

Title 1

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CHAPTER 1.01 CODE ADOPTION

§ 1.01.010. Adoption.

Pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government Code, there is adopted the Martinez Municipal Code, reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted or modified by the provisions of the Martinez Municipal Code.

(Ord. 833 C.S. § 1, 1975; Ord. 1039 C.S. § 1, 1985)

§ 1.01.020. Title—Citation—Reference.

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

(Ord. 833 C.S. § 2, 1975)

§ 1.01.030. Codification authority.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City, codified pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government Code.

(Ord. 833 C.S. § 3, 1975)

§ 1.01.050. Reference applies to all amendments.

Whenever a reference is made to this Code as the "Martinez Municipal Code" or to any portion thereof, or to any ordinance of the City, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

(Ord. 833 C.S. § 5, 1975)

§ 1.01.060. Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning intent of the provisions of any title, chapter or section hereof.

(Ord. 833 C.S. § 6, 1975)

§ 1.01.070. Reference to specific ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

(Ord. 833 C.S. § 7, 1975)

§ 1.01.080. Effect of code on past actions or obligations.

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

(Ord. 833 C.S. § 8, 1975)

§ 1.01.090. Effective date.

This Code shall become effective on the date the ordinance adopting this Code as the Martinez Municipal Code shall become effective.

(Ord. 833 C.S. § 9, 1975)

§ 1.01.100. Constitutionality.

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

(Ord. 833 C.S. § 10, 1975)

CHAPTER 1.04
GENERAL PROVISIONS

§ 1.04.010. Definitions.

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

- A. "City" means the City of Martinez, California, or the area within the territorial limits of the City of Martinez, California, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.
- B. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is a Sunday or a legal holiday, that day shall be excluded.
- C. "Council" means the City Council of the City of Martinez, California. "All its members" or "all Councilmembers" means the total number of Councilmembers provided by the general laws of the State of California.
- D. "County" means the County of Contra Costa.
- E. "Law" denotes applicable federal law, the constitution and statutes of the State of California, the ordinances of the City of Martinez, and when appropriate, any and all rules and regulations which may be promulgated thereunder and to their successors.
- F. "May" is permissive.
- G. "Month" means a calendar month.
- H. "Must" and "shall." Each is mandatory.
- I. "Oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
- J. "Ordinance" means a law of the City; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution.
- K. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, or the whole or a part of such building or land.
- L. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- M. "Personal property" includes money, goods, chattels, things in action and evidences of debt.
- N. "Preceding" and "following" mean next before and next after, respectively.
- O. "Property" includes real and personal property.

- P. "Real property" includes lands, tenements and hereditaments.
- Q. "Sidewalk" means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.
- R. "State" means the State of California.
- S. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
- T. "Tenant" and "occupant," applied to a building or land, include any person who occupies whole or a part of such building or land, whether alone or with others.
- U. "Title of office." Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City.
- V. "Written" includes printed, typewritten, or photocopied.
- W. "Year" means a calendar year.
- X. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a particular and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- Y. When an act is required by an ordinance the same being that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.
- (Ord. 806 C.S. § 1, 1975)

§ 1.04.020. Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City:

- A. Gender. Designation in the form of any gender includes the masculine, feminine and neuter genders.
- B. Singular and plural. The singular number includes the plural and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- D. Use of words and phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.
- (Ord. 806 C.S. § 2, 1975)

§ 1.04.030. Prohibited acts include causing, permitting, etc.

Whenever in the ordinances of the City, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

(Ord. 806 C.S. § 3, 1975)

§ 1.04.040. Construction.

The provisions of the ordinances of the City, and all proceedings under them are to be construed with a view to effect their objects and to promote justice.

(Ord. 806 C.S. § 4, 1975)

§ 1.04.050. Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(Ord. 806 C.S. § 5, 1975)

CHAPTER 1.08
RIGHT OF ENTRY

§ 1.08.010. Procedure.

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided, that except in emergency situations or when consent to the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, 24 hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Ord. 808 C.S. § 1, 1975)

CHAPTER 1.12
ENFORCEMENT

§ 1.12.010. Violations—Penalties.

- A. It is unlawful for any person to violate any provision, or to fail to comply with any of the requirements of the Municipal Code of the City. Any person violating any of the mandatory requirements of the Municipal Code of the City is guilty of a misdemeanor unless specified an infraction.
1. Unless otherwise provided, any person convicted of a misdemeanor under the provisions of the Municipal Code of the City, shall be punished by a fine of not more than \$1,000.00, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.
 2. An infraction is punishable by (a) a fine not exceeding \$100.00 for a first violation; (b) a fine not exceeding \$200.00 for a second violation within one year; (c) a fine not exceeding \$500.00 for each additional violation within one year. Each day that a violation of this Code is committed or continues is a separate offense and is punishable as a distinct and separate offense.
- B. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation any of the provisions of the Municipal Code of the City shall be deemed a public nuisance and may be, by this City, summarily abated as such under the procedures described in Chapter 1.13, and each day such condition continues shall be regarded as a new and separate offense.
- (Prior code § 1200; Ord. 807 C.S. § 1, 1975; Ord. 965 C.S. § 1, 1982; Ord. 1039 C.S. § 3 & 4, 1985; Ord. 1084 C.S. § 2, 1986; Ord. 1273 C.S. § 1, 2000)

§ 1.12.020. Violations—Citations.

- A. If any person is arrested for a violation of the ordinances of the City, and the person is not immediately taken before a magistrate as provided by the Penal Code of the State, or its successor, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time and place when and where the person shall appear in court. The time specified in the notice to appear must be at least 5 days after the arrest. The place specified in the notice to appear shall be:
1. Before a judge of a justice court or a municipal court judge within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and who is nearest and most accessible with reference to the place where the arrest is made; or
 2. Upon demand of the person arrested, before a judge of a justice court or municipal court judge having jurisdiction of the offense at the county seat; or before a judge in the judicial district in which the offense is alleged to have been committed; or
 3. Before an officer authorized by the county to receive a deposit of bail.

The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice, which shall be retained by the officer. The arresting officer shall then forthwith release the person arrested from his custody.

As soon as practicable, the officer shall file the duplicate notice with the magistrate specified therein. The magistrate shall then fix the amount of bail which in his judgment, in accordance with Section 1275 of the Penal Code of the State, or its successor, will be reasonable and sufficient for the appearance of the defendant, and shall endorse on the notice a statement signed by him in the form set forth in Section 815a of the Penal Code of the State, or its successor. The defendant, before the date on which he promised to appear in court, may deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant does not appear either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in the case.

On the making of the order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution under Section 1463 of the Penal Code of the State, or its successor.

No warrant shall issue on the charge for the arrest of the person who has given his written promise to appear in court, unless and until he has violated the promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

- B. Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge on which he was originally arrested.
- C. When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided herein, the magistrate shall issue and have delivered for execution, a warrant for his arrest within 20 days after his failure to appear as promised, or if the person promised to appear before an officer authorized to accept bail other than a magistrate and fails to do so on or before the date which he promised to appear, then, within 20 days after the delivery of the written promise to appear by the officer to a magistrate having jurisdiction over the offense.

When a person violates his promise to appear before an officer authorized to receive bail other than a magistrate, the officer shall immediately deliver to the magistrate having jurisdiction over the offense charged the written promise to appear and the complaint, if any, filed by the arresting officer.

- D. Pursuant to Section 1.12.010, a separate citation for a separate offense may be issued for every day that a violation continues or is committed.
(Prior code § 1201; Ord. 807 C.S. § 1, 1975; Ord. 1039 C.S. § 5 & 6, 1985)

§ 1.12.030. Violations—Infractions.

- A. Violation of the following provisions of the Municipal Code and any terms or conditions imposed by the City on a permit or approval issued under the below-specified provisions

of the Municipal Code are declared to be public offenses and infractions enforced and punishable by: (1) a fine not exceeding \$100.00 for a first violation; (2) a fine not exceeding \$200.00 for a second violation within one year; and (3) a fine not exceeding \$500.00 for each additional violation within one year.

1. Title 5. Business Taxes and Regulations

2. Title 8. Health and Safety.

Chapter 8.08—Protected Trees

Chapter 8.16—Garbage Disposal

Chapter 8.20—Junked or Abandoned Vehicles

Chapter 8.24—Park and Recreation Area Regulations

3. Title 9. Public Peace, Morals and Welfare

Section 9.52.010—Consumption and Possession of Alcoholic Beverages

4. Title 12. City Real Property

Chapter 12.28—Obstruction of Sidewalks

5. Title 13. Utilities

Section 13.04.040—Unauthorized Use of Water

6. Title 16. Sign Code

7. Title 17. Swimming Pool Code

8. Title 21. Subdivision

(Ord. 965 C.S. § 2, 1982; Ord. 1039 C.S. § 7, 1985; Ord. 1069 C.S. § 1, 1986; Ord. 1074 C.S. § 2, 1986; Ord. 1186 C.S. § II, 1992; Ord. 1273 C.S. § 2, 2000; Ord. 1346 C.S. § 3, 2008; Ord. No. 1465, § 2, 11/6/2024)

§ 1.12.040. Violations—Denial of permit.

All departments, commissions, councils, officials and public employees of the City which are vested with the duty or authority to issue and/or approve permits or licenses pursuant to the provisions of the Martinez Municipal Code may withhold the approval and/or issuance of such permits or licenses where a violation of the Martinez Municipal Code exists on the parcel for which such license or permit is sought. Licenses and permits which may be withheld include, but are not limited to, building permits, business licenses, zoning clearance on building permits, certificates of occupancy, conditional use permits, precise development plans, variances, lot line adjustment, subdivisions, and rezonings. When the said violation(s) has been physically abated, permits withheld pursuant to this section may be released. Approval of any discretionary permit may be conditioned upon the physical abatement or elimination of a violation of said Martinez Municipal Code.

(Ord. 1164 C.S. § 1, 1991)

CHAPTER 1.13 NUISANCE ABATEMENT¹

§ 1.13.010. Purpose.

Pursuant to Cal. Gov't. Code § 38771 et seq., the City Council hereby establishes the procedures set forth in this chapter for the purpose of the abatement of public nuisances. The provisions of this chapter shall apply to all properties or portions thereof, in the City of Martinez, whether developed or undeveloped, occupied or unoccupied, for the purpose of providing minimum standards to promote public health, safety, peace, prosperity, and general welfare.
(Ord. No. 1478, 10/22/2025)

§ 1.13.020. Public nuisances included.

The provisions of this chapter shall be applicable to any nuisance heretofore or hereafter defined as a nuisance by any ordinance of the City, section of the Martinez Municipal Code, resolution of the City Council, or statute of the state. A public nuisance further includes any unlawful obstruction or encroachment upon any public property, including but not limited to any public street, highway, right-of-way, park or building. Any condition caused or permitted to exist in violation of any of the provisions of this code or an ordinance of the City shall be deemed a public nuisance and may be abated as such.
(Ord. No. 1478, 10/22/2025)

§ 1.13.030. General enforcement authority.

The Enforcement Officer or designee may issue notices of violation and administrative citations, inspect public and private property, record notices of noncompliance with the Contra Costa County Recorder's Office, and use whatever judicial and administrative remedies are available under this code and other law to enforce any City ordinances, laws, policies, rules, or regulations. More specific provisions regarding administrative or other enforcement authority and procedures for particular violations may exist in this code and shall, to fullest extent permissible, be construed to complement rather than contradict this chapter.
(Ord. No. 1478, 10/22/2025)

§ 1.13.040. Authority to inspect.

The Enforcement Officer or designee is authorized to enter upon any property or premises within the City to ascertain whether code violations exist, and to make any examination and surveys as may be necessary in the performance of their enforcement duties, in accordance with Fourth Amendment of United States Constitution and the related protections of the California Constitution. These inspections may include the taking of photographs, samples, or other physical evidence. All inspection, entries, examinations, and surveys shall be performed reasonably and in accordance with law. If a property owner or occupant or agent thereof refuses to consent to entry and inspection, an Enforcement Officer or designee may seek an administrative inspection warrant pursuant to law.
(Ord. No. 1478, 10/22/2025)

1. Editor's Note: Prior legislation: Ord. 1084 C.S. § 1, 1986; Ord. 1159 C.S., 1990.

§ 1.13.050. Notice of violation and order to abate nuisance.

When the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues which create an immediate danger to public health or safety, or to any violation of Chapter 8.36 (Property Nuisances), an Enforcement Officer or designee may immediately issue a Notice of Violation and Order to Abate to the property owner or occupant. The Notice of Violation and Order to Abate must include the following information:

- A. The ordinance, law, policy, rule, or regulation violated, or condition violated which is imposed by any permit, license, or other approval.
- B. A description of the condition creating or constituting the violation(s).
- C. The address where the violation(s) occurs.
- D. The name of the property owner(s) and the name of the responsible person and any other involved persons known to the Enforcement Officer or designee.
- E. The date and, if relevant, time at which the violation was observed.
- F. A list of any corrections necessary to bring the property into compliance.
- G. A deadline by which to abate the violation(s).
- H. The signature of the Enforcement Officer or designee issuing the Notice of Violation and Order to Abate.
- I. The date the Notice of Violation and Order to Abate is issued.
- J. The process for appealing the Notice of Violation and Order to Abate, including how and the time within which to do so.

(Ord. No. 1478, 10/22/2025)

§ 1.13.060. Notice of violation and order to abate — Method of service.

Except as otherwise provided in Section 1.13.140 (Emergency Abatement of Nuisances):

- A. The Enforcement Officer shall cause the Notice of Violation and Order to Abate to be served on the property owner(s) as shown on the last equalized assessment roll. The City may, in its sole discretion, also serve notice on a tenant, a mortgagor, or any other person having an interest in the property. Service may be made in the following manner:
 - 1. By personal service; or
 - 2. By certified mail, return receipt requested; or
 - 3. If no address is known, then Notice of Violation and Order to Abate shall be given by publication in a paper of general circulation within the City. The notice published shall allow for a minimum of 10 days following publication before proceeding with enforcement remedies.
- B. Should the service by certified mail, return receipt, be returned as "refused or unclaimed," service may be made by posting a copy of the Notice of Violation and Order to Abate prominently and conspicuously upon the property where the nuisance and/or violation exists and mailing a copy of the notice by regular U.S. mail to the property owner(s).

Mailing by regular U.S. mail to the property owner and posting the Notice of Violation and Order to Abate upon the property may occur at the same time as service by certified mail.

When service of the Notice of Violation and Order to Abate is made by personal service, or posting, then proof of service shall be certified at the time of service by a written declaration. When service is made via certified mail, then the card returned in acknowledgment of receipt shall be affixed to a copy of the Notice of Violation and Order to Abate retained by the Enforcement Officer.

- C. Failure to receive notice. The failure of a person to receive a required notice shall not affect the validity of any proceedings taken under this chapter.

(Ord. No. 1478, 10/22/2025)

§ 1.13.070. Notice of violation and order to abate — Time extension.

- A. The property owner or the occupant may request an extension of the date for abatement of the nuisance specified in the Notice of Violation and Order to Abate. Such request must be in writing and include:

1. An explanation of the circumstances necessitating an extension; and
2. A suggested alternative performance date.

- B. The Enforcement Officer or designee shall have the discretion to grant an extension based on:

1. That unique circumstances exist which require additional time to abate the nuisance; and
2. The property owner or occupant has made a good faith effort to comply with the Notice of Violation and Order to Abate.

- C. If the Enforcement Officer or designee believes an extension of the date should be granted, then the Enforcement Officer shall notify the party requesting an extension of the new performance deadline.

(Ord. No. 1478, 10/22/2025)

§ 1.13.080. Notice of violation and order to abate — Appeal.

A property owner and/or a tenant, mortgagor, or any other person served a Notice of Violation and Order to Abate may appeal the Notice of Violation and Order to Abate no later than 15 days after the Notice of Violation and Order to Abate is served. The appeal request must be in writing, specifying the basis for the appeal in detail, accompanied by the appeals processing fee established by resolution of the City Council, and filed with the City as indicated in the Notice of Violation and Order to Abate. No appeal shall proceed without payment of the fee at the time the appeal is filed unless waived or deferred by the City upon written request for good cause shown. Failure to timely submit a written request for an appeal or to pay the appeals processing fee constitutes a waiver of the right to appeal, a failure to exhaust administrative remedies, and shall preclude judicial review. Upon timely submission of a written request for an appeal and payment of the appeals processing fee, the City shall schedule a hearing before the City Council.

- A. Appeal hearing notice. At least 10 days prior to a hearing before the City Council, notice of such hearing shall be served to the property owner of the affected premises in the manner

prescribed in Section 1.13.060, and in a form approved by the City Attorney or designee.

- B. Hearing. At the time stated in the Appeal Hearing Notice, the City Council shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony from property owners, witnesses, City personnel, affected neighbors, and any other interested persons relative to such alleged public nuisance and to proposed abatement of such nuisance. The burden of proof shall be on the property owner or occupant to show cause why the property should not be declared a public nuisance and subject to abatement.
- C. Final order to abate. If, after the Appeal Hearing, the City Council finds that a public nuisance exists and that there is sufficient cause to warrant abatement of such nuisance, then the City Council shall by minute order or resolution issue a Final Order to Abate containing:
 - 1. A statement declaring the condition a public nuisance under this chapter;
 - 2. A summary of findings of fact, conclusions, and recommendations with respect to abatement;
 - 3. A list of needed corrections and abatement methods;
 - 4. A time limit within which the nuisance must be abated at the property owner's and/or occupant's expense, specifying that if the property owner and/or occupant fails to do so, that the nuisance shall be abated by the City or private contract, at the property owner's and/or occupant's expense.

The City Manager or designee shall cause the Final Order to Abate to be served upon the property owner and/or occupant of the premises in accordance with the notification provisions of Section 1.13.060. Any property owner and/or occupant shall have the right to comply with the Final Order to Abate at the property owner's and/or occupant's own expense; provided, that the same is done prior to the expiration of the abatement period set forth in the Final Order to Abate. Upon abatement in full by the property owner and/or occupant, then proceedings under this chapter shall terminate.

- D. Abatement by city. If such nuisance is not completely abated by the property owner and/or occupant in accordance with the Final Order to Abate within the given time period, then the City Manager or designee shall cause the same to be abated by the City or private contract. Costs for abatement may be established in accordance with Section 1.13.090 and collected, if necessary, pursuant to Section 1.13.100 et seq.

(Ord. No. 1478, 10/22/2025)

§ 1.13.090. Abatement/enforcement cost recovery — Establishing costs.

When proceedings under the Municipal Code result in the correction of a code violation or in a final judgment that a violation exists, then all costs of such proceedings and abatement incurred by the City may be assessed against the property owner(s) against whom the cost of abatement is being charged or against whose property an abatement lien or special assessment may be imposed for the cost of abatement.

- A. Costs. Such costs may include, but are not limited to, those actual costs incurred in inspecting the property, publication, mailing and posting of notices, physical abatement through demolition, repair or replacement of buildings, removal of graffiti or other

inscribed material, law enforcement costs directly related to nuisance abatement, and all other costs incurred by the City in initiating administrative proceedings and legal actions to enforce abatement activities, including reasonable attorneys' fees. It is the purpose of this section to allow the City to assess its costs for correcting any violation against the property, subject to any limitations imposed under law.

- B. Attorneys' fees. Pursuant to Cal. Gov't. Code § 38773.5(b), attorneys' fees may be recovered by the prevailing party. However, in no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.
- C. Accounting abatement costs/report of costs. The Enforcement Officer or designee, in coordination with the Finance Department, shall keep an account of the administrative and other costs of abatement, and shall submit to the City Council for confirmation an itemized written report showing such costs and their proposed assessment to the respective properties. The report shall be filed with the City Clerk or designee not later than 10 days in advance of the confirmation hearing required below.
- D. Public hearing to confirm report of costs. Upon receipt of the report of costs, the City Clerk or designee shall schedule a public hearing to receive protests and confirm the report.
- E. Notice of public hearing confirming report of costs. Notice of the time, date, and place of the public hearing on the proposed assessment, together with reference to the report on file with the City Clerk, shall be given in accordance with subsection G of this section to the (1) property owner(s) and/or occupant, as the person responsible for the code violation; and (2) the property owner or owners of the real property on whose property an abatement lien or special assessment may be imposed, as shown on the last equalized assessment roll available on the date of mailing of the notice.
- F. Time for giving notice. The Notice of Public Hearing to confirm a report of costs shall be served in accordance with subsection G of this section not later than 10 days in advance of the hearing.
- G. Service of notice.
 - 1. Notice to property owner. Notice to the property owner or owners of each property proposed to be assessed shall be served in accordance with Section 1.13.060.
 - 2. Notice in newspaper. Notice of the time, date, and place of the public hearing by the City Council shall be published once in a newspaper of general circulation published within the City. Such publication shall be made no later than 10 days in advance of the hearing.
 - 3. Service effective. Service shall be complete and effective as of the date of mailing or publication, as may be appropriate, as herein provided. The failure of any person to receive such notice shall not affect the validity of any proceedings taken pursuant to this section.
- H. Proof of service. Proof of service by mail shall be achieved in the manner set forth in Section 1.13.060. Proof of service by publication shall be certified by written declaration under penalty of perjury executed by the person authorized to do so by the newspaper of general circulation declaring the date the notice was published by a newspaper of general

circulation within the City, and a copy of the published notice shall be affixed to such declaration.

- I. Protests. Protest or objection to all or part of the report of costs may be in writing or may be given orally at the public hearing for confirmation of the report of costs. Written protests or objections to all or part of the report of costs shall specify the public hearing date, hour, description of the subject property, and reason(s) for the protest or objection.
- J. Public hearing by city council — Confirmation of costs. During the public hearing, the City Council may make such revision, correction, or modification of the report or the charge as it may deem just; and in the event the City Council is satisfied with correctness of the charge, the report (as submitted or as revised, corrected, or modified) shall be confirmed or rejected by resolution. The decision of the City Council on the report of costs and on all objections or protests shall be final and conclusive.
- K. Personal obligation. If, after the public hearing at which each responsible party or property owner shall have the opportunity to address the issue, the City Council orders the charge to be a personal obligation of the individuals involved, then it shall direct the Finance Department to collect the amount of the charge on behalf of the City by use of all appropriate legal remedies. If unable to collect this obligation, then the City may refer the case to the City Attorney or designee to file a court action to recover the costs.
- L. Special assessment. If, after the public hearing at which each property owner shall have the opportunity to address the issue, the City Council orders the charge be assessed against the property, then it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against the property. A special assessment lien shall have the priority of a tax lien.
- M. Nuisance abatement lien. If, after the public hearing at which each property owner shall have the opportunity to address the issue, the City Council orders the charge be assessed against the property as an abatement lien authorized by Cal. Gov't. Code § 38773.1, as an alternative to the special assessment procedure described above, then it shall confirm the lien amount, cause the same to be recorded in the Contra Costa County Recorder's Office and from the date of recording shall have the force, effect, and priority of a judgment lien.
- N. Service of confirmed report of costs. Promptly following confirmation of the report by the City Council, the City Clerk or designee shall serve upon the responsible party, or owner or owners, a copy of the confirmed report of costs in accordance with subsection G of this section. The confirmed report of assessment shall include the following items:
 - 1. The amount of the confirmed costs;
 - 2. Demand that the same be paid in full to the City within 15 days from the date of service; and
 - 3. A statement that failure to receive payment within the time allotted shall result in the costs becoming a personal obligation of the property owner, a special assessment against the subject property, or a nuisance abatement lien against the subject property.

(Ord. No. 1478, 10/22/2025)

§ 1.13.100. Abatement/enforcement cost recovery — Assessments and liens.

- A. Cost recovery if not paid within 15 days. If the costs as confirmed have not been received by the City within 15 days of the date notice thereof is effective, and the City Council has ordered that such costs be assessed against a property, then the costs shall be assessed against the parcel of land, as a special assessment or an abatement lien, as authorized by Cal. Gov't. Code § 38773.1. Collection of the special assessment shall be in the same manner as ordinary county taxes, and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment. An abatement lien may be foreclosed by an action brought by the City for a money judgment.
- B. Transfer to bona fide purchaser. If, subsequent to the service of the City Council's notice and order assessing costs, and prior to notice being given to the tax collector for collection as set forth in subsection A of this section, the property subject to the notice and order is sold, or title otherwise transferred to a bona fide purchaser for value, said costs shall be the responsibility of the property owner of record as of the date said notice and order was placed in the United States postal system or posted on the property, whichever is later.
- C. Remedies cumulative. In addition to assessing the unpaid costs as provided in subsection A of this section, the Finance Director or designee may pursue any remedy provided by law for collection of the unpaid costs.

(Ord. No. 1478, 10/22/2025)

§ 1.13.110. Abatement/enforcement cost recovery — Treble costs.

Pursuant to Cal. Gov't. Code § 25845.5, upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that a property owner is responsible for a condition that may be abated pursuant to Cal. Gov't. Code § 25845, a court may order the property owner to pay treble the costs of abatement.

(Ord. No. 1478, 10/22/2025)

§ 1.13.120. Abatement/enforcement cost recovery — Assessment for summary abatement.

Where the charge to be made is the result of emergency abatement pursuant to Section 1.13.140, the City Council may determine whether the action to abate was proper, and may confirm the report of cost or not as it may deem proper. Such determination shall be final and conclusive.

(Ord. No. 1478, 10/22/2025)

§ 1.13.130. Abatement/enforcement cost recovery — Time to contest assessment.

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is ordered to be placed upon the assessment roll as provided herein.

(Ord. No. 1478, 10/22/2025)

§ 1.13.140. Emergency abatement of nuisances.

- A. Whenever there is imminent or immediate danger to the public by the existence or continuance of any nuisance endangering the public health, welfare, or safety, arising from any act, condition, use or occupation of property, or otherwise amounting to a nuisance per se, it is the duty of the City to abate such nuisance.

- B. Such abatement shall not occur unless the Director of Public Works or designee finds, from a preponderance of the evidence, that such an imminent or immediate danger exists, and has provided or attempted to provide the property owner of the property in question, or person responsible for permitting the danger to occur, reasonable notice within which to correct the condition, and the necessary corrective action has not taken place. 24 hours shall be presumed to be reasonable notice in the absence of evidence to the contrary. Notice hereunder need not take any particular form, and may be dispensed with if the exigencies of the situation require immediate abatement and/or providing reasonable notice is impracticable.
- C. The procedures set forth in Sections 1.13.090 and 1.13.100 shall apply to emergency abatement provided hereunder, except as modified herein.
(Ord. No. 1478, 10/22/2025)

§ 1.13.150. Construction schedule.

Where a property has been declared a public nuisance pursuant to this chapter and the abatement of such nuisance requires structural repairs, alterations, or other construction work necessitating a building permit, the property owner shall be required to apply for and obtain all necessary building permits prior to commencing any corrective work and any application for such permits shall be accompanied by a proposed, detailed schedule for completion of all required corrective work and inspections thereof, which schedule shall be subject to review, modification, and approval by the Building Official.
(Ord. No. 1478, 10/22/2025)

§ 1.13.160. Public nuisance by judicial decree.

If a public nuisance has been declared by judicial decree, after the defendant(s) receive(s) notice of entry of judgment as prescribed by laws, and the time within which an appeal may be filed has expired, or, if an appeal has been filed but no stay order has been secured, all procedures of Sections 1.13.090 through 1.13.100 shall be applicable, and shall be followed in the same manner as if a resolution by the City Council had been passed declaring a public nuisance to exist.
(Ord. No. 1478, 10/22/2025)

§ 1.13.170. Provisions not exclusive regulations.

The provisions of this chapter are not the exclusive regulations for the abatement of nuisance. They shall supplement and be in addition to other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, County, or any other legal entity or agency having jurisdiction.
(Ord. No. 1478, 10/22/2025)

CHAPTER 1.15
ADMINISTRATIVE CITATIONS²

§ 1.15.010. Authority.

This chapter is adopted pursuant to Cal. Gov't. Code §§ 36901 and 53069.4, and the general police powers of the City of Martinez under California Constitution Article XI, Section 7.
(Ord. No. 1478, 10/22/2025)

§ 1.15.020. Purpose.

- A. The purpose of this chapter is to provide for administrative penalties, in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of a City ordinance, any provisions of this Code, including adopted codes, conditions to entitlements or contracts, permits, licenses, and environmental documents issued or approved by or on behalf of the City. Use of the provisions of this section shall be at the sole discretion of the City.
- B. This chapter is adopted in order to achieve the following goals:
 - 1. Protect the health, safety and welfare of the City and the general public;
 - 2. Provide an administrative process for imposing and appealing administrative penalties, and for enforcing such penalties;
 - 3. Penalize responsible parties who fail or refuse to comply with any City ordinance, this Code, including adopted codes, conditions to entitlements or contracts, permits, licenses, and environmental documents issued or approved by or on behalf of the City;
 - 4. Minimize expense and delay where the alternative remedy is to pursue responsible parties in the civil or criminal justice system.

(Ord. No. 1478, 10/22/2025)

§ 1.15.030. Definitions.

- A. **ADMINISTRATIVE CITATION** Means a citation issued pursuant to this chapter imposing an Administrative Fine.
- B. **ADMINISTRATIVE COSTS** Means all direct and indirect costs incurred as a result of an Administrative Citation hearing, including, but not limited to, reasonable attorney fees, and costs relating to the initial review, scheduling, and processing of the administrative hearing.
- C. **ADMINISTRATIVE FINE** Means the fine or penalty imposed on the Responsible Person for an Administrative Violation.
- D. **ADMINISTRATIVE VIOLATION** Means any violation of this Code, applicable statutory provisions, ordinances, uniform codes adopted by the City, orders issued by a commission, board, or other body authorized to issue orders, or any conditions or requirements imposed on or by any entitlement, permit, or environmental document issued or approved by the City.

