Processing.***

a. If the project is subject to any discretionary approvals, the request for a density bonus, incentive, or concession shall be considered concurrently with the discretionary approval.

b. For all other projects, the application for a density bonus, incentive, or concession, the Planning Commission shall approve or deny the application based on the requirements of State law, the provisions of this Chapter, and the information presented in the application and at the meeting.

17.17.050 Assurance of Continued Availability

A developer of affordable units shall enter into an affordable housing agreement with the City prior to the recordation of the final map, or the issuance of a grading permit or a building permit where approval of a map is not requested. The agreement shall be recorded against the parcel(s) designated for construction of the affordable units. The agreement shall run with the land and shall be binding upon the successor(s) in interest. At a minimum, the agreement shall include:

A. Total number and size of affordable units.

B. Maximum qualifying household incomes for the affordable units.

C. Standards for calculating affordable rents or affordable sales prices.

D. Enforcement mechanisms, including annual reporting and monitoring to ensure affordable units are continuously occupied by eligible households and remedies for breach of the agreement.

E. Affordability term.

Chapter 17.18 Hazards and Shoreline Protection (IP)

Note: This chapter will include standards applicable to development in hazard areas and standards applicable to shoreline protection. The standards in this chapter apply to all development undertaken and proposed to be undertaken with coastal, geological, and fire hazard areas, including areas with the potential for hazards due to sea level rise. The shoreline development and shoreline protection related standards are included consistent with the Coastal Act.

17.18.010 Purpose

This Chapter provides standards for proposed development and new land uses in coastal, geological, and fire hazard areas to protect the public health, safety, and welfare.

17.18.020 Applicability

The provisions of this Chapter apply to all development undertaken and proposed to be undertaken within coastal, geological, and fire hazard areas within the City of Morro Bay.

17.18.030 Hazards Evaluation Report

A. **Initial Site Assessment.** The Director shall conduct an initial site assessment screening of all permit applications to determine whether the site is or will be subject to geologic or other hazards over a timeframe of a minimum of 100 years. Geological or other hazards are defined to include:

1. Earthquake hazard zones;
2. Areas subject to tsunami runup or episodic and long-term shoreline retreat (including beach or bluff erosion);
3. Unstable slopes and areas with moderate or greater landslide or liquefaction potential; and
4. Flood hazard areas, including those areas potentially inundated by future sea level rise.
5. The screening shall include a review of reports, resource maps, aerial photographs, site inspection, and the City's hazards maps. Absence of mapping shall not alone be considered absence of hazard, and local site conditions shall be examined at the time of permit application using the best available science.

B. **Environmental Hazards Report.** Where the initial site assessment reveals that the proposed development is located in or within 100 feet of an area potentially subject to geologic or other hazards over the 100-year assessment time frame, an Environmental Hazards Report prepared by a qualified registered civil or structural engineer or licensed geologist or engineering geologist is required for the project. The Environmental Hazards Report shall describe the extent of potential environmental hazards on the site over the minimum 100-year timeframe, and recommend construction, siting and other techniques to avoid and minimize possible environmental hazards. Reports addressing tsunami runup, beach or bluff erosion, wave impacts, and flood hazards must include evaluation of potential changes to the hazard due to sea level rise that might occur over the life of the development and the 100-year assessment time frame. Existing shoreline protective devices may not be factored into the required analyses. The Report shall demonstrate that, subject to the Report's recommended measures, all of the standards of this Chapter can be met.

17.18.040 Shoreline Development

A. **Purpose.** This Section provides standards for development proposed on lots that border the ocean or bay, where careful design and development practices are necessary to preserve significant coastline features, implement applicable provisions of the General Plan and Local Coastal Program, and comply with the Coastal Act.

B. **Applicability.** This Section applies to all development or expansion of existing uses proposed to be located on or adjacent to a beach or coastal bluff.

1. ***Coastal Bluff.*** A scarp or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, folding, or excavation of the land mass, having a vertical relief of 10 or more feet measured from the top edge to the toe of the steep face, and located along the ocean or bay and subject to wave action. The bluff may be a simple planar or curved surface, or it may be step-like in section.

C. **Geologic Report.** Permit applications for development or expansion of existing uses proposed to be developed on or adjacent to a beach or coastal bluff shall include a geologic report prepared by a licensed engineering geologist or a professional civil engineer with expertise in soils and foundation engineering, or a registered geologist with a background in engineering applications. Such report shall include a scaled map showing location of the bluff edge, the toe of the bluff, and other significant geologic features by distance from readily identified fixed monuments such as the property line, centerline of the road nearest the bluff, or inside of curb face. The report shall include an analysis of beach erosion, wave run-up, inundation and flood hazards, including those due to sea-level rise; and consider, describe, and analyze the following:

1. The impact of construction activity on the stability of the site and adjacent area;

2. Bluff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site;
3. Historic, current, and foreseeable bluff and shoreline erosion and possible changes in shore configuration and sand transport;
4. Geologic conditions, including soil, sediment, and rock types and characteristics, in addition to structural features such as bedding, joints and faults;
5. Evidence of past or potential landslide conditions, the implications of such condition for the proposed development, and the potential effects of the development on landslide activity;
6. Ground and surface water conditions and variations, including hydrologic changes caused by the development;
7. Potential erosion of the site and mitigation measures to be used to ensure minimized erosion problems before and after construction (i.e., landscape and drainage design);
8. Effects of marine erosion on coastal bluffs;
9. Potential effects of seismic forces resulting from a maximum credible earthquake;
10. Any other factor that might affect slope or bluff stability;
11. A tsunami hazard assessment, including sea-level rise and tsunami wave runup calculations;
12. Evaluation of off-site impacts of development (e.g., development contributing to geological instability) and the additional impacts that might occur due to the proposed development (e.g., increased erosion along a footpath).
13. On lots with a legally established shoreline protective device, the analysis must describe the condition of the exiting seawall, identify any impacts it may be having on public access and recreation, scenic views, sand supplies, and other coastal resources, and evaluate opportunities to modify or replace the existing arming device in a manner that would eliminate or reduce these impacts;
14. An evaluation of whether the development, as proposed or modified, could be safely established on the property for a 100-year period without a shoreline protective device;
15. Measures to mitigate potential impacts; and
16. Other matters as determined relevant to the property by the report preparer or City Engineer.

D. **Coastal Bluff Face Development.** No development shall be permitted on a coastal bluff face, except for engineered staircases or accessways to provide public beach access and

pipelines for scientific research or coastal-dependent industry. Drainpipes shall only be allowed where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the coastal bluff face, toe, and beach. Drainage devices extending over the coastal bluff face shall not be permitted if the property can be drained away from the coastal bluff face.

E. **Structures on the Beach.** No permanent structure shall be permitted on a dry, sandy beach except a facility necessary for public health and safety, such as lifeguard towers, and recreation facilities, such as beach volleyball courts.

F. **Setbacks.** Proposed development must be set back from the seaward property line or the coastal bluff where applicable, as provided by this Subsection. Additional setbacks may be required to accommodate public access in compliance with Chapter TBD, Coastal Access.

1. ***Coastal Bluff Setback Requirements.*** New development must be set back equal to a sufficient setback to maintain a minimum factor of safety of at least 1.5 for a minimum of 100 years based on a site-specific geological or geotechnical engineering study. In no case shall the minimum setback be less than 20 feet from the coastal bluff edge.

    a. No development, except pathways, stairways, fencing, signage, and other features associated with a public accessway or a necessary pipeline associated with a public facility, will be permitted within the bluff retreat setback identified in site-specific geologic reports.

    b. A one-time addition of less than 10 percent of the existing floor area may be allowed for buildings within the required coastal bluff setback provided the addition does not encroach further into the setback than the existing structure. Alteration or additions to existing nonconforming development that equals or exceeds 10 percent of the size of the existing structure shall not be authorized, unless the entire structure is brought into conformance with the coastal bluff setback requirement.

2. ***Non-bluff Coastline Setbacks.*** Structures proposed within 500 feet of the mean high tide line in areas that lack coastal bluffs, shall be set back equal to a sufficient setback so the proposed structure would not be expected to be subject to shoreline erosion or other hazards for the structure's lifetime or for 50 years, whichever is greater, based on a site-specific shoreline erosion rate and shoreline hazards study. In no case shall the minimum setback be less than 20 feet from the coastline or property line adjacent to the ocean or bay, whichever results in a greater setback.

3. ***Landscaping.*** Drought-tolerant landscaping shall be installed and maintained in the required setback.

G. **Erosion Control.** Proposed development must be designed and constructed to incorporate appropriate erosion-control measures, consistent with the City's grading standards.

H. **Shoreline Protection Restrictions.** Development shall be sited and developed to be safe from coastal bluff retreat, waves, or flood hazards without the use of any shoreline protective device. Piers, groins, breakwaters, drainages, seawalls, revetments, rip-rap, pipelines, and other shoreline protection structures are permitted only when required to serve coastal-dependent uses such as public access and recreational uses, or to protect existing structures or public beaches in danger of erosion, when non-structured alternatives have failed and when located to avoid significant rocky points and intertidal areas. Any shoreline protection devices shall be designed to eliminate or mitigate adverse impacts on local shoreline sand supply and to minimize the impact of future flooding and sea-level rise.

1. All permits for development on coastal blufftop or shoreline lots that do not have a legally established shoreline protection structure shall have conditions of approval requiring that prior to issuance of any grading or construction permits, the property owner record a deed restriction against the property to ensure that no shoreline protection structure will be proposed or constructed to protect the development, and expressly waiving any future right to construct such devices.

2. Proposed development shall not be approved where the review authority determines that shoreline protective structures will be necessary to protect the new structures at the time of development or if the development will be increased to exposure of flooding within 100 years of the date of review due to flooding or sea-level rise.

3. A shoreline protective structure may be allowed with Conditional Use Permit and Coastal Development Permit approval, only when the Planning Commission makes the following findings:

    a. The shoreline protective structure will serve coastal-dependent uses, such as public access, recreational uses, and public beaches in danger of erosion;

    b. The shoreline protection structure is necessary due to increased exposure of flooding within 100 years of the date of review due to flooding or sea-level rise;

    c. The shoreline protection structure is necessary to protect against future sea-level rise in tsunami hazard zones;

    d. Non-structured alternatives to the protective devices have failed;

    e. The shoreline protective structure is located to avoid significant rocky points and intertidal areas;

f. The shoreline protective structure proposed is the least environmentally damaging, feasible alternative;

g. The shoreline protection structure is designed to maintain lateral beach access, where feasible; and

h. The shoreline protection structure is designed to respect natural land forms and minimize visual impact to the extent possible, through means including the use of visually compatible colors and materials.

I. **Liability.** For any development on a beach or shoreline subject to wave action, erosion, flooding, landsides, sea-level rise, or other hazards associated with development on a beach or coastal bluff, the property owner shall execute and record a deed restriction that acknowledges and assumes these risks and waives any future claims of damage or liability against the City and agrees to indemnify the City against any liability, claims, damages, or expenses arising from any injury or damage due to such hazards.

17.18.050 Flood Hazards

Habitable space is prohibited at elevations subject to wave and/or flood risk, including risk due to sea level rise.

17.18.060 Geologic, Slope, and Stability Hazards

The following standards apply to all development within areas of geologic hazards; very high, high, and moderate landslide potential; high or moderate liquefaction potential; and areas with other soil or slope stability issues.

A. **Subdivisions.** Land divisions, including lot line adjustments, are prohibited in areas subject to geologic, seismic, and other hazards unless it is demonstrated by the subdivider that all lots in the new subdivision will have sufficient buildable land area that is situated outside the hazardous portions of the property.

B. **Geotechnical, Soil, and Engineering Studies.** Site-specific geotechnical, geologic, soil, and/or structural engineering studies that assess the degree of hazard on the proposed site and recommend any appropriate site design modifications or considerations as well as any other mitigation measures shall be prepared.

C. **Sloping Lots.** The following standards apply to development on lots with an average slope of 15% or greater prior to grading.

1. ***Downhill Facing Building Elevation.*** The building elevation facing the downslope shall have a maximum height of 20 feet from finished grade with sufficient articulation from that building face to the next highest story to minimize the visual height and bulk as viewed from the lowest finished grade.

2. ***Articulation.*** The apparent size of exterior wall surfaces visible from off the site shall be minimized through the use of bays, recesses, stepbacks, overhangs, landscaping, and/or other means of horizontal and vertical articulation to create changing shadow lines and break up massive forms.
3. ***Foundation Design.*** The use of multi-level foundations (floor levels separated by a minimum of four feet) shall be the standard design for residential structures unless an alternative design, with less grading, is approved through the Design Review process as more appropriate for the site.
4. ***Underfloors.*** Areas between the lowest floor and finished grade shall not exceed six feet in height.
5. ***Decks.*** No portion of the walking surface of a deck with visible underpinnings shall exceed a height of six feet above grade. Decks shall be integrated into the architecture of the structure, and not appear as an add-on to the primary building mass.

Chapter 17.19 Landscaping (IP)

Note: This chapter includes landscaping provisions that apply to all new development. They also apply to additions to multi-unit and nonresidential that expand existing floor area by 10 percent or more. Water efficiency and irrigation requirements consistent with the State's Model Water Efficient Landscape Ordinance also have been incorporated.

The Water Conservation in Landscaping Act (AB 325) was signed into law on September 29, 1990. The statute directed the Department of Water Resources (DWR) to develop and adopt a Model Ordinance for water efficient landscaping. If by January 1, 1993 a local agency did not adopt a water efficient landscape ordinance, the Model Ordinance adopted by DWR took effect. State law and the model ordinance has been updated since 1993, most recently in 2015. The City of Morro Bay did not adopt a water efficient landscape ordinance and therefore, the State model ordinance is in effect.

Common complaints of the DWR Model Ordinance is that it is difficult to implement, requiring calculations of the maximum applied water allowance (MAWA) and estimated applied water use (EAWU), and not responsive to local conditions. The proposed landscaping provisions provide straightforward options for simplified compliance with these water efficiency requirements. Water use calculations are not required if a high percentage of drought tolerant plant materials are used. However, if desired, just about any type of noninvasive planting may be used as long as the estimated water use is less than the maximum allowed per State law.

The draft regulations establish general landscaping standards. They provide details on the type of materials that are to be used and what irrigation specifications are to be included. The regulations also prescribe what is to be in landscaping plans and include the option to create an Alternative Landscape Plan (ALP) for sites with unique characteristics that may find the standard landscaping requirements difficult to satisfy, or where site planning concepts could benefit from flexibility in landscape standards.

17.19.010 Purpose

The purposes of the landscaping regulations are to:

A. Improve the appearance of the community by requiring permanently maintained landscaping;

B. Enhance the appearance of development and minimize or eliminate conflicts between potentially incompatible uses through landscaping;

C. Aid in energy conservation by providing shade from the sun and shelter from the wind;

D. Provide areas on site to absorb rainfall and assist in reducing storm water runoff;

E. Assist in erosion control;

F. Promote conservation and efficient use of water; and

G. Implement the Water Conservation in Landscaping Act.

17.19.020 Applicability

The provisions of this Chapter shall apply to the following:

A. All new development.

B. Additions to Multi-Unit and nonresidential development that expand existing floor area by 10 percent or more.

C. All new and rehabilitated landscaping projects that include new irrigated landscaping over 500 square feet.

D. **Exceptions.** The provisions of this Chapter do not apply to the following:

1. Farming, agriculture, and crop production including vegetable gardens, vineyards, and small orchards.
2. Public recreational areas (designated for active play, recreation or public assembly).
3. Registered local, state or federal historical sites.
4. Habitat restoration projects that do not require a permanent irrigation system.
5. Mined-land reclamation projects that do not require a permanent irrigation system.
6. Existing plant collections, as part of botanical gardens and arboretums open to the public.

17.19.030 Areas to be Landscaped

In addition to areas required to be landscaped pursuant to other sections of this Title, the following areas shall be landscaped, and may count toward the total area of a site required to be landscaped.

A. **Required Street-Facing Setbacks.** All required street-facing setbacks, except for areas used for exit and entry, shall be landscaped.

B. **Interior Property Lines Abutting Residential Districts.** Whenever a nonresidential use is located adjacent to a Residential District, a six foot wide landscape buffer planted with a

mix of trees and shrubs shall be provided along interior property lines. A minimum of one tree of at least 15-gallon size shall be planted per 20 linear feet or as appropriate to create a tree canopy over the buffer yard. In addition, at least three shrubs shall be planted per 20 linear feet.

C. **Building Perimeters.** The portions of a nonresidential building that front a public street shall have one or more landscape planters installed along a minimum 20 percent of that building face. The minimum width of the planter shall be three feet. This standard does not apply where a building is located on the front or corner side property line.

D. **Parking Areas.** Parking areas as required by Chapter TBD, Parking and Loading.

E. **Unused Areas.** All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, shall be landscaped, hydroseeded, or left in a natural state.

17.19.040 Landscape Plan

A landscape plan showing compliance with the standards of this Chapter shall be submitted with the permit application for all projects for which landscaping is required.

A. Proposed plant locations, species, sizes, and plant factor. Plants with similar water needs shall be grouped together on the landscape plan. The plant factor, established in the California Department of Water Resources study, Water Use Classification of Landscape Species (WUCOLS), shall be identified for all landscaped areas on a site. All water features shall be identified as high water use, and temporarily irrigated areas shall be identified as low water use.

B. Location of any existing tree over six inches in diameter or over two inches in diameter for oak trees, as measured at 48 inches above natural grade, and whether each such tree is proposed for retention or removal.

C. Details and location of proposed fencing, entries, refuse collectors and free-standing or monument signs.

D. Walkways, plazas and sitting areas, play areas, street furniture and other existing or proposed permanent outdoor equipment or decorative landscape features, if any.

E. Outdoor light fixtures, including their location, height, intensity, and type.

F. Proposed method and location of irrigation.

G. Interim landscaping for future phases where deemed necessary by the City.

H. **Alternative Landscape Plan.** An applicant may demonstrate that the intent of the landscape requirements of this Chapter can be achieved through an Alternative Landscape Plan. The Alternative Landscape Plan shall be prepared in accordance with the purposes set forth in this Chapter and the criteria of this Section and shall clearly detail

the modifications being requested from the provision of this section and how they reflect the evaluation criteria listed below.

1. Innovative use of plant materials and design techniques in response to unique characteristics of the site or the proposed use.
2. Preservation or incorporation of existing native vegetation.
3. Incorporation of naturalistic design principles, such as variations in topography, meandering or curvilinear plantings, and grouping of dominant plant materials (trees, large shrubs) in a manner consistent with existing native vegetation.
4. Integration of landscaping and pedestrian facilities in a manner that improves access or incorporates pedestrian-friendly design, this may include reduced ground-level planting along the front setback if canopy shade trees along sidewalks are provided.
5. Use of additional shade trees to create a greater canopy effect.
6. A greater degree of compatibility with surrounding uses than a standard landscape plan would offer.

I. **Preparation by Qualified Person.** Landscaping for commercial projects, industrial projects, institutional projects, and residential projects consisting of more than 12 units shall be prepared by a California Registered Landscape Architect.

17.19.050 General Requirements

A. **Materials.**

1. ***General.***

   a. Required landscaped areas shall be planted with a combination of ground covers, shrubs, vines, and trees.

   b. Landscaping may include decorative materials such as brick, bark, timber, decorative rock, structural features, or other decorative features, provided they do not cover more than 50 percent of the area required to be landscaped. Permeable pavers and other permeable surfaces are encouraged for hardscape areas.

   c. Garden areas and other areas dedicated to edible plants are considered landscaped areas and count toward required landscaping.