2. Editor's Note: Prior legislation: Ord. 1320 C.S. § 2, 2005.

- E. CONTINUING VIOLATION Means any Administrative Violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue that does not create an imminent hazard to health or safety. A Continuing Violation does not include an Administrative Violation that can be corrected by the Responsible Party through the immediate cessation or discontinuation of any prohibited activity or by the immediate implementation of a required activity as determined by the Issuing Department.
- F. ENFORCEMENT COSTS Means all direct and indirect costs incurred by the Issuing Department in investigating, inspecting, or abating any Administrative Violation, including, but not limited to, noncompliance fees and costs incurred in preparing for and attending an Administrative Citation hearing.
- G. ENFORCEMENT OFFICER Means any police officer, inspector, or other employee or agent of the City having the power to enforce any Administrative Violation, including Enforcement Officers of non-City entities that have the authority to perform such enforcement through agreements with any City Departments.
- H. ISSUING DEPARTMENT Means the City department or office that has authority and responsibility for enforcing Administrative Violations subject to an Administrative Citation, including non-City entities that have the authority to perform such enforcement through agreements with any City Departments.
- I. MINOR Means any person under the age of 18 years.
- J. RESPONSIBLE PERSON Means any person, as defined in Section 1.04.010, who is any of the following:
 - 1. A person who causes or materially contributes to the causation of an Administrative Violation;
 - 2. A person who maintains or allows an Administrative Violation to continue by his or her action or inaction;
 - 3. A person whose agent, employee, or independent contractor causes or materially contributes to the causation of an Administrative Violation;
 - 4. An on-site manager of a business who is responsible for the activities occurring at the premises where an Administrative Violation occurs;
 - 5. A trustee or other person who is given the legal authority to manage property on behalf of someone else where an Administrative Violation occurs;
 - 6. A person who is a parent or guardian having custody and control of a Minor who contributes to the causation of an Administrative Violation;
 - 7. A person who is the owner of, or who exercises control over, or any lessee or sublessee with the current right of possession of, real property where a property related Administrative Violation occurs.

(Ord. No. 1478, 10/22/2025)

§ 1.15.040. Issuance of administrative citations.

- A. Except as provided in subsection B of this section, whenever an Enforcement Officer

determines that an Administrative Violation has occurred, whether or not committed in their presence, the Enforcement Officer is authorized to issue an Administrative Citation to the Responsible Person(s). If the Responsible Person is a Minor, the Enforcement Officer is authorized to issue an Administrative Citation to the parent(s) or guardian(s) having custody and control of the Minor. Notification of the Administrative Violation to the holder of any lease, mortgage, deed of trust, or other encumbrance of record shall conform to the policies and procedures established by the Issuing Department.

- B. When the Administrative Violation pertains to a Continuing Violation that does not create an immediate threat to health or safety, a reasonable period of time to correct the Administrative Violation must be afforded to the Responsible Person prior to issuing an Administrative Citation. If the Administrative Violation is remedied prior to the expiration of the correction period, no Administrative Citation shall be issued for that Administrative Violation. However, the Responsible Person shall remain liable for and shall pay the Enforcement Costs associated with the Administrative Violation.
1. Notwithstanding subsection B of this section, when the violation pertains to building, plumbing, electrical or other similar structural or zoning regulations as a result of, or to facilitate, the cultivation of cannabis proscribed by this Code, an Administrative Citation may be immediately issued unless all of the following are true:
- a. A tenant is in possession of the property; and
 - b. The property owner provides evidence that the rental or lease agreements prohibits the cultivation of cannabis; and
 - c. The property owner could not have known of the illegal cannabis cultivation.
- C. Each Administrative Violation shall constitute a separate and distinct offense subject to an Administrative Fine, as provided for in this chapter. Each and every day an Administrative Violation exists shall constitute a separate and distinct offense subject to an Administrative Fine, as provided for in this chapter.
- D. An error in an Administrative Citation is subject to correction without affecting the validity of the citation. A copy of the Notice of Correction shall be served on the Responsible Party in accordance with Section 1.15.050.

(Ord. No. 1478, 10/22/2025)

§ 1.15.050. Service of citation.

- A. An Administrative Citation in a form developed by the Issuing Department and subject to the approval of the City Attorney may be issued to the Responsible Person(s) by an Enforcement Officer for Administrative Violations in any of the following manners:
- 1. Personal service. The Enforcement Officer may personally serve the Administrative Citation on the Responsible Person(s). If the Responsible Person is a Minor, the Enforcement Officer shall also attempt to serve the Administrative Citation on the parent(s) or guardian(s) having custody and control of the Minor. Failure or refusal to sign an Administrative Citation shall not affect the validity of the Administrative Citation and subsequent proceedings.
 - 2. Mail. The Administrative Citation may be mailed to the Responsible Person by First

Class Mail. If the Responsible Person is known to be a Minor, the Administrative Citation shall be mailed to the parent(s) or guardian(s) having custody and control of the Minor by First Class Mail. Service shall be deemed effective on the date of mailing.

- a. If the Responsible Person is the property owner where a property related Administrative Violation occurs, the Administrative Citation shall be sent to the mailing address shown on the County's last equalized property tax assessment rolls (if any), and the last known address of the Responsible Person.
 - b. If the Responsible Person is the tenant or other possessor of property where a property related Administrative Violation occurs, the Administrative Citation shall be sent to the property address.
3. Posting. For real property-related violations of the Code, if service cannot be accomplished personally or by mail, the Enforcement Officer may post the Administrative Citation on the real property where the violation is alleged to have occurred. Service shall be deemed effective at the time of posting.
- B. The failure of any Responsible Person to receive such notice shall not affect the validity of any proceedings taken under this section.
- C. An Administrative Citation shall contain the following information:
1. The date, approximate time and address (or definite description of the location where no address exists) where the violation(s) existed or occurred;
 2. The name and mailing address, if any, of the Responsible Person;
 3. The section(s) of this Code or applicable Federal or State laws, codes, or regulations violated and a description of the violation(s);
 4. Description of correction action required and compliance date, where appropriate;
 5. The amount of the Administrative Fine for the violation, the date by which the fine is due and payable to the City and an explanation of how the fine shall be paid;
 6. An explanation that each and every day an Administrative Violation exists shall constitute a separate and distinct offense subject to an Administrative Fine;
 7. The process for appealing the issuance of the Administrative Citation, including how and the time within which to do so; and
 8. The name of the Enforcement Officer and the date of issuance.
- (Ord. No. 1478, 10/22/2025)

§ 1.15.060. Maximum Fine.

Unless otherwise specified in this Code, notwithstanding Chapter 1.12 (Enforcement), the Administrative Fine for a violation determined to be an infraction shall not exceed:

- A. A fine of \$100 for a first violation.
- B. A fine of \$200 for a second violation of the same ordinance within one year of the first

violation.

- C. A fine of \$500 for each additional violation of the same ordinance within one year of the first violation.
- D. Notwithstanding Chapter 1.12 (Enforcement), the Administrative Fine for a violation of local building and safety codes determined to be an infraction shall not exceed:
 - 1. A fine of \$130 for a first violation.
 - 2. A fine of \$700 for a second violation of the same ordinance within one year of the first violation.
 - 3. A fine of \$1,300 for each additional violation of the same ordinance within one year of the first violation.
 - 4. A fine of \$2,500 for each violation of the same ordinance within two years if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the property owner to remove visible refuse or failure to prohibit unauthorized use of the property.
- E. Notwithstanding Chapter 1.12 (Enforcement), the Administrative Fine immediately imposed for commercial cannabis activity undertaken without a license as required by Division 10 (commencing with Cal. Bus. & Prof. Code § 26000) of the Business and Professions Code shall not exceed \$1,000 per violation and shall not exceed \$10,000 per day.
- F. Pursuant to Cal. Gov't. Code § 36900, a Responsible Party may request a hardship waiver to reduce the amount of the fine imposed pursuant to this section. A hardship waiver for a fine reduction may be requested no later than 14 calendar days after the Administrative Violation is served. This Responsible Party is required to make a showing that they have made a bona fide effort to comply after the first violation and that payment of the full amount would impose an undue financial burden on them. The head official of the Issuing Department or their designee is charged with reviewing fine reduction requests. Any Responsible Party receiving a fee reduction pursuant to this paragraph retains the right to appeal the Administrative Violation pursuant to Section 1.15.070. The 21 calendar day appeal period of Section 1.15.070 shall not be extended due to any fine reduction request pursuant to this paragraph.
- G. Each and every day during any portion of which any violation is committed, continued, or permitted shall be deemed a separate and distinct violation for purposes of setting the Administrative Fine pursuant to this section.
- H. The penalty imposed shall be payable to the City, or to a collection agency if the penalty has been assigned to a collection agency.

(Ord. No. 1478, 10/22/2025)

§ 1.15.070. Administrative appeal.

- A. Initial review. The Responsible Person may contest an Administrative Citation no later than 21 calendar days after the Administrative Violation is served. The appeal request must be in writing, specifying the basis for the appeal in detail, and filed with the City as indicated in the Administrative Citation. The Initial Review will be completed by the head official of

the Issuing Department or their designee.

1. If, following the initial review, the citation is upheld, the Responsible Person shall be notified by mail and informed of their obligation to pay the Administrative Fine within 15 days of the mailing, or of their right to request an Administrative Hearing.

B. Administrative hearing.

1. If the Responsible Person chooses to contest the outcome of the Initial Review, within 15 days of the mailing of the results of the Initial Review, the Responsible Person shall submit a written request, on an official form provided by the City, requesting an Administrative Hearing before the City Council. Said form, hereinafter referred to as a Request for Administrative Hearing, shall include an advance deposit in the full amount of the Administrative Fine or \$1,000, whichever is less, or written proof of financial hardship as specified below. A hearing shall be scheduled when the aforementioned conditions are met.
 - a. A Responsible Person who fails to submit a Request for Administrative Hearing within 15 days, or who fails to make the required deposit or provide written proof of financial hardship, will have waived the right to contest the Initial Review and shall pay the Administrative Fine in accordance with the timeline set forth in subsection A. 1 of this section.
 - b. In lieu of the advance deposit required, written proof of financial hardship, which shall be in the form of a declaration signed by the Responsible Person under penalty of perjury, along with supporting documentation as specified by the City, shall be filed with the Request for Administrative Hearing.
2. The Administrative Hearing shall be set for a date that is not less than five days from the date of mailing of the notice of hearing. The notice of hearing shall state the date, time and place of the hearing and direct the property owners or occupant and other responsible parties to appear and show cause why the administrative fine should not be imposed. The notice of the hearing shall be sent by first class mail postage prepaid, return receipt requested.
3. The City Council may, in its discretion, grant or deny a continuance of the hearing date upon a request by the Responsible Party or the Issuing Department and a showing of good cause.

C. Failure to attend a hearing.

1. If the Responsible Person or his or her representative fails to attend the scheduled hearing, he or she shall be deemed to have waived his or her right to an Administrative Hearing. Under these circumstances, the City Council shall find the Responsible Person in default, and shall issue a written notice to that effect. A default under this section shall constitute a forfeiture of the Administrative Fine and a waiver of any right to challenge the assessed Enforcement Costs and Administrative Costs. A default under this section shall also be a bar to judicial review of the City Council's decision based upon failure to exhaust administrative remedies. A default under this provision may be set aside by the City Council at the request of the Responsible Party upon a showing of good cause for failing to appear at the Administrative Hearing.

2. A Responsible Person who has been issued an Administrative Citation and who has requested an administrative hearing to challenge the citation as provided in this chapter may request in writing that his or her challenge to the citation be withdrawn and the hearing cancelled. Upon receipt of a request to withdraw a challenge to the Administrative Citation, the City shall cancel the pending hearing, and issue a written notice to that effect. A withdrawal under this subsection shall constitute a forfeiture of the Administrative Fine and a waiver of any right to challenge the assessed Enforcement Costs and Administrative Costs. A withdrawal under this subsection shall also be a bar to judicial review based upon failure to exhaust administrative remedies.
3. If a financial hardship waiver was granted and the Responsible Person is in default as provided above or a challenge to the citation is withdrawn pursuant to above, the Administrative Fine, Enforcement Costs, and Administrative Costs shall be due and payable by the Responsible Person(s) to the City within 15 calendar days following the date that had been set for the Administrative Hearing.

D. Procedures at the administrative hearing.

1. The City Council shall preside at the hearing and hear all facts and testimony presented and deemed relevant. The hearing is informal in nature, and formal rules of evidence and discovery do not apply. The proceedings shall be audio-recorded by the City. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
2. The City Council shall only consider evidence that is relevant to whether the violation(s) occurred and whether the recipient of the Administrative Citation has caused or maintained the violation(s) on the date(s) specified in the Administrative Citation.
3. The City bears the burden of proof at an administrative hearing to establish the existence of the Administrative Violation specified on the citation. The City Council shall use preponderance of the evidence as the standard of proof in deciding the issues.
4. The Administrative Citation and any additional documents submitted by the Issuing Department shall be accepted by the City Council as prima facie evidence of the respective facts contained in those documents. The Enforcement Officer may attend the hearing but is not required to do so.
5. Each party shall have the opportunity to testify, cross-examine witnesses, and present witnesses and evidence in support of his or her case. Written and oral evidence submitted at the hearing shall be submitted under penalty of perjury. Documentary and other tangible evidence must be authenticated to the satisfaction of the City Council. Nothing shall preclude the use of telephonic or other electronic means of communication if deemed appropriate by the City Council.
6. The City Council may continue the hearing as necessary. The decision of the City Council shall be final upon adoption of an order containing its determination.

7. The City Council's decision shall include that an aggrieved party may file a petition for review with the California Superior Court, County of Contra Costa, pursuant to Cal. Gov't. Code § 53069.4. The failure of a responsible party to appear at the Administrative Hearing shall be deemed a failure to exhaust administrative remedies.

E. Decision of the City Council.

1. After considering all of the testimony and evidence submitted at the hearing, the City Council shall, within 15 days thereafter, render a decision in writing. The decision rendered by the City Council is not exclusive and does not preclude or foreclose the City Attorney's Office from pursuing any and all other remedies provided by law. The City Council shall render a decision as follows:
 - a. Determine that the Administrative Violation specified in the citation is founded, and impose an Administrative Fine in the amount set forth in the citation and if the Administrative Violation has not been corrected as of the date of the hearing, order correction of the Administrative Violation; or
 - b. Determine that the Administrative Violation specified in the citation is founded, but that the Administrative Fine was incorrectly assessed with the Administrative Fine schedules as provided for in Section 1.15.060, warranting imposition of a lesser or greater Administrative Fine than that prescribed in the citation and impose a lesser or greater Administrative Fine and, if the Administrative Violation has not been corrected as of the date of the hearing, order that the Administrative Violation be corrected; or
 - c. Determine that the Administrative Violation specified in the citation is founded, but that the Issuing Department or the Responsible Party has introduced credible evidence of aggravating or mitigating circumstances warranting imposition of a lesser penalty than that prescribed in this Code, and impose a lesser Administrative Fine, and if the Administrative Violation has not been corrected as of the date of the hearing, order that the Administrative Violation be corrected; or
 - d. Determine that the Administrative Violation specified in the citation did not occur and cancel the Administrative Fine; or
 - e. Dismiss the Administrative Violation in the interests of justice and cancel the Administrative Fine; and
 - f. Determine the amount of the Enforcement Costs and associated Administrative Costs to be imposed, if any.
2. The Administrative Order shall include the reasons for the decision and be served on all parties by any one of the methods listed in Section 1.15.050 or through service by first-class mail, postage prepaid on the Responsible Person(s) at the address he or she provided in the Request for Administrative Hearing. In addition to the matters set forth above, the decision rendered by the City Council shall address the following:
 - a. Administrative fines.
 - i. If the City Council imposes an Administrative Fine, the City shall keep the funds deposited at the time of the hearing request. If the deposited funds

are less than the Administrative Fine, the Responsible Person(s) shall pay the outstanding amount of the Administrative Fine to the City within 15 calendar days of the Administrative Order becoming final. If the deposited funds equal more than the Administrative Fine, the City shall promptly refund the appropriate amount of the funds to the Responsible Person(s).

- ii. If the City Council determines that the Administrative Violation specified in the citation did not occur and cancels the Administrative Fine, then the City shall promptly refund the amount of funds deposited by the Responsible Person at the time of the hearing request and no Enforcement Costs or Administrative Costs shall be assessed.

b. Enforcement costs and administrative costs.

- i. Enforcement Costs. The Administrative Order shall assess all reasonable Enforcement Costs to be paid by the Responsible Person. The Responsible Person(s) shall pay the Enforcement Costs to the City within 15 calendar days of the Administrative Order becoming final.
- ii. Administrative Costs. The Administrative Order shall assess all reasonable Administrative Costs to be paid by the Responsible Person. The Responsible Person(s) shall pay the Administrative Costs to the City within 15 calendar days of the Administrative Order becoming final.

c. The Administrative Order shall become final on the date of mailing or other service.

F. Neither imposition nor payment of an Administrative Fine shall relieve the Responsible Person from his/her obligation to correct the violation, nor shall it bar further enforcement action by the Enforcement Officer.

G. The time requirement for filing a request for hearing form shall be deemed jurisdictional and may not be waived. If no timely appeal is filed, the Administrative Citation and fee set forth therein is final.

(Ord. No. 1478, 10/22/2025)

§ 1.15.080. Judicial review of administrative hearing decision.

A. Once an Administrative Order becomes final as provided in this section, no further appeal may be filed pursuant to the provisions of this Code, except as provided for in this section, or as otherwise provided by law.

B. Once an Administrative Order becomes final, the time in which judicial review of the order must be sought shall be governed by Cal. Civ. Proc. Code § 1094.6.

C. Should any court of competent jurisdiction determine that the City must provide an appeal to any final Administrative Order in a manner other than set forth in Cal. Civ. Proc. Code § 1094.6, then it is the intent of the City Council that the administrative penalty process remain as provided herein and to provide that any appeal which is timely requested follow the procedures set forth in Cal. Gov't. Code § 53069.4.

(Ord. No. 1478, 10/22/2025)

§ 1.15.090. Payment and collection of penalties.

- A. Any Responsible Person who is issued an Administrative Citation pursuant to this section and does not pay within 21 calendar days of service of the citation or in accordance with a due date set forth following an Initial Review or Administrative Hearing shall be assessed a late payment fee of 50% of the original amount of the citation.
- B. The City may use any civil legal remedy available to collect any unpaid Administrative Fine, including, but not limited to: civil action; injunctive relief; Franchise Tax Board Intercept; specific performance; and the recordation of a lien, a notice of the Administrative Violation, or notice of noncompliance against real property with the Contra Costa County Recorder's Office and in accordance with applicable law. The City may assess additional fees to cover the costs of collection of any unpaid Administrative Fine.
- C. The City may withhold issuance of licenses, permits and other entitlement for any property whenever an Administrative Fine resulting from an Administrative Violation on that property remains unpaid or the owner of the property has outstanding, unpaid administrative penalties for violations of the Code.

(Ord. No. 1478, 10/22/2025)

§ 1.15.100. Remedies and penalties.

- A. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive. The payment of penalties by or on behalf of any Responsible Party shall not relieve such Responsible Party from the responsibility of correcting, removing or abating the violation, nor prevent the enforced correction, removal or abatement thereof.
- B. Each and every day during any portion of which any violation of any City ordinance(s), any section(s) of this Code, or any violation of other authorities subject to this chapter is committed, continued, or permitted by such responsible party(ies), shall be deemed a separate and distinct violation.

(Ord. No. 1478, 10/22/2025)

CHAPTER 1.16
GRAFFITI ABATEMENT³

3. Editor's note: Former Ch. 1.16, Graffiti Abatement, which derived from Ord. 1190 C.S. § 1, 1992, Ord. 1221 C.S. § 1, 1995, and Ord. 1262 C.S. § 1, 1999, was repealed by Ord. No. 1478, 10/22/2025.

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CHAPTER 2.04 CITY MANAGER

§ 2.04.010. Office established—Appointment.

The office of City Manager is established. The City Manager shall be appointed by the City Council solely on the basis of an objective evaluation of his administrative qualifications, he need not be a resident of the City at the time of his appointment and he shall hold office at the pleasure of the City Council. No person elected or appointed to membership on the City Council shall, subsequent to such election or appointment, be eligible for appointment as City Manager until 1 year has elapsed following the expiration of the last term for which he was elected or appointed.

(Prior code § 2205(a))

§ 2.04.020. Removal—Hearing.

The City Council at any time, by majority vote, may remove the City Manager. The Council's action in removing the City Manager shall be final and its discretion shall be uncontrolled. At the time the Council votes to remove the City Manager it may or may not grant a public hearing at its sole discretion. If such hearing is granted the hearing shall be held in not less than 7 days nor more than 30 days from the time the Council votes to remove the City Manager.

(Prior code § 2205(b))

§ 2.04.030. Bond.

If required by the City Council, the City Manager shall furnish, at City expense, a surety bond in such sum as the City may determine.

(Prior code § 2205(c))

§ 2.04.040. Administration.

The City Council and its members shall deal with the administrative services through the City Manager and neither the City Council nor any members thereof shall give any orders to subordinates of the City Manager, including all City department heads.

(Prior code § 2205(d); Ord. 1333 C.S. § 1, 2007; Ord. 1389 C.S. § 1, 8/19/2015)

§ 2.04.050. Powers and duties.

The City Manager shall be the administrative head of the City Government under the direction and control of the Council, except as otherwise provided for by ordinance. He or she shall be responsible to the City Council for the efficient administration of the affairs of the City. In addition to the City Manager's general powers as administrative head, and not as a limitation thereon, he or she shall have the following duties:

- A. To see that all laws and ordinances are fully enforced;
- B. To employ, all City employees, including department heads, to discipline or remove all City employees, including all City department heads, to transfer employees from one department to another, and to consolidate or combine officers, positions or departments under his or her jurisdiction notwithstanding the foregoing; the City Manager shall have the authority to hire and terminate the Chief of Police with the advice and consent of the

City Council; however nothing herein contained shall apply to the City Treasurer or City Attorney; provided further, the authority given the City Manager under the terms of this subdivision shall be subject to any civil service or personnel system now or hereafter established by ordinance;

- C. To exercise control over all departments and divisions of the City Government and over all appointive officers and employees thereof;
- D. To attend all meetings of the Council, except when his removal is under consideration, unless excused therefrom by the Council;
- E. To recommend to the Council such measures and ordinances as he deems necessary or proper;
- F. Serve as purchasing agent and as such make all purchases in behalf of the City except where the laws of the State require sealed bids, in which case he shall lay before the Council such information as may assist them in calling for bids and awarding contracts;
- G. Serve as personnel officer under Section 2.68.120 of this Code;
- H. Approve all warrants drawn upon the City Treasurer;
- I. Serve as director of emergency services;
- J. Consolidate departmental budget requests and prepare budgets for Council review and adoption, be responsible for administration of the City budget after its adoption;
- K. Investigate all complaints in relation to all matters concerning the administration of the government of the City;
- L. Investigate all complaints made to the City with regard to services maintained by public utilities in the City, to insure that the provisions of franchises, permits, privileges and contracts granted by the City are faithfully observed;
- M. Perform such other duties as may, from time to time, be delegated by the Council;
- N. To prepare and recommend to the City Council a salary plan;
- O. To prepare and submit to the City Council an organization chart showing the organizational plan for all departments of the City Government;
- P. To devote his or her entire time to the duties and interests of the City; and
- Q. To execute documents specified in California Government Code Section 40602 whenever it is inconvenient for the Mayor to do so and provided such documents have been approved by the City Council for execution by resolution, motion, minute order or other appropriate action.

(Prior code 2205(e); Ord. 809 C.S. § 1, 1975; Ord. 1039 C.S. § 8, 1985; Ord. 1252 C.S. § 1, 1998; Ord. 1333 C.S. § 2, 2007; Ord. No. 1385 C.S., § 1, 4/1/2015; Ord. 1389 C.S. § 1, 8/19/2015; Ord. No. 1466, § 2, 11/6/2024)

CHAPTER 2.06
CITY CLERK

§ 2.06.010. City clerk—Appointment.

Effective December 18, 2024, the City Clerk shall be appointed by the City Manager.
(Ord. No. 1466, § 3, 11/6/2024)

CHAPTER 2.08
CITY COUNCIL MEETINGS

§ 2.08.010. Regular meetings.

Meetings of the City Council shall be held at the City Hall Building, 525 Henrietta Street, between Alhambra Avenue and Castro Street, in the City of Martinez or such other place located within the City limits designated by the City Council.

The regular meetings of the City Council shall be held on the 1st and 3rd Wednesdays of every month at the hour of 7:00 p.m.; provided, that when the regular meeting date falls upon a holiday the meeting shall be held on the next day thereafter at 7:00 p.m.

(Prior code § 2100; Ord. 920 C.S. § 1, 1980; Ord. 1039 C.S. § 9, 1985; Ord. 1180 C.S. 1992; Ord. 1237 C.S. 1997)

§ 2.08.020. Special meetings.

Special meetings may be called at any time by the Mayor or by three Councilmembers by delivering written notice to each Councilmember and to each local newspaper of general circulation, radio or television station requesting same in writing. Such meeting may be held at any place specified in the notice of the special meeting. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified therein.

(Prior code § 2101; Ord. 1039 C.S. § 10, 1985)

§ 2.08.030. Quorum and majority vote.

- A. A majority of the members of the City Council shall constitute a quorum for the transaction of business except a Councilmember who has a conflict of interest pursuant to the Political Reform Act of 1974 shall not be counted towards the establishment of a quorum unless that Councilmember's participation is legally required for the action or decision to be made.
- B. Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the City Council. The adoption of urgency ordinances shall require the affirmative vote of 4 Councilmembers for passage.
- C. For all other matters, unless the law provides otherwise, a majority vote of those Councilmembers voting shall be necessary for the adoption of any motion, except that a motion shall not be deemed adopted unless at least 2 Councilmembers have voted for it. The vote of any Councilmember abstaining or otherwise failing to vote on a motion or resolution shall not be considered a vote for or against the motion or resolution. Instead, and except in those cases where a Councilmember abstains because s/he has a conflict of interest under the Political Reform Act of 1974, an abstention or failure to vote shall be considered as consent to the will of the majority as expressed by the majority vote on the motion or resolution.

(Ord. 1276 C.S. § 1, 2000; Ord. 1327 C.S. § 1, 2006)

§ 2.08.040. Presiding officer.

The Mayor shall preside at all meetings of the City Council; or, in case of his absence, a Mayor pro tem, appointed by the Council, shall preside. In case of the absence of the Clerk, the Deputy City Clerk shall act in his stead. If there is none, the Mayor or Mayor pro tem shall appoint 1 of

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the Councilmen as City Clerk pro tem.
(Prior code § 2103)

CHAPTER 2.12
CITY ENGINEER

§ 2.12.010. Duties.

It shall be the duty of the City Engineer to give, or cause to be given, the corners, lines or survey of lots, and the proper grade of the sidewalks, curb, gutters and storm drains fronting all buildings, blocks or lots with plot or certificate of same, when applied to for that purpose. For such service, the party requiring such work done shall pay all lawful charges for the same. When required by the City Council or any City contractor for work in the City, he shall furnish the lines, grades and measurements and calculations for any street or other City work. The City Engineer shall prepare and recommend revisions to standard plans and specifications for all public services construction and enforce the same. The City Engineer shall review and approve all Public Services Improvement Plans for compliance with the City Standards or good engineering practices and inspect the same on behalf of the City. He shall review all maps, deeds and land descriptions to assure technical accuracies.

(Prior code 2203; Ord. 1039 C.S. § 11, 1985; Ord. 1069 C.S. § 1, 1986)

§ 2.12.020. Records of surveys and public improvements.

The City Engineer shall keep a record of all Improvement Plans for Public Services and surveys and measurements made under the provisions of this chapter. All records of surveys and all calculation books pertaining to street or other public works, with all maps, plans and profiles in which the City can in any manner be interested, shall be and remain the property of the City, and shall be kept in a secure place open to public inspection; and all such books, plans, maps and profiles shall be carefully preserved by the City Engineer and transmitted to his successor in office.

(Prior code § 2204; Ord. 1039 C.S. § 12, 1985)

CHAPTER 2.16
CITY TRAFFIC ENGINEER

§ 2.16.010. Office established.

The office of City Traffic Engineer is established. The City Traffic Engineer shall be appointed by the City Manager and he shall exercise the powers and duties as provided in this Chapter, and Title 10 of the Martinez Municipal Code. Whenever the City Traffic Engineer is required or authorized to place and/or maintain official traffic-control devices or signals, he may cause such devices or signals to be placed and/or maintained.

(Prior code § 3201)

§ 2.16.020. Powers and duties.

It shall be the general duty of the City Traffic Engineer to determine the installation and proper timing and maintenance of traffic-control devices and signals, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering and traffic investigations of traffic conditions and to cooperate with other City officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this City. Whenever, by the provisions of this Chapter and Title 10, a power is granted to the City Traffic Engineer or a duty imposed upon him, the power may be exercised or the duty performed by his deputy or by a person authorized in writing by him.

(Prior code § 3201.1; Ord. 1039 C.S. § 13, 1985)

CHAPTER 2.20
FINANCE DEPARTMENT

§ 2.20.010. Finance division—Duties generally.

The Finance Division shall be supervised by a department head responsible for the administration of financial matters for the City who shall be appointed by the City Manager and shall remain in office, until ordered discharged or removed therefrom by the City Manager. With the approval of the City Manager, the department head responsible for the administration of financial matters may delegate any of the powers and duties conferred upon him or her as such officer under this Chapter to any other officer or employee in the City. The department head for the Finance Division shall:

- A. Supervise the Finance Division;
- B. Cooperate with the City Treasurer and other officials of the City in establishing and maintaining sufficient and satisfactory procedures and controls over municipal revenues and expenditures in all departments, divisions and services of the City in accordance with modern municipal accounting practice.

(Prior code § 2206(a); Ord. 1333 C.S. § 3, 2007)

§ 2.20.020. Director—Financial and accounting duties.