2. ***Required Water Efficient Plants.*** One of the following options of types of plants shall be chosen to ensure that the landscape project meets water efficiency requirements.

a. *Option A: All Low Water Plants.* Exclusive of garden areas, all plants and trees shall be low or very low water use (average California Department of Water Resources study, Water Use Classification of Landscape Species (WUCOLS) plant factor of 0.3). Option A is available for all residential and nonresidential areas.

b. *Option B: Primarily Low Water Plants.* Exclusive of garden areas, at least 85 percent of the landscape area shall contain low or very low water use plants (average WUCOLS plant factor of 0.3). Option B is only available for residential areas.

c. *Option C: Water Use Calculation.* The estimated total water use (ETWU) of the landscaping shall not exceed the maximum applied water allowance (MAWA), calculated pursuant to the State Model Water Efficient Landscape Ordinance (MWELO). Option C is available for all residential and nonresidential areas.

i. Department of Water Resources Model Water Efficient Landscape Ordinance Compliance Required. Where Option C is selected, all requirements of the Department of Water Resources Model Water Efficient Landscape Ordinance shall apply.

3. ***Size and Spacing.*** Plant materials shall be grouped in hydrozones in accordance with their respective water, cultural (soil, climate, sun and light), and maintenance needs. Plants shall be of the following size and spacing at the time of installation:

a. *Ground Covers.* Ground cover plants other than grasses shall be at least the four-inch pot size. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one per 12 inches on center.

b. *Shrubs.* Shrubs shall be a minimum size of one gallon. When planted to serve as a hedge or screen, shrubs shall be planted with two to four feet of spacing, depending on the plant species.

c. *Trees.* Trees shall be a minimum 15-gallon size.

i. Tree trunks shall be placed at least five feet from utilities.

ii. Tree trunks shall be placed at least 15 feet from light poles.

4. ***Turf.*** Turf is subject to the following limitations.

a. No more than 25 percent of the landscaped area may be turf.

b. The installation of turf on slopes greater than 25 percent is prohibited.

c. Turf is prohibited in locations that are less than 10 feet wide.

5. ***Invasive Plants Prohibited.*** Plant species that are listed by CAL-IPC as invasive are prohibited. Existing invasive plants and noxious weeds shall be removed.

6. ***Mulch.*** A minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.

7. ***Compost.*** Compost at a rate of at least four cubic yards per 1,000 square feet to a depth of six inches into landscape area (unless contra-indicated by a soil test) shall be incorporated.

B. **Water Features.** Recirculating water shall be used for all decorative water features.

C. **Dimension of Landscaped Areas.** No landscaped area smaller than three feet in any horizontal dimension shall count toward required landscaping.

D. **Prescribed Heights.** The prescribed heights of landscaping shall indicate the height to be attained within three years after planting.

E. **Intersection and Driveway Visibility.** All landscaping shall comply with Section TBD, Visibility at Intersections and Driveways.

F. **Maintenance.** All planting and other landscape elements shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning, fertilizing, and regular watering. Wherever necessary, plantings shall be replaced with other plant materials to insure continued compliance with applicable landscaping requirements.

17.19.060 Irrigation Specifications

An irrigation system shall be installed that meets the following standards.

A. **General Requirements.**

1. All irrigation equipment must meet American National Standards Institute (ANSI), American Society of Agricultural and Biological Engineers/ International Code Council (ASABE/ICC)802-2014. “Landscape Irrigation Sprinkler and Emitter Standard”.

2. The following areas shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.

   a. Slopes exceeding 25 percent.

   b. Areas less than 10 feet wide in any direction.

3. The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent property or hardscapes.

   a. Irrigation systems shall be designed for zero run-off onto paved surfaces unless that surface drains to another landscape area.

b. Spray irrigation must be placed two-feet away from impervious surfaces unless that surface drains to another landscape area.

c. Proper irrigation equipment and schedules, including features such as repeated cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff.

d. Slopes greater than 25 percent shall not be irrigated with an irrigation system with an application rate exceeding 0.75 inches per hour, and check valves shall be utilized.

B. **Sprinkler Heads.** Where used, sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.

1. All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of .65 or higher using the protocol defined in ASABE/ICC 802-2014.

2. Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.

C. **Water Meters.** A dedicated meter for irrigation is required for nonresidential projects with landscape areas of 1,000 square feet or more.

D. **Pressure Regulating Equipment.** Pressure regulating valves or assemblies shall be installed to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.

E. **Flow Sensors.** Flow sensors are required to detect high flow conditions created by system damage on all nonresidential projects 1,000 square feet and greater and residential projects 5,000 square feet and greater.

F. **Controllers.** Automatic control systems shall be required for all irrigation systems and must be able to accommodate all aspects of the design.

1. Automatic irrigation controllers shall utilize either evapotranspiration or soil moisture sensor data, or rain sensing override devices.

2. Irrigation controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.

G. **Control Valves.** Plants which require different amounts of water should be irrigated by separate valves.

H. **Check Valves.** Where required on steep slopes, check valves shall be installed to prevent low-head drainage.

I. **Master Shut-off, Gate or Ball Valves.** Locate valves as close as possible to the point of connection of the water supply, and place where needed to minimize water loss in case of an emergency (such as a main line break) or routine repair.

17.19.070 Installation and Completion

A. **Consistency with Approved Plans.** All landscaping shall be installed consistent with approved plans and specifications, in a manner designed to promote and maintain healthy plant growth.

B. **Timing of Installation.** Required landscaping shall be installed prior to the issuance of a certificate of occupancy for the project.

C. **Exception—Assurance of Landscaping Completion.** The Director may permit the required landscaping to be installed within 120 days after the issuance of a certificate of occupancy in special circumstances related to weather conditions or plant availability. A surety in the amount equal to 150 percent of the estimated cost of landscaping, including materials and labor, as well as an agreement that the required landscaping will be installed within 120 days, must be filed with the City to assure completion of landscaping installation within such time. The surety may take the form of cash deposit, irrevocable letter of credit or bond; and together with the agreement, would provide for payment to the City of any costs incurred in contracting for completion of the required landscaping.

D. **Certification of Completion.** Upon completion of the installation of the landscaping and irrigation system, a field observation shall be completed by the licensed project contractor. A certificate of completion shall be submitted to the City by the licensed project contractor. The certificate shall specifically indicate that the plants were installed as specified and that the irrigation system was installed as designed, along with a list of any deficiencies.

    1. Where Required Water Efficient Plant Option C: Water Use Calculation, was installed, the applicant shall submit a Certificate of Completion pursuant to the Department of Water Resources Model Water Efficient Landscape Ordinance.

Chapter 17.20 Nonconforming Uses, Structures, and Lots (IP)

Note: This chapter includes provisions for nonconforming uses, structures and lots which are currently located in Chapter 17.56, Nonconforming Uses and Structures. Lawful nonconforming uses may be continued and maintained unless they are determined to be a public nuisance because of health or safety concerns. Nonstructural maintenance, repair, and interior alterations are allowed. Structural repairs are only allowed to protect health and safety.

The draft regulations offer flexibility for nonconforming structures. Conforming alterations and additions are allowed and are not limited to 25 percent, provided use of the property is conforming and there is no increase in the discrepancy between existing conditions and the requirements of the Code. Additionally, an allowance is included where nonconforming interior side yard may be maintained and extended provided no new encroachment into any other yard is created, height is not increased, and any addition above the first floor conforms to the required setbacks.

The Zoning Code also includes provisions requiring the removal of nonconforming uses if they have been abandoned, destroyed, or substantially damaged. Consistent with existing provisions, the draft regulations include provisions for allowing the restoration of nonconforming structures when damaged by fire or other calamity to the extent of 50 percent or less. If a nonresidential structure or a residential structure with four or more units is damaged to the extent of 50 percent or more, the land and building are subject to all of the requirements of the most current Code. Nonconforming residential use of three or less units may be reconstructed, restored, or rebuilt up to the size and number of dwelling units prior to the damage and the nonconforming use, if any, may be resumed provided the rebuilt development complies with all current design and property development standards.

Current provisions allow nonconforming uses a one-time expansion of 10 percent with Planning Commission approval. Pursuant to the draft provisions, nonconforming uses could be maintained, changed to a permitted use, or be expanded or substituted with another nonconforming use (with Planning Commission approval).

17.20.010 Purpose

This Chapter is intended to permit continuation of uses and continued occupancy and maintenance of structures that were legally established but do not comply with all of the standards and requirements of this Title in a manner that does not conflict with the General Plan

or Local Coastal Land Use Plan. To that end, this Chapter establishes the circumstances under which a nonconforming use or structure may be continued or changed and provides for the removal of nonconforming uses and structures when their continuation conflicts with the General Plan, Local Coastal Land Use Plan, and public health, safety, and general welfare.

17.20.020 Applicability

The provisions of this Chapter apply to structures, land, and uses that have become nonconforming by adoption of this Title as well as structures, land, and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map.

17.20.030 General Provisions

A. **Nonconformities, Generally.** Any lawfully established use, structure, or lot that is in existence on the effective date of this Title or any subsequent amendment but does not comply with all of the standards and requirements of this Title shall be considered nonconforming.

B. **Right to Continue.** Any use or structure that was lawfully established prior to the effective date of this Title or of any subsequent amendments to its text or to the Zoning Map may only be continued and maintained provided there is no alteration, enlargement, addition, or other change to any building or structure; no substitution, expansion, or other change including an increase in occupant load or any enlargement of the area, space, or volume occupied by or devoted to such use, except as otherwise provided in this Chapter.

   1. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership.

   2. The right to continue a nonconforming use or structure shall not apply to uses or structures deemed to be a public nuisance because of health or safety conditions.

   3. The right to continue a nonconforming use or structure shall not apply if the nonconforming use has been abandoned or vacated as described in Section TBD, Abandonment of Nonconforming Uses.

C. **Removal of Nonconforming Structures Valued Under $1,500.** Any structure which does not conform to the regulations of the District in which it is located and which has an assessed valuation of $1,500 or less at the time it became nonconforming, shall be removed, or altered or reconstructed to be structurally conforming, within five years from the time the structure became nonconforming. The Building Inspector shall cause notice to be given to the owners of any such structure at least one year prior to the time removal or alteration is required, and removal or alteration is not required to be completed until such one-year period has lapsed.