In accordance with the provisions of Section 40805.5 of the Government Code, the financial and accounting duties imposed upon the City Clerk under Sections 40802 through 40805 of the Government Code are hereby transferred to the Director of Finance.

(Prior code § 2206(b))

§ 2.20.030. Department—Duties and responsibilities.

The Finance Department shall be vested and charged with the following duties and responsibilities:

- A. Maintain and operate the general accounting system of the City and of each of the respective departments, divisions and services thereof;
- B. Perform such accounting functions and duties in accordance with the latest and most modern accounting methods as the science of accounting progresses;
- C. Keep and maintain, or prescribe and require the keeping and maintaining of inventory records of municipal properties necessary in accordance with modern municipal accounting practices;
- D. Assume, maintain and perform all functions and duties relating to the administration of property taxes, sales taxes and license taxes levied by the City, and of the collection thereof;
- E. Assume and perform all municipal functions and duties relating to the preparation, auditing, presenting and disbursement of claims and demands against the City, including payrolls;
- F. Assist the City Manager in the purchase of all supplies, goods, wares, merchandise, equipment and material which may be required by the City;

G. Assist the City Manager in the preparation of the annual budget and in the administration thereof.

(Prior code § 2206(c))

§ 2.20.040. Department—Reports.

The Finance Department shall prepare and present the following to the City Manager for transmittal to the City Council, in sufficient detail to show the exact financial condition of the City:

A. A quarterly, or more frequently as may be desired, statement of all receipts, disbursements and balances of the City;

B. An annual statement and report of the financial condition of the City;

C. Such other financial reports as may be required by the City Manager or by request of the City Council.

(Prior code § 2206(d))

§ 2.20.050. Department—Additional duties.

The Finance Department shall perform such additional duties and functions as may be hereafter prescribed or required by the City Manager, with the City Council's approval, as evidenced by the adoption of a resolution.

(Prior code § 2206(e))

CHAPTER 2.24
CITY PLANNING COMMISSION

§ 2.24.010. Membership and compensation.

There is created a City Planning Commission consisting of 7 members to be appointed by the Mayor of the City, subject to approval by the City Council. The City Attorney shall act as advisor of the Planning Commission. Residence within the corporate limits of the City shall be a requisite for membership in the City Planning Commission. Members of the Commission may receive compensation for their services, the compensation shall be fixed by the City Council.
(Prior code § 2700; Ord. 812 C.S. § 1, 1975)

§ 2.24.020. Terms.

Members shall serve at the pleasure of the Council for 4-year terms.
(Prior code § 2700.1; Ord. 812 C.S. § 2, 1975)

§ 2.24.030. Rules of procedure.

The Planning Commission shall adopt rules of procedure by resolution.
(Prior code § 2700.2; Ord. 812 C.S. § 2, 1975)

§ 2.24.040. Vacancies.

All vacancies on the Commission or in its offices shall be filled according to the method of their original selection, and such new members of offices shall serve at the pleasure of the Council for the unexpired term of their respective predecessors.
(Prior code § 2700.3; Ord. 812 C.S. § 2, 1975)

§ 2.24.050. Meetings—Officer selection—Notices—Quorum.

Members of the Planning Commission shall meet at such times and places as they may fix by resolution. They shall select one of their members as chairperson and another as vice-chairperson, who shall serve in the absence of the chairperson, and both shall serve for one year until their successors are elected. In case of their absence, the members of the Commission shall select a chairperson pro tem. The Planning and Building Director shall serve as Secretary to the Planning Commission, but shall have no vote. Special meetings may be called at any time by the chairperson, or four members, by written notice served upon each member of the Commission and to each newspaper of local circulation or any other news media requesting same in writing. Such notice must be delivered at least twenty-four hours before the time of such meeting as specified therein. All meetings of the City Planning Commission shall be public. Four members of the Commission shall constitute a quorum for the transaction of business. The Commission shall cause a proper record to be kept of its proceedings.
(Prior code § 2701; Ord. 1039 C.S. § 14, 1985)

§ 2.24.060. Powers and duties.

The Planning Commission shall have the powers and duties provided by law and shall act and be guided by the statute now or hereafter applicable to planning commissions.
(Prior code § 2702; Ord. 812 C.S. § 1, 1975)

§ 2.24.070. Expenses.

No expenses of any kind shall be incurred by the Commission unless first authorized and approved by the City Council.

(Prior code § 2703)

CHAPTER 2.26
DESIGN REVIEW COMMITTEE

§ 2.26.010. Membership and compensation.

There is created a Design Review Committee composed of five members, with each member appointed by the Mayor of the City, subject to approval by the City Council. Members may receive compensation for their services, if approved by the City Council.
(Ord. No. 1077 C.S. § I, 1986)

§ 2.26.020. Powers and responsibilities.

The Committee shall be advisory to the Planning Commission and staff on Design Review applications under Section 22.34.030 et seq. of the Martinez Municipal Code, as referred to the Committee by the Community Development Director. If requested, the Committee may also assist the City Council, and other City Boards and Commissions, in reviewing other design review issues throughout the City. The Committee shall not adopt policy but may recommend the adoption of ordinances or other planning regulations directly related to design review. The Committee shall have no authority or power to hire or fire City staff or to require City staff to perform any tasks in behalf of or for the Committee or its members.
(Ord. No. 1077 C.S. § I, 1986; Ord. No. 1196 C.S. § I, 1993)

§ 2.26.030. Qualifications and terms.

- A. The Mayor shall strive to make membership appointments from each of the groups listed below. This composition is meant to be advisory.
- B. Two committee members to be architects licensed in the State of California or with demonstrated knowledge and skills in the design field, two members to be landscape architects licensed in the State of California, or possessing a degree in landscape architecture from an accredited college, or possessing a certificate from the California Nurserymen's Association, and the remaining member to be a member of the public or a member of the Planning Commission. Members shall serve two-year terms. Initial appointments shall be effective November 1, 1986, with three members serving initial one-year terms, to provide for staggered terms.

Members shall continue to serve on the Committee even after their term has expired until their replacement has been appointed or until the member has been reappointed. Members shall be Martinez residents or otherwise qualified professionals familiar with the City.
(Ord. No. 1077 C.S. § I, 1986; Ord. 1104 C.S. § 1, 1987; Ord. No. 1196 C.S. § II, 1993)

§ 2.26.040. Chair and staff.

The Committee shall annually in June elect one member to serve as Chair. Staff to the Committee shall be the Community Development Director, or a staff member as selected by the Director. However, the intent of establishing the Committee is to supplement the staff resources available to the Planning Commission. It is the intent that this Committee be an informal working group that can meet with staff and the applicant to help achieve the City's design review goals.
(Ord. No. 1077 C.S. § I, 1986; Ord. No. 1196 C.S. § I, 1993)

§ 2.26.050. Meetings.

Three members shall constitute a quorum. Regular meetings shall be held on a date determined by the Committee and staff in relation to regular Commission meetings. Special meetings may be called as needed on one day's notice by the Director with the concurrence of the Chair. All meetings of the Committee are subject to the Brown Act.

(Ord. No. 1077 C.S. § I, 1986)

§ 2.26.060. Disclosure.

All members and alternates shall file disclosure statements in Category A under the City's Conflict of Interest Code.

(Ord. No. 1077 C.S. § I, 1986)

§ 2.26.070. Procedure.

The Committee may adopt Rules of Procedure. Insofar as possible, review by the Committee shall take place concurrently with, and as an integral part of, the normal City staff review of a project. A summary of committee comments shall be incorporated in the staff report to the Planning Commission.

(Ord. No. 1077 C.S. § I, 1986)

§ 2.26.080. Removal.

All members sit on the Committee at the pleasure of the Mayor and City Council, and shall be subject to removal at will and for any or no reason by a $\frac{4}{5}$ vote of the City Council.

(Ord. No. 1077 C.S. § I, 1986)

CHAPTER 2.32
CEMETERY COMMISSION

§ 2.32.010. Creation of cemetery commission.

- A. There is hereby created a Cemetery Commission consisting of five (5) members who shall be appointed by the City Council. Residence within the corporate limits of the City shall be a requisite for membership on the Cemetery Commission. The City Council will appoint two members to terms expiring June 30, 1982 and three members whose terms expire June 30, 1983. All subsequent appointments shall be for four years or until a successor's appointment is confirmed.
- B. Members of the Commission shall serve without compensation.

§ 2.32.020. Organization of the commission.

Annually, the members of the Commission shall meet in regular session and elect from their members a chairperson and a vice-chairperson. These officers shall perform the normal and customary duties associated with these officers. Officers shall hold office for one year, or until their successors are elected.

The Commission shall adopt rules and regulations to govern procedure and shall by vote set a time for regular meetings which will normally be held once each month and shall determine the manner in which special meetings may be held and the notice given. A majority of the regular members shall constitute a quorum.

Minutes of the Commission meetings shall be filed with the City Clerk and copies shall be forwarded to the City Council and the City Manager.

§ 2.32.030. Duties and responsibilities.

The duties of the Cemetery Commission shall be to do the following:

- A. Act in an advisory capacity to the City Council, City Manager and Public Services Director, in all matters pertinent to cemetery care and maintenance.
- B. Make recommendations to the Public Services Director concerning preparation of the annual budget and capital improvement program.
- C. Make recommendations for a long-range plan, including a list of priorities for restoration of Alhambra Cemetery.
- D. Make recommendations for annual care and maintenance of Alhambra Cemetery.
- E. To continue the "Adopt a Pioneer Gravesite" program, being responsible for issuing certificates and obtaining historical information on the pioneer whenever possible.
- F. To plan and conduct an annual Pioneer Day, an annual cleanup day prior to Memorial Day, and if necessary an annual cleanup day in the fall of the year.
- G. To assist the City staff in preparing and maintaining a master map of the Cemetery plots.
- H. To encourage and solicit volunteer contributions of work and/or expertise in restoration of the Cemetery.

- I. To encourage volunteers to work on a project of writing a general history of the Alhambra Cemetery to be printed in simple form with copies to be made available to the public at "cost of printing".
- J. To assist the City staff in applying for federal and state funds to be used in restoration and maintenance of Alhambra Cemetery.
- K. To review the annual report of the Tavan Trust Fund for Alhambra Cemetery.
(Ord. 929 C.S. § 1, 2, & 3, 1980; Ord. 1039 C.S. § 15, 1985; Ord. 1069 C.S. § 1, 1986)

CHAPTER 2.34
VETERANS' COMMISSION

§ 2.34.010. Membership and compensation.

There is hereby created a Veterans' Commission consisting of seven (7) members who shall be appointed by the City Council. Residence or employment within the corporate limits of the City shall be requisite for membership on the Veterans' Commission. The City Council shall appoint three (3) members to terms expiring June 30, 1992, and four (4) members whose terms shall expire June 30, 1993. All subsequent appointments shall be for four years or until a successor's appointment is confirmed. Members of the commission shall serve without compensation.

§ 2.34.020. Organization of the commission.

Annually, the members of the Commission shall meet in regular session and elect from their membership a Chairperson and a Vice-Chairperson. These officers shall perform the normal and customary duties associated with these offices. Officers shall hold office for one year or until their successors are elected.

The Commission shall adopt rules and regulations to govern procedure and shall, by vote, set a time for regular meetings which will normally be held every other month and shall determine the manner in which special meetings may be held and notice given. A majority of the regular members shall constitute a quorum.

Minutes of the Commission meetings shall be filed with the City Clerk, and copies shall be forwarded to the City Council and the City Manager.

§ 2.34.030. Duties and responsibilities.

The duties of the Veterans' Commission shall be to do the following:

- A. Act in an advisory capacity to the City Council, City Manager, and/or his designees in all matters pertinent to Veterans' memorials care and maintenance.
- B. To plan and conduct events honoring Veterans.
- C. Make recommendations for a long-range plan, including a list of priorities for enhancement to the Veterans' memorials.
- D. Make recommendations for annual care and maintenance of the Veterans' memorials.
- E. Make recommendations to the Public Works Director concerning preparation of the annual budget and capital improvement program as related to Veterans' memorials projects.
- F. To sponsor fund-raising activities to allow for continued improvements and financing of Veterans' memorials.
- G. To assist City staff in applying for funding, which may be available to improve and maintain Veterans' memorials.
- H. To encourage and solicit monetary contributions and volunteer labor or expertise for improvement of Veterans' memorial sites.

(Ord. 1130 C.S. § I, 1989)

CHAPTER 2.38
PARK, RECREATION, MARINA AND ARTS COMMISSION

§ 2.38.010. Commission established.

- A. The Park, Recreation, Marina and Arts Commission shall consist of nine members and one alternate who shall be appointed by the Mayor. Residence within the corporate limits of the City shall be a requisite for membership on the Park, Recreation, Marina and Arts Commission. The Mayor will make appointments for staggered terms of office. Three of the terms shall expire on June 30, 2011, two terms shall expire on June 30, 2012 and two terms shall expire on June 30, 2013. All subsequent appointments shall be for four years or until a successor's appointment is confirmed. Any vacancies shall be filled by appointment by the Mayor, and affirmed by the vote of the City Council.
- B. The Mayor shall strive to make initial membership appointments from each of the Commissions (Arts and Library Commission, Marina Commission, and the Park and Recreation Commission). New appointments to the PRMAC shall be made by the Mayor and ratified by the City Council.
- C. Members of the Commission shall serve without compensation.
- D. To facilitate time efficient decision-making and recommendations to the full commission, the PRMAC will utilize ad hoc and/or standing sub-committees as needed and as staff resources permit. No sub-committee meetings will take place without a City staff member present.

(Ord. No. 1351 C.S., § 2, 1/21/2009; Ord. No. 1355 C.S., § 1, 7/21/2010; Ord. No. 1467, § 1, 1/15/2025)

§ 2.38.020. Organization of the commission.

- A. Annually, the members of the Commission shall meet in regular session and elect from their members a chair and a vice-chair. These officers shall perform the normal and customary duties associated with these offices. Officers shall hold office for one year or until their successors are elected. Elections for chair and vice-chair will generally take place in October of each year and the newly elected chair and vice-chair will assume their positions on the 1st of the New Year. There are no term limits for these positions.

The City Council will adopt rules and regulations (bylaws) to govern the activities of the PRMAC. The PRMAC and/or staff determine the regular meeting day that is in the best interest of the Commission, the meeting day may be changed by a majority vote of the PRMAC. A special meeting may be called by staff with approval from the chair to address critical time sensitive issues or by a majority vote of the Commission.

- B. A majority of the regular members will constitute a quorum.
- C. Minutes of the PRMAC meetings will be taken at each regular and special meeting and will be presented to the PRMAC for approval after preparation at the next regular meeting of the PRMAC after which said minutes are ready for PRMAC approval. After approval, the minutes will be filed and made available to the public consistent with the City's records retention policy.
- D. Agenda preparation. The staff assigned to the PRMAC will develop the draft agenda for

each regular and/or special meeting based upon business items carried over from previous PRMAC agendas, action items needing PRMAC discussion, deliberation and/or recommendation, new projects or programs, current project updates and/or programs moving forward, requests from the public, minute approval, and informational items.

1. Agenda review. The staff assigned to the PRMAC will discuss the draft agenda with the Chair to jointly review and approve.
2. Agenda posting. The staff assigned to the PRMAC will ensure that the agenda for each regular or special meeting will be published consistent with the City's policy and State Brown Act requirements.
3. The scope and depth of agenda items and reports will be provided within the parameters of the staff and available resources.

(Ord. No. 1351 C.S., § 2, 1/21/2009; Ord. No. 1355 C.S., § 1, 7/21/2010; Ord. No. 1467, § 1, 1/15/2025)

§ 2.38.030. Duties and responsibilities.

The duties of the Park, Recreation, Marina and Arts Commission shall be:

A. Act in an advisory capacity to the City Council:

1. In all matters pertinent to public recreation, arts, parks, and open space, and to cooperate with other governmental agencies and civic groups in the advancement of park planning and recreation programming; and
2. Policies and procedures pertaining to the use, improvement and utilization of the City's marina; and
3. Policies and procedures pertaining to the implementation and coordination of public events in city parks, public art displays, including public murals and art works, music and arts festivals, drama presentations, and special events to stimulate local and regional interests; and
4. Policies and procedures pertaining to the coordination of library; and
5. Opportunities to partner with nonprofit and professional organizations that promote parks, open space, recreation and art in the community.

B. Make recommendations to the staff assigned to the PRMAC concerning preparation of the bi-annual budget and capital improvement plans for park and recreation programs, marina, library services and art programs.

C. Make recommendations to the staff assigned to the PRMAC concerning preparation of an annual budget for various events, fundraising activities and programs sponsored by the City. Promote and actively solicit funding for expansion of these and other arts services to the community.

D. Review and provide input on the following program and funding areas:

1. Open space areas, recreation and park areas and facilities; and
2. Marina use by members of the public as well as members of the Martinez Yacht Club;

and

3. Library facility, program and hours;
 4. Arts, library and literary events.
- E. Review, upon referral from the Planning Commission, tentative subdivision maps and make recommendations to the Planning Commission and City Council regarding park dedication fees, open space and trails.
- F. Make periodic appraisals of:
1. The recreation program and make inspections of recreation and park facilities and report findings to staff assigned to the PRMAC; and
 2. The marina program and make inspections of the marina's facilities and report its findings to staff assigned to the PRMAC; and
 3. The arts and library programs and report findings to the staff assigned to the PRMAC.
- G. Formulate recommendations to the City Council and Planning Commission pertaining to the development of long-range plans for park, recreation and marina development, arts and library programs in the City and review annually the long-range plans including the Parks Master Plan, the General Plan Update and other documents as may be required and make recommendations as needed or requested.
- H. Hear public comment on policies and procedures related to parks, recreation, the Martinez Marina and library programs.
- I. Commission members will notify the staff person in charge of the PRMAC of their absence from a PRMAC meeting at least 24 hours before a scheduled meeting. Giving insufficient notice repeatedly may result in removal from the Commission.
- J. The role of the chair and/or vice chair is to:
1. Ensure that the meetings proceeds in a logical manner according to the agenda and Roberts Rules of Order;
 2. Ensure that all commission members are heard and respected;
 3. Manage input received from the public during the meeting; and
 4. Work with staff to enhance overall meeting effectiveness.
- (Ord. No. 1351 C.S., § 2, 1/21/2009; Ord. No. 1355 C.S., § 1, 7/21/2010; Ord. No. 1467, § 1, 1/15/2025)

CHAPTER 2.42
DIVERSITY AND CULTURAL COMMISSION

§ 2.42.010. Commission established.

- A. There is established a City Diversity and Cultural Commission.
- B. The Diversity and Cultural Commission shall consist of seven regular members who shall be appointed by the City Council. Six Commission members shall reside within the corporate limits of the City or be owners or employees of a business located within the City which holds a valid City business license. One Commission member shall be a resident within the Sphere of Influence of the City of Martinez. The City Council will appoint three members to terms expiring June 30, 2026, and four members whose terms expire June 30, 2028. All subsequent appointments shall be for four years or until a successor's appointment is confirmed.
- C. In addition to the seven members of the Commission as described above, the City Council shall appoint two alternate members who either reside in the corporate limits of the City or be owners or employees of a business located within the City which holds a valid City business license. Alternate members do not have voting rights unless they are participating in the meeting in the absence of a regular member.
- D. Members of the Diversity and Cultural Commission shall serve without compensation.
(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.020. Organization of the diversity and cultural commission.

- A. Annually, the members of the Commission shall meet in regular session and elect from their members a chairperson and a vice-chairperson. These officers shall perform the normal and customary duties associated with these officers. Officers shall hold office for one year, or until their successors are elected.
- B. The Commission shall adopt by-laws to govern procedure and shall by vote set a time for regular meetings which will normally be held once each quarter and shall determine the manner in which special meetings may be held and the notice given. A majority of the regular members shall constitute a quorum.
(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.030. Purpose.

The purpose of the Commission shall be to act in an advisory capacity to the City Council by making recommendations on diversity and inclusion, on matters within the subject matter jurisdiction of the City Council and consistent with the Council/Manager form of government. The focus of the Diversity and Cultural Commission shall be positive and prospective, seeking to raise awareness through education and programs which recognize and celebrate the contributions of all City residents, business owners and employees from diverse backgrounds and lived experiences with the goal of fostering equal access for all persons to City services and programs.
(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.040. Duties and responsibilities.

- A. The duties of the Diversity and Cultural Commission shall be to do the following:

1. Make policy recommendations to the City Council regarding diversity, equity, inclusion and belonging;
2. Promote and advance the Sister Cities of Martinez;
3. Provide feedback on communications and community relations conducted by the City to ensure all segments of the community are being reached;
4. Conduct listening sessions and surveys to hear community feedback;
5. Proactively plan inclusive and welcoming events to celebrate and educate the community on the rich diversity of cultures and experiences of all humans;
6. Provide feedback on the relevance of city-sponsored cultural events;
7. Propose relevant proclamations to the City Council; and
8. Recommend to the City Council the priority for community benefit funding when included in any State, Federal or private grant applications.

(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.050. Removal or vacancy.

Any member of the Commission may be removed from the Commission prior to the expiration of his or her term by a majority vote of the City Council. A vacancy is filled in the same manner as the original appointment. A person appointed to fill a vacancy serves for the remainder of the unexpired term.

(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.060. Absence from meeting.

- A. If a member of the Commission is absent without cause from three successive regular meetings of the Commission, the office becomes vacant automatically. The Commission shall immediately notify the City Council of the vacancy.
- B. A member is not absent without cause if his or her absence is due to illness or is unavoidable, and the member gives notice to the chair before the day of the meeting that he or she will be absent and the reason for the absence.

(Ord. No. 1461, § 1, 7/31/2024)

§ 2.42.070. Report to council.

The Commission shall report to the City Council at least once per year on the activities and actions of the Commission. The report may be presented orally during a regular Council meeting as part of the published agenda business.

(Ord. No. 1461, § 1, 7/31/2024)

CHAPTER 2.44
TRAFFIC COMMITTEE

§ 2.44.010. Established.

There is established an advisory Traffic Committee to serve without compensation, consisting of the City Traffic Engineer, the Chief of Police, Planning and Building Director, and City Engineer. Each committee member may designate a representative to serve in their place on the advisory Traffic Committee. The chairman of the Traffic Committee shall be the City Traffic Engineer.

(Prior code § 3201.2; Ord. 1039 C.S. § 20, 1985; Ord. 1069 C.S. § 2, 1986)

§ 2.44.020. Duties.

It shall be the duty of the Traffic Committee to suggest the most practicable means for coordinating the activities of all officers and agencies of this City having authority with respect to the administration or enforcement of traffic regulations; to stimulate and assist in the preparation and publication of traffic reports; to receive complaints having to do with traffic matters; and to recommend to the legislative body of this City and to the City Traffic Engineer, the Chief of the Traffic Division and other City officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

(Prior code § 3201.3)

CHAPTER 2.52
CITY OFFICERS

§ 2.52.010. Officers designated.

The government of the City shall be vested in the following officials:

- A. Mayor and City Council members; B City Manager;
- C. City Clerk;
- D. City Treasurer;
- E. Chief of Police;
- F. The heads of each City department as contained in the organization chart prepared by the City Manager and submitted to the City Council pursuant to Section 2.04.050.
(Prior code § 2200; Ord. 1039 C.S. § 22, 1985; Ord. 1069 C.S. §§ 1 & 2, 1986; Ord. 1333 C.S. § 4, 2007; Ord. No. 1470, § 1, 4/2/2025)

§ 2.52.020. Consolidation of offices.

The City Council, may by resolution, consolidate any two or more appointive offices and require one officer to perform the duties of such offices.
(Prior code § 2201)

§ 2.52.030. Duties generally.

- A. All officials of the City shall perform such duties as are enjoined upon them by any portion of this Code or by any ordinance or resolution of the City or by the general laws of the State.
- B. In addition thereto, specific duties are enjoined upon the officials designated in Chapters 2.04, 2.12 and 2.20.
(Prior code § 2202; Ord. 1333 C.S. § 5, 2007)

CHAPTER 2.56
OFFICIAL BONDS

§ 2.56.010. Required—Amount.

- A. The officers of the City named in this section, before entering upon the duties of their respective offices shall each execute to the City a bond in the penal sum mentioned next to the name of such officer, with a surety company as sole surety thereon, or with two sureties satisfactory to the City Council, which bond shall be conditioned for the faithful performance of the duties of such officer, including in the same bond the duties of all officers of which he is made the ex officio either by general law, this Code or any ordinances of the City. Each such bond so furnished shall be subject to the approval of the Mayor of the City. In the event it is deemed by the City Council, at any time, that the surety or sureties, or either of them, upon a bond so furnished are insufficient to meet the penal sum thereof, a new bond may be required and shall be furnished by the officer as a substitute therefor.
- B. The officers and the penal sums of their respective bonds shall be as follows:
1. Clerk: in the penal sum of \$1,000.
 2. Treasurer: in the penal sum of \$25,000.
 3. As to each of the other officers of the City the amount of the bond, if any are required, shall be fixed from time to time by resolution of the Council.

(Prior code § 2400)

§ 2.56.020. Payment of premium.

The City shall pay the premium on all such surety bonds.

(Prior code § 2401)

§ 2.56.030. State law applicable.

All the provisions of any law of this State relating to the official bonds of officers, existing at the time of the presentation of any of the bonds mentioned in Section 2.56.010, shall apply to such bonds.

(Prior code § 2402)

CHAPTER 2.60
COMPENSATION

§ 2.60.010. Generally.

City officers and employees shall be entitled to receive such compensation for their services as the City Council shall prescribe from time to time by ordinance or resolution. Except as otherwise herein provided, no officer or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation aside from the salary or compensation as fixed by the Council, but all fees received by him in connection with his official duties shall be paid by him daily to the Finance Department.

(Prior code § 2300)

§ 2.60.020. (Reserved)⁴

§ 2.60.030. (Reserved)⁵

§ 2.60.040. City treasurer.

The salary of the City Treasurer shall be, at stated times, a compensation fixed by resolution, as is more specifically provided for by Section 36517, Stats. 1971, C 275, p. 580, paragraph one of the Government Code of the State.

(Prior code § 2303; Ord. 799 C.S. § 1, 1975)

§ 2.60.050. City council.

Each Council member shall receive a monthly salary of \$832.

(Prior code § 2304; Ord. 802 C.S. § 1, 1975; Ord. 844 C.S. § 1, 1976; Ord. 867 C.S. § 1, 1977; Ord. 905 C.S. § 1, 1979; Ord. 1068 C.S. § 1, 1986; Ord. 1120 C.S. § I, 1988; Ord. 1292 C.S.

§ 1, 2002; Ord. No. 1475, 9/3/2025)

4. Editor's note: Former § 2.60.020, which pertained to city attorney and derived from prior code § 2301, was repealed 11/6/2024 by Ord. No. 1466.

5. Editor's note: Former § 2.60.030, which pertained to city clerk and derived from prior code § 2302 and Ord. 1142 C.S. § 1, 1989, was repealed 11/6/2024 by Ord. No. 1466.

CHAPTER 2.64
ELECTIONS

§ 2.64.010. Procedure.

All municipal elections held in the City shall be conducted in accordance with the provisions of the Elections Code of the State governing elections in fifth and sixth class cities, so far as they may be applicable.

(Prior code § 2500)

§ 2.64.020. Time of election.

The Martinez General Municipal Election shall be held in November of the even numbered years and consolidated with the Statewide General Election.

(Ord. 1019 C.S. § 1, 1984)

§ 2.64.030. Term of office.

The term of office for the Mayor and all members of the City Council shall be four years.

(Ord. 1162 C.S. § 1, 1991)

CHAPTER 2.68
PERSONNEL SYSTEM

§ 2.68.010. Civil service system adopted—Authority.

Pursuant to the authority granted to the legislative body of any city within the State under the provisions of Chapter 48 of the Statutes of 1935, and the amendments thereto, the Civil Service System set out in this chapter is adopted for the City.

(Prior code § 2600)

§ 2.68.020. Classified service.

The provisions of this Chapter shall apply to all offices, positions and employments in the service of the City, except:

- A. Elective officers;
- B. Positions on appointive boards, commissions or committees;
- C. The following officers: City Manager, City Attorney, and City Engineer;
- D. The head of each department as contained in the organization chart prepared by the City Manager and submitted to the City Council pursuant to Section 2.40.050;
- E. Special police officers and other Police Department employees paid on an hourly or per diem basis;
- F. Hourly or per diem employees in any office or department of the City including interns, temporary full-time and temporary part-time employees;
- G. Persons under contract with the City to perform special services;
- H. Employees appointed to positions of public work, when the work or improvements are undertaken or done pursuant to any procedure under the Street Improvement Act or other similar State acts;
- I. Emergency employees in any office or department of the City. For the purpose of this Chapter, an "emergency employee" is defined to be any person appointed to a position of employment, the necessity for which was created by reason of riot, insurrection or other extraordinary emergency. All such positions and employments shall be for the duration of the emergency and shall terminate immediately thereafter.

All offices, positions and employments not exempted by the foregoing exceptions shall constitute the classified service of the City. The City Council may, from time to time, by ordinance, add additional departments, appointive officers or employees to these enumerated in this Section.

(Prior code § 2601; Ord. 1039 C.S. § 23, 1985; Ord. 1069 C.S. §§ 3, 4, 1986; Ord. 1333 C.S. § 6, 2007)

§ 2.68.040. Civil service commission—Created—Membership.

- A. The Civil Service Commission is hereby established. It shall consist of five regular members and up to three alternate members.

- B. A quorum shall consist of three members of the Civil Service Commission. To assist in ensuring a quorum, up to three alternate members shall be appointed by the City Council. Once appointed, alternates are eligible to temporarily fill a vacancy created by one or more Commission members whose terms have expired or have left office. An alternate, willing to fill such a vacancy, shall be automatically elevated to temporary commissioner status. Once the City Council has appointed a person to permanently fill a vacancy on the Commission in accordance with Section 2.68.040(C), the alternate who was temporarily filling that position will revert back to alternate status, unless the person appointed to fill the position is an alternate. Additionally, the alternate may be called upon to fill an absence created by a Commission member(s) unable to attend a meeting.
- C. Vacancies on the Civil Service Commission, from whatever cause arising, shall be filled by appointment by the City Council for the unexpired term. Each member of the Civil Service Commission, including alternates, shall serve a term of four years following their appointment and until their successor is appointed and qualified. A four-fifth vote of all the members of the City Council, at a regular meeting thereof, shall be required to appoint a commissioner to the Civil Service Commission, or fill a vacancy thereon, or to remove any commissioner thereof to the expiration of his term.
- D. The commissioners shall be qualified electors of the City and shall serve without compensation. No person holding elected office or employment with the City of Martinez, or the spouse of any person holding elected office or employment with the City of Martinez shall be eligible for appointment. No person who is the husband or wife of any member of the Civil Service Commission, or of the personnel officer, or of any appointing authority shall be appointed to any salaried office, employment or paid position in the service of the City.

(Prior code § 2603; Ord. 932 C.S. § 1, 1982; Ord. 1039 C.S. § 25, 1985; Ord. No. 1442, § 2, 2/1/2023)

§ 2.68.050. Civil service commission—Powers and duties.

The Commission shall have the following powers and duties:

- A. To represent the public interest in the improvement of personnel administration in the City;
- B. The duties contained in the provisions of this Chapter and in the Civil Service Rules and Regulations adopted by the City Council;
- C. To recommend to the City Council such amendments to the Civil Service Rules and Regulations as it considers necessary to carry out an effective Civil Service System;
- D. To carry on all other activities which may be necessary or proper and lawful for executing the provisions of this Chapter.

(Prior code § 2604; Ord. 1039 C.S. § 26, 1985)

§ 2.68.060. Civil service commission—Prohibition of interference by council.

The Council and each of its members are prohibited from interfering or attempting to interfere directly or indirectly with the performance of the Commission's duties and from obtaining or attempting to obtain directly or indirectly from any person any agreement as to how he will perform any of the duties of a commissioner.

(Prior code § 2605)

§ 2.68.070. Civil service commission—Adoption of rules.

The Commission does approve and adopt as its rules the Civil Service Rules and Regulations previously adopted by the City Council with all amendments thereto.
(Prior code § 2606)

§ 2.68.080. Appointing authority—Designated.

The appointing authority shall be the City Council in the case of appointments to the positions of City Manager and City Attorney. The City Manager shall be the appointing authority for department heads, and the City Clerk. The appointing authority in the case of positions below the department head level shall be department heads, with the approval of the City Manager.
(Prior code § 2607; Ord. 1333 C.S. § 7, 2007; Ord. No. 1466, § 6, 11/6/2024)

§ 2.68.090. Appointing authority—Disciplinary actions.

Any appointing authority shall have the right of removal, demotion, discipline and suspension of employees subject to the provisions of the California State Code.
(Prior code § 2608; Ord. 1333 C.S. § 8, 2007)

§ 2.68.100. Appeal to commission or arbitrator.

Any employee within the classified service shall have the right to submit a grievance, defined as any real or imagined dispute by an employee, group of employees, or a formally recognized employee organization, concerning:

- A. Disputes over the application or interpretation of policies, procedures, including memorandum of understandings, or the practical consequences that decisions on these matters may have upon an affected employee or group of employees;
- B. Disputes over the application or interpretation of City ordinances, resolutions or general laws related to personnel matters or working conditions, to either the Civil Service Commission or Arbitration.

Submission of such a grievance shall be made only after an employee or group of employees has made his appeal through the lines of authority to the City Manager.
(Prior code § 2609; Ord. 779 C.S. § 1, 1974)

§ 2.68.110. Commission or arbitrator decision final.

The decision of the Commission or the Arbitrator upon hearing and investigating shall be final and binding upon both parties.
(Prior code § 2610; Ord. 779 C.S. § 1, 1974)

§ 2.68.120. Appointment and duties of personnel officer.

- A. The City Manager shall act in the capacity of Personnel Officer. He/she shall be custodian of all personnel records and shall be the official upon whom all notices, requests for hearings, complaints and other official documents in connection with the Commission shall be served or filed.
- B. The Personnel Officer or designated appointee shall administer all provisions of this Chapter and of the rules, except those specifically reserved to the Commission or the

Council. He shall perform such additional services and make such investigations and prepare and present such reports in connection with the Civil Service System, employment or employees as may be requested by the Commission, the Council or the City Manager. (Prior code § 2611; Ord. 1039 C.S. § 27, 1985)

§ 2.68.130. Criminal conduct—Ineligibility for employment.

Except as otherwise hereinafter provided, no person convicted of a felony or misdemeanor involving moral turpitude shall be eligible for employment in the competitive service of the City; provided, however, that the appointing authority may disregard such conviction if he finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of the conviction, or the fact that the classification applied for is unrelated to such conviction.

The City Manager/Personnel Officer, or his designee, Chief of Police, City Attorney, and each Department Head of the City are hereby authorized to have access to the "State Summary Criminal History Information" as provided for in Section 11105 of the Penal Code of the State of California.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Martinez hereby declares that it would have adopted this ordinance and each section, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, sentences, clauses, or portions be declared invalid or unconstitutional.

(Ord. 1018 C.S. § 1, 1984)

CHAPTER 2.72
PEACE OFFICER STANDARDS AND TRAINING

§ 2.72.010. Intention to qualify under state law.

The City declares that it desires to qualify to receive aid from the State under the provisions of Chapter 1 of Title 4, Part 5 of the California Penal Code.
(Ord. 377 C.S. § 1, 1961; Ord. 1129 C.S. § 1, 1989)

§ 2.72.020. Adherence to state standards.

Pursuant to Section 13522 and Section 13510(C) of Chapter 1 of California Penal Code, the City, while receiving aid from the State pursuant to Chapter 1, will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training.
(Ord. 377 C.S. § 2, 1961; Ord. 1129 C.S. § 1, 1989)

§ 2.72.030. Compliance.

Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the City's Public Safety Dispatcher Personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training."
(Ord. 1129 C.S. § 1, 1989)

§ 2.72.040. Definitions.

As used in the Chapter:

- A. "Reserve police officer" means any qualified person appointed by the Chief of Police and is assigned specific police functions by the Chief of Police or his/her designee. The person is a peace officer, if the person qualifies as set forth in Section 832.6 of the California Penal Code. The authority of the person designated as a peace officer pursuant to this paragraph extends only the duration of the persons specific assignment with the exception of Designated Level I Reserve Officers. Reserve Police Officers shall be appointed Level I or II pursuant to California Penal Code Section 832.6 and, additionally, fulfill any additional police department requirements.
- B. "Designated Level I reserve police officer" means, upon appointment by the Chief of Police, Reserve Police Officers who have qualified as Level I Reserve Police Officers pursuant to subsection (1) of subsection (a) of Section 832.6 of the California Penal Code and, in addition, have completed a minimum of 2 years of field experience as a Reserve Police Officer with the City comprising a minimum of 400 working hours, or have comparable experience of 5 years as a Reserve Police Officer or Reserve Deputy Sheriff in another jurisdiction and 1 year with the City, or have at least a basic POST certificate and 1 year as a Reserve Police Officer with the City shall have those peace officer powers and duties as provided by subsection (2) of subsection (a) of Section 830.6 of the California Penal Code. Such officers shall be known as "Designated Level I Reserve Police Officers."
- C. "Time requirement" means the time requirement for a Reserve Police Officer to be in the Police Department prior to appointment as a Designated Level I Reserve Police Officer

may be waived at the discretion of the Chief of Police.

- D. "Revoking or suspending Level I reserve officer status" nothing in this subsection shall prevent the Chief of Police from revoking or suspending Designating Level I Reserve Police Officer status, nor shall the Chief of Police be under any mandate or obligation to make such an appointment.

(Ord. 1345 C.S. § 1, 2008)

CHAPTER 2.76
RECORDS MANAGEMENT

§ 2.76.010. Purpose.

The declared purpose of this Chapter is to provide for the adoption, application, and administration of a records management program for the City.

(Prior code § 2207; Ord. 733 C.S. § 1, 1971; Ord. No. 1443, § 3, 2/1/2023)

§ 2.76.020. Definitions.

As used in this Chapter:

- A. "Microfilm" means the photographic reduction of records as replacements for or in lieu of original records. Such microfilm is to be retained in accordance with Council-approved retention schedules.
- B. "Records" means documents, instructions, books, microforms, electronic files, magnetic tape, optical media, or papers, as defined by the California Public Records Act.
- C. "Records center" means a central repository for housing all City inactive records until they have met their specified retention.
- D. "Records management" means the systematic control over the creation, maintenance, protection, and disposition of all City records.
- E. "Retention schedules" means the document describing records maintained by City departments and specifying the period of time established for its retention in accordance with statutory or other requirements which must elapse before disposition may be made of a body of records.

(Prior code § 2207; Ord. 733 C.S. § 2, 1971; Ord. No. 1443, § 3, 2/1/2023)

§ 2.76.030. Office of city clerk as administrator—Duties.

The office of the City Clerk shall be responsible for the administration of the records management program for the City. He or she shall:

- A. Develop and issue such instructions as may be necessary for the efficient operation of the program;
- B. Develop a uniform filing system for all City records to be administered, where practical, on a centralized basis under his or her jurisdiction;
- C. Maintain a City records center to house records no longer required in active office areas but which records require further retention due to legal, operating, or historical retention;
- D. Develop procedures for the protection of City records against natural or other disasters;
- E. Advise and assist City departments in the preparation of records retention schedules;
- F. Maintain and oversee the development, implementation, and administration of the records management program and records retention schedule; and
- G. Advise and assist City departments in studies to determine applications of records-housing

equipment and microfilming systems.

(Prior code § 2207; Ord. 733 C.S. § 3, 1971; Ord. 1039 C.S. § 28, 1985; Ord. No. 1443, § 3, 2/1/2023)

§ 2.76.040. Authority.

In implementing and maintaining the records management program, the City Council authorizes the City Clerk to:

- A. Destroy records as provided by Section 34090 et seq. of the Government Code of the State of California, and in accordance with the provision of the records retention schedule upon the request of the department head and with the consent in writing of the department head, City Clerk, and City Attorney, without further action by the City Council.
 - B. Update the records retention schedule upon the consent of the department head, City Clerk, City Attorney, and City Manager, without any further action by the City Council.
- (Ord. No. 1443, § 3, 2/1/2023)

CHAPTER 2.80
WARRANT-PURCHASE ORDERS

§ 2.80.010. Procedure.

All purchase orders shall be submitted to the City Manager, or his designated representatives, for his approval or rejection. When approved, and materials supplied, a warrant based upon the approved purchase order shall be drawn against the proper fund. All warrants shall be signed by the Finance Director and the City Treasurer.

(Prior code § 2800)

CHAPTER 2.84
UNCLAIMED PROPERTY

§ 2.84.010. Auction by chief of police.

The Chief of Police may, from time to time, hold a public auction at which lost or unclaimed property in the possession of the City may be sold to the highest bidder. Only those articles which have been in the possession of the City for a period of at least six months may be sold at such auction, except that bicycles in the possession of the City for a period of at least three months may be so sold.

(Prior code § 3600)

§ 2.84.020. Notice of auction.

The Chief of Police shall give notice of the holding of a public auction at least five days in advance thereof by at least one publication in a newspaper of general circulation in the City.

(Prior code § 3601)

§ 2.84.030. Disposition of receipts.

All funds realized at such public auction shall be paid into the general fund of the City.

(Prior code § 3602)

§ 2.84.040. Unsold property.

Any item or article of lost or unclaimed property upon which no bid was made at public auction may be given to any charitable institution or destroyed at the option of the Chief of Police, with the approval of the City Manager.

(Prior code § 3603)

CHAPTER 2.88
**ELECTRONIC AND PAPERLESS FILING OF FAIR POLITICAL PRACTICES
COMMISSION CAMPAIGN DISCLOSURE STATEMENTS AND STATEMENTS OF
ECONOMIC INTERESTS**

§ 2.88.010. Electronic filing of campaign disclosure statements and statements of economic interests.

- A. Any elected officer, candidate, commission, committee, or other person required to file statements, reports, or other documents required by Government Code Chapter 4 - Political Reform Act (commencing with Section 84100) shall file those statements, reports, or other documents online or electronically with the City Clerk. Elected officers, candidates, or committees required to file statements must file such statements using the City Clerk's online system, unless exempt from the requirement to file online pursuant to Government Code Section 84615(a) because the officer, candidate, or committee receives less than \$2,000.00 in contributions and makes less than \$2,000.00 in expenditures in a calendar year. All other individuals required to file statements of economic interest according to the City's adopted Code of Conflict of Interest must file electronically using the City Clerk's online system.
- B. Any person holding a position listed in Government Code Section 87200 or designated in the City's local conflict of interest code adopted pursuant to Government Code section 87300, shall file any required statement of economic interest reports (Form 700) online or electronically with the City Clerk.
- C. In any instance in which an original statement, report or other document must be filed with the California Secretary of State and a copy of that statement, report or other document is required to be filed with the City Clerk, the filer may, but is not required to, file the copy electronically.
- D. The online filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.
- E. The online filing system shall only accept a filing in the standardized record format that is accepted by the California Secretary of State pursuant to Section 84602(a)(2) of the California Government Code and that is compatible with the Secretary of State's system for receiving an online or electronic filing.
- F. The online filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004 of the Government Code.
- G. Any elected officer, candidate, or committee who has electronically filed a statement using the City Clerk's online system is not required to file a copy of that document in paper format with the City Clerk.
- H. The City Clerk shall issue an electronic confirmation that notifies the filer that the statement was received, the notification shall include the date and the time that the statement was received and the method by which the filer may view and print the data received by the City Clerk. The date of filing for a statement filed online shall be the day that it is received by the City Clerk.

- I. If the City Clerk's system is not capable of accepting a statement due to technical difficulties, the filer shall be so informed the elected officer, candidate, or committee shall file that statement in paper format with the City Clerk.
 - J. The online filing system shall enable electronic filers to complete and submit filings free of charge.
 - K. The City Clerk's system shall make all the data filed available on the City's webpage in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the City's webpage shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The City Clerk's office shall make a complete, unredacted copy of the statement, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.
 - L. The City Clerk's office shall maintain, for a period of at least ten years commencing from the date filed, a secured, official version of each online or electronic statement which shall serve as the official version of that record for purpose of audits and any other legal purpose.
- (Ord. No. 1440, § 4, 11/2/2022)

ADMINISTRATION AND PERSONNEL

MARTINEZ CODE

Title 3

REVENUE AND FINANCE

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REVENUE AND FINANCE

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CHAPTER 3.04
HIGHWAY FUNDS

§ 3.04.010. Apportionment and expenditure.

There is hereby referred to a Chapter of the Streets and Highways Code of the State, "Highway Users Tax Funds (Account)" as to accountability or responsibility of the apportionment and expenditure of highway funds.

(Prior code § 8500; Ord. 814 C.S. § I, 1975)

CHAPTER 3.08
PROPERTY TAX

§ 3.08.010. Assessment and collection.

The assessment and collection of ad valorem property taxes on property located within the City, and the collection of assessments levied for municipal improvements within the City, shall be performed by the Assessor and the Tax Collector of Contra Costa County in conformance with Sections 51500 and following of the Government Code of the State (1963).
(Prior code § 8100)

CHAPTER 3.12
DOCUMENTARY TRANSFER TAX

§ 3.12.010. Authority for adoption.

This Chapter shall be known as the "Documentary Transfer Tax of the City," pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code of the State.

(Prior code § 8600)

§ 3.12.020. Imposition and rate of tax.

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the City shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds \$100.00, a tax at the rate of \$0.275 for each \$500.00 or fractional part thereof.

(Prior code § 8601)

§ 3.12.030. Persons required to pay tax.

Any tax imposed pursuant to Section 3.12.020 hereof shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

(Prior code § 8602)

§ 3.12.040. Instrument securing debt.

Any tax imposed pursuant to this Chapter shall not apply to any instrument in writing given to secure a debt.

(Prior code § 8603)

§ 3.12.050. Instruments of united states, state, territory or political subdivision.

The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this Chapter with respect to any deed, instrument or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.

(Prior code § 8604)

§ 3.12.060. Conveyance under reorganization or adjustment plans.

Any tax imposed pursuant to this Chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan or reorganization or adjustment:

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

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

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

Subsections A to D, inclusive, of this Section shall apply only if the making, delivery or filing of instruments or transfer of conveyances occurs within five years from the date of such confirmation, approval or change.

(Prior code § 8605)

§ 3.12.070. Conveyance under order of securities and exchange commission.

Any tax imposed pursuant to this Chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:

A. The order of the Securities and Exchange Commission is obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

B. Such order specifies the property which is ordered to be conveyed;

C. Such conveyance is made in obedience to such order.

(Prior code § 8606(1))

§ 3.12.080. Transfer of certain partnership property.

A. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

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

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

C. Not more than one tax shall be imposed pursuant to this Chapter by reason of a termination described in subsection B, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(Prior code § 8607)

§ 3.12.090. Administration.

The County Recorder shall administer this Chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto.

(Prior code § 8608)

§ 3.12.100. Claims for refund.

Claims for refund of taxes imposed pursuant to this Chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part of Division 1 of the Revenue and Taxation Code of the State.

(Prior code § 8609)

CHAPTER 3.16
SALES AND USE TAX

§ 3.16.010. Short title.

This Chapter shall be known as the Uniform Local Sales and Use Tax Chapter.
(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.020. Rate.

The rate of sales tax and use tax imposed by this Chapter shall be .975 percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City.
(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.030. Purpose.

The City Council hereby declares that this Chapter is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To adopt sales and use tax provisions which comply with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- B. To adopt sales and use tax provisions which incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- C. To adopt sales and use tax provisions which impose a tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;
- D. To adopt sales and use tax provisions which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting City sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this Chapter.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.040. Contract with state.

Prior to the operative date this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax Chapter; provided, that if this City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of this Chapter.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.050. Sales tax.

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate stated in Section 2 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this City on and after the operative date.
(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.060. Place of sale.

For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-State destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.
(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.070. Use tax.

An excise tax is hereby imposed on the storage, use or other consumption in this City of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this City at the rate stated in Section 2 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.
(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.080. Adoption of provisions of state law.

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Chapter as though fully set forth herein.
(Ord. 1010 C.S. § I, 1983; Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.090. Limitations on adoption of state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as part of the title of the State Controller, the State Treasurer, The State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the City, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter; the substitution shall not be made in those Sections, including, but not necessarily limited to, Sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax

by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that Code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 or in the definition of that phrase in Section 6203.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.100. Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this Chapter.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.110. Exclusions and exemptions.

- A. The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.
- B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a Sales and Use Tax Chapter enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State shall be exempt from the tax due under this Chapter.
- C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators Of waterborne vessels to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
- D. The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.
- E. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
- F. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government is exempted from the use tax.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.120. Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this Chapter.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.130. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this City, or against any officer of the State or this City, to prevent or enjoin the collection under this Chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(Ord. 1010 C.S. § II, 1983; Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.140. Penalties.

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500.00 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

(Ord. 1039 C.S. § XXIX, 1985)

§ 3.16.150. Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

(Ord. 1039 C.S. § XXIX, 1985)

CHAPTER 3.20
UTILITY USERS TAX

§ 3.20.010. Short title.

This ordinance shall be known as the Utility Users Tax Ordinance and the taxes imposed hereunder may be collectively referred to as the Utility Users Tax.
(Ord. 1223 C.S. § 1, 1995)

§ 3.20.020. Definitions.

Except where the context otherwise requires, the definitions in Municipal Code § 1.04.010 and the following definitions shall govern the construction of this Chapter:

- A. "City" means the City of Martinez.
- B. "City council" means the City Council of the City of Martinez.
- C. "Electrical corporation," shall have the same meaning as defined in Public Utilities Code § 218 and shall also include any public agency or person engaged in the selling or supplying of electrical power to a service user.
- D. "Gas" means any natural or manufactured gas or fuel used for light, heat or power.
- E. "Gas corporation" shall have the same meanings as defined in Public Utilities Code § 222 and shall also include any public agency or person engaged in the selling or supplying of gas to a service user.
- F. "Person" means any domestic or foreign corporation, firm, association, syndicate, joint stock company, partnership of any kind, joint venture, club Massachusetts business or common law trust, society, or individuals.
- G. "Service supplier" means any person required to collect or self-impose, collect and remit to the City the Utility Users Tax.
- H. "Service user" means a person required to pay the Utility Users Tax.
- I. "Tax administrator" means the Finance Director of the City or designee.
- J. "Telephone corporation" shall have the same meanings as defined in Public Utilities Code § 234.
- K. "Cellular telephone carrier" means a carrier which provides cellular telephone service.
- L. "Video services" shall mean any and all services related to the providing of video programming (including origination programming), or communications (including two-way communications), regardless of the content of the video programming or communications, and shall include the leasing of channel access.
- M. "Video services provider" shall mean any person who provides one or more channels of video programming or communications (including the leasing of channel access to provide such video programming or communications) to an address in the City, including to a business, home, condominium or apartment, where some fee is paid, whether directly or as included in dues or rental charges for that service, whether or not public rights-of-way are

utilized in the delivery of the video programming or communications. A "Video Service Provider" includes, but is not limited to, multichannel video programming distributors (as defined in 47 U.S.C. § 522(12), providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multichannel multipoint distribution services, and other providers of video programming or communications (including two-way communications), whatever their technology.

- N. "Water corporation" shall have the same meanings as defined in Public Utilities Code § 241 and shall also include any public agency or person engaged in the selling or supplying of water to a service user.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.030. Purpose and application.

The purpose of this chapter is to impose a utility users tax as a revenue measure necessary to pay the usual and current expenses of conducting the municipal government of the City, the proceeds of which shall be paid to the General Fund of the City.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.040. Telephone users tax.

- A. There is hereby imposed a tax on the amounts paid for any intrastate telephone communication services by every person in the City using such services (the "Telephone Users Tax"). The Telephone Users Tax shall be at the rate of three and a quarter percent (3.25%) of the charges made for such services and shall be paid by the person paying for such services. The Telephone Users Tax is intended to, and does, apply to all charges billed to a telephone account having a situs in the City, irrespective of whether a particular telephone communication service originates and/or terminates within the City.
- B. As used in this section, "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due; nor shall the term "charges" include charges for any type of service or equipment furnished by a service supplied subject to Public Utility regulations during any period in which the same or similar services or equipment are also available for sale or lease from persons other than a service supplier subject to public utility regulation.
- C. As used in this section, "telephone communication services" refers to that service which provides access to a telephone system and the privilege of telephone quality communication with substantially all persons having telephone stations which are part of such telephone system; provided, however, that the term "telephone communication services" shall not include land mobile service or maritime mobile services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as said section existed on January 1, 1970.
- D. The Telephone Users Tax shall be collected from the service user by the person providing the intrastate telephone communication services, or the person receiving payment for such services. The amount of the tax collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month; or at the option of the person required to collect and remit the tax, an estimated amount of tax collected, measured

by the tax bill in the previous month, shall be remitted to the Tax Administrator on or before the last day of each month.

- E. Notwithstanding the provisions of subsection (A), the Telephone Users Tax shall not be imposed upon any person for using intrastate telephone communication services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed under Division 2, Part 20 of the California Revenue and Taxation Code, or the tax imposed under Section 4251 of the Internal Revenue Code.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.050. Cellular telephone users tax.

- A. There is hereby imposed a tax on the amounts paid for basic service charges for every person residing and/or who has a place of business in the City using cellular telephone services. The tax imposed by this section is three and quarter percent (3.25%) of such basic charges, and shall be paid by the person paying for such services.
- B. "Basic service charges" shall mean the amounts billed by a cellular telephone company to customers for the privilege of having the service. This term does not include the amounts billed by a cellular telephone company for actual calls made or received.
- C. The tax imposed by this section shall be collected from the service users by the person providing the cellular telephone services, or the person receiving payment for such services. The amount of the tax collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month; or at the option of the person required to collect and remit the tax; an estimated amount of tax collected, measured by the tax bill in the previous month, shall be remitted to the Tax Administrator on or before the last day of each month.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.060. Electricity users tax.

- A. There is hereby imposed a tax upon every person using electrical energy in the City (the "Electricity Users Tax"). The Electricity Users Tax shall be at the rate of three and quarter percent (3.25%) of the charges made for such energy by an electrical corporation providing service in the City and shall be billed to and paid by the person using the energy.
- B. As used in this section, "charges" shall include charges made for: (1) metered energy and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges and all other annual and monthly charges, fuel or other cost adjustments, authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.
- C. As used in this section, "using electrical energy" shall not include: (1) the storage of such energy by a person in a battery owned or possessed by such person for use in an automobile or other machinery device apart from the premises upon which the energy was received; provided, however, that such term shall include the receiving of such energy for the purpose of using it in the charging of batteries; (2) electricity used and consumed by an electric utility supplier in the conduct of its business; (3) the mere receiving of such energy by an electric corporation or governmental agency at a point within the City for resale; and (4) the use of such energy in the production or distribution of water by a water utility or a

governmental agency.

- D. The Electricity Users Tax shall be collected from the service user by the person supplying the electrical energy. The Electricity Users Tax imposed on electrical energy supplied by a supplier not subject to the jurisdiction of this chapter, shall be collected and remitted to the Tax Administrator in the manner set forth in Section 3.20.080. The amount of tax collected by a service supplier in one month shall be remitted by U.S. mail to the Tax Administrator, postmarked on or before the last day of the following month; or at the option of the person required to collect and remit the tax, an estimated amount of tax measured by the tax billed in the previous month, shall be remitted by U.S. mail, to the Tax Administrator, postmarked on or before the last day of each month. The amount of the tax remitted may be estimated by a formula based upon the payment pattern of the supplier's customers.
 - E. Notwithstanding any other provision of this chapter, a service user not having the full tax due, billed and collected by the service supplier, shall report said fact to the tax administrator within thirty days of said use, and shall remit directly to the City the amount of said tax due.
 - F. The tax administrator may require from said service user the filing of tax returns or other satisfactory evidence documenting the sale price, or fair market value in the absence of a sales price, and quantity of electricity used.
- (Ord. 1223 C.S. § 1, 1995)

§ 3.20.070. Gas users tax.

- A. There is hereby imposed a tax upon every person in the City other than a gas corporation or electrical corporation, using, in the City, gas which is transported through mains or pipes or by mobile transport or by rail (the "Gas Users Tax"). The Gas Users Tax shall be at the rate of three and a quarter percent (3.25%) of the charges made for the gas and shall be billed to and paid by the person using the gas.
- B. "Charges" as used in this section shall include: (1) charges billed for gas which is delivered through mains or pipes; (2) gas transportation charges; and (3) demand charges, service charges, customer charges, minimum charges, annual and monthly charges, any other charge authorized by the California Public Utilities Commission or the Federal Energy Regulatory Commission.
- C. The Gas Users Tax is not applicable to: (1) charges made for gas which is to be resold and delivered through mains and pipes or by rail; (2) charges made for gas sold by a public utility for use in the generation of electrical energy or for the production or distribution of water; (3) charges made by a gas public utility or gas used and consumed in the course of its public utility business; and (4) charges made for gas used in the propulsion of a motor vehicle, as authorized in the Vehicle Code of the State of California.
- D. The Gas Users Tax shall be collected from the service user by the person selling or transporting the gas. A person selling only transportation services to a user for delivery of gas through mains or pipes shall collect the tax from the service user based on the transportation charges. The person selling or transporting the gas shall, on or before the 20th of each calendar month, commencing on the 20th of each calendar month after the effective date of this ordinance, make a return to the Tax Administrator stating the amount of taxes billed during the preceding calendar month. At the time such returns are filed, the

person selling or transporting the gas shall remit tax payments to the Tax Administrator in accordance with schedules established or approved by the Tax Administrator.

- E. The Tax Administrator may require from service user the filing of tax returns or other satisfactory evidence documenting the sale price, or fair market value in the absence of a sales price, and quantity of gas used.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.080. Direct purchase of gas or electricity.

- A. Notwithstanding any other provision of this chapter, a service user receiving gas or electricity directly from a supplier not under the jurisdiction of this ordinance, or otherwise not having the full tax due on the use of gas or electricity in the City directly billed and collected by the service supplier, shall report said fact to the Tax Administrator within thirty days of said use and shall directly remit to the City the amount of tax due.
- B. The Tax Administrator may require said service user to provide, subject to audit, filed tax returns or other satisfactory evidence documenting the quantity of gas or electricity used and the price thereof.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.090. Water users tax.

- A. There is hereby imposed a tax upon every person using water in the City which is delivered through mains or pipes ("Water Users Tax"). The Water Users Tax shall be at the rate of three and a quarter percent (3.25%) of the charges made for such water and shall be paid by the person paying for such water.
- B. There shall be excluded from the base on which the Water Users Tax is computed: (1) charges made for water which is to be resold and delivered through mains or pipes and (2) charges made by a municipal water department, public utility or a City or municipal water district for water used and consumed by such department, utility or district.
- C. The Water Users Tax shall be collected from the service user by the person supplying the water. The amount collected in one (1) month shall be remitted to the Tax Administrator on or before the last day of the following month.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.100. Video users tax.

- A. There is hereby imposed a tax upon every person in the City using video services from a video services provider. The tax imposed by this section shall be at the rate of three and quarter percent (3.25%) of the charges made for such service and shall be paid by the person paying for such services.
- B. "Charges" as used in this section shall include charges for leased access channels and origination programming which are transmitted to video service users in the City and shall also include the value of any other services, credits, property of every kind or nature, or other consideration provided by the video service user in exchange for video services.
- C. The tax imposed in this section shall be collected from the service user by the person furnishing the video service. The amount collected in one (1) month shall be remitted to the

Tax Administrator on or before the last day of the following month.
(Ord. 1223 C.S. § 1, 1995)

§ 3.20.110. Exemptions.