17.20.040 Maintenance of and Alterations and Additions to Nonconforming Structures

Lawful nonconforming structures may be continued and maintained in compliance with the requirements of this Section unless deemed by the Building Official to be a public nuisance because of health or safety conditions.

A. **Maintenance and Repairs.** Nonstructural maintenance, repair, and interior alterations to a nonconforming structure are permitted if the changes and improvements do not enlarge the structure, change the building footprint, or increase building height or roof pitch.

B. **Structural Repairs.** Structural repairs that do not enlarge or extend the structure, including modification or repair of building walls, columns, beams, or girders repairs may be permitted only when the Building Division determines that such modification or repair is immediately necessary to protect public health and safety, occupants of the nonconforming structure, or occupants of adjacent property, and when the cost of such work does not exceed fifty percent of the appraised value of the nonconforming structure.

C. **Alterations and Additions.** Alterations and additions to nonconforming structures are allowed if the alteration or addition complies with all applicable laws and requirements of this Title, the use of the property is conforming, and there is no increase in the discrepancy between existing conditions and the requirements of this Title (i.e. there is no increase in the nonconformity), except as provided below.

1. ***Nonconforming Setbacks, Residential Districts.*** In Residential Districts, a nonconforming interior side or rear yard may be maintained and extended, and shall not be considered an increase in the discrepancy, provided that:

    a. A new encroachment into any other required yard is not created;

    b. The height of the portion of the structure that is within the required setback is not increased; and

    c. Any residential additions above the first floor shall conform to the setbacks in effect at the time the application for the addition is submitted.

D. **Nonconforming Signs.** Lawfully established signs that do not conform to the requirements of this Title may only be maintained in compliance with the requirements of Chapter TBD, Signs.

17.20.050 Repair and Replacement of Damaged or Destroyed Nonconforming Structures

A nonconforming structure that is damaged or partially destroyed by fire, explosion, earthquake, or natural disaster which is not caused by an act or deliberate omission of a property owner, their

agent, or person acting on their behalf or in concert with, may be restored or rebuilt subject to the following provisions.

A. **Restoration When Damage is 50 Percent or Less of Value.** If the cost of repair or reconstruction is less than or equal to 50 percent of its replacement cost immediately prior to such damage, replacement of the damaged portions of the structure is allowed by right provided that the replaced portions are the same size, extent, and configuration as previously existed.

B. **Restoration When Damage Exceeds 50 Percent of Value.** If the cost of repair or reconstruction exceeds 50 percent of its replacement cost immediately prior to such damage, the land and building shall be subject to all of the requirements of this Title, except as provided below.

1. ***Nonresidential Uses and Structures.*** Any nonconforming use must permanently cease. The structure may be restored and used only in compliance with the requirements of this Title.

2. ***Residential Uses and Structures.***

a. *Residential Uses, Three Units or Less.* Nonconforming residential use of three or less units may be reconstructed, restored, or rebuilt up to the size and number of dwelling units prior to the damage and the nonconforming use, if any, may be resumed provided the rebuilt development complies with all current design and property development standards.

i. Timing. Building permits must be obtained within one year of the date of the damage or destruction and construction shall be diligently pursued to completion unless another time period is specified through Conditional Use Permit approval.

b. *Other Residential Uses.* Any nonconforming use must permanently cease. The structure may be restored and used only in compliance with the requirements of this Title.

17.20.060 Expansions, Changes, and Substitutions of Nonconforming Uses

Nonconforming uses shall not be expanded or changed except as provided below.

A. **Expansion.** Nonconforming uses may only be expanded with Planning Commission approval where the Planning Commission makes the following findings.

1. ***Required Findings.***

a. The nonconforming use was legally established;

b. The proposed expansion of the nonconforming use would not be detrimental to public health, safety, or general welfare; and

c. With the exception of the nonconforming use, the proposed expansion would not be inconsistent with the General Plan and would not preclude or interfere with implementation of any applicable City Specific Plan.

2. ***Conditions.*** When making its decision on an application for an expansion of a Nonconforming Use, the Planning Commission may establish conditions that are necessary to accomplish the purposes of this Chapter, including, but not limited to:

a. Required improvement of, or modifications to existing improvements on, the property;

b. Limitations on hours of operations;

c. Limitations on the nature of operations; and

d. A specified term of years for which the expanded nonconforming use shall be allowed.

B. **Change in Tenancy, Ownership, or Management.** Any nonconforming use may change ownership, tenancy, or management where the new use is of the same use classification as the previous use, as defined in Chapter TBD, Use Classifications.

C. **Change from Nonconforming to Permitted Use.** Any nonconforming use may be changed to a use that is allowed by right in the district in which it is located and complies with all applicable standards for such use.

D. **Absence of Permit.** Any use that is nonconforming solely by reason of the absence of a permit or approval may be changed to a conforming use by obtaining the appropriate permit or approval.

E. **Substitution of a Nonconforming Use with Another Nonconforming Use.** The Planning Commission may allow substitution of a nonconforming use with another nonconforming use, subject to approval of a Conditional Use Permit. In addition to any other findings required by this Title, the Planning Commission must find that the proposed new use will be no less compatible with the purposes of the District and surrounding uses that comply with the requirements of this Title than the nonconforming use it replaces.

1. ***Amortization of Substituted Nonconforming Use.*** In granting a Conditional Use Permit to allow a nonconforming use to be replaced with another nonconforming use, the Planning Commission may establish an amortization schedule for the nonconforming use by setting a date after which the nonconforming use must be discontinued or replaced with a conforming use.

17.20.070 Abandonment of Nonconforming Uses

No nonconforming use may be resumed, reestablished, reopened or replaced by any other nonconforming use after it has been abandoned or vacated for a period of six months.

A. **Abandonment.** The six-month period shall commence when the use ceases and any one of the following occurs:

1. The site is vacated;
2. The business license lapses;
3. Utilities are terminated; or
4. The lease is terminated.

Chapter 17.21 Parking and Loading (IP)

Note: The proposed parking and loading regulations apply to new buildings and uses, projects creating additional dwelling units, change or expansion in use, or expansion of floor area. When a change in use, expansion of a use, or expansion of floor area creates an increase in the number of required parking or loading spaces, additional parking and loading shall be provided for such addition, enlargement, or change in use and not for the entire building or site.

The required number of parking spaces have been revised in a number of ways. On-site parking is not required in the Waterfront District. In other districts, where appropriate, a consistent parking requirement was identified for multiple uses within the same use classification. For example, all Public and Semi-Public Uses must provide one parking space per 250 square feet of floor area except as specified for certain uses such as Day Care Centers and Hospitals. This is intended to ease administration and provide flexibility with regard to re-use and changes of occupancy. Another notable change is the decrease in the amount of parking required for eating and drinking establishments. Current provisions generally require one space for each 60 square feet of floor area to be occupied by customers, plus one space for each 120 square feet of outdoor eating area greater than 125 square feet. This is proposed to be revised to require one space for each 100 square feet of indoor area and one space for each 200 square feet of outdoor eating area. Another change includes the elimination of the requirement for residential parking to be covered on lots less than 4,000 square feet. On lots larger than 4,000 square feet in size, a minimum of one space must be covered.

Several new parking reduction provisions are proposed to allow flexibility in meeting parking requirements. Parking reductions are available for locations near public parking facilities, transit, provision of motorcycle parking, carshare parking, shared parking, and instances where conditions exist whereby parking demand generated by the project will be adequately served and a Minor Use Permit is approved. These standards provide flexibility while still accommodating parking demand.

Draft regulations revise and expand the parking area design and development standards to address various aspects of parking area design, including parking space dimensions, maneuvering aisles, surfacing, striping, curbing, lighting, landscaping, separation from buildings, screening, circulation, alternative designs, and maintenance. Electric vehicle charging stations are required in new parking lots with 10 or more spaces.

The draft regulations increase the amount of the parking area to be landscaped from 5 percent to 10 percent and detail minimum requirements including minimum planter dimensions of 25 square feet, layout, landscaped islands every eight stalls, landscaped buffers, trees every five spaces, protection of vegetation, and clearance. Requiring a larger percentage of landscaping will help improve the aesthetic appearance of parking lots, promote energy conservation through the creation of shade, reduce heat gain, and reduce noise and glare. Parking and loading provisions also address bicycle parking and on-site loading.

17.21.010 Purpose

The purposes of the parking and loading regulations are to:

A. Ensure that adequate off-street parking and loading facilities are provided for new land uses and major alterations to existing uses;

B. Minimize the negative environmental and urban design impacts that can result from parking lots, driveways, and drive aisles within parking lots;

C. Insure that adequate off-street bicycle parking facilities are provided and promote parking lot designs that offer safe and attractive pedestrian routes;

D. Establish standards and regulations for safe and well-designed parking, unloading, and vehicle circulation areas that minimize conflicts between pedestrian and vehicles within parking lots and, where appropriate, create buffers from surrounding land uses; and

E. Offer flexible means of minimizing the amount of area devoted to parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, and other situations expected to have lower vehicle parking demand.

17.21.020 Applicability

The requirements of this Chapter apply to the establishment, alteration, expansion, or change in any use or structure, as provided in this Section.

A. **New Buildings and Land Uses.** Parking and loading in accordance with this Chapter shall be provided at the time any main building or structure is erected or any new land use is established.

B. **Reconstruction, Expansion, and Change in Use of Existing Non-Residential Buildings.**

1. When a change in use, expansion of a use, or expansion of floor area creates an increase in the number of required parking or loading spaces, additional parking and loading shall be provided for such addition, enlargement, or change in use and not for the entire building or site.

    a. *Exception, Commercial Uses.* Additional parking and loading spaces are not required for the change of use from one Commercial Use to another Commercial Use.

2. The existing parking and loading shall be maintained.

3. If the number of existing parking or loading spaces is greater than the requirements for such use, the number of spaces in excess of the prescribed minimum may be counted toward meeting the parking and loading requirements for the addition, enlargement, or change in use.

4. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant.

5. Additional parking and loading spaces are not required for the reconstruction of an existing building when there is no increase in floor area.

C. **Alterations that Increase the Number of Dwelling Units.** The creation of additional dwelling units through the alteration of an existing building or construction of an additional structure or structures requires parking to serve the new dwelling units. This requirement does not apply when sufficient parking exists to provide the number of spaces required for the existing and new dwelling units.

D. **When Constructed.** Parking and loading facilities required by this Chapter shall be constructed or installed prior to the issuance of a Certificate of Occupancy for the uses that they serve.

17.21.030 General Provisions

A. **Existing Parking and Loading to be Maintained.** No existing parking and/or loading serving any use may be reduced in amount or changed in design, location or maintenance below the requirements for such use, unless equivalent substitute facilities are provided.

B. **Nonconforming Parking or Loading.** An existing use of land or structure shall not be deemed to be nonconforming solely because of a lack of parking and/or loading facilities required by this Chapter, provided that facilities used for parking and/or loading as of the date of adoption of this Code are not reduced in number to less than what this Chapter requires.

C. **Accessibility.** Parking and loading areas must be accessible for its intended purpose during all hours of operation.

D. **Stacked Parking.** Stacked or valet parking is allowed if an attendant is present or an automated system is in place to move vehicles. If stacked parking managed by an attendant is used for required parking spaces, an acceptable form of guarantee must be filed with the Director ensuring that an attendant will be present while the lot is in operation.

17.21.040 Required Parking Spaces

A. **Minimum Number of Spaces Required.**

1. ***Waterfront District.*** On-site parking is not required in the Waterfront District.

2. ***Other Districts***. In Districts other than the Waterfront District, each land use shall be provided at least the number of parking spaces stated in Table TBD, Required Parking Spaces. The parking requirement for any use not listed in Table TBD shall be determined by the Director based upon the requirements for the most similar

comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES

Land Use Classification	*Required Parking Spaces*	
Residential Uses	**As specified below**	
Residential Housing Types		
Single-Unit Dwelling, Attached or Detached	2 per unit	
Two-Unit Dwelling	2 per unit	
Multi-Unit Residential	1 per studio unit 1.5 per one-bedroom unit 2 per unit with two or more bedrooms Guest parking: 1 for every 5 units	Guest parking shall be distributed throughout the site, clearly marked as reserved for guests, and maintained at all times for guest parking
Accessory Dwelling Unit	None required for the accessory dwelling unit. Required parking for the primary dwelling shall be provided	
Senior Housing	0.5 per unit	
Very Low-, Low-, and Moderate-Income Housing	0.5 per unit for senior housing 1 per studio or one-bedroom unit 2 per unit with two or more bedrooms	
Caretaker Unit	1 per unit	
Family Day Care		
Small	None beyond what is required for the Residential Housing Type	
Large	1 for each nonresident employee plus parking required for the residential use	
Group Residential	1 for every 2 guest rooms	
Mobilehome Park	1 space per unit Guest parking: 1 for every 2 units	
Residential Care Facilities		
Small	None beyond what is required for the Residential Housing Type	
Large	1 for every 3 beds	
Residential Facility, Assisted Living	1 for every 3 beds	
Single Room Occupancy	0.5 per unit	

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES	
Land Use Classification	*Required Parking Spaces*
Supportive Housing	None beyond what is required for the Residential Housing Type
Transitional Housing	None beyond what is required for the Residential Housing Type
Public/Semi Public Uses	**1 per 250 square feet of floor area except as specified below**
Campgrounds and Recreational Vehicle Parks	1 for each camping or recreational vehicle space plus one common space for each 5 camping or recreational vehicle spaces
Colleges and Trade Schools	1 for every 50 square feet of net classroom floor area
Community Assembly	1 for every 75 square feet of assembly area
Day Care Centers	1 for every 300 square feet of net classroom floor area
Emergency Shelter	1 for every 4 beds and/or 0.5 per bedroom designated as a family unit with children plus 1 per employee
Hospitals	1 for every bed
Skilled Nursing Facility	1 for every 3 beds
Parking Lots and Structures	None
Schools	High School: 4 spaces per classroom plus 1 for every 300 square feet of office Other schools: 2 spaces per classroom plus 1 for every 300 square feet of office
Commercial Uses	**1 per 300 square feet of floor area plus 1 per 2,000 square feet of outdoor display and storage area, except as specified below**
Commercial Entertainment and Recreation	Cinema/Theaters and Indoor Sports and Recreation: 1 for each 4 permanent seats or 1 for every 75 square feet of assembly area where no seats or where temporary or moveable seats are provided Other Commercial Entertainment and Recreation uses: As determined by the Director
Eating and Drinking Establishments	1 per 100 square feet of floor area plus 1 per 200 square feet of outdoor seating area
Farmer's Markets	None
Funeral Parlors and Interment Services	1 for each 4 permanent seats or 1 for every 75 square feet of assembly area where no seats or where temporary or moveable seats are provided
Lodging	
Hotels and Motels	1 for each guest room plus one space for each 10 rooms. Additional parking required for ancillary uses, such as restaurants, according to the parking requirements for the ancillary use

TABLE TBD: REQUIRED NUMBER OF PARKING SPACES	
Land Use Classification	*Required Parking Spaces*
Short-term Vacation Rental	1 for every 4 people based on maximum occupancy
Nonpermanent Vendor	See Section TBD, Nonpermanent Vending
Industrial Uses	**1 per 500 square feet of floor area plus 1 for every 1,000 feet of indoor warehousing or storage area and outdoor use area, except as specified below**
Personal Storage	1 space per 50 storage units, plus 1 space per 300 square feet of office area. A minimum of 5 spaces shall be provided.
Transportation, Communication, and Utility Uses	**1 per 300 square feet of office area plus one for each fleet vehicle**
Urban Agriculture Uses	**See Section TBD, Urban Agriculture**

B. **Calculation of Required Spaces.** The number of required parking spaces shall be calculated according to the following rules:

1. ***Floor Area***. Where a parking or loading requirement is stated as a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated.

2. ***Employees.*** Where a parking or loading requirement is stated as a ratio of parking spaces to employees, the number of employees shall be based on the largest shift that occurs in a typical week.

3. ***Bedrooms.*** Where a parking requirement is stated as a ratio of parking spaces to bedrooms, any rooms having the potential of being a bedroom and meeting the standards of the Building Code as a sleeping room shall be counted as a bedroom.

4. ***Students.*** Where a parking or loading requirement is stated as a ratio of parking spaces to students (including children in day care), the number is assumed to be the number of students at the state-certified capacity or at Building Code Occupancy where no state-certification is required.

5. ***Seats.*** Where parking requirements are stated as a ratio of parking spaces to seats, each 80 inches of bench-type seating at maximum seating capacity is counted as one seat.

C. **Sites with Multiple Uses.** If more than one use is located on a site, the number of required parking spaces and loading spaces shall be equal to the sum of the requirements calculated separately for each use unless a reduction is approved pursuant to Section TBD, Parking Reductions.

17.21.050 Parking Reductions

The number of parking spaces required by Section TBD, Required Parking Spaces, may be reduced as follows.

A. **Transit Accessibility.** For any land use except residential Single-Unit and Two-Unit development, if any portion of the lot is located within one-quarter mile of a transit stop with regular, scheduled service during the weekday hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. and 7:00 p.m., the number of required parking spaces is reduced by 20 percent of the normally required number of spaces.

B. **Proximate Public Parking Facilities.** Where a use is located within 1,200 feet of a public parking facility, measured along a pedestrian route, the number of required parking spaces may be waived all or in part with approval of a Minor Use Permit.

C. **Motorcycle Parking.** Motorcycle parking may substitute for up to five percent of required automobile parking. Each motorcycle space must be at least four feet wide and seven feet deep.

D. **Carsharing Programs.** Required automobile parking spaces may be substituted with designated Carshare Vehicle parking spaces, pursuant to the following:

1. Up to a maximum of 20 percent of the required automobile parking spaces may be designated as Carshare Vehicle parking spaces.
2. Carshare Vehicles shall be maintained for active use by Carshare Service and not for other purposes. No sales, servicing, storage, repair, administrative or similar functions shall occur and no personnel shall be employed on the site except for occasional short-term maintenance of vehicles unless otherwise permitted by the land use regulations in the zoning district.
3. Carshare Vehicles shall be made available to members of the Carsharing Service through an unattended, self-service operation 24 hours a day, seven days a week.
4. All owners of a lot, including any applicable Homeowner's Associations, shall be required to grant permission for the operation or parking of a Carshare Vehicle on their property.

E. **Shared Parking.** Where a shared parking facility serving more than one use will be provided, the total number of required parking spaces may be reduced up to 50 percent with approval of a Minor Use Permit, if the review authority finds that:

1. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces;
2. The proposed number of parking spaces to be provided will be adequate to serve each use; and

3. In the case of a shared parking facility that serves more than one property, a parking agreement has been prepared consistent with the provisions of Section TBD, Off-Site Parking Facilities.

F. **Other Parking Reductions.** Required parking for any use may be reduced through approval of a Minor Use Permit as follows.

1. ***Criteria for Approval.*** The review authority may only approve a Minor Use Permit for reduced parking if it finds that:

   a. Special conditions—including, but not limited to, the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site; or because the applicant has undertaken a transportation demand management program—exist that will reduce parking demand at the site;

   b. The use will adequately be served by the proposed parking; and

   c. Parking demand generated by the project will not exceed the capacity of or have a significant impact on the supply of on-street parking in the surrounding area.

2. ***Parking Demand Study.*** In order to evaluate a proposed project's compliance with the above criteria, submittal of a parking demand study that substantiates the basis for granting a reduced number of spaces may be required.

17.21.060 Parking In-Lieu Payments and Parking Management Programs and Districts

A. **Parking Management Programs and Districts.** If parking management programs and districts are established, said formations shall be established consistent with the Coastal Land Use Plan. Assessment district financing and/or an in-lieu fee system may be established in order to provide adequate off-street parking requirements for new development.