- A. Any individual who qualifies as a "claimant" under the Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law. (Chapter 1, commencing with Section 20501, of Part 10.5 of Division 2 of the Revenue and Taxation Code of the State of California) shall be exempt from the tax imposed by this chapter and any such tax paid by any such individual is subject to refund under Section 3.20.170.
 - B. Persons who are qualified under the Low Income Rate Assistance ("LIRA") program of Pacific Gas and Electric Company, and persons who are qualified under the Lifeline program of the telephone corporation shall be exempt in whole from paying the gas, electrical, and Telephone Users Taxes imposed by this chapter.
 - C. Nothing in this chapter shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of the state or federal constitutions.
 - D. The City Council may, by order or resolution, establish one or more classes of persons or one or more classes of utility service otherwise subject to payment of the Utility Users Tax and provide that such classes of persons or service shall be exempt, in whole or in part, from such tax.
 - E. The Tax Administrator shall prepare a list of the persons exempt from the provisions of this chapter by virtue of this section and furnish a copy thereof to each service supplier.
- (Ord. 1223 C.S. § 1, 1995)

§ 3.20.120. Delinquent taxes—Penalty.

- A. Taxes collected from a service user which are not remitted to the Tax Administrator on or before the due dates provided in this chapter are delinquent. Should the due date occur on a weekend or legal holiday, the return may be postmarked on the first regular working day following a Saturday/Sunday, or legal holiday.
 - B. Penalties for delinquency in remittance of any tax collected or any deficiency determination shall attach and be paid by the person required to collect and remit at the rate of fifteen percent (15%) of the total tax collected or imposed in this section.
 - C. The tax administrator shall have the power to impose additional penalties upon any person required to collect and remit taxes under the provisions of this chapter for fraud or negligence in reporting or remitting at a rate of fifteen percent of the amount of the tax collected or as recomputed by the tax administrator.
 - D. Every penalty imposed under the provisions of this chapter shall become a part of the tax required to be remitted.
- (Ord. 1223 C.S. § 1, 1995)

§ 3.20.130. Actions to collect.

Any Utility Users Tax required to be paid by a service user shall be deemed a debt owed by

the service user to the City. Any such tax collected from a service user which has willfully been withheld from the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit. Any person owing money to the City under this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.140. Collection procedures.

The duty to collect and remit the Utility Users Tax shall be performed as follows:

- A. Notwithstanding any other provision of this chapter, the Utility Users Tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practices of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the service charge and tax which has accrued for the billing period, such amount and any subsequent payments by a service user shall be applied to the utility charge first until such charge has been fully satisfied. Any remaining balance shall be applied to taxes due. In those cases where a service user has notified the service supplier of his refusal to pay the tax imposed on said energy charges, Section 3.20.160(B) will apply.
- B. The duty to collect the Utility Users Tax from a service user shall commence with the beginning of the first full regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this chapter. Where a person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing. The amount of the tax remitted may be estimated by a formula based upon the payment pattern of the supplier's customers.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.150. Additional powers and duties of tax administrator.

- A. The Tax Administrator shall have the power and duty, and is hereby directed to enforce each and all of the provisions of this chapter.
- B. The Tax Administrator shall have the power to adopt rules and regulations not inconsistent with provisions of this chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the Utility Users Tax. A copy of such rules and regulations shall be on file at City Hall.
- C. The Tax Administrator may make agreements, subject to City Council approval, to vary the strict requirements of this chapter so that collection of the Utility Users Tax may be made in conformance with the billing procedures of a particular service supplier, so long as said agreements result in collection of the Utility Users Tax in conformance with the general purpose and scope of this chapter. Such agreements can only be made if one or both of the following criteria are met:
 - 1. Any flat-rate agreement that is made must be for no less than \$50,000 per year;
 - 2. The tax rate proves too difficult to calculate due to the nature and/or complexity of the taxable utility use.
- D. The Tax Administrator shall determine the eligibility of any person who asserts a right to

exemption from the Utility Users Tax. The Tax Administrator shall provide the service supplier with the name of any person who the Tax Administrator determines is exempt from the Utility Users Tax, together with the address and account number to which service is supplied to any such exempt person. The Tax Administrator shall notify the service supplier of termination of any person's right to exemption hereunder, or the change of any address to which service is supplied to any exempt person.

- E. The Tax Administrator shall provide notice to all service suppliers, at least 90 days prior to any annexation or other change in the City's boundaries. Said notice shall set forth the revised boundaries by street and address, along with a copy of the final annexation order from LAFCO.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.160. Assessment—Service user administrative remedy.

- A. Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a person required to collect the tax, or that a service user has refused to pay the amount of tax, such person may be relieved of the obligation to collect the tax from certain named service users for specified billing periods as set forth below.
- B. The service supplier shall provide the City with amounts refused and/or unpaid along with the names and addresses of the service users neglecting to pay the Utility Users Tax. Whenever the service user has failed to pay the Utility Users Tax for a period of two or more billing periods, the service supplier shall be relieved of the obligation to collect such taxes due.
- C. The Tax Administrator shall notify the service user that the Tax Administrator assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user's address change, to the last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of fifteen percent (15%) of the amount of the tax set forth in the notice shall be imposed, but not less than \$5.00. The penalty shall become part of the tax herein required to be paid.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.170. Records.

It shall be the duty of every person required to collect and remit to the City the Utility Users Tax to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at all reasonable times.

(Ord. 1223 C.S. § 1, 1995)

§ 3.20.180. Refunds.

- A. Whenever the amount of city tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded as provided in this section.
- B. Notwithstanding the provisions of subsection (A) of this section, a service supplier may claim a refund; or take as credit against taxes remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax erroneously or illegally collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit. A service supplier that has collected any amount of tax in excess of the amount of the Utility Users Tax and actually due from a service user, may refund such amount to the service user and claim credit for such overpayment against the amount of tax which is due upon any other monthly returns, provided such credit is claimed in a return dated no later than three (3) years from the date of overpayment.
- C. Notwithstanding other provisions of this section, whenever a service supplier, pursuant to an order of the California Public Utilities Commission or a court of competent jurisdiction, makes a refund to service users of charges for past utility services, the Utility Users Tax on the amount of such refunded charges shall also be refunded to service users, and the service supplier shall be entitled to claim a credit for such refunded taxes against the amount of tax which is due upon the next monthly returns. In the event this chapter is repealed, the amounts of any refundable taxes will be borne by the City.
- D. A service supplier may refund the taxes collected to the service user in accordance with this section or by the service supplier's customary practices.
(Ord. 1223 C.S. § 1, 1995)

§ 3.20.190. Termination or suspension.

The service supplier shall, upon notification from the City, terminate or suspend any Utility Users Tax commencing with the first full billing period which occurs after the effective date of such action by the City Council.
(Ord. 1223 C.S. § 1, 1995)

§ 3.20.200. Sunset provision.

This chapter will expire and be of no further force or effect at the end of twenty four (24) months from the date it takes effect.
(Ord. 1223 C.S. § 1, 7/24/1995)

CHAPTER 3.28
TRANSIENT OCCUPANCY TAXI

§ 3.28.010. Title.

This Chapter shall be known as the "Uniform Transient Occupancy Tax of the City."
(Prior code 6700)

§ 3.28.020. Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

- A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.
- B. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.
- E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.
- F. "Tax administrator" means the Finance Director of the City of Martinez.
- G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted period of time extending both prior and subsequent to the effective date of this Chapter may be considered.

(Prior code § 6701)

§ 3.28.030. Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator.

(Prior code § 6702; Ord. 882 C.S. § I, 1978; Ord. 1201 C.S. § I, 1993; Ord. 1216 C.S. § I, 1994)

§ 3.28.040. Exemptions.

A. No tax shall be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided;
2. Any federal or state officer or employee when on official business;
3. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under a penalty of perjury upon a form prescribed by the Tax Administrator.

(Prior code § 6703)

§ 3.28.050. Operator's duties.

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

(Prior code § 6704)

§ 3.28.060. Registration.

Within thirty (30) days after the effective date of this Chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the Tax Administrator and obtain from him a Transient Occupancy Registration Certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

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

- D. "This Transient Occupancy Registration Certificate signifies requirements of the Uniform Occupancy Tax Chapter by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit."

(Prior code § 6705)

§ 3.28.070. Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator.

(Prior code § 6706)

§ 3.28.080. Penalties and interest.

- A. Original delinquency. Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.
- B. Continued delinquency. An operator who fails to remit any delinquent remittance due under this Chapter is due to fraud, a penalty of twenty-five percent of the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.
- C. Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in Subsections A and B of this Section.
- D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Penalties merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the tax herein required to be paid.

(Prior code § 6707)

§ 3.28.090. Failure to collect and report tax—Determination of tax.

If any operator fails or refuses to collect the tax and to make, within the time provided in this Chapter, any report and remittance of the tax or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Tax Administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.28.100.

(Prior code § 6708)

§ 3.28.100. Appeal.

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Council by filing a notice of appeal with the City Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed herein for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

(Prior code § 6709)

§ 3.28.110. Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of 3 years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the City, which records the tax administrator shall have the right to inspect at all reasonable times.

(Prior code § 6710)

§ 3.28.120. Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded as provided in Subsections B and C of this Section provided a claim in writing therefor, which complies with the procedures and provisions contained in Chapter 3.40 of this Code, is filed with the City.
- B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.
- C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in Subsection A of this Section, but only when the tax was paid by the transient directly to the Tax Administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.
- D. No refund shall be paid under the provisions of this Section unless the claimant establishes his right thereto by written records showing entitlement thereto.

(Prior code § 6711; Ord. 1302 C.S. § 2, 2003)

§ 3.28.130. Action to collect.

Any tax required to be paid by any transient under the provisions of this Chapter shall be deemed a debt owed by the transient to the City. Any such tax collected by an operation which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(Prior code § 6712)

§ 3.28.140. Penalty for violations.

- A. Any person violating any of the provisions of this Chapter is guilty of a misdemeanor and shall be punishable therefor by a fine of not more than \$500.00, or by imprisonment in the County Jail for a period of not more than 6 months or by both such fine and imprisonment.
- B. Any operator or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator, or who renders a false or fraudulent return or claim is guilty of a misdemeanor, and is punishable as aforesaid. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid.

(Prior code § 6713)

CHAPTER 3.32
PURCHASING SYSTEM

§ 3.32.010. Adopted.

In order to establish efficient procedures for the purchase of supplies, services and equipment, to secure for the City supplies, services and equipment at the lowest possible cost commensurate with quality needed to exercise positive financial control over purchases, a purchasing system is adopted.

(Ord. 825 C.S. § I, 1975)

§ 3.32.020. Purchasing officer.

The City Manager is appointed the purchasing officer of the City. The duties of the purchasing officer may be combined with those of any other City Officer or position. The City Manager may delegate his duties as purchasing officer to other City staff. The purchasing officer or his designated representative shall have the following authority:

- A. Purchase or contract for supplies, services and equipment necessary for operation of City Departments in accordance with the purchasing policies prescribed and other rules and regulations prescribed by the City Council and City Manager;
- B. Negotiate and recommend the execution of contracts for the purchase of supplies, services and equipment;
- C. Review on an annual basis city purchasing policy and procedures to determine if new or revised purchasing rules and procedures are needed to insure the prompt and efficient procurement of supplies, services and equipment for City Departments; apply new developments and practices in the field of purchasing to City purchasing, if appropriate;
- D. Promote full and open competition on all City purchases.
- E. Initiate and maintain appropriate purchasing forms and files;
- F. Administer the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all surplus supplies and equipment which have become unsuitable for City use.

(Ord. 825 C.S. § I, 1975)

§ 3.32.030. Policy and procedures.

The City Council shall, by resolution, approve appropriate policies and establish appropriate procedures for the purchase of supplies and equipment.

(Ord. 825 C.S. § I, 1975)

CHAPTER 3.36
**INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC
CONSTRUCTION COST ACCOUNTING ACT**

§ 3.36.010. Informal bid procedures.

Public projects, as defined by the Uniform Public Construction Cost Accounting Act, of \$125,000.00 or less may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

(Ord. 1090 C.S. § I, 1987; Ord. 1146 C.S., § I, 1990; Ord. 1279 C.S., § 1, 2000; Ord. No. 1363 C.S., § 1, 4/6/2011)

§ 3.36.020. Contractors list.

A list of contractors identified according to categories of work, shall be developed and maintained by the City's Public Services Director in accordance with the provisions of Section 22.34 of the Public Contract Code and with criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

(Ord. 1090 C.S. § I, 1987; Ord. 1146 C.S. § I, 1990)

§ 3.36.030. Notice inviting informal bids.

A. Where a public project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids shall be mailed at least 10 calendar days before bids are due to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 3.36.020. Said notice shall describe the project, how to obtain more information about the project, and state the time and place for the submission of bids. Additional contractors and/or construction trade journals may be noticed at the discretion of the department/agency soliciting bids; provided however:

1. If there is no list of qualified contractors identified according to categories of work, maintained by the City for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.
2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

(Ord. 1090 C.S. § I, 1987; Ord. 1146 C.S. § I, 1990)

§ 3.36.040. Award of contracts.

The City Finance Director and the Director of Public Services are each authorized to award informal contracts pursuant to this Section.

(Ord. 1090 C.S. § I, 1987)

§ 3.36.050. All bids greater than \$125,000.00.

If all bids received are in excess of \$125,000.00, the City Council may, by passage of a resolution by a $\frac{4}{5}$ vote, award the contract, at \$137,500.00 or less, to the lowest responsible bidder, if it determines the cost estimate of the City was reasonable.

(Ord. 1146 C.S., § I, 1990; Ord. 1279 C.S., § 1, 2000; Ord. No. 1363 C.S., § 2, 4/6/2011)

§ 3.36.060. Automatic adjustment of monetary limits.

In accordance with Public Contract Code Section 22020, the monetary limits specified in this chapter shall adjust automatically and without further amendment by the City Council upon notification from the California State Controller of such amended monetary limit. Such adjustment shall be effective on the date specified in the Controller's notification. The monetary limits specified above shall also adjust automatically and without further amendment by the City Council whenever the Legislature amends Public Contract Code Sections 22032 and 22034 by adjusting the monetary limits contained therein.

(Ord. No. 1363 C.S., § 3, 4/6/2011)

CHAPTER 3.40
CLAIMS AGAINST THE CITY OF MARTINEZ

§ 3.40.010. Authority.

This Chapter is enacted pursuant to the authority of Section 935 of the California Government Code.

(Ord. 1302 C.S. § 1, 2003)

§ 3.40.020. Claim required.

All claims against the City for money or damages not otherwise governed by the Tort Claims Act, California Government Code Sections 900 et seq., or another state law, shall be presented within the time and in the manner prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) as those provisions now exist or shall hereafter be amended, and as further provided by this Chapter.

(Ord. 1302 C.S. § 1, 2003)

§ 3.40.030. Form of claim.

All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this Section. In addition, all claims shall contain the information required by California Government Code Section 910.

(Ord. 1302 C.S. § 1, 2003)

§ 3.40.040. Claim pre-requisite to suit.

In accordance with Cal. Gov't. Code §§ 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the city manager or designee prior to the filing of any action on such claims, and no such action may be maintained by a person who has not filed a claim in accordance with Section 3.40.030.

(Ord. 1302 C.S. § 1, 2003; Ord. No. 1477, 11/19/2025)

§ 3.40.050. Suit.

Any action brought against the City of Martinez upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the City of Martinez shall conform to the requirements of Sections 950-951 of the California Government Code.

(Ord. 1302 C.S. § 1, 2003)

REVENUE AND FINANCE

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Division I
Business Licenses Generally

CHAPTER 5.04
GENERAL PROVISIONS

§ 5.04.010. Purpose.

Licenses are issued for the purpose of raising revenue for municipal operation.
(Prior code § 6100; Ord. 794 C.S. § 3, 1974)

§ 5.04.020. Effect on other ordinances.

Persons required to pay a license tax for transacting and carrying on any business under the ordinance codified in this Chapter and Chapters 5.08 through 5.32 shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the City, and shall remain subject to the regulatory provisions of other ordinances.
(Prior code § 6102; Ord. 794 C.S. § 3, 1974)

§ 5.04.030. Effect of provisions on past actions—Unexpired licenses.

Neither the adoption of the ordinance codified in this Chapter and Chapters 5.08 through 5.32 nor its superseding of any portion of any other ordinance of the City shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

Where a license for revenue purposes has been issued to any person by the City and the tax paid for the business for which the license has been issued under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by the ordinance codified in this Chapter and Chapters 5.08 through 5.32 shall not be payable until the expiration of the term of such unexpired license.
(Prior code § 6144; Ord. 794 C.S. § 3, 1974)

CHAPTER 5.08 DEFINITIONS

§ 5.08.010. Generally.

For the purpose of Chapters 5.04 through 5.32 certain words and phrases are defined, and certain provisions shall be construed as set out in this Chapter, unless it shall be apparent from their context that a different meaning is intended.

(Prior code § 6101; Ord. 794 C.S. § 3, 1974)

§ 5.08.020. Business.

"Business" includes professions, trades and occupations, and all and every kind of calling whether or not carried on for profit.

(Prior code § 6101(a); Ord. 794 C.S. § 3, 1974)

§ 5.08.030. Collector.

"Collector" means the Finance Director or other City Officer or employee charged with the administration of Chapters 5.04 through 5.32.

(Prior code § 6101(c); Ord. 794 C.S. § 3, 1974)

§ 5.08.040. Employee.

"Employee" means any person engaged in the operation or conduct of any business whether as a member of the owner's family, agent, manager, solicitor and any and all other persons employed or working in the business.

(Prior code § 6101(d); Ord. 794 C.S. § 3, 1974)

§ 5.08.050. Fixed place of business.

"Fixed place of business" means the premises within the City where a business is continuously conducted from day to day and regularly kept open for the purposes of such business. The term "regular place of business" shall have the same meaning as "fixed place of business."

(Prior code § 6101(e); Ord. 794 C.S. § 3, 1974)

§ 5.08.060. Gross receipts.

"Gross receipts" includes the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service for which a charge is made or credit allowed, whether or not done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" are all receipts, cash, credits and property of any kind without deduction of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses. Excluded from "gross receipts" are the following:

- A. Cash discounts allowed and taken on sales;
- B. Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- C. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

- D. Such part of the sales price of property returned by purchasers upon rescission of the contract of sale as is refunded either in case or by credit;
- E. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee furnishes the Collector with the names and addresses of the others and the amounts paid to them;
- F. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business are not excluded;
- G. As to a real estate agent or broker, the sales price of real estate sold for the account of others except that portion which represents commission or other income to the agent or broker;
- H. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under Part 1 of Division 2 of Revenue and Taxation Code of the state;
- I. As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser.

(Prior code § 6101(f); Ord. 794 C.S. § 3, 1974)

§ 5.08.070. Itinerant vendor.

"Itinerant vendor" is a person who engages in a temporary and transient business in the City selling any merchandise, article or service with the intent of continuing for not more than 90 days, and who for the purpose of carrying on such business either has no fixed place of business, or hires or occupies a room or place for the exhibition or sale of merchandise, or from which place the sales are made or business solicited by means of samples or delivery from house to house.

(Prior code § 6101(g); Ord. 794 C.S. § 3, 1974)

§ 5.08.080. Peddler.

"Peddler" is a person who travels by foot, wagon, vehicle or other conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares or merchandise of any kind, offering or exposing them for sale, or making sales and deliveries to purchasers or who sells or offers them for sale from a wagon, automotive vehicle or other vehicle or conveyance. "Peddler" includes "hawker" and "huckster". The term "peddler" shall not include those persons or entities that provide prepared or pre-packaged food products for sale from motorized vehicles that make regularly scheduled stops and which do not actively solicit business, but merely offer or expose the food products for sale only at such stops.

(Prior code § 6101(h); Ord. 794 C.S. § 3, 1974; Ord. 1015 C.S. § 1, 1984)

§ 5.08.090. Person.

"Person" includes domestic or foreign corporation or association, syndicate, joint stock corporation, partnership, club, business or canon law trust, society, and individuals transacting and carrying on any business in the City, other than as an employee.

(Prior code § 6101(i); Ord. 794 C.S. § 3, 1974)

§ 5.08.100. Sale.

"Sale" includes the transfer of title to property for a consideration; the serving, supplying or furnishing for a consideration of property. A transaction whereby the possession of property is transferred and the seller retains title as security for the payment of the price, is a sale. This definition does not exclude any transaction which results in a sale within the contemplation of law.

(Prior code § 6101(j); Ord. 794 C.S. § 3, 1974)

§ 5.08.110. Solicitor.

"Solicitor" is a person who travels by foot, wagon, vehicle or other conveyance, from place to place, from house to house or from street to street, taking or attempting to take, orders for the sale of goods, personal property of any kind, for future delivery or for services to be furnished or performed in the future.

(Prior code § 6101(k); Ord. 794 C.S. § 3, 1974)

§ 5.08.120. Sworn statement.

"Sworn statement" is an affidavit or a declaration or certificate made under penalty of perjury.

(Prior code § 6101(1); Ord. 794 C.S. § 3, 1974)

§ 5.08.130. Transient business.

"Transient business" means every business not conducted as a "fixed place of business" or at a regular place of business, whether the person conducting such transient business is or is not a resident of this City.

(Prior code § 6101(m); Ord. 794 C.S. § 3, 1974)

§ 5.08.140. Wholesale and manufacturing business.

"Wholesale and manufacturing business" means every business conducted solely for the purpose of selling or manufacturing goods, wares or merchandise in wholesale lots for resale.

(Prior code § 6101(n); Ord. 794 C.S. § 3, 1974)

CHAPTER 5.12
ADMINISTRATION AND ENFORCEMENT

§ 5.12.010. Duties of collector.

The Collector shall administer and enforce Chapters 5.04 through 5.32. The Collector shall examine each place of business in the City to determine whether Chapters 5.04 through 5.32 are being complied with.

(Prior code § 6104; Ord. 794 C.S. § 3, 1974)

§ 5.12.020. Powers of collector and police officers.

The Collector and each police officer and each person employed as a license inspector may:

- A. File complaints and make arrests for the violation of chapters 5.04 through 5.32;
- B. Enter free of charge during regular business hours any place of business for which a license is required and demand the exhibition of the license certificate.

(Prior code § 6105; Ord. 794 C.S. § 3, 1974)

§ 5.12.030. Additional administrative powers of collector.

The Collector may:

- A. Extend the time for filing information required for a period of not more than 30 days and to waive the penalty that otherwise would accrue. However, in this case, the amount determined to be due, if any, bears interest at 8 percent simple interest from the original due date;
- B. Compromise disputed claims as to license tax;
- C. Adopt forms and prescribe information to be given in the forms.

(Prior code § 6106; Ord. 794 C.S. § 3, 1974)

§ 5.12.040. Administrative rules and regulations.

The City Council may, by resolution, adopt administrative rules and regulations necessary to carry out Chapters 5.04 through 5.32.

(Prior code § 6107; Ord. 794 C.S. § 3, 1974)

§ 5.12.050. Information disclosure when.

The Collector and each representative of the City having an administrative duty shall keep confidential all information concerning the business affairs and operations obtained by an investigation of records in the discharge of official duty and the amount and source of income, profits, losses, expenditures set forth in the statement or application. However, this Section does not prevent:

- A. The disclosure or examination of records and equipment by another City Official for collection of taxes for the purpose of administering Chapters 5.04 through 5.32 or collecting taxes imposed by them;
- B. Disclosure of information to, or the examination of, records by Federal or State officials,

or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists;

- C. Disclosure of information to a grand jury or court of law upon subpoena;
- D. Disclosure of information and results of examination of records of particular taxpayers to a court of law in a proceeding brought to determine the existence of amount of license tax liability to the City;
- E. Disclosure to the taxpayer or his successor, administrator, assignee or guarantor, if directly interested, of information as to the items included in the measure of the paid tax, unpaid tax or amount of tax required to be collected, interest and penalties. However, the City Attorney must approve each such disclosure and the Collector may refuse to make the disclosure referred to in this subsection when in his opinion, the public interest would suffer;
- F. Disclosure of the name and address of a person to whom a license is issued and the general type or nature of the business;
- G. Disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the City for license taxes, or when acting upon any other matter.

(Prior code § 6108; Ord. 794 C.S. § 3, 1974)

§ 5.12.060. Appeal.

- A. A person aggrieved by a decision of the Collector or of any other officer of the City made under Chapters 5.04 through 5.32 may appeal from the decision to the City Council.
- B. A person appealing a decision shall file written notice of the appeal with the City Clerk within 15 days after notice of the decision. The notice shall state the grounds relied upon for appeal.
- C. The City Clerk shall cause the matter to be set for hearing before the City Council within 30 days from the date of receipt of the notice of appeal, giving the appellant not less than 10 days' notice in writing of the time and place of hearing.
- D. The findings and determination of the City Council at the hearing are final and conclusive. Within 3 days after the findings and determinations are made, the City Clerk shall give notice of them to the appellant.
- E. If no appeal is taken, the decision of the Collector or other officer is final and conclusive on expiration of the time fixed for appeal.

(Prior code § 6109; Ord. 794 C.S. § 3, 1974)

§ 5.12.070. License tax deemed a debt.

The amount of any license tax and penalty imposed by the provisions of the ordinance codified in Chapters 5.04 through 5.32 shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent license tax and penalties.

(Prior code § 6142; Ord. 794 C.S. § 3, 1974)

§ 5.12.080. Remedies cumulative.

All remedies prescribed hereunder shall be cumulative and the use of 1 or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof. (Prior code § 6143; Ord. 794 C.S. § 3, 1974)

CHAPTER 5.16 LICENSE REQUIREMENTS

§ 5.16.010. License and tax payment required.

- A. There are imposed upon the businesses, trades, professions, callings and occupations specified in Chapters 5.04 through 5.32 license taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the City without first having procured a license from the City to do so and paying the tax hereinafter prescribed or without complying with any and all applicable provisions of Chapters 5.04 through 5.32.
- B. This Section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or of the State. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by Chapters 5.04 through 5.32.

(Prior code § 6110; Ord. 794 C.S. § 3, 1974)

§ 5.16.020. Evidence of doing business.

When any person, by the use of signs, circulars, cards, telephone books or newspapers, advertises, holds out or represents that he is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the City, or when any person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, and such person fails to deny by a sworn statement given to the collector that he is not conducting a business in the City after being requested to do so by the collector, then these facts shall be considered prima facie evidence that he is conducting a business in the City.

(Prior code § 6111; Ord. 794 C.S. § 3, 1974)

§ 5.16.030. Branch establishment.

- A. A separate business tax shall be paid for each branch establishment or location of a business and for each separate type of business at the same location. A permanently constructed billboard shall be deemed to be a single location of business for purposes of this Section. A person who provides goods, services, music or amusement by vending machines or coin-operated devices shall be subject only to one tax for all such machines or devices within the City. A warehouse and a distributing plant used in connection with a business licensed under Chapters 5.04 through 5.32 is not a separate place of business or branch establishment within the meaning of this Section.
- B. A person conducting two or more types of businesses at the same location under the same management but who uses a single set or integrated set of books and records, may pay only one tax calculated on all gross receipts of the businesses under the schedule that applies to the type of business which requires the highest percentage payment on such gross receipts, except that a license fee of \$10.00 for each additional branch or location shall be paid upon issuance.

(Prior code § 6112; Ord. 794 C.S. § 3, 1974)

§ 5.16.040. Constitutional apportionment.

- A. None of the business taxes provided for by Chapters 5.04 through 5.32 shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the State.
- B. In any case where a business tax is believed by a person transacting or carrying on any business in the City to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the collector for an adjustment of the tax. Such application may be made before or at the time the tax is required to be paid or within 6 months after payment of the prescribed business tax. The applicant shall, by sworn statement and supporting testimony, show his method of business and the gross volume or estimated gross volume of such business and such other information as the collector may deem necessary in order to determine the extent if any of such undue burden or violation.
- C. The Collector shall then conduct an investigation, and after having first obtained the written approval of the City Attorney shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory or, if the business tax has already been paid, shall order a refund of the amount over and above the business tax so fixed. Such investigation, fixing of the business tax and order of refund shall be accomplished no later than one week from the date of application. In fixing the business tax, the Collector shall have the power to fix the business tax upon a percentage of gross receipts or any other measure which will assure that the business tax assessed shall be uniform with that assessed on businesses of like nature so long as the amount assessed does not exceed the business tax prescribed by Chapters 5.04 through 5.32. Should the Collector determine the gross receipts measure of business tax to be the proper basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the City or at the end of each three-month period, a sworn statement of the gross receipts and pay the amount of business tax therefor, provided that no additional business tax during any one calendar year shall be required after the taxpayer has paid an amount equal to the annual business tax as prescribed in Chapters 5.04 through 5.32. If it is determined that no business tax is due, the applicant exempt from the business tax shall obtain, and the Collector shall issue, a certificate indicating such exemption from the tax.

(Prior code § 6113; Ord. 794 C.S. § 3, 1974)

CHAPTER 5.20 EXEMPTIONS

§ 5.20.010. Agriculture.

The provisions of Chapters 5.04 through 5.32 shall not require the payment of a business tax on the business of agriculture except for the retail activities conducted in connection therewith.
(Prior code § 6114(a); Ord. 794 C.S. § 3, 1974)

§ 5.20.020. Charitable purposes.

The provisions of Chapter 5.04 through 5.32 shall not require the payment of a business tax to conduct, manage or carry on any business, occupation or activity from any institution or organization which has conducted, managed or carried on wholly for the benefit of charitable purposes and from which profit is not derived either directly or indirectly by any individual. A certificate shall be obtained from the Collector indicating such exemption from the tax.
(Prior code § 6114(b); Ord. 794 C.S. § 3, 1974)

§ 5.20.030. Benefit activities.

The provisions of Chapters 5.04 through 5.32 shall not require the payment of a business tax for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, benevolent or moral subjects within the City whenever the receipts of such entertainment, concert, exhibition or lecture are to be appropriated to any church or school or to any benevolent purpose within the City. A certificate shall be obtained from the Collector indicating such exemption from the tax.
(Prior code § 6114(c); Ord. 794 C.S. § 3, 1974)

§ 5.20.040. Nonprofit activities.

The provisions of Chapters 5.04 through 5.32 shall not require the payment of a business tax for the conducting of any entertainment, dance, concert, exhibition or lecture by any benevolent, charitable, fraternal, educational, military, state, county or Municipal organization or association whenever the receipts of such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objects for which such organization or association was formed and from which profit is not derived either directly or indirectly by any individual. A certificate shall be obtained from the Collector indicating such exemption from the tax.
(Prior code § 6114(d); Ord. 794 C.S. § 3, 1974)

§ 5.20.050. Part-time occupations.

The provisions of Chapters 5.04 through 5.32 shall not apply to any natural person who performs any service or sells any item, excepting an itinerant vendor, peddler, solicitor or transient business, whose gross income does not exceed \$1,000.00 per year. A certificate shall be obtained from the Collector indicating such exemption from the tax.
(Prior code § 6114(e); Ord. 794 C.S. § 3, 1974)

§ 5.20.060. Exhibiting artists.

A. The provisions of Chapters 5.04 through 5.32 shall not apply to an individual artist:

1. Who displays a painting, sculpture, photograph or other examples of fine art in a public building, art gallery or business establishment and the display is incidental to the primary business conducted on the premises and is primarily for cultural and educational purposes; and
2. Whose gross receipts do not exceed \$1,000.00 per year.

B. A certificate shall be obtained from the Collector indicating such exemption from the tax. (Prior code § 6114(f); Ord. 794 C.S. § 3, 1974)

§ 5.20.070. Disabled veterans.

The provisions of Chapters 5.04 through 5.32 shall not apply to any veteran who is unable to obtain a livelihood by manual labor due to any physical disability who may hawk or peddle any goods, wares or merchandise without payment of any business tax by applying to the Collector and producing a certificate from a local physician showing the applicant to be physically disabled, evidence of being a legal voter of the State and a copy of an honorable discharge. A certificate shall be obtained from the Collector indicating such exemption from the tax. (Prior code § 6114(g); Ord. 794 C.S. § 3, 1974)

§ 5.20.080. Exemptions otherwise prescribed by law.

Nothing in Chapters 5.04 through 5.32 shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitutions or applicable statutes of the United States or the state from the payment of such taxes as are herein prescribed. A certificate shall first be obtained from the collector indicating such exemption from the tax. (Prior code § 6114(h); Ord. 794 C.S. § 3, 1974)

§ 5.20.090. Public utilities making franchise payments.

The terms of Chapters 5.04 through 5.32 shall not be deemed nor construed to apply to any public utility or other service organization which makes an annual payment to the City under a franchise or a similar agreement. (Prior code § 6114(i); Ord. 794 C.S. § 3, 1974)

§ 5.20.100. Public agencies.

The terms of Chapters 5.04 through 5.32 shall not be deemed nor construed to apply to any public utility or other organization which is wholly owned and operated by a political subdivision of the State nor any public district organized under the laws of the State. (Prior code § 6114(j); Ord. 794 C.S. § 3, 1974)

§ 5.20.110. Vehicles subject to highway carriers' tax.

The terms of Chapters 5.04 through 5.32 shall not be deemed nor construed to apply to any vehicle which is subject to the Highway Carriers' Uniform Business License Tax; provided, however, that this exemption shall only apply to the transportation business. (Prior code § 6114(k); Ord. 794 C.S. § 3, 1974)

§ 5.20.120. Compliance with permit requirements required.

The exemption from payment of a license tax granted by Chapters 5.04 through 5.32 does not exempt the person conducting the business from complying with the permit requirements of Chapters 5.04 through 5.32.

(Prior code § 6114(1); Ord. 794 C.S. § 3, 1974)

CHAPTER 5.24
LICENSE PROCEDURES AND REGULATIONS

§ 5.24.010. Contents of license.

- A. Every person required to have a license under the provisions of Chapters 5.04 through 5.32 shall make application as hereinafter prescribed for the same to the Collector, and upon the payment of the prescribed license tax, the Collector shall issue to such person a license which shall contain the following information:
1. The name of the person to whom the license is issued;
 2. The business licensed;
 3. The place where such business is to be transacted and carried on;
 4. The date of the expiration of such license;
 5. Such other information as may be necessary for the enforcement of the provisions of Chapters 5.04 through 5.32.
- B. Whenever the tax imposed under the provisions of Chapters 5.04 through 5.32 is measured by the number of vehicles, devices, machines or other pieces of equipment used, or whenever the license tax is measured by the gross receipts from the operation of such items, the collector shall issue only one license; provided that he may issue for each tax period for which the license tax has been paid one identification sticker, tag, plate or symbol for each item included in the measure of the tax or used in a business where the tax is measured by the gross receipts from such items.

(Prior code § 6115; Ord. 794 C.S. § 3, 1974)

§ 5.24.020. Application for first license.

- A. Upon a person making application for the first license to be issued hereunder or for a newly established business, such person shall furnish to the Collector a sworn statement, upon a form provided by the Collector, setting forth the following information:
1. The exact nature or kind of business for which a license is requested;
 2. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residences of the owners of same;
 3. In the event that the application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residences of those owning the business;
 4. In the event that the application is made for the issuance of a license to a corporation or a partnership, the application shall, set forth the names and places of residences of the officers or partners thereof;
 5. In all cases where the amount of license tax to be paid is measured by gross receipts, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the license tax to be paid by the applicant;
 6. Any further information which the Collector may require to enable him to issue the

type of license applied for.

- B. If the amount of the license tax to be paid by the applicant is measured by gross receipts, he shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the Collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within 30 days after the expiration of the period for which such license was issued, furnish the Collector with a sworn statement upon a form furnished by the Collector, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid in the manner provided by Chapters 5.04 through 5.32 for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.
- C. The Collector shall not issue to any such person another license for the same or any other business, until such person has furnished to him the sworn statement and paid the license tax as herein required.

(Prior code § 6116; Ord. 794 C.S. § 3, 1974)

§ 5.24.030. Renewal license.

In all cases, the applicant for the renewal of a license shall submit to the Collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant a sworn statement upon a form to be provided by the Collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the Collector to enable him to ascertain the amount of the license tax to be paid by the applicant pursuant to the provisions of Chapters 5.04 through 5.32.

(Prior code § 6117; Ord. 794 C.S. § 3, 1974)

§ 5.24.040. Statements and records.

- A. No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the City from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the Collector, his deputies or authorized employees of the City, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of license fee due.
- B. All persons subject to the provisions of Chapters 5.04 through 5.32 shall keep complete records of business transactions, including sales, receipts, purchases and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three years. No person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine the records at reasonable times and places.

(Prior code § 6118; Ord. 794 C.S. § 3, 1974)

§ 5.24.050. Failure to file statement or corrected statement—Tax determination by collector—Hearing.

- A. If any person fails to file any required statement within the time prescribed, or if after

demand therefor made by the Collector, he fails to file a corrected statement, or if any person subject to the tax imposed by Chapters 5.04 through 5.32 fails to apply for a license, the Collector may determine the amount of the license tax due from such person by means of such information as he may be able to obtain.

- B. If such a determination is made, the Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Martinez, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within 15 days after the mailing or serving of such notice, make application in writing to the Collector for a hearing on the amount of the license tax. If such application is made, the Collector shall cause the matter to be set for hearing within 15 days before the City Council. The Collector shall give at least 10 days' notice to such person of the time and place of hearing in the manner prescribed herein for serving notices of assessment. The Council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed herein for serving notices of assessment.

(Prior code § 6119; Ord. 794 C.S. § 3, 1974)

§ 5.24.060. License nontransferable—Change of location or ownership.

No license issued pursuant to Chapters 5.04 through 5.32 shall be transferable; provided that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefor, and paying a fee of \$5.00 have the license amended to authorize the transacting and carrying on of such business under the license at some other location to which the business is or is to be moved; provided further, that transfer, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this Section. For the purpose of this Section, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

(Prior code § 6120; Ord. 794 C.S. § 3, 1974)

§ 5.24.070. Duplicate license.

A duplicate license may be issued by the Collector to replace any license previously issued hereunder which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement paying the Collector a duplicate license fee of \$2.00.

(Prior code § 6121; Ord. 794 C.S. § 3, 1974)

§ 5.24.080. Posting and keeping licenses.

- A. Any licensee transacting and carrying on business at a fixed place of business in the City shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
- B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the license upon his person at all times while transacting and carrying on the business for which it is issued.
- C. Whenever identifying stickers, tags, plates or symbols have been issued for each vehicle,

device, machine or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine or piece of equipment the identifying sticker, tag, plate or symbol which has been issued therefor at such locations as are designated by the Collector. Such sticker, tag, plate or symbol shall not be removed from any vehicle, device or machine or piece of equipment kept in use, during the period for which the sticker, tag, plate or symbol is issued.

- D. No person shall fail to affix as required herein any identifying sticker, tag, plate or symbol to the vehicle, device, machine or piece of equipment, for which it has been issued at the location designated by the Collector, or to give away, sell or transfer such identifying sticker, tag, plate or symbol to another person, or to permit its use by another person.

(Prior code § 6122; Ord. 794 C.S. § 3, 1974)

§ 5.24.090. License tax—How and when payable.

Unless otherwise specifically provided, all annual license taxes payable hereunder shall be due and payable in advance on the 1st day of January of each year; provided that license taxes covering new operations commenced after the 1st day of January or the first renewal license applied for under Chapters 5.04 through 5.32 shall be prorated for the balance of the license year in that proportion which the number of months remaining in the calendar year bears to 12. Other flat-rate license taxes are payable in advance on the first day of business and thereafter on the first day of any applicable period.

(Prior code § 6123; Ord. 794 C.S. § 3, 1974)

§ 5.24.100. Delinquent taxes—Penalties.

For failure to pay a license tax when due, the Collector shall add a penalty of 10 percent of the license tax on the last day of each month after the due date thereof; providing that the amount of such penalty to be added shall in no event exceed 25 percent of the amount of the license tax due.

(Prior code § 6124; Ord. 794 C.S. § 3, 1974)

§ 5.24.110. Refunds of overpayments.

No refund of an overpayment of taxes imposed by Chapters 5.04 through 5.32 shall be allowed in whole or in part unless a claim for refund is filed with the City which complies with the procedures and provisions of Chapter 3.40 of this Code.

(Prior code § 6125; Ord. 794 C.S. § 3, 1974; Ord. 1302 C.S. § 3, 2003)

**CHAPTER 5.28
LICENSE TAXES**

§ 5.28.010. Gross receipts schedule.

- A. The amount of the annual license tax due and payable by every person doing business as a retail business within the City, except as otherwise specifically provided or exempted, is that amount which is calculated in accordance with the gross receipts schedule shown below:

Gross Receipts (in dollars)		Tax (Mil per dollar)
First 1 to 15,000	at	\$1.00
Next 15,000 to 50,000	at	\$1.50
Next 50,000 to 75,000	at	\$1.25
Next 75,000 to 100,000	at	\$1.00
Next 100,000 to 500,000	at	\$0.50
Next 500,000 to 1,000,000	at	\$0.25
Next 1,000,000 to 5,000,000	at	\$0.20
Next 5,000,000 to 10,000,000	at	\$0.15
All over 10,000,000	at	\$0.10

Notes:

Minimum tax under gross receipts schedule is \$25.00.

- B. A "retail business" is defined as every business conducted for the purpose of selling or offering to sell any goods, wares or merchandise, other than as a part of a wholesale business.

(Prior code § 6126; Ord. 794 C.S. § 3, 1974; Ord. § 83 C.S. § 1, 1978)

§ 5.28.015. Service stations.

Notwithstanding the provisions of Section 5.28.010, the amount of the annual license tax due and payable by every person doing business as a retail business within the City, which includes the sale of motor vehicle fuel in excess of 50,000 gallons per year, shall be determined by the provisions of Section 5.28.020 plus the amount of \$.25 per thousand gallons of motor fuel sold during the previous calendar year. In lieu of a full year's previous experience, the annual volume of fuel sold shall be estimated.

(Ord. 892 C.S. § 1, 1978)

§ 5.28.020. Manufacturer, wholesaler or purveyor of services.

The amount of the annual license tax due and payable by every person doing business as a manufacturer, wholesaler or purveyor of services, except as otherwise specifically provided or exempted, is \$85.00 plus \$14.00 multiplied by the number of employees not exceeding 50, plus \$8.00 multiplied by the number of employees in excess of 50.

(Prior code § 6127; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978; Ord. 983 C.S. § 1, 1982)

§ 5.28.030. Professions.

The amount of annual license tax due and payable by every person doing business within the following professions:

Accountant

Appraiser

Architect

Assayer

Attorney

Auditor

Bacteriologist

Bail Bond Broker

Blueprinter

Bookkeeping Service

Chiropodist

Chiropractor

Collection Agency

Credit Reporting Bureau

Consultants or Advisors

Dentist

Designer or Decorator

Detective or Detective Agency and Police Patrol

Draftsman

Drugless Practitioner

Electrologist

Engineer (civil, electrical, mining, construction, structural, consulting, mechanical and hydraulic)

Engraver

Escrow Company

Feed, Grain and Fruit Broker

Geologist

Herbalist

Insurance Broker Insurance or Claims Adjuster

Interpreter

Laboratories, dental, medical, research or scientific

Landscape Gardener or Architect

Lapidary

Lithographer

Masseuse
 Mercantile Agency
 Money Lender or Broker or Selling Obligations
 Mortician
 Oculist
 Optician
 Optometrist
 Osteopath
 Physician
 Podiatrist
 Psychiatrist
 Real Estate Broker
 Roentgenologist
 Sign Painter
 Stocks and Bonds Broker
 Surgeon
 Surveyor
 Taxidermist
 Veterinarian
 X-Ray Laboratory

or for any other professional or trade person not listed is \$84.00 plus \$35.00 for each principal or associate in excess of 1 and \$7.00 for each employee.

(Prior code § 6128(1); Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978)

§ 5.28.040. Hotel, motel and rooming house.

A person who owns a hotel, motel or rooming house shall pay an annual license tax based upon the following schedule:

Rentable Rooms	Tax
2 to 4	\$21.00
5 to 9	\$35.00
10 to 14	\$70.00
15 to 19	\$105.00
20 to 24	\$140.00
25 to 29	\$175.00
30 to 34	\$203.00
35 to 39	\$231.00

Rentable Rooms	Tax
40 to 44	\$259.00
45 to 49	\$287.00

plus \$4.00 for each rentable room over 49.

(Prior code § 6129; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978)

§ 5.28.050. Delivery from outside city.

Every person not having a fixed place of business within the City, and not otherwise licensed or classified under Chapters 5.04 through 5.32 who delivers merchandise of any kind by vehicle, or who provides any service by the use of a vehicle in the City shall pay an annual license tax of \$49.00.

(Prior code § 6130; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978)

§ 5.28.060. Contractors.

- A. Any provision in Chapters 5.04 through 5.32 to the contrary notwithstanding, every person doing business as a general contractor within the City from a fixed place of business within the City, is assessed an annual license tax, in the sum of \$98.00.
- B. Any provision in Chapters 5.04 through 5.32 to the contrary notwithstanding, every person doing business as a general contractor within the City from a fixed place of business outside the City, is assessed a license tax, which expires 3 months next succeeding the date of application therefor, in the sum of \$32.00, which is due and payable prior to commencement of business within the City, except that s/he shall have the option to pay a license tax, which expires 6 months next succeeding the date of application therefor, in the sum of \$56.00, except that s/he shall have the option to pay the sum of \$98.00 for a license which shall expire 1 year next succeeding the date of assessment therefor.
- C. Each contractor, subcontractor, developer and builder, whether building for their own occupancy or not, shall file with the Collector a full written list of all subcontractors performing any service whatever for the contractor or builder within the City for which a license is required under Chapters 5.04 through 5.32 before any subcontractor begins work. A subcontractor subcontracting work is a contractor for the purpose of this Section.

The City may not give final inspection on a building, structure or project until each contractor and subcontractor performing work is licensed.

(Prior code § 6131; Ord. 794 C.S. § 3, 1974; Ord. 813 C.S. § 1, 1975; Ord. 883 C.S. § 1, 1978; Ord. No. 1357, § 1, 12/1/2010)

§ 5.28.070. Subcontractors.

- A. Any provision in Chapters 5.04 through 5.32 to the contrary notwithstanding, every person doing business as a subcontractor within the City from a fixed place of business within the City, is assessed an annual license tax, in the sum of \$98.00.
- B. Any provision in Chapters 5.04 through 5.32 contrary notwithstanding, every person doing business as a subcontractor within the City from a fixed place of business outside the City, is assessed a license tax which expires 3 months next succeeding the date of application

therefor, in the sum of \$32.00, which is due and payable prior to commencement of business within the City, except that s/he shall have the option to pay the sum of \$56.00 for a license which shall expire 6 months next succeeding the date of application, except that s/he shall also have the option to pay the sum of \$98.00 for a license which shall expire 1 year next succeeding date of assessment therefor.

(Prior code § 6132; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978; Ord. No. 1357, § 1, 12/1/2010)

§ 5.28.080. Christmas tree lots.

The license tax for a Christmas tree lot and the sale of related items on the lot is \$25.00 per quarter. The tax may not be prorated. A cleanup fee in the amount of \$50.00 shall be deposited with the Collector and shall be refunded if the premises have been cleaned to the satisfaction of the building inspector. No license is required where the sale of Christmas trees is conducted in connection with another regularly established place of business for which a business license has been obtained.

(Prior code § 6133; Ord. 794 C.S. § 3, 1974)

§ 5.28.090. Vending machines and coin-Operated amusement devices.

- A. Every person conducting, carrying on or managing any business consisting of sales of goods, wares, merchandise and other commodities, including food, by vending machine or coin-operated devices, and every person conducting, carrying on or managing any business consisting of providing services, amusement or music provided by coin-operated devices, shall pay an annual business tax of \$7.00 per \$1,000.00 gross receipts from all machines or devices, plus $\frac{1}{2}$ of 1 percent (0.5%) of the balance of annual gross receipts from all machines or devices over the first \$1,000.00. This Section shall not apply to those machines or devices whose owner is the operator of the business wherein they are located.
- B. Each coin-operated device or vending machine placed, distributed or located in the City shall have affixed thereto in printing, plainly visible to the public, the name, address and telephone number of the owner of the device or machine.

(Prior code § 6135; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978)

§ 5.28.100. Carnivals and circuses.

- A. In this Section carnival includes: circus, fair, menagerie, tent show, exhibit, games of skill, rides, etc.
- B. A person who conducts a carnival shall pay a license tax of \$200.00 for the first day and \$100.00 for each additional day.
- C. The City Manager shall reduce the tax to \$50.00 per day upon submission of satisfactory evidence that:
 - 1. Such carnival is an incidental part of an overall business promotion activity conducted by an organized group of merchants licensed to do business in the City; or
 - 2. Such activity is sponsored by a tax-exempt, religious, charitable, fraternal, veterans, or educational organization or association, or a school student body group for purposes of raising funds for such organization, association or group and if the proceeds received by the sponsoring tax-exempt organization, association or group

are used entirely for the purposes and objectives for which such organization, association or group was formed.

The application for a reduced license tax shall be accompanied by a confirmed copy of agreement or contract between the carnival operator and the sponsoring organization showing the agreement regarding division of the proceeds to be derived from operation of the amusement activity.

- D. Upon written application, the City Manager may waive the license tax for an amusement activity which is sponsored or conducted by a tax-exempt, religious, charitable, fraternal, veterans, or educational organization or association, or a school student body group, if the organization, association or group does not employ the services of a professional carnival operator to conduct the amusement activity.

(Prior code § 6136; Ord. 794 C.S. § 3, 1974)

§ 5.28.110. Cabarets.

Every person owning or operating a business under an on-sale retail license duly issued under the Beverage Control Act of the State and who, in addition thereto, furnishes, makes available or permits in the place of business, music or entertainment either vocally, by orchestra, music box, radio or other musical entertainment devices shall pay an annual license tax to the City of \$75.00 per year. It is unlawful to so operate without such license. It is provided, however, that such license is issued subject to the following terms and conditions, the violation of each or any of which is a public nuisance:

- A. That no loud, boisterous or disorderly conduct that disturbs the peace or quiet of the neighborhood shall be permitted therein;
- B. That no loud music, noise or entertainment that disturbs the peace or quiet of the neighborhood shall be permitted therein;
- C. That the business shall not be operated while music or entertainment as aforesaid is furnished, available or permitted, between the hours of 2:00 a.m. and 6:00 a.m.

(Prior code § 6137; Ord. 794 C.S. § 3, 1974; Ord. 883 C.S. § 1, 1978)

§ 5.28.120. Dances and dance halls.

The license tax for holding or conducting a public dance where an admission fee is charged is \$10.00 a day or \$100.00 a year. This Section shall not apply to those businesses licensed under Section 5.28.110.

(Prior code 6138; Ord. 794 C.S. § 3, 1974)

§ 5.28.130. Fortune-Tellers, astrologers and other similar businesses.

Every person who carries on the practice or profession or who practices the business or art of astrology, palmistry, phrenology, life reading, fortune-telling, cartomancy, clairvoyance, clairaudience, crystal gazing, hypnotism, mediumship, prophecy, augury, dramatic, magic, or necromancy or other similar businesses and who demands or receives a fee for the exercise or exhibition for his art or practice therein or who gives an exhibition therein or at any place where an admission fee is charged, the annual license tax shall be equivalent to the fees due and payable by professions as specified in Section 5.28.030. The applicant shall be required to furnish evidence of his identity of such character as the Chief of Police may require, and shall

also be required to furnish his finger and thumb prints, together with a photograph which is to be, at all times, attached to the permit if issued, and any additional information required by the Chief of Police. Further, the Chief of Police shall conduct an investigation from time to time of the premises of operation. Only 1 license for fortune-tellers, etc. shall be issued for each 20,000 persons residing in the City.

(Prior code § 6139; Ord. 794 C.S. § 3, 1974; Ord. 1350 C.S. § 1, 2008)

§ 5.28.140. National business solicitors.

A. The license tax imposed by this Section is intended to apply to the following: a nationally recognized firm which utilizes agents, employees, or self-employed representatives who are permanent residents of the City or the surrounding area and who are assigned to a specific territory over which they carry samples and take orders for merchandise upon a regularly established schedule. This description is intended to apply to firms and their representatives engaging in business conducted similarly to that of Fuller Brush or Avon Products.

B. The license tax imposed for a person engaging in the business described in Subsection A is \$100.00 per year for the firm. In addition, each agent, employee and self-employed representative shall pay an annual fee of \$20.00.

(Prior code § 6140; Ord. 794 C.S. § 3, 1974)

§ 5.28.150. Flat rates.

Every person transacting and carrying on the businesses herein enumerated shall pay a license tax as follows:

Type	License Tax
Auctioneers	\$30.00 per day
Fire Sales	\$100.00 per day
Itinerant Vendors	\$25.00 per day or \$300.00 per year
Peddlers	\$25.00 per day or \$300.00 per year
Solicitors	\$25.00 per day or \$300.00 per year

(Prior code § 6141; Ord. 794 C.S. § 3, 1974)

§ 5.28.160. Exception to sections other than 5.28.150.

The amount of the annual license tax due and payable by every person doing business covered by any of the previous Sections, with the exception of Section 5.28.150, and as an individual proprietor, over the age of 65, and grossing less than \$10,000.00 per year, shall be at the rate of 50 percent of the stated license tax for that particular classification of business.

(Ord. 897 C.S. § 1, 1979)

§ 5.28.200. Automatic adjustment in license tax based on consumer price index.

The rate of the license tax payable for the license period beginning January 1, 1979 and each year thereafter shall be adjusted upward or downward automatically, except those businesses licensed under Section 5.28.010 as follows: by the percentage change, rounded off to the nearest full

percentage point, in the All Items Consumer Price Index for the San Francisco/Oakland Urban Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30.
(Ord. 883 C.S. § 1, 1978)

CHAPTER 5.29 COMMERCIAL CANNABIS

§ 5.29.010. Purpose and intent.

The purpose of this Chapter is to impose regulatory requirements on various commercial and medicinal cannabis uses authorized and licensed by the State of California pursuant to state law. This Chapter imposes licensing and regulatory requirements on cannabis businesses in addition to any other business license and regulatory requirements imposed on cannabis businesses by applicable state law. If a commercial cannabis use is not specifically permitted in this Chapter, it is not allowed to operate within the City.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.020. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.021. Applicant.

"Applicant" means an owner applying for a commercial cannabis operators permit pursuant to this Chapter.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.022. Bureau.

"Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.023. Cannabis.

"Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this definition, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.024. Cannabis accessories.

"Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.025. Cannabis concentrate.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.026. Cannabis delivery permit.

"Cannabis delivery permit" means a permit issued by the Chief of Police to business that delivers cannabis products within the City limits of the City of Martinez.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.027. Cannabis product.

"Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.028. Chief of police.

"Chief of police" means the Chief of the City Police Department or designee.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.029. City.

"City" means the City of Martinez, a general law city.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.030. City manager.

"City manager" means the City Manager of the City of Martinez, or designee.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.031. Community and economic development director.

"Community and economic development director" means the City's Community and Economic Development Director or designee.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.032. Commercial cannabis activity.

"Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.033. Commercial cannabis business.

"Commercial cannabis business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.034. Commercial cannabis use.

"Commercial cannabis use" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.035. Commercial cannabis operators permit.

"Commercial cannabis operators permit" (sometimes referred to as "CCOP") means a ministerial permit issued by the City of Martinez pursuant to this Chapter to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial commercial cannabis operators permit and its annual renewal are made expressly contingent upon the permittee's ongoing compliance with all of the requirements of this Chapter and any regulations adopted from time to time by the City governing commercial cannabis activity.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.036. Conditional certificate.

"Conditional certificate" (sometimes referred to as "CC") means a conditional privilege awarded by the City Council to a specific commercial cannabis business which grants that business the privilege to apply for a commercial cannabis operators permit.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.037. Contra Costa County fire chief.

"Contra Costa County fire chief" means the Contra Costa County Fire Chief or designee.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.038. Cultivation.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.039. Customer.

"Customer" means a natural person 21 years of age or over, or a natural person 18 years of age or older who possesses a physician's recommendation, or a medical marijuana identification card.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.040. Day care center.

"Day care center" has the same meaning as set forth in Section 1596.76 of the Health and Safety Code.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.041. Delivery.

"Delivery" means the commercial transfer of cannabis or cannabis products by a state-licensed commercial cannabis business to a customer.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.042. Delivery operator.

"Delivery operator" means the person responsible for a business that delivers cannabis products within the City of Martinez.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.043. Dispensary.

"Dispensary" means a business that holds a valid state license and conducts the retail sale of cannabis or cannabis products. "Dispensary" means the same thing as "retail cannabis store."

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.044. Distribution.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between commercial cannabis businesses licensed by the state.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.045. Distributor.

"Distributor" means a business that holds a valid state license for distribution of cannabis or cannabis products.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.046. Licensee.

"Licensee" means a commercial cannabis business that possesses a valid, unexpired and non-suspended state license.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.047. MAUCRSA.

"MAUCRSA" means the California state law entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act and regulations promulgated thereunder.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.048. Manufacture.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.049. Manufactured cannabis.

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.050. Manufacturer.

"Manufacturer" means a business that holds a valid state license and conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.051. Medicinal cannabis or medicinal cannabis product.

"Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.052. Operation.

"Operation" means any act for which licensure is required under state laws and for with a permit is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.053. Non-storefront retail business.

"Non-storefront retail business" means a non-storefront cannabis business that sells and delivers cannabis or cannabis products to customers from a premises that is not open to the public. While the business shall have a physical location within the City of Martinez, all sales are consummated exclusively by delivery.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.054. Owner.

"Owner" means any of the following:

1. A person with an aggregate ownership interest of five percent or more in the business applying for or holding a commercial cannabis operators permit.
2. The manager of a nonprofit or other entity.
3. A member of the board of directors of a for-profit or nonprofit entity.
4. An individual who will be participating in the direction, control, or management of the business applying for and/or holding a commercial cannabis operators permit.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.055. Package.

"Package" means any container or receptacle used for holding cannabis or cannabis products.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.056. Premises.

"Premises" means the designated structure or structures and land specified in the application for a commercial cannabis operators permit that is owned, leased, or otherwise held under the control of the applicant or proposer where the commercial cannabis activity is proposed to be, will be or is conducted.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.057. Proposal.

"Proposal" means the package of information submitted by the proposer(s) for consideration by the Proposal Review Committee.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.058. Proposal review committee.

"Proposal review committee" means staff members of the City of Martinez from the Police, Finance and Community and Economic Development Department; as well as consultants retained by the City for the purpose of reviewing conditional certificate applications.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.059. Proposer.

"Proposer" means a person or persons submitting a conditional certificate application to the City of Martinez.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.060. Retail cannabis store.

"Retail cannabis store" means a business that holds a valid state license that sells cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale. "Retail cannabis store" means the same as "dispensary."

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.061. Schools.

"Schools" means any school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.062. Sell, sale, and to sell.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and include the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a customer to the commercial cannabis business from whom the cannabis or cannabis product was purchased.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.063. State license.

"State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.064. Testing laboratory.

"Testing laboratory" means a business that holds a valid state license that offers or performs tests of cannabis or cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
2. Licensed by the bureau.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.065. Transport.

"Transport" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same. Transport does not include deliveries of cannabis or cannabis products.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.066. Youth center.

"Youth center" means any public or private entity that is exclusively used to host recreational or social activities for minors.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.070. Legal authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the MAUCRSA, any subsequent state legislation and/or regulations regarding same, the City of Martinez is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of medicinal and commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Martinez to the commercial cannabis activities permitted under this Chapter.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.080. Commercial cannabis operating permit required to engage in commercial cannabis business.