B. **Parking Management Plan Area.** Where it can be demonstrated that the reasonable and practical development of commercially zoned property precludes the provision of required off-street parking on the property located within or adjacent to the parking management plan area defined in Figure TBD, Parking Management Plan Area, the Planning Commission may permit the applicant to satisfy parking requirements by payment of an in-lieu parking fee. The Planning Commission will determine the total parking requirements for each individual project at the time of permit review.

1. ***Number of Spaces.*** The number of parking spaces required and used to calculate the in-lieu fee shall be determined according to the provisions of this Chapter and any other applicable provisions of the Zoning Code and the City of Morro Bay Municipal Code.

2. ***Change of Use.*** Any off-street parking satisfied through this provision shall run with the land and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement. No refund of such payment shall be made when there is a change to a use requiring less parking.

3. ***Change of Ownership.*** A change of ownership or the dividing or merging of properties shall not affect an obligation for parking in-lieu fees or a determination that parking requirements have been met according to fees paid for a particular use.

4. ***Fees.*** The fee to be charged for each parking space required shall be set by resolution by the City Council and may be modified from time to time, and shall be payable in accordance with administrative policies established in this chapter. In setting such fees, the City Council shall consider all costs associated with the provision of the necessary parking including planning, design, land acquisition or lease costs and construction of improvements.

5. ***Use of Fees.*** Fees accepted under this provision will be used by the City to provide the additional required parking at another location in lieu of the applicant providing the required off-street parking. Such parking shall be provided within a reasonable distance from the contributing project or within close proximity to public transit providing access to the use. All such fees collected shall be used by the City for the planning, design, acquisition or lease of land, and development and redevelopment of public parking facilities within or adjacent to the parking management plan area and for public transit facilities providing access to said parking.

6. ***Fee Payment.*** The per space fee for new construction, additions or changes in occupancy shall be paid in a lump sum or in accordance with a payment plan approved by both the finance director and the City Administrator, prior to the issuance of construction permits for the structure or occupancy for which the parking is required or prior to the issuance of a City business license for the activity for which the parking is required, if no construction permit is required.

7. ***Conflict with Other Parking Programs.*** Nothing in this Section shall preclude the formation of a Parking Assessment District coterminous with the Parking Management Plan Area. Any property participating in the in-lieu fee program shall be required to participate in the assessment district if a parking assessment district is established. Funds derived from each property through a combination of the in-lieu fee and assessment payments shall equal the fair market value of the cost of converting the required parking into a municipal parking lot, as estimated by the Public Works Director.

8. In-lieu fees accepted by the City shall be credited against a project's full obligation established by an assessment district formula.

17.21.070 Location of Required Parking

A. **Front and Street-Side Setbacks.** Parking spaces required pursuant to this Chapter shall not be located within a required front or street-side setback. See Chapter TBD, Setbacks, for provisions applicable to the parking of vehicles in required setbacks.

B. **On-Site Parking Required.** Required parking shall be located on the same lot as the use it serves except as allowed below.

1. ***Allowance for Off-Site Parking.*** Required parking may be located off-site provided the off-site parking facility is located within 600 feet, along a pedestrian route, of the principal entrance containing the use(s) for which the parking is required.

   a. *Parking Agreement.* A written agreement between the landowner and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:

      i. A guarantee among the landowner for access to and use of the parking facility; and

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

17.21.080 Bicycle Parking

A. **Short-Term Bicycle Parking.** Short-term bicycle parking intended to serve shoppers, customers, messengers, guests and other visitors to a site who generally stay for a short time, shall be provided as specified below.

1. ***Parking Spaces Required.*** For the following uses, the number of short-term bicycle parking spaces shall be at least 20 percent of the number of required automobile parking spaces, with a minimum of four parking spaces provided per establishment.

   a. Multi-unit Residential, Group Residential, and Single Room Occupancy with five or more units.

   b. All uses in the Public and Semi-Public Use Classification.

   c. All uses in the Commercial Use Classification.

2. ***Location.*** Short-term bicycle parking must be located within 50 feet of a main entrance to the building it serves. Where the bicycle parking area is not visible

from the main entrance of the building, signs located at the main entrance of the building shall identify the location of bicycle parking.

a. In the CC District, required short-term bicycle parking may be located in the right-of-way with an encroachment permit issued by the City.

3. ***Anchoring and Security.*** For each short-term bicycle parking space required, a stationary, securely anchored object shall be provided to which a bicycle frame and one wheel (two points of contact) can be secured with a high-security U-shaped shackle lock if both wheels are left on the bicycle. One such object may serve multiple bicycle parking spaces.

4. ***Size and Accessibility.*** Each short-term bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving another bicycle. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five feet from vehicle parking spaces.

B. **Long-Term Bicycle Parking.** Long-term bicycle parking shall be provided in order to serve employees, students, residents, commuters, and others who generally stay at a site for four hours or longer.

1. ***Parking Spaces Required.***

a. *Residential Uses.* A minimum of one long-term bicycle parking space shall be provided for every five units for Multi-Unit Residential, Group Residential, and Single Room Occupancy.

b. *Other Uses.* Any establishment with 25 or more full time equivalent employees shall provide long-term bicycle parking at a minimum ratio of one space per 25 vehicle spaces.

c. *Parking Structures.* Long-term bicycle parking shall be provided at a minimum ratio of one space per 50 vehicle spaces.

2. ***Location.*** Long-term bicycle parking must be located on the same lot as the use it serves and near the facility entrance. In parking garages, long-term bicycle parking must be located near an entrance to the facility. Where the bicycle parking area is not visible from the entrance of the building, signs located at the entrance or in an entry lobby of the building shall identify the location of bicycle parking.

3. ***Covered Spaces.*** At least 50 percent of required long-term bicycle parking must be covered. Covered parking can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures.

4. ***Security.*** Long-term bicycle parking must be in:

a. An enclosed bicycle locker;

b. A fenced, covered, locked or guarded bicycle storage area;

c. A rack or stand inside a building that is within view of an attendant or security guard or visible from employee work areas or within secure/restricted bicycle storage room; or

d. Other secure area approved by the Director.

5. ***Size and Accessibility.*** Each bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving another bicycle. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five feet from vehicle parking spaces.

C. **Bicycle Parking Reductions and Modifications.** A Modification for a reduction in the number of required bicycle parking spaces or to other standards of this Section may be granted pursuant to Chapter TBD, Modifications, if the review authority finds that:

1. Adequate site space is not available on an existing development to provide bicycle parking; or

2. Reduced bicycle parking is justified by reasonably anticipated demand; or

3. Other criteria based on unusual or specific circumstances of the particular case as deemed appropriate by the review authority.

17.21.090 Loading

A. **Loading Spaces Required.** Every new building, and every building enlarged by more than 10,000 square feet of gross floor area that is to be occupied by a manufacturing establishment, storage facility, warehouse facility, retail store, eating and drinking establishment, wholesale store, market, hotel, hospital, mortuary, laundry, dry-cleaning establishment, or other use similarly requiring the receipt or distribution by vehicles or trucks of material or merchandise shall provide off-street loading and unloading areas as follows.

REQUIRED LOADING SPACES

Gross Floor Area	*Required Loading Spaces*
0-10,000	0
10,001-25,000	1
25,001-75,000	2
75,001-150,000	3
150,001+	4 plus 1 per each additional 100,000 over 150,001

1. ***Multi-Tenant Buildings.*** The gross floor area of the entire building shall be used in determining spaces for multi-tenant buildings. A common loading area may be required, if each tenant space is not provided a loading area. Drive-in roll-up doors for multi-tenant industrial projects may be substituted for required loading areas.

2. ***Reduction in Number of Loading Spaces Required.*** The loading space requirement may be waived if the Director finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use and/or location, such loading space will not be needed or is not practical.

3. ***Additional Loading Spaces Required.*** The required number of loading spaces may be increased to ensure that trucks will not be loaded, unloaded, or stored on public streets. Such requirement shall be based on the anticipated frequency of truck pickups and deliveries and of the truck storage requirements of the use for which the on-site loading spaces are required.

B. **Location.** All required loading areas shall be located on the same site as the use served. Loading areas shall not be located within the required front, side, or rear yard setback.

C. **Screening.** Loading areas shall be screened from public view by building walls, or a uniformly solid fence or wall, or any combination thereof, not less than six feet in height.

D. **Minimum Size.** Each on-site loading space required by this Chapter shall not be less than 12 feet wide, 25 feet long, and 14 feet high, exclusive of driveways for ingress and egress, maneuvering areas and setbacks. The minimum size requirement may be modified if the Director finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use, such size will not be needed.

E. **Driveways for Ingress and Egress and Maneuvering Areas.** Each on-site loading space required by this Chapter shall be provided with driveways for ingress and egress and maneuvering space of the same type and meeting the same criteria required for on-site parking spaces. Maneuvering areas shall not encroach into required parking areas, travelways, or street rights-of-way. This requirement may be modified if the Director finds that sufficient space is provided so that maneuvering areas will not interfere with traffic and pedestrian circulation.

F. **Surfacing.** All loading areas shall be paved and improved so as to provide a dust-free surface, and all sites shall be properly drained, consistent with applicable stormwater runoff regulations and subject to the approval of the City Engineer.

17.21.100 Driveways and Drive Approaches

A. **Forward Entry.** Vehicles shall not back onto an arterial street. Parking areas designed to accommodate five or more vehicles shall be provided with suitable maneuvering room so that all vehicles can enter and exit from a public street by forward motion only.

B. **Limited-Access and Arterial Street.** Driveway encroachments shall be restricted onto arterial streets and highways if alternative points of access to the property are feasible or if the City Council has, by resolution, restricted access to the street.

C. **Driveway Separation.** There shall be a minimum of 22 feet of standard curb and gutter between the tops of the driveway transition. In Residential Districts, the required driveway separation only applies to driveways on the subject parcel.