- A. Except as specifically and expressly authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, distribution and/or transportation (other than as provided under Business and Professions Code Section 26090(e)), of cannabis or cannabis products is prohibited in the City of Martinez.

- B. No person may engage in any commercial cannabis activity within the City of Martinez unless the person:
1. Has a valid commercial cannabis operators permit from the City; and
 2. Has a valid state license; and
 3. Is in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities engaged in by said person or business.
- C. It is a violation of this Chapter for any person or entity to engage in any commercial cannabis cultivation of any kind.
- D. It is a violation of this Chapter for any person or entity to use or include a drive-through component in their commercial cannabis business.
- (Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.090. Commercial cannabis business selection process.

- A. In order to operate a commercial cannabis business, proposer(s) shall successfully complete a rigorous review process. The steps of the process are as follows:
1. Submit a complete proposal for consideration by the City.
 2. Achieve a score of 80 percent or greater from the Proposal Review Committee and be forwarded to the City Council as a finalist.
 3. Be awarded a conditional certificate by City Council; which grants that business the privilege to apply for a commercial cannabis operators permit.
 4. Apply for and secure all needed planning and building permits and complete any required environmental review pursuant to the California Environmental Quality Act.
 5. Apply for and secure the ministerial commercial cannabis operators permit.
- B. This Chapter describes the commercial cannabis business selection process. It also authorizes the City Manager to promulgate regulations implementing this Chapter, including the procedures to govern the proposal process, and the manner in and the criteria upon which the Proposal Review Committee will recommend which proposals will be finalists.
- C. This Chapter also authorizes the City Manager to prepare the necessary forms and adopt any necessary rules applicable to implement the processes included in this Chapter, unless specifically noted otherwise herein.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.100. Required proposal content.

The content of the proposal shall include the following minimum information:

- A. Identifying information for ownership and management. The name and address of each commercial cannabis business owner and an explanation of the legal form of business ownership.

- B. Description of the proposed site. The site address, description of the premises, name(s) and address(es) of the property owner(s) where the commercial cannabis use will be located, as well as a site plan and floor plan(s) of the proposed commercial cannabis use.
- C. Description of proposed operations. A description of the nature of the proposed commercial cannabis use, including product types, average or expected sales amounts by product type, average or expected amount of cannabis storage. It should also include how the overall business plan and how the proposer(s) intends to facilitate communications with the City.
- D. Proof of state license compliance. A description of the specific state license(s) or permits that the proposer(s) plans to obtain. The proposer(s) shall describe how the business will meet the state licensing requirements.
- E. Additional identifying information for proposed owners and all employees. The proposer(s) shall submit for each commercial cannabis business owner, as well as each employee specific personal information including names, birth dates, addresses, social security numbers, complete criminal history, relevant work history, and the names, addresses, telephone numbers and email addresses of businesses owned or operated within the last ten years, investor or partner information of those businesses, electronic fingerprint images and related information as required by the Chief of Police or designee for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests. Mandatory criminal background checks will be conducted using this information. All confidential information shall be held in a confidential file, and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 7922.
- F. Disclosure of litigation and legal proceedings. A description of any litigation in which the proposer(s) has been involved in, within the ten years immediately preceding the date of the proposal, and a statement of whether any authorization allowing the business currently operated by the proposer(s) or the state license authorizing the operation of such business has been revoked or suspended within the ten years immediately preceding the date of the proposal.
- G. Security plan. A description and documentation of how the proposer(s) will secure the business and premises at all times. All security plans shall be held in a confidential file, and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 7922. The security plan shall address, but is not limited to, the following:
 - 1. Security personnel staff plan. Description of security personnel staff plan that ensures there are always at least two security personnel on-site during business hours. Additionally, there shall be a minimum of one roving security person and a maximum of two security personnel required to be on-site after business hours, subject to review and approval by the Chief of Police, to ensure safe operations of the business. The Chief of Police has sole discretion to review and adjust on-site security requirements (but not less than the personnel requirements as set forth above), based on crime trends, physical security measures installed, and considerations related to protecting public health, safety, and welfare. All security personnel must be certified by the State Bureau of Security and Investigative Services. All decisions of the Chief of Police regarding the requirements of the Security Personnel Staff Plan are final.
 - 2. Prevention of illegal activities of trespassing. Measures for preventing individuals

from remaining on the premises if they are not engaged in authorized activity.

3. Prevention of smoking and/or consumption. Measures to prevent smoking of cannabis and cannabis products and any other consumption or use of cannabis or cannabis products on the premises.
4. Disposal of unusable cannabis. Measures for the safe disposal of expired, contaminated, adulterated, deteriorated, or excess cannabis products.
5. Prevention of adverse impacts on adjacent properties. Measures for preventing adverse off-site impacts to adjacent properties.
6. Cash/currency handling—Best practices. Measures for safeguarding cash and other currency held on the premises as well as for the periodic, secure transport of that currency to a bank or other off-site location. This includes the transfer of currency for remitting City tax payments.
7. Cannabis handling—Best practices. Measures for safely transporting cannabis product from inside the facility to vehicles used for delivery. A transportation plan that details the procedures established for the safe and secure transport of cannabis and cannabis products.
8. Cannabis inventory control. Measures to maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing, and distribution processes until purchase as set forth in MAUCRSA.
9. Customer records. Measures to maintain a record of all persons, patients, collectives, and primary caregivers served by the commercial cannabis use, for a period of no less than that specified in MAUCRSA.
10. Financial records. Measures to maintain accurate records in an electronic format, detailing all revenues and expenses of the business, and all of its assets and liabilities.
11. Building security, monitoring, safety, and surveillance.
 - a. Alarm. Measures that include a professionally installed alarm system (perimeter, fire, and panic buttons), that is monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services and notes if there will be remote monitoring of alarm systems by licensed security professionals.
 - b. Building surveillance plan. Measures that include 24-hour security surveillance live-monitoring cameras with talk-down feature and detection analytics of at least high-definition quality, able to record in color, to monitor the following parts of the facility:
 - i. All entrances and exits to and from the cannabis business;
 - ii. All interior spaces within the cannabis business which are accessible to the public; all interior spaces where cannabis, cash, or currency is being stored; and all interior spaces where diversion could reasonably occur.

- c. Lighting. Measures that include a perimeter lighting systems (including motion sensors) for after-hours security showing that the minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas.
- d. Unauthorized entry. Measures to prevent unauthorized entry to the building via any doors, windows, hatches or other means of ingress or egress, including, but not limited to, retractable, folding or sliding metal gates, or metal rollup or accordion doors and bollards or other means to prevent unauthorized vehicular entry.

All facilities shall maintain adequate exterior lighting in the parking areas and entry/exit points for help provide safety for patrons and employees.

- 12. Building internal access plan. Measures to establish limited access areas within the business accessible only to authorized commercial cannabis business personnel.
 - 13. Cyber security plan. Measures to establish network security protocols capable of protecting computer information and all digital data that are certified by Underwriters Laboratories ("UL").
- H. Odor control. The property provides a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility is not detected outside the facility, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the cannabis retail facility.
 - I. Certificate of insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements contained in this Chapter.
 - J. Hazardous materials. To the extent that the proposer intends to use any hazardous materials in its operations, the proposer(s) shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
 - K. Pro forma. Three years of pro forma estimates for operations, including a discussion of the business assumptions used to develop the estimates. Example assumptions include revenue, customer volume, visits, and product costs, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs.
 - L. Community benefits. A description of the benefits that the commercial cannabis business will provide to the local community, such as employment for residents of the City, community contributions, and/or economic incentives to the City. Any community benefits that a commercial cannabis business agrees to provide shall be incorporated into the terms and conditions under which the commercial cannabis business will operate with the City's approval, if and when the conditional certificate is awarded. Said agreement may take the form of a written agreement and/or conditions of approval. Such terms and conditions shall be in addition to the requirements of this Chapter.
 - M. Diversity, equity, and inclusion measures. Proposals shall include specific measures to promote diversity, equity, and inclusion, including, but not limited to, diversity and inclusion training for all employees, the formation of Employee Resource Groups, targeted

outreach and recruitment efforts with underrepresented groups, mentorship or sponsorship programs for underrepresented groups, and talent development programs for underrepresented employees.

- N. Signature of proposer(s) and property owner(s). The proposal shall be signed by all proposer(s), certifying, under penalty of perjury, that all information submitted as part of the application process is, to the best of their knowledge, true, accurate, and complete. The proposal shall be signed by all property owners of the location where the commercial cannabis business is proposed to be located, certifying that the property owner(s) has/have reviewed the proposal and approves the use of the property for the purposes stated in the proposal.
- O. Fees. An administrative review fee deposit as adopted in the user fee schedule shall submitted to the City along with the proposal to be used to cover the cost of all needed staff time, consultant costs, and other resources utilized in vetting the proposal.

The proposer(s) shall also be responsible for reimbursing the City for the cost of any staff time and City resources, in excess of the deposit, if needed. If any monies are not expended, they shall be refunded. Proposer(s) shall be required to execute a cost recovery agreement with the City as a condition to submitting a proposal.

- P. Additional information. The proposal may also be required to include additional information and/or documents pursuant to regulations promulgated to implement and enforce the provisions of this Chapter.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.110. Commercial cannabis business selection process.

- A. The Proposal Review Committee shall consider each proposal and shall give particular consideration to the capacity, capitalization, and history of the proposer, the community benefit provided by the proposed commercial cannabis business, and any other factors that the City, in its discretion, deems necessary to maintain and/or promote the health, safety, and general welfare of the public. An administrative rating system shall be created by the City Manager or designee that reflects these priorities. The City reserves the right to reject any or all proposals if it is determined to be in the best interest of the City, taking into account any aspect of the health, safety, and/or welfare of the community.
- B. The Proposal Review Committee consists of staff members from the Police, Finance, and Community and Economic Development Departments, as well as consultants retained by the City. It shall review each proposal and set an overall score. The purpose of the Proposal Review Committee is to develop a list of qualified finalists for the various types of cannabis businesses the ordinance allows to be established in the City.
- C. The Proposal Review Committee reserves the right to:
1. Contact any proposer if the PRC has any additional questions after reviewing the proposals.
 2. Interview any or all proposers as the PRC finds it necessary to provide each proposal an overall score.
- D. All proposals receiving a score of 80 percent or higher by the Proposal Review Committee

shall be referred to the City Council as a finalist.

- E. Any proposal rejected by the Proposal Review Committee may be appealed to the City Council, pursuant to Section 5.29.280, Appeals.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.120. Consideration of finalists for award of conditional certificate.

- A. The City Council shall hold a duly noticed public hearing to consider the awarding of conditional certificates (CC) with respect to those proposals which constitute finalists. The award of CC's shall be left to the sole discretion of the City Council. The City Council's award of each conditional certificate shall be memorialized in written decisions supporting each award and any additional conditions and/or agreements required by the City Council. The Council may award CC's for each category of commercial cannabis business identified below in an amount no greater than the number assigned in Section 5.29.160 Types and Amounts of Commercial Cannabis Businesses. In its deliberation, the City Council reserves the right to reject any or all proposals and reserves the right to request and obtain additional information from any proposer, should the City Council find such actions necessary in order to act in the best interests of the health, safety and welfare of the City.
- B. Prior to any CC award, the City Council may modify, postpone, or cancel (i) any requirement applicable to any proposal, or (ii) the entire program established under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Any person submitting proposals assumes the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled or eliminated, as the case may be, at any time prior to issuing a CCOP to that person.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.130. Commercial cannabis businesses awarded conditional certificates may apply for planning and building permits.

- A. Upon being granted a conditional certificate, proposer(s) (hereinafter sometimes referred to as "applicants") shall be eligible to apply for and take the necessary steps to obtain the planning entitlements and building permits necessary to construct, install and/or operate their specific commercial cannabis business at the location identified in their proposal. This includes any required environmental review pursuant to the California Environmental Quality Act, (CEQA).
- B. From the date the City Council awards a conditional certificate, the applicant shall have up to one year to:
1. Apply for and obtain the necessary planning entitlements; and
 2. Apply for and receive building permit(s) and complete all necessary renovations and/or new construction and secure approval of a final building permit and/or certificate of occupancy; and
 3. Satisfy all of the conditions of approval required and/or included in its conditional certificate award and provide proof that all requirements of CCOP, have been met. This includes all required legal contracts necessary to secure the proposed public benefit included in the proposal; and

4. Apply for and be issued a commercial cannabis operators permit.
- C. Extensions of this time period beyond one year shall be granted on a case-by-case basis by the City Manager.
(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.140. Commercial cannabis operators permit required.

- A. Prior to commencing operations of a commercial cannabis business, the applicant of the commercial cannabis business must obtain a commercial cannabis operators permit (CCOP) from the City Manager.
- B. To receive this ministerial permit, the applicant must provide proof of all the following:
 1. A valid conditional certificate awarded by the City Council and a state license for whichever type of commercial cannabis business(es) the conditional certificate stipulates.
 2. All necessary planning approvals, including a design review, if applicable.
 3. All necessary building permits, and approvals by agencies with jurisdiction including but not limited to the Contra Costa County Fire Department, Contra Costa County Health Department, City Water Department, and Sanitary Sewer Agency, and any other agency approvals that may be required, as applicable.
 4. A City business license issued to the applicant for the relevant commercial cannabis business.
 5. Satisfaction of and/or compliance with all of the conditions specified in Section 5.29.130, Commercial Cannabis Businesses Awarded Conditional Certificates may Apply for Planning and Building Permits.
- C. Upon receipt of a complete application for a commercial cannabis operators permit, the City Manager shall undertake an inspection and investigation to ascertain whether the applicant has satisfied all of the conditions precedent to issuance of the commercial cannabis operators permit specified in this Chapter. Except in unusual circumstances, the City Manager shall complete the inspection and investigation within 30 days of receiving the applicant's complete application.
- D. The City Manager's inspection and investigation shall include a review of the relevant documents and the proposed business location to ensure that the commercial cannabis business and its applicant have satisfied all of the criteria set forth in the Section 5.29.140.B, above.
- E. If the City Manager cannot approve the commercial cannabis operators permit, the City Manager will provide written notice of the reasons therefor ("CM's Investigation Report") to the applicant within ten days of the completion of the City Manager's inspection and investigation.
- F. Each commercial cannabis operators permit issued pursuant to this Chapter shall expire 12 months after its date of its issuance. Commercial cannabis operators permits may be renewed as provided in Section 5.29.240 Renewal of Commercial Cannabis Operators Permit.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.150. Performance standards for all commercial cannabis businesses.

In addition to all the requirements listed in Section 5.29.100, Required Proposal Content, the following standards shall apply to all commercial cannabis businesses. Failure of a commercial cannabis business to comply with the following standards shall be grounds for the suspension, revocation, and/or non-renewal of the commercial cannabis operators permit pursuant to Section 5.29.250, Notice of Proposed Denial, Suspension, Revocation, or Refusal to Renew Commercial Cannabis Operators Permit. The remedies available to the City for such non-compliance shall not be cumulative and include all remedies set forth in Section 5.29.300, Each Violation is a Separate Offense and a Public Nuisance; Section 5.29.310, Criminal Penalties and Section 5.29.320, Remedies Cumulative and Not Exclusive.

- A. Access. The following persons may have access to all cannabis businesses:
 - 1. Adults age 21 and over with appropriate government-issued identification.
 - 2. Adults ages 18—20 with appropriate government-issued identification, if they are in possession of a valid physician's recommendation.
 - 3. Persons under 18 and those who do not meet Section 5.29.150.A.1 and 2 are prohibited access without exception.
- B. Display of permit and city business license. The original commercial cannabis operators permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the commercial cannabis business in a location readily-visible to the public.
- C. Community and security contact persons.
 - 1. Each commercial cannabis business shall identify a security liaison and provide contact information to the Chief of Police who shall be available at 24 hours a day to meet with the Chief of Police regarding security measures and operational issues.
 - 2. Each commercial cannabis business shall identify a community liaison and provide contact information to Community and Economic Development Director who shall be available during business hours of the business to respond to concerns, complaints, and feedback from the community. This person shall also be listed on business's website and on the premises in a location visible to members of the public.
- D. Safe operation. All commercial cannabis businesses shall operate in compliance with all state and local building and fire safety codes. This includes emergency access and emergency evacuation plans.
- E. Indoor only. All commercial cannabis business shall be conducted within buildings. No production, processing, manufacturing, distribution, storage, advertising, or display of cannabis or cannabis products shall be visible from the exterior of a building where a commercial cannabis business is located, except for as provided by signage, below.
- F. Signage. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property with respect to which a commercial cannabis business permit has been issued, or on any of the vehicles owned or

used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time. In addition to the requirements otherwise set forth in this Section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Martinez Municipal Code.

1. Entrance signage.
 - a. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - b. There shall also be a notice indicating that persons aged 18 to 20 may only be admitted if they possess a valid doctor's recommendation, and that all persons under 18 are strictly prohibited access.
- G. Odor control. Odors shall be contained on the property on which the commercial cannabis business is located.
 1. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. To meet this standard, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Community and Economic Development Director determine is a more effective method or technology:
 - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally.
 - b. An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- H. Video surveillance. Commercial cannabis businesses must have surveillance cameras installed, which shall be motion-sensor activated and capable of recording all activity on the premises, except for any restroom area. At a minimum, the following standards are required:
 1. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. The City will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a cannabis business.
 2. Surveillance cameras shall record 24 hours per day, seven days per week.
 3. All exterior surveillance cameras must be in weather-proof enclosures and located in

such a way as to minimize the possibility of vandalism.

4. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The video surveillance shall include live monitoring of cameras with talk-down feature and detection analytics.
5. Sensors shall be installed to detect entry and exit from all secure areas of the cannabis business, and monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
6. A photometric plan meeting demonstrating that the minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas.
7. Surveillance video shall be kept for a minimum of 90 days in a format that can be easily accessed for viewing.
8. The surveillance camera and recording system must be of adequate quality, color rendition, and resolution to allow the ready identification of an individual on or adjacent to the property and the ability to capture license plates entering and exiting the premises.
9. Cameras shall specifically capture the following:
 - a. Areas where cannabis is stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
 - b. Each location where testing, sampling, weighing, packaging, transport preparation, processing, manufacturing, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, manufacturing, or labeling activities.
 - c. Access points to the secured surveillance recording area.
- I. Location of video surveillance and alarm equipment. At a minimum, the following standards are required:
 1. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff.
 2. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.
 3. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
 4. The commercial cannabis business shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. This information must be provided to the Chief of Police upon request.

- J. Site security. At a minimum, the following standards are required:
1. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to ensure the safety of persons and to protect the premises from theft.
 2. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system.
 3. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
 4. All structures used for commercial cannabis use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
 5. Access to secure areas of the business shall be by key card and/or a mechanism that provides tracking information user, date, and time.
 6. Panic buttons shall be installed in all commercial cannabis business premises with easy access by employees and all employees shall be properly trained on its use. These buttons shall have direct notification to the Martinez Police Department Communications Center as well as to the alarm monitoring company.
 7. Any security bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.
 8. Windows, doors, and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches, retractable, folding or sliding metal gates, or metal rollup or accordion doors and bollards or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.
 9. At least two security personnel shall be on-site during business hours. A minimum of one roving security person and a maximum of two on-site security personnel shall be on-site after business hours, subject to review by the Chief of Police in their sole discretion. The Chief of Police may review and adjust on-site security requirements (but not less than the personnel requirements as set forth above), based on crime trends, physical security measures installed, and considerations related to protecting public health, safety, and welfare. All security personnel must be certified by the State Bureau of Security and Investigative Services.
 10. Any decision by the Chief of Police regarding the site security is final and may not be appealed, as the security plan shall be held in a confidential file, and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 7922. The Chief of Police shall notify the City Manager of approved revisions to an existing security plan.
- K. Cannabis control. Except for limited amounts of cannabis used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products

shall be stored in a secured and locked room, safe, or vault that meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

- L. Weapons prohibited. Weapons and firearms are prohibited on the premises, unless requested by the proposer or applicant as part of their confidential Security Personnel Staff Plan and authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty. Any decision by the Chief of Police regarding the use of weapons and firearms is final and may not be appealed, as all security measures shall be held in a confidential file, and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 7922.
- M. Insurance coverage. Commercial cannabis businesses shall maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury with limits of not less than \$5,000,000.00 per occurrence, combined single limit and comprehensive automobile liability (owns, non-owned, hired) providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence, combined single limit basis for bodily injury, including death, of one or more persons, property damage, and personal injury with limits of not less than \$5,000,000.00. The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officers, and employees as additional insured.
- N. Ledgers and accounting systems. Each commercial cannabis business shall have software systems in place to provide point of sale data as well as audit trails or both product and cash, where applicable. In addition, they shall maintain a registry of owners, operators and employees and persons served at the business. Each commercial cannabis business shall allow the City Manager or designee to have access to the business's books, records, and accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination by the City. Records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware. The business shall notify the City Manager or designee within 72 hours of the loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees, or agents.

A detailed explanation of each type of ledger is included below.

- 1. Accounting records. Each commercial cannabis business shall maintain accurate records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities.
 - a. On no less than an annual basis (at or before the time of the renewal of a CCOP issued pursuant to this Chapter), or at any time upon request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous 12-month period (or shorter period based upon the timing of the request), provided on a

per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.

- b. Commercial cannabis business shall also maintain, for a minimum of three years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records. Such ledger shall be made available to the City for inspection during business hours upon reasonable notice by the City Manager or designee.
2. Annual audit. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or designee.
3. Registry of owners, operators and employees. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents, and volunteers employed or otherwise engaged by the commercial cannabis business. The registry required by this paragraph shall be provided to the City Manager or designee upon request.
 - a. A commercial cannabis business shall notify the Chief of Police or designee within three days of any proposed staffing changes. Potential new employees shall be subject to the same requirements of the initial proposal process and may not commence work until authorized by the Chief of Police or designee.
4. Persons served at location. Each commercial cannabis business shall maintain a record of all persons, patients, collectives, and primary caregivers served by the commercial cannabis business, for a period of no less than that specified in MAUCRSA.
5. Inventory control. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA. Each commercial cannabis business shall demonstrate to the City Manager or designee compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
 - a. The commercial cannabis businesses shall notify the City Manager or designee of significant discrepancies identified between inventory records and inventory within 72 hours of discovery of the discrepancy.
- O. Inspections. To the extent permissible by law, the City Manager, Police Department, Community and Economic Development Department, or Finance Department shall have the right to enter and inspect any commercial cannabis business, or delivery vehicle during regular business hours, with or without notice, for the purpose of ensuring compliance with the regulations of this Chapter, provided that any such entry and inspection shall be

conducted in a reasonable manner.

1. Peace officers, whether in plain clothes or uniform, have the right to visit and inspect any commercial cannabis business or delivery vehicle at any time during business hours without a search warrant, upon presentation of appropriate credentials. This includes inspection of all areas of the business premises or vehicle, including, but not limited to sales areas, back-of-house areas, store rooms, offices, closed or locked cabinets, safes, kitchens, and appurtenant buildings.
 2. It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct a lawful inspection and review records, management inventory systems, point of sale software, recordings or other documents required to be maintained by a cannabis business under this Chapter. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter.
- P. Regular meetings. The commercial cannabis business shall schedule and be available for an in-person meeting with the City Manager or designee not less than once every 180 days. These meetings shall be used to discuss ongoing operation of the commercial cannabis business and any modifications to the operating permit necessary to maintain peace, order, and welfare of the public. The City Manager or designee may waive these meetings at their discretion.
- Q. Urgent meetings. A commercial cannabis business shall notify the Chief of Police or designee within three days of receiving any notices of violation or other corrective action ordered by a state agency or other local licensing authority, and shall provide copies of relevant documents.
- R. Billboards prohibited. Commercial cannabis businesses are prohibited from the use of billboards within the City to advertise.
- S. Temporary events prohibited. Commercial cannabis businesses are prohibited from commercial activity at temporary events, including, but not limited to, County fairs, concerts, conventions, festivals, and parades.

The performance standards listed above apply to all commercial cannabis uses. In addition, the following operating requirements shall apply to each specific use noted below.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.160. Types and amounts of commercial cannabis businesses.

- A. Except as otherwise provided by City Council resolution, the following types and number of cannabis businesses are permitted in the City:
1. Dispensary or retail cannabis stores—maximum of two.
 2. Manufacturing—maximum of one.
 3. Distribution—maximum of one.
 4. Testing laboratory—maximum of one.

5. Non-storefront retail business—maximum of one.

- B. This Section is only intended to establish a maximum number of commercial cannabis businesses that may be issued CCOPs to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the CCOPs if it is determined that, (i) the proposers do not meet the standards which are established in the proposal requirements and/or, (ii) it is otherwise not in the best interests of the City to issue any or all of the potential number of CCOPs.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.170. Operating requirements for retail uses.

In addition to the regulations listed in Section 5.29.150, Performance Standards for all Commercial Cannabis Businesses, and all applicable state regulations; the following regulations specifically apply only to retail or dispensary uses:

- A. Hours of operation. Commercial cannabis retail uses shall not be open to the public and shall not conduct retail sales or deliveries before 9:00 a.m. or after 9:00 p.m. on any day of the week.
- B. Amount of product allowed. Retailers may have in the retail sales area of their facility only that quantity of cannabis and cannabis products needed to meet daily demand for on-site sales. Additional product sufficient to meet weekly demand may be stored on the premises in a secured, locked area to which customers, vendors, and visitors shall not have access.
- C. Method of sale. Sales may only occur in the retail area of the permitted facility. Off-site sales and sales at drive-through windows are prohibited.
- D. Restrooms. If customers are allowed to access restrooms, they must be located only adjacent the lobby entrance and outside the limited access area of the retail facility. Under no circumstances should restrooms be immediately adjacent the retail sales area.
- E. Limited access areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals on-site for a business purpose (other than a retail purchase) that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the Chief of Police or the Community and Economic Development Director or designees upon request.
- F. Distances between retail uses. Dispensaries shall be 1,000 feet apart from each other, as measured between the property lines of each use. The distances set forth in this Section shall be measured as a straight line, without regard to intervening structures or objects.
- G. Health information. Signage detailing relevant health information of cannabis consumption shall be affixed to an interior wall or to a free-standing sign within the retail area, in such a manner that such information is readily visible by customers and free of obstructions. The signage shall be reviewed and approved by the City Manager or designee.

H. On-site consumption prohibited. On-site consumption of cannabis, whether by smoking, vaping, or the use of edibles, is prohibited, except in cannabis consumption lounges.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.180. Operating requirements for distribution uses.

In addition to the regulations listed in the Section 5.29.150, Performance Standards for all Commercial Cannabis Businesses, and all applicable state regulations; the following regulations specifically apply only to distribution uses:

- A. No storage or distribution of Non-Cannabis Goods on Licensed Premises. A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this Section, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Title 16 of the California Code of Regulations, Section 5000(c).
- B. Each batch shall be tested. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- C. Batches shall be stored separately and distinctly. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- D. Batch size shall meet state law. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.
- E. Batch sampling shall be monitored and recorded. A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 180 days, pursuant to Title 16, Section 5305 of the California Code of Regulations.
- F. Transportation of batch contingent on testing and certification. A distributor shall not transport cannabis or cannabis products to a licensed retail facility unless and until it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Title 16, Sections 5705, 5710 and 5714 of the California Code of Regulations.
- G. Proof of bond required. Any cannabis distribution facility shall provide proof of a bond of at least \$5,000.00 to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements or cannabis or cannabis products rejected by testing.
- H. Inspection by fire department shall be allowed. The distributor must allow inspections to be done by the Contra Costa County Fire Chief at any time during regular business hours from 10:00 a.m. to 8:00 p.m.
- I. Labeling of each container in batch required. A distributor shall ensure a label with the

following information is physically attached to each container of each batch:

1. The manufacturer or cultivator's name and license number;
 2. The date of entry into the distributor's storage area;
 3. The unique identifiers and batch number associated with the batch;
 4. A description of the cannabis goods with enough detail to easily identify the batch; and
 5. The weight of or quantity of units in the batch.
- J. Cannabis shall be stored inside. A distributor shall store cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. A distributor may not store cannabis goods outdoors.
- K. Personnel rooms shall be separate from storage areas. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from storage areas.
- L. Loading and unloading of cannabis shall be in secure area. All loading and unloading activities shall take place within a secured area.
- (Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.190. Operating requirements for testing laboratory uses.

In addition to the regulations listed in the Section 5.29.150, Performance Standards for all Commercial Cannabis Businesses, and all applicable state regulations; the following regulations specifically apply only to testing laboratory uses:

- A. Conduct of testing shall be pursuant to state law. Testing laboratories shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each testing lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Conduct of testing shall be pursuant to general requirements for competence. Testing laboratories shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. Testing laboratory shall be accredited. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- D. Destruction of batch may be required. Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the Bureau.
- E. Employee shall transport sample to testing laboratory. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory

employee transports the sample to the testing laboratory.

- F. Testing laboratory shall only test cannabis from state licensee. Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- G. Testing laboratory shall only test cannabis from patients or caregivers pursuant to certain restrictions. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.
- H. Testing laboratory shall not hold interest in other cannabis business. The owners and employees of the testing laboratory may not hold an interest in any other cannabis business except another testing business.
- I. Inspection by fire department shall be allowed. The testing laboratory must allow inspections to be done by Contra Costa County Fire Chief at any time during regular business hours from 10:00 a.m. to 8:00 p.m.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.200. Operating requirements for cannabis manufacturing uses.

In addition to the regulations listed in Section 5.29.150, Performance Standards for all Commercial Cannabis Businesses, and all applicable state regulations; the following regulations specifically apply only to manufacturing uses:

- A. No additional manufacturing activity allowed. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity, pursuant to Section 5.29.270, Modifications of Commercial Cannabis Operators Permit.
- B. Inspection by fire department shall be allowed. The testing laboratory must allow inspections to be done by the Contra Costa County Fire Chief at any time during regular business hours from 10:00 a.m. to 8:00 p.m.
- C. Cannabis shall be manufactured inside. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure.
- D. Amount of compressed gas limited. Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceeds the amount which is approved by the Contra Costa County Fire Chief and authorized by the regulatory permit. Each site or parcel shall be limited to a total number of tanks as authorized by the Contra Costa County Fire Chief on the property at any time.