D. **Driveway Transitions.** No part of the driveway transition shall extend closer than one foot to side property line of the property being served by the driveway unless approved by the City Engineer and unless a written agreement is obtained from the adjacent property owner and filed with the City Engineer for recording with the County Recorder. The agreement shall be in a form approved by the City Attorney.

E. **Curb Height.** Full height curbs shall be provided except for locations with approved driveways and/or handicap ramps.

F. **Driveway Length and Accessibility.**

1. ***Driveway Length.*** Driveways providing direct access from a public street to a covered or uncovered parking space shall be at least 20 feet in length except as follows:

   a. *RS-B and RS-C Districts.* The minimum driveway length is 15 feet.

   b. *RS-D District.* The minimum driveway length is 10 feet.

2. ***Accessibility.*** In the Residential Districts, driveways providing access to parking spaces for detached residential single unit development shall be kept free and clear for the required length stated above. Driveways shall not be gated within this minimum distance.

G. **Driveway Width.** The minimum and maximum width of a driveway shall be as follows.

TABLE TBD: DRIVEWAY WIDTH

	Minimum Width (ft)	*Maximum Width (ft)*
All Development	Notwithstanding any other driveway width requirement, no one-way driveway be less than 10 feet in width or a two-way driveway be less than 20 feet in width unless approved by the City Engineer.	Notwithstanding any other driveway width requirement, the total driveway width shall not exceed 50 percent of a lot frontage unless approved by the City Engineer for safety purposes or to avoid awkward vehicle maneuvers.
One-way driveway		
Serving six or fewer spaces, residential development	10	20

TABLE TBD: DRIVEWAY WIDTH

	Minimum Width (ft)	*Maximum Width (ft)*
Serving six or fewer spaces, nonresidential development	12	20
Serving seven to 20 spaces	12	20
Serving 20 or more spaces	20	30
Two-way driveway	20	30

H. **Turnarounds.**

1. Driveways that serve commercial or multi-unit development which exceed 100 feet in depth shall provide a turnaround to ensure that vehicles can safely exit in a forward direction.

2. Driveways that exceed 15 percent slope serving any type of development may also be required to provide turnarounds.

I. **Surfacing.** Driveways shall be surfaced with asphalt or concrete paving or alternative surface as approved by the City Engineer.

1. ***Residential Paved Wheel Tracks.*** For residential uses, in lieu of a full width paved driveway and where the driveway serves only one residence; paved wheel tracks are allowed as long as the tracks are located where the wheel traffic will most probably occur, the tracks are located only behind the sidewalk ramp, each track is at least three and one-half feet apart.

J. **Maximum Slope.**

1. ***Residential Development.*** Driveways serving residential development shall not exceed 15 percent slope unless the City Engineer approves a slope up to 20 percent provided special construction procedures and materials are used.

2. ***Nonresidential Development.*** Driveways serving nonresidential development shall not exceed 10 percent slope.

K. **Visibility.** Visibility of a driveway crossing a street property line shall not be blocked between a height of three feet and nine feet for a depth of five feet from the street property line as viewed from the edge of the right-of-way on either side of the driveway.

L. **Common Access Driveways.** Projects are encouraged to provide shared vehicle and pedestrian access to adjacent nonresidential properties for convenience, safety, and efficient circulation. A joint access agreement guaranteeing the continued availability of the shared access between the properties approved by the Director shall be recorded in the County's Recorders Office, in a form satisfactory to the City Attorney.

M. **Replacement of Curb and Sidewalks of Abandoned Driveway.** The Director of Public Works shall determine whether a driveway has been abandoned. Any such abandoned driveway shall be removed by the owner and replaced with standard curb, gutter and sidewalk to fit the existing line of grade of adjacent standard curb, gutter and sidewalk. The Director of Public Works shall cause an abandoned drive to be removed if it has not been removed within 30 days after the owner has been notified to do so. The procedure for repair and collection of the cost of repair shall be as set forth in Division 7, Part 3, Chapter 22 of the Streets and Highways Code.

17.21.110 Parking Area Design and Development Standards

All parking areas except those used exclusively for stacked or valet parking, shall be designed and developed consistent with the following standards. Parking areas used exclusively for stacked or valet parking are subject only to Subsections H through P. Stacked or valet parking areas which will allow parking at some times without attendants must be striped in conformance with the layout requirements of this Section.

A. **Handicap Parking.** Each parking area where parking is provided for the public as clients, guests, or employees shall include parking accessible to handicapped or disabled persons as near as practical to a primary entrance and in accordance with the standards for the number of spaces, size, location, signing, and markings/striping set for in Chapter 71, "Site Development Requirements for Handicapped Accessibility" of Title 24 of the California Code of Regulations.

B. **Electric Vehicle Charging Stations.** In new parking lots with 10 or more parking spaces, a minimum of one level 2 or fast charging electric vehicle charging station shall be provided for every 10 parking spaces.

C. **Tandem Parking.** Tandem parking may be permitted to satisfy parking requirements in accordance with the following.

1. No more than two vehicles shall be placed one behind the other.
2. Both spaces shall be assigned to a single dwelling unit or nonresidential establishment.
3. Tandem parking to meet required parking for nonresidential uses may be used for employee parking; the maximum number of tandem parking spaces shall not exceed 50 percent of the total number of spaces.
4. Tandem parking to meet required parking for multi-unit development shall be located within an enclosed structure; the maximum number of tandem parking spaces shall not exceed 50 percent of the total number of spaces.
5. Tandem parking shall not be used to meet the guest parking requirement.

D. **Size of Parking Spaces and Maneuvering Aisles.** Parking spaces and maneuvering aisles shall meet the minimum dimensions required by this Subsection. Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces.

1. ***Standard Parking Spaces and Drive Aisles.*** The minimum basic dimension for standard parking spaces is nine feet by 20 feet, with a minimum vertical clearance of seven feet. Table TBD, Standard Parking Space and Aisle Dimensions, provides the dimensions of spaces (stalls) and aisles according to angle of parking spaces. The required aisle width may be modified if the City Engineer finds that sufficient space is provided, so that maneuvering areas will not interfere with traffic and pedestrian circulation.

TABLE TBD: STANDARD PARKING SPACE AND AISLE DIMENSIONS

Angle of Parking	*Stall Width (ft)*	*Curb Length Per Stall (ft)*	*Stall Depth (ft)*	*Aisle Width (ft)*
Parallel	9	20	9	12
30°	9	18	18	12
45°	9	14	19.5	14
60°	9	11	21	18
90°	9	9	20	25

2. ***Compact Parking Spaces.*** In parking areas with four or more parking spaces, up to 25 percent of the required spaces may be reduced to 8.5 feet by 18 feet and labeled “compact”.

3. ***Parking Spaces Abutting a Wall, Fence, or Column.*** The width of each parking space adjoining a wall, fence, column, or other obstruction higher than 0.5 feet shall be increased by one foot on each obstructed side.

4. ***Minimum Dimensions for Residential Garages.*** Garages serving residential uses shall be constructed to meet the following minimum inside dimensions.

   a. A single car garage shall be at least 11 feet wide and 20 feet long.

   b. A garage containing two or more parking spaces shall have a minimum inside dimension of 10 feet in width by 20 feet in length per space.

   c. The minimum vertical clearance shall be seven feet except in the front four feet of the parking space where the minimum vertical clearance is four feet six inches.

d. Garages shall be equipped with an automatic door opener and a roll-up sectional or similar garage door which does not extend onto the apron. A security gate for a multi-unit development is permitted.

E. **Service Vehicle Maneuvering Area.** Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing up unreasonable distances or making other dangerous or hazardous turning movements. The minimum allowable inside turning radius shall be 20 feet. Where fire truck access is necessary, the minimum inside radius shall be 28 feet and the outside radius shall be a minimum of 48 feet.

F. **Pedestrian Circulation.** Parking areas for multi-unit residential developments of five or more units and parking areas for commercial and mixed-use developments that are 80 feet or more in depth and/or include 25 or more parking spaces shall provide pedestrian access that is separate and distinct from driveways, according to the following standards:

1. ***Connection to Public Sidewalk***. An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.

2. ***Materials and Width.*** Walkways shall provide at least five feet of unobstructed width and be hard-surfaced.

3. ***Identification.*** Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces through the use of elevation changes, a different paving material, or similar method.

4. ***Separation.*** Where a pedestrian walkway is parallel and adjacent to an auto travel lane, it must be raised and separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

G. **Parking Lot Striping.** All parking stalls shall be clearly outlined with double striping, and all aisles, approach lanes, turning areas, and entrances shall be clearly marked with directional arrows and lines as required by the City Engineer.

H. **Wheel Stops.** Parking areas designed to accommodate five or more vehicles shall provide concrete bumper guards or wheel stops for all unenclosed parking spaces. A six-inch high concrete curb surrounding a landscape area at least six feet wide may be used as a wheel stop, provided that the overhang will not damage or interfere with plant growth or its irrigation. A concrete sidewalk may be used as a wheel stop if the overhang will not reduce the minimum required walkway width.

I. **Surfacing.** All parking areas shall be paved and improved, and all sites shall be properly drained, consistent with applicable stormwater runoff regulations and subject to the approval of the City Engineer.

1. ***Required Surface.*** All parking areas shall be surfaced with asphalt or concrete paving or alternative surface as approved by the City Engineer.

   a. *Landscaping Alternative.* Up to two feet of the front of a parking space as measured from a line parallel to the direction of the bumper of a vehicle using the space may be landscaped with ground cover plants instead of paving.

2. ***Slope and Drainage.*** Parking areas shall not exceed six percent slope and nor be less than 0.5 percent slope in the direction of drainage. A maximum of 10 percent slope in aisle and turnaround areas may be allowed by the City Engineer.

J. **Perimeter Curbing.** Parking areas designed to accommodate five or more vehicles shall provide a six-inch wide and six-inch high concrete curb along the outer edge of the parking facility pavement, except where said pavement abuts a fence or wall. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

K. **Heat Island Reduction.** In order to reduce ambient surface temperatures in parking areas, at least 50 percent of the areas not landscaped shall be shaded, of light colored materials with a Solar Reflectance Index of at least 29, or a combination of shading and light colored materials.

1. Shade may be provided by canopies, shade structures, trees, or other equivalent mechanism. If shade is provided by trees, the amount of required shading is to be reached within 15 years.

L. **Lighting.** Parking areas designed to accommodate five or more vehicles shall be provided with a minimum of one-half foot-candle and a maximum of 3.0 foot-candles of light over of the parking surface during the hours of use from one-half hour before dusk until one-half hour after dawn.

1. Light poles and standards shall not exceed 20 feet in height unless a greater height is approved pursuant to Chapter TBD, Modifications.

2. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.

3. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Chapter TBD, Lighting and Illumination.

M. **Separation From On-Site Buildings.** Parking areas designed to accommodate five or more vehicles must be separated from the front and side exterior walls of on-site buildings by walkways a minimum of three feet in width. Commercial development with 25,000 square

feet or more of gross floor area must be separated from parking on all sides by a walkway a minimum of five feet in width, as well as a planter area at least three feet in width.

N. **Landscaping.** Parking areas designed to accommodate five or more vehicles must be landscaped according to the general standards of Chapter TBD, Landscaping, as well as the standards of this Subsection.

1. ***Landscape Area Required.*** A minimum of 10 percent of the parking lot area shall be landscaped.

2. ***Minimum Planter Dimension.*** No landscape planter that is to be counted toward the required landscape area shall be smaller than 25 square feet in area, or four feet in any horizontal dimension, excluding curbing.

3. ***Landscaped Planters Between Parking Stalls and at the Ends of Rows of Parking Stalls.*** Parking lot planter areas shall be provided after each five parking spaces in any row and at the ends of each row of parking spaces.

4. ***Landscaped Buffer Adjacent to Right-of-Way.*** A landscaped area at least five feet wide shall be provided between any surface parking area and any property line adjacent to a public street for the length of the parking area.

5. ***Landscaped Buffer Abutting Interior Lot Line.*** A landscaped area at least three feet wide shall be provided between any surface parking area and any interior property line for the length of the parking area.

6. Trees.

   a. *Number Required.* One for every six parking spaces, minimum of two trees per parking area.

   b. *Distribution.* Trees shall be distributed relatively evenly throughout the parking area.

   c. *Size.* All trees shall be a minimum 15-gallon size.

7. ***Protection of Vegetation.***

   a. *Clearance from Vehicles.* All required landscaped areas shall be designed so that plant materials, at maturity, are protected from vehicle damage by providing a minimum two-foot clearance of low-growing plants where a vehicle overhang is permitted, or by wheel stops set a minimum of two feet from the back of the curb.

   b. *Planters.* All required parking lot landscaping shall be within planters bounded by a concrete curb at least six inches wide and six inches high. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

8. ***Visibility and Clearance.***

a. Notwithstanding other provisions of this Chapter, parking area landscaping shall comply with Section TBD, Visibility at Intersections and driveways.

b. Landscaping in planters at the end of parking aisles shall not obstruct driver's vision of vehicular and pedestrian cross-traffic.

c. Mature trees shall have a foliage clearance maintained at eight feet from the surface of the parking area.

d. Other plant materials located in the interior of a parking lot shall not exceed 30 inches in height.

O. **Screening.** Parking areas designed to accommodate five or more vehicles shall be screened along the street frontage and adjacent lots in a Residential District, according to the following standards.

1. ***Height.*** Screening along the street frontage shall be a minimum three feet in height. Screening adjacent to lots in a Residential District shall be a minimum four feet in height.

2. ***Materials.*** Screening may consist of one or any combination of the methods listed below.

a. *Walls.* Low-profile walls consisting of brick, stone, stucco, or other quality durable material approved by the Director, and including a decorative cap or top finish as well as edge detail at wall ends. Plain concrete blocks are not allowed as a screening wall material unless capped and finished with stucco or other material approved by the Director.

b. *Planting.* Plant materials consisting of compact evergreen plants that form an opaque screen.

c. *Berms.* Berms a minimum of two feet in height and planted with appropriate shrubs and ground cover.

P. **Alternative Parking Area Designs.** Where an applicant can demonstrate to the satisfaction of the Director that variations in the requirements of this Section are warranted in order to achieve environmental design and green building objectives, including but not limited to achieving certification under the LEED™ Green Building Rating System or equivalent, an alternative parking area design may be approved.

Q. **Maintenance.** It shall be the duty of the property owner to maintain and repair the parking lot and related improvements in accordance with the above standards and any other conditions imposed at the time of approval. Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times.

Chapter 17.22 Performance Standards (IP)

Note: Draft provisions establish measurable standards for determining if a use or activity creates a nuisance on adjoining property. Existing performance standards of Chapter 17.52, Performance Standards, are incorporated. Standards address dust, fumes, electromagnetic interference, hazardous materials, glare, noise, waste disposal, and vibration.

17.22.010 Purpose

The purposes of this Chapter are to:

A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;

B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions; and

C. Protect industry from arbitrary exclusion from areas of the City.

17.22.020 Applicability

The minimum requirements in this Chapter apply to all land uses in all districts except as provided below.

A. The following uses and activities are exempt from compliance with the requirements of this Chapter:

1. Legal nonconforming uses, which, based on a written opinion of the City Attorney, have an established right not to comply with the provisions of this Chapter.
2. Temporary events with approved Temporary Use Permits or other required permits, where such activities otherwise comply with other applicable provisions of this Title.
3. Any emergency activity on the part of the City or a private party.
4. Temporary construction activity where such activity is explicitly regulated by other regulations of the Municipal Code.
5. Other uses and activities as otherwise specified in this Title.

17.22.030 General Standard

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

17.22.040 Measurement of Impacts

Measurements necessary for determining compliance with the standards of this Chapter shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.

17.22.050 Air Contaminants

Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, unless authorized under federal, State, or local law. Sources of air emissions shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the San Luis Obispo County Air Pollution Control District.

17.22.060 Electromagnetic Interference

No use, activity or process shall cause electromagnetic interference with normal radio and television reception, or with the function of other electronic equipment beyond the lot line of the site in which it is situated. All uses, activities and processes shall comply with applicable Federal Communications Commission regulations.

17.22.070 Fire and Explosive Hazards

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited.

17.22.080 Glare

No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located.

17.22.090 Hazardous and Extremely Hazardous Materials

The use, handling, storage and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities,

processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system or onto the ground.

17.22.100 Heat and Humidity

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property.

17.22.110 Liquid or Solid Waste

A. **Discharges to Water or Sewers.** Liquids and solids of any kind shall not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3 and California Water Code, Division) and any other agency as shall have jurisdiction of such activities.

B. **Solid Wastes.** Solid wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. There shall be no accumulation outdoors of solid wastes conducive to the breeding of rodents or insects, unless stored in closed containers.

17.22.120 Noise

A. **Noise Limits.** No use or activity shall create ambient noise levels that exceed the noise limits established in the General Plan.

1. ***Separation from Noise Sensitive Uses.*** Any business operation with sustained or intermittent noise levels exceeding 70 dB ldn (or CNEL) including, but not limited to, wood or machine milling, air hammers, generators, or prolonged or excessive truck deliveries, are not allowed within 150 feet of residential uses, hospitals, and other noise sensitive uses unless noise levels are mitigated in compliance with this Section.

2. ***Operational Hours.*** All commercial and industrial deliveries and loud commercial activities such as loading and unloading, leaf blowers, bands with loudspeakers within 100 feet of a residential use shall be limited to the hours between 7:00 a.m. and 10:00 p.m.

B. **Acoustic Study.** An acoustic study shall be required for any proposed project which could create or be subject to a noise exposure greater than that deemed “acceptable” by the Noise Element of the General Plan.

C. **Noise Attenuation Measures.** Noise attenuation measures necessary to reduce noise impacts to acceptable levels are required to be incorporated into a project in accordance with the following:

1. All new residential development shall achieve interior noise level reductions through sound insulation and other measures to meet the General Plan land use compatibility standards by acoustical design and construction of the structure and building elements.

2. New dwelling units exposed to an exterior DNL above 65 dB shall incorporate the following noise reduction measures:

   a. All facades must be constructed with substantial weight and insulation;

   b. Sound-rated windows providing noise reduction performance similar to that of the façade must be included for all exterior entries;

   c. Acoustic baffling of vents is required for chimneys, fans, and gable ends; and

   d. Installation of a mechanical ventilation system affording comfort under closed window conditions.

3. Other measures identified in an acoustic study conducted for the proposed project as necessary to reduce noise levels to "acceptable" levels.

D. **Exemptions.** The provisions of this Section, do not apply to:

1. ***Emergencies.*** The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

2. ***Warning Devices.*** Warning devices necessary for the protection of the public safety, such as police, fire, and ambulance sirens.

3. ***Special Events.*** Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided that such events are conducted pursuant to a permit or license issued by the City.

4. ***Religious Facilities and Other Similar Organizations.*** Unamplified bells, chimes, or other similar devices used by houses of religious worship, as such devices are played between the time period of 7:00 a.m. and 10:00 p.m. and the playing period does not exceed 10 minutes in any one hour.

5. ***Municipal Solid Waste Collection.*** Collection of solid waste, vegetative waste, and recyclable materials by the City or under contract with the City.

6. ***Public Works Construction Projects, Maintenance, and Repair.*** Street, utility, and similar construction projects undertaken by or under contract to the City, Alameda County, or the State of California or a public utility regulated by the California

Public Utilities Commission, as well as maintenance and repair operations conducted by such parties, including street sweeping, debris and litter removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, and sidewalks.

7. ***Public Utility Facilities.*** Facilities including, but not limited to, 60-cycle electric power transformers and related equipment, sewer lift stations, municipal wells, and pumping stations.

17.22.130 Vibration

No vibration shall be permitted so as to cause a noticeable tremor, measurable without instruments at the lot line.