- E. Various manufacturing methods allowed. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- F. Additional restriction of carbon dioxide gas usage.
1. If an extraction process uses a professional grade closed loop Carbon Dioxide (CO₂) gas extraction process system, every vessel must be certified by the manufacturer for its safe use.
 2. The CO₂ must be of at least 99 percent purity.
 3. Closed loop systems for compressed gas extraction systems must be manufactured and bear a permanently affixed and visible serial number.
 4. Certification from an engineer, licensed by the State of California, or by a certified industrial hygienist, must be provided to the City Manager for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - a. The American Society of Mechanical Engineers (ASME);
 - b. American National Standards Institute (ANSI);
 - c. Underwriters Laboratories (UL); or
 - d. The American Society for Testing and Materials (ASTM).
 5. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
 6. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
 7. Cannabis manufacturing facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
 8. Cannabis manufacturing facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
 9. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.210. Operating requirements for non-storefront retail business.

In addition to the regulations listed in Section 5.29.150, Performance Standards for all Commercial Cannabis Businesses, 5.29.230, Cannabis Deliveries and all applicable state regulations; the following regulations apply to non-storefront retail business uses:

- A. Limit to the amount of product. Non-storefront retail business may only have a quantity of cannabis and cannabis products on-site that is reasonably anticipated to meet the weekly sales demand.
- B. No signage. No signage of any kind other than the address shall be allowed on the exterior portion of the premises or on any signage that is visible from the public right-of-way.
- C. Limited access areas. The entire premises of a non-storefront retail business is a limited-access area and only authorized individuals may be permitted to enter the limited-access areas. For purposes of this Section, authorized individuals include individuals employed by the commercial cannabis business as well as any outside vendors, contractors, or other individuals (other than a retail purchaser) who must access the limited-access areas in order to conduct lawful business activities with the non-storefront retail business.

All individuals granted access to the limited access area shall be at least 21 years of age, and if not an employee, shall be escorted at all times by an employee of the permittee. A non-storefront retail business shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the Chief of Police or the Community and Economic Development Director upon request.

- D. Must verify customer is legally allowed to receive cannabis. Non-storefront retail business shall only deliver cannabis or cannabis products to persons 21 years of age or older, or a person 18 years of age or older who possesses a physician's recommendation for cannabis medical use only.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.220. Location requirements of commercial cannabis businesses.

- A. Permitted by-right locations, Only. All commercial cannabis businesses, except for out-of-City commercial cannabis businesses issued cannabis delivery permits, must be located in areas of the City in which they are permitted by-right to be located, pursuant to the zoning regulations in place at the time of their original application. Please see Title 22 (Zoning Ordinance) for additional information.
- B. Sensitive uses. In addition to having to be located in the designated zoning district restrictions listed above, commercial cannabis businesses must be at least 900 feet from the following uses:
 - 1. Schools. Any school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12) that is in existence at the time the commercial cannabis business's proposal is first submitted to the City.
 - 2. Daycare. Any commercial daycare center licensed by the state, city or county that is in existence at the time the commercial cannabis business's proposal is first submitted to the City.

3. Youth center. Any public or private entity that is exclusively used to host recreational or social activities for minors that is in existence at the time the commercial cannabis business's proposal is first submitted to the City.
4. Parks, playgrounds, and libraries. Any public park, playground, or library, whether maintained by the City, State, or Federal Government, that is in existence at the time the commercial cannabis business's proposal is first submitted to the City.

The distances set forth in this Section shall be measured as a straight line, without regard to intervening structures or objects. Distances between commercial cannabis businesses and any existing sensitive receptors shall be measured from the property line of the property containing the sensitive receptor to the property line of the lot on which the commercial cannabis business is located. This measurement is in compliance with the Business and Professions Code Section 26054(b).

- C. Non-conforming locations. Commercial cannabis businesses which become legally-non-conforming after the issuance of a commercial cannabis operators permit applicable to that business due to:
 1. Their underlying zoning or general plan land use designation changing in such a way as to prohibit that use, or
 2. One or more of the uses identified in Section 5.29.220.B. above locating within 900 feet of the commercial cannabis business, may continue to operate as long as the business's commercial cannabis operators permit remains valid, and the business otherwise complies with this Chapter and the City's zoning code's nonconforming use provisions.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.230. Cannabis deliveries.

Deliveries within the City shall only be permitted by persons that have a cannabis delivery permit issued by the Chief of Police or designee. Any other cannabis delivery is prohibited. This permit can be issued either to a business located outside the City or can be included as part a commercial cannabis operators permit issued to a cannabis retail store or dispensary, or to a non-storefront retail business (collectively, these businesses shall be sometimes referred to herein as "cannabis delivery businesses").

- A. Application. All the information and stipulations listed below shall be supplied by the operator of a cannabis delivery business to the Chief of Police or designee. No commercial cannabis business may deliver cannabis or cannabis products to any person situated within the City's limits until and unless the Chief of Police or designee issues a cannabis delivery permit to that business. If the permit is denied, the applicant may appeal the decision of the Chief of Police to the City Council, pursuant to Section 5.29.280, Appeals.
- B. Fees. An administrative review fee deposit as adopted in the master fee schedule shall submitted to the City along with the cannabis delivery permit to be used to cover the cost of all needed staff time, consultant costs and other resources utilized in vetting the cannabis delivery permit.
- C. Cannabis delivery permits shall be subject to the following standards:

1. Each cannabis delivery business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten years, investor or partner information, and electronic fingerprint images and related information as required by the Chief of Police or designee for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests. A mandatory criminal background check will be conducted. All confidential information shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 7922.
2. Cannabis delivery businesses shall provide to the Chief of Police or designee a list of all vehicles to be used for delivery of cannabis and cannabis products, including each vehicle's make, model, year, license plate number and vehicle identification number. The cannabis delivery business shall update the list prior to any vehicle being added to or removed from service and provide that updated list to the Chief of Police or designee on the same day the vehicle change is made.
3. Cannabis delivery businesses shall adhere to best practices in terms of handling currency as established by the Chief of Police.
4. Cannabis delivery businesses shall ensure that all delivery vehicles shall be in possession of a copy of all licenses and permits required by the State of California and the City.
5. All vehicles used by cannabis delivery businesses to deliver cannabis and/or cannabis products shall not be marked or otherwise identified with advertisements, the name of the cannabis delivery business, or any other distinctive markings associated with cannabis.
6. Cannabis delivery businesses shall only deliver cannabis directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
7. Cannabis delivery businesses shall deliver cannabis or cannabis products only between the hours of 8:00 a.m. and 8:00 p.m.
8. Cannabis delivery businesses shall only deliver cannabis or cannabis products to persons 21 years of age or older, or a person 18 years of age or older who possesses a physician's recommendation for cannabis medicinal use only.
9. A City of Martinez Commercial Cannabis Operating Permit for non-storefront retail is required for any and all adult-use cannabis businesses delivering within City limits. This applies to adult-use cannabis deliveries originating both within and outside the City.
10. Cannabis deliveries are prohibited from terminating at schools, parks, playgrounds, daycare centers, residences located on a school campus, workplaces involving trucking or transportation, or transit centers.

(Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1454, § III, 3/6/2024)

§ 5.29.240. Renewal of commercial cannabis operators permit.

Renewal of commercial cannabis operators permit is subject to the following standards:

- A. A commercial cannabis operators permit renewal application and any applicable fees shall be submitted to the City of Martinez at least 60 calendar days prior to the expiration date of the commercial cannabis operators permit.
- B. The City Manager shall have the authority to declare any commercial cannabis operators permit expired for which a complete permit renewal application has not been timely submitted in accordance with this Section.
- C. The renewal application shall contain all of the information required for a new proposal.
- D. After the City Manager has determined a CCOP to have expired, the City may open applications for new conditional certificates for the type of cannabis business permitted by the expired CCOP, and the commercial cannabis business or owner that held the expired commercial cannabis operators permit shall have to file a new application for a conditional certificate if [they] wish to re-establish operations of the affected business.
- E. Permit renewal shall be subject to the laws and regulations in place at the time of renewal, and may require submittal of additional information and/or fees to ensure applicable laws and regulations are met.
- F. No person or entity shall have any entitlement or vested right to have a commercial cannabis operators permit or the renewal of an existing commercial cannabis operators permit under this Chapter.
- G. The City Manager may refuse to renew a commercial cannabis operators permit or may revoke or suspend an existing commercial cannabis operators permit on the grounds that the commercial cannabis business has failed to comply with its commercial cannabis operators permit conditions or the requirements of this Chapter, or its state license has been revoked or suspended.
- H. The City Manager may additionally suspend or revoke or refuse to renew a commercial cannabis operators permit for any of the following causes:
 - 1. Failure to comply with the commercial cannabis operators permit conditions.
 - 2. Failure to comply with the plans and materials upon which the commercial cannabis operators permit's approval was based.
 - 3. Conviction of an owner or an employee who makes operational or management decisions that directly impact the business of a felony or criminal offense that is related to the qualifications, functions, or duties of the owner or employee when acting as an employee or operator of the commercial cannabis business after a commercial cannabis operators permit has been granted.
 - 4. Revocation of a state license or any cause that would allow the state to deny or revoke a state license under MAUCRSA.
 - 5. Failure to pay any applicable City taxes or fees after a reasonable period following notice of delinquency.

6. Violation of any provisions of MAUCRSA or any provisions of this Chapter.
 7. Violation of any other City statutes necessary to maintain the health, safety, and general welfare of the public.
 8. As to renewals only, the commercial cannabis business has not been in regular and continuous operation during the four months immediately prior to the date the renewal application is filed.
 9. Violation of any other City statutes necessary to maintain the health, safety, and general welfare of the public.
- I. Additionally, when continued operation of a commercial cannabis business is determined to constitute an imminent threat to public health, safety or welfare, the City Manager may take immediate action to temporarily suspend the business' commercial cannabis operators permit issued by the City and all activities undertaken pursuant to that commercial cannabis operators permit, pending a hearing before the City Manager.
- (Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.250. Notice of proposed denial, suspension, revocation, or refusal to renew commercial cannabis operators permit.

- A. When the City Manager concludes that grounds for denial, suspension, revocation or refusal to renew or approve the transfer or modification of a commercial cannabis operators permit exist, he/she shall serve the commercial cannabis operators permit holder, either personally, by certified U.S. mail or overnight delivery service that provides tracking, addressed to the business or residence address of the owner, with a notice of his or her decision pursuant to this Section. This notice shall state the reasons for the proposed action, the effective date of the decision, the right of the owner to appeal the decision, and that the decision will be final if no appeal is filed within the time permitted.
- B. Any decision of the City Manager to revoke, refuse to renew (except as noted in Section 5.29.240) or expire a commercial cannabis operators permit may be appealed pursuant to Section 5.29.240. The commercial cannabis business shall remain closed until or unless the action of the City Manager is appealed to the City Council pursuant to Section 5.29.240.
- (Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.260. Transfer of commercial cannabis operators permit.

- A. The owner of a commercial cannabis business permit shall not transfer ownership or control of the permit to another person or entity ("transferee") unless and until the transferee obtains written approval from the City Manager or stating that the transfer of the permit to the transferee has been approved and that the transferee is the permittee. Such an approval may be obtained only if the transferee files an application with the City Manager or in accordance with all provisions of this Chapter (as though the transferee were applying for an original commercial cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as an original application fee), and the City Manager determines in accordance with this Section that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- B. Commercial cannabis operators permit's issued through the grant of a transfer by the City

Manager shall be valid for the remainder of the time left on the commercial cannabis operators permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.

- C. Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than five percent of the original ownership), must be approved by the City Manager or through the transfer process contained in Section A, above. Failure to comply with this provision is grounds for permit revocation.
 - D. A permittee may change the form of its business entity without applying to the City Manager for approval of the transfer of the permit to the new business entity, provided that either:
 - 1. The membership of the new business entity is substantially similar to the original permit holder business entity (at least five percent of the membership is identical), or
 - 2. If the original permittee is an unincorporated association, mutual or public benefit corporation, or a consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA provided that the members of the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the original City proposal) of the original permittee entity are the same as the new business entity.
 - E. Although an approved transfer of the CCOP is not required in the two circumstances described in subsection D, above, the permit holder is required to notify the City Manager in writing of the change within ten days of the effective date if the change. Failure to comply with this provision is grounds for permit revocation.
 - F. No commercial cannabis operators permit may be transferred when the City Manager has notified the permittee that the permit has been or may be suspended or revoked.
 - G. Any attempt to transfer a commercial cannabis operators permit either directly or indirectly in violation of this Section is hereby declared null and void, and such a purported transfer shall be deemed a ground for revocation of the commercial cannabis operators permit.
- (Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.270. Modifications of commercial cannabis operators permit.

- A. Any holder of a commercial cannabis operators permit may request minor modifications to any aspect or condition of the commercial cannabis operators permit or of the premises in which the commercial cannabis business is operating. The City Manager shall determine whether the modification is minor or major. The City Manager may approve or deny minor modifications. The City Manager's decision shall be in writing and be forthwith delivered to the holder of the commercial cannabis operators permit. No minor modification shall be allowed to take effect unless or until it is approved by the City Manager. If the modification is approved by the City Manager, the owner shall post a copy of the City Manager's decision next to the commercial cannabis operators permit which is posted in a conspicuous place in the premises of the commercial cannabis business.
- B. Any holder of a commercial cannabis operators permit may request major modifications to any aspect or condition of the commercial cannabis operators permit or of the premises in

which the commercial cannabis business is operating. The City Manager shall determine whether the modification is minor or major.

1. A major modification includes the enlargement or expansion of the floor area, size, footprint or of the height of the premises in which the business is being conducted. A major modification also includes any or all of the changes, alterations or modifications specified in 4 Cal. Code Regs. § 15027(b)—(d), as amended from time to time.
2. A holder of a commercial cannabis operators permit desiring to make a major modification as described in this Section must submit to the City Manager a proposal to amend the CC and the CCOP containing the information set out in Section 5.29.100, to the extent the information is relevant to the modification requested. The City Manager shall have 30 calendar days to determine whether the proposal is complete, and if the City Manager determines the proposal is incomplete, shall, within said 30 days, deliver a written notice to the holder of the commercial cannabis operators permit advising the holder of same. The holder of the commercial cannabis operators permit shall have 30 days to submit the additional information required to make the proposal complete and if the holder fails to timely submit said additional information, it will conclusively be presumed that the holder has withdrawn its modification proposal. If the holder of the commercial cannabis operators permit timely submits additional information which the holder believes makes the proposal complete, the City Manager will again have 30 days to determine whether the proposal is complete and shall advise the holder of the City Manager's decision within that 30-day period. The same time periods and consequences for failing to timely supply additional information shall apply to the holder's responses thereafter.
3. The City Manager shall deliver the complete proposal to amend the CC and CCOP to the PRC pursuant to Section 5.29.110 for the PRC to rate and assess the merits of the proposal. The PRC's rating shall be forwarded to the City Council along with the PRC's recommendation as to whether or not an amendment to the CC as requested by the proposer should be granted, and if granted, under what conditions.
4. The City Council shall hold a public hearing, noticed as such in accordance with regulations promulgated by the City Manager, to determine whether or not to grant the amendment to the CC described in the proposal. Said proceedings shall be governed by the applicable provisions of Section 5.29.120. The City Council's decision shall be in writing and shall be final.
 - a. Upon being granted an amendment to a conditional certificate, the proposer(s) shall be eligible to apply for and take the necessary steps to obtain the planning entitlements and building permits necessary to construct, install and/or engage in the activities identified in their proposal. This includes any required environmental review pursuant to the California Environmental Quality Act (CEQA).
 - b. From the date the City Council awards an amendment to a conditional certificate, the proposer shall have up to one year to:
 - i. Apply for and obtain the necessary planning entitlements; and
 - ii. Apply for and receive building permit(s) and complete all necessary

renovations and/or new construction and secure approval of a final building permit and/or certificate of occupancy; and

- iii. Satisfy all of the conditions of approval required and/or included in its amended conditional certificate award and provide proof that all conditions precedent to the issuance of a CCOP have been met. This includes all required legal contracts necessary to secure the proposed public benefit included in the proposal; and
 - iv. Apply for and be issued a commercial cannabis operators permit.
 - c. Extensions of this time period beyond one year shall be granted on a case-by-case basis by the City Manager.
 - 5. Prior to commencing any operations or activities permitted under the amended CC granted by the City Council, the proposer must apply for and obtain an amendment to the proposer's CCOP from the City Manager. To receive this ministerial permit, the Proposer must provide proof of the items and matters set forth in Section 5.29.140(B), to the extent applicable. Any amended CCOP granted by the City Manager shall be subject to Chapter 5.29, including but not limited to Sections 5.29.140 and 5.29.150; provided, however, that the effective life of an approved amendment to a CCOP shall be coterminous with the effective life of the CCOP it amends.
 - C. The duration of the commercial cannabis operators permit shall not change as a result of any modification or amendment to that permit.
 - D. All modifications and amendments to a commercial cannabis operator's permit granted under this Section must comply with Chapter 5.29.
 - E. Any decisions of the City Manager made pursuant to or under this Section 5.29.270 are appealable to the City Council pursuant to Section 5.29.280.
 - F. The costs the City incurs in processing and acting upon any request for a modification or amendment to a CCOP shall be fully paid for by the proposer/requestor, and any application or request for a modification or amendment to an existing Commercial cannabis operators permit shall be accompanied by an administrative review fee deposit as adopted in the master fee schedule to be used to cover the cost of all needed staff time, consultant costs and other resources utilized in vetting the proposal.
- (Ord. No. 1421, § 2, 4/3/2019; Ord. No. 1444, § 1, 1/18/2023)

§ 5.29.280. Appeals.

- A. The right to appeal a decision of the Proposal Review Committee, and/or City Manager and/or the Police Chief pursuant to this Chapter shall terminate upon the expiration of ten calendar days from the date of the:
 - 1. Deposit of the PRC's or City Manager's or Police Chief's decision, as the case may be, in the U.S. mail, or
 - 2. Deposit of the PRC's or City Manager's or Police Chief's decision, as the case may be, with an overnight delivery service.
- B. All requests for appeals shall be submitted in writing, with appropriate fee, to the City

Clerk and set forth the reasons why the decision being appealed was improper. In order to be timely, the written appeal must be in the possession of the City Clerk before the expiration of said ten calendar day period.

1. At the time of filing the appeal the appellant shall pay the designated appeal fee, established by resolution of the City Council.
2. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
3. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than 90 days from the date of such filing. The City shall notify the appellant of the time and location of the hearing at least ten days prior to the date of the hearing. In those cases, where the City Manager has declared a CCOP expired, where the City Manager has refused to renew a CCOP, or where the City Manager has revoked or suspended a CCOP, the affected commercial cannabis business shall not operate in any fashion while awaiting the outcome of the appeal. In the case of commercial cannabis delivery permit, the affected commercial cannabis business shall not operate in any fashion while awaiting the outcome of the appeal.
4. At the hearing, the appellant may present any information the appellant deems relevant to the decision under appeal.
5. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision of the PRC, the City Manager or the Police Chief. The decision of the City Council shall be final.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.290. Limitations on city's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a commercial cannabis operators permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval and issuance of any commercial cannabis operators permit, the proposer and/or owner shall be required to execute an agreement, in a form approved by the City Attorney, agreeing to:

- A. Indemnify, defend (at the proposer's and/or owner's sole cost and expense), and hold the City of Martinez, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, expenses (including attorney's and expert witness' fees) losses and liabilities of any kind which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis operators permit, the City 's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its owners, officers, employees or agents, and/or the commercial cannabis business' operations, acts and/or omissions.
- B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Manager.
- C. Reimburse the City of Martinez for all costs and expenses, including, but not limited to,

legal fees and costs and court costs, which the City of Martinez may be required to pay as a result of any legal challenge related to the City's approval of the proposer's and/or owner's commercial cannabis operators permit, or related to the City's approval of a commercial cannabis activity. The City of Martinez may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.300. Each violation is a separate offense and a public nuisance.

- A. Any violation of a term, condition, or the approved plans and specifications of any commercial cannabis operators permit issued pursuant to this Chapter shall constitute a violation of this Chapter.
- B. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Martinez.
- C. Each and every violation of this Chapter shall constitute a public nuisance.
- D. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief. In the case of any violation of this Chapter, (a) any permit issued pursuant to this Chapter to the violator shall be deemed null and void, and (b) the violator shall be obligated to disgorge and pay to the City any monies unlawfully obtained, costs of abatement, costs of investigation, and attorney fees, with the City retaining the right to pursue any other relief or remedy available at law or in equity therefor.
- E. The City of Martinez may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the business' commercial cannabis activity.
- F. Any violation of a term, condition, or the approved plans and specifications of any commercial cannabis operators permit issued pursuant to this Chapter shall constitute a violation of this Chapter.
- G. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Martinez.
- H. Each and every violation of this Chapter shall constitute a public nuisance.
- I. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief. In the case of any violation of this Chapter, (a) any permit issued pursuant to this Chapter to the violator shall be deemed null and void, and (b) the violator shall be obligated to disgorge and pay to the City any monies unlawfully obtained, costs of abatement, costs of investigation, and attorney fees, with the City retaining the right to pursue any other relief or remedy available at law or in equity therefor.
- J. The City of Martinez may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the business' commercial cannabis activity.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.310. Criminal penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed \$1,000.00 or imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(Ord. No. 1421, § 2, 4/3/2019)

§ 5.29.320. Remedies cumulative and not exclusive.

Remedies. In addition to the nonrenewal, suspension, and revocation provisions in this Chapter and any and all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this Chapter:

A. Administrative enforcement.

B. Civil enforcement.

C. Criminal enforcement.

In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis business shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this Section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this Section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this Section shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

(Ord. No. 1421, § 2, 4/3/2019)

CHAPTER 5.32
PENALTY

§ 5.32.010. Designated.

- A. Any person violating any of the provisions of Chapters 5.04 through 5.28 or knowingly or intentionally misrepresenting to any officer or employee of this City a material fact in procuring the license or permit herein provided for, is guilty of a misdemeanor unless specified an infraction.
- B. Unless otherwise provided, any person convicted of a misdemeanor under the provisions of the Municipal Code of the City, shall be punished by a fine of not more than \$500.00, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment.
- C. An infraction is punishable as provided by the Government Code and the Vehicle Code of the State of California.
- D. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued or permitted by such person and shall be punishable accordingly.

(Prior code § 6145; Ord. 794 C.S. § 3, 1974; Ord. 965 C.S. § 3, 1982)

**Division II
Businesses Regulated**

**CHAPTER 5.36
AMBULANCES**

§ 5.36.010. Definitions.

- A. "Ambulance" means any motor vehicle used to transport, move or convey a sick or injured person.
- B. "Ambulance business" means the business of owning, operating, managing or maintaining as principal or agent any ambulance herein defined.
- C. "Ambulance service charges" means any charge, fare or other consideration for ambulance service.
- D. "Operation within the City of Martinez" means the receiving, picking up or embarking within the City of Martinez of a sick or injured person for transportation or conveyance to any point within or without the City of Martinez.
- E. "Person" means individuals, partnerships, firms, corporations and associations of every kind, and their agents, servants or employees.

(Prior code § 6600)

§ 5.36.020. Determination of public convenience and necessity.

No permit for the operation within the City of any private ambulance shall be granted until the Chief of Police determines that the public convenience and necessity require the operation of such ambulance or ambulances. In making such determination, the Chief of Police may take into consideration all facts which are deemed pertinent and proper. In order to grant such a permit, the Chief of Police must make written findings in support thereof, including a specific finding that an applicant is financially responsible, that the premises and motor vehicles which the applicant proposes to use are fit and suitable for the ambulance business, and that the operation of the ambulances for which a permit is applied is necessary to provide adequate ambulance service to the public.

No permit shall be granted unless all of the findings specified in the previous paragraph are made. If the Chief of Police denies an application for a permit, he/she shall render a decision in writing which contains the findings and reasons for the denial.

(Prior code § 6601; Ord. 1097 C.S. § 1, 1987)

§ 5.36.030. Permit—Required.

It is unlawful for any person to operate, or cause to be operated, within the City, any ambulance unless a determination of public convenience and necessity therefor shall have first been made as provided in Section 5.36.020 hereof, and unless such person shall thereafter have obtained a permit to do so, as herein provided.

(Prior code § 6602(a))

§ 5.36.040. Permit—Application.

Applications for permits to operate, manage or maintain within the City private ambulances shall be in writing and submitted to the Chief of Police for the determination provided in Section 5.36.020, and for investigation as provided in Section 5.36.050. Applications shall contain:

- A. The business name and address of applicant;
- B. A statement as to whether the applicant is a corporation, partnership or individual, and if the last, the residence address of the applicant;
- C. The number and description of the motor vehicles proposed to be used as ambulances;
- D. The exact nature of the proposed business for which the permit is requested, and the name under which it is to be operated;
- E. Whether or not any license or permit to operate ambulances has been revoked or suspended, and if so, the circumstances of such revocation or suspension;
- F. The color scheme and characteristic insignia to be used to designate the vehicles of the owner;
- G. The address and a description of the premises at and from which it is proposed to maintain and operate such ambulances;
- H. A schedule of ambulance service charges which the applicant proposes to charge for operations within the City;
- I. Such other relevant facts as the Chief of Police may, prior to the filing of the application, determine by written policy as advisable or necessary.

Within 10 days after the filing of any such application for a permit, the City Clerk shall cause to be posted on the bulletin board at the City Hall, notice of the filing of such application setting forth in the notice the name and address of the applicant, and the date of filing such application. (Prior code § 6602(b); Ord. 1097 C.S. § 2, 1987)

§ 5.36.050. Investigation and appeal.

It shall be the duty of the health officer to cause an investigation to be made of the premises and the motor vehicles named and described in applications for permits for the purpose of determining the fitness and suitability of such premises and motor vehicles from a health and sanitation standpoint. The health officer shall also determine whether the applicant has complied with the laws of the State and the provisions of the ordinances of the City, relating to health, safety and sanitation. Should the health officer determine that such premises and motor vehicles are fit and suitable for such business and that the applicant has complied with the laws of the State and the provisions of the ordinances of the City, relating to health and sanitation, the health officer shall, upon payment by applicant to the Director of Finance of the license fee hereinafter fixed, issue or cause to be issued to such applicant a permit to operate, manage or maintain private ambulances.

- A. No permit shall be granted within 40 days after the date of filing of the application with the Chief of Police. The Chief of Police shall cause an investigation to be made of the applicant, and shall within 30 days from the date of filing the application, report his/her findings and render his/her decision in writing and file the same with the City Clerk. If the

Chief of Police does not make all of the findings required under Section 5.36.020, or if the report of the Chief of Police finds:

1. That the ambulance(s), or its equipment, proposed to be operated is inadequate or unsafe.
 2. That the applicant has been convicted of a felony or the violation of a narcotic law, or of any penal law involving moral turpitude, or during the previous 60 days of any provision of the ordinances of the City or law relating to traffic or use of streets in the City;
 3. That the proposed color scheme or characteristic insignia will tend to confuse the identification of the vehicles proposed to be operated with those of another operator operating in the City; or
 4. That the name under which the applicant proposes to operate will tend to cause confusion with that of another owner operating in the City, then the application shall be denied.
- B. It is provided, however, that in any such event, the applicant may, within 10 days from the date of posting notice of the Chief of Police's decision by the City Clerk, file in writing with the City Clerk an appeal to the City Council from the denial. In which case, at its next regular meeting, following the filing of the appeal, the City Council shall hear the appeal by the applicant, consider the written report and decision of the Chief of Police and such other material evidence as may be presented. After due consideration, the City Council shall by resolution determine whether or not such application shall be granted or denied.
- C. If, however, the Chief of Police grants the application, any citizen of the City may, likewise within said 10 day period file in writing with the City Clerk, objections to the granting of the application; then, at its next regular meeting after the filing, the City Council shall review the application, the report and decision of the Chief of Police, the objections filed, and such other material evidence as may be presented. After due consideration, the City Council shall, by resolution, determine whether or not the application shall be granted or denied.
- D. If no appeal of the Chief of Police's granting of the permit is taken, or if an appeal is taken of the Chief of Police's decision to the City Council and the City Council grants the permit, the applicant shall be issued the necessary permits.
- E. Within two days after the filing of the Chief of Police's decision with the City Clerk, the City Clerk shall post on the bulletin board at the City Hall, notice of the Chief of Police's decision and the right of any person dissatisfied therewith to appeal same to the City Council within ten days.

(Prior code § 6602(c); Ord. 1097 C.S. § 3, 1987)

§ 5.36.051. Permit—Suspension or revocation.

The City Council may, by resolution, and after 10 days' written notice to an owner, and a public hearing at a regular meeting thereof following the notice, suspend or revoke an owner's permit (1) for any of the grounds specified as grounds for denial as set forth in Section 5.36.050 of this chapter, (2) in the event of a violation of any of the provisions of this chapter, or (3) for a failure to pay any judgment for damages arising from the operation of the applicant's ambulances, or

any of them, for which the permit was issued.
(Ord. 1097 C.S. § 4, 1987)

§ 5.36.052. Change in number of ambulances.

- A. Any person holding a permit to operate one or more ambulances as provided in this chapter, who desires to add to the number of such vehicles, shall do so only upon obtaining a permit therefor, which shall be granted only upon application made in the same manner and under the same proceedings as are required in this chapter in the instance of obtaining the original permit.
- B. Any person holding a permit to operate one or more ambulances, as provided in this chapter, who desires to substitute a different vehicle for a vehicle operated under such permit, shall do so only upon obtaining a permit therefor, which shall be granted only upon application made in the same manner and under the same proceedings as are required in this chapter in the instance of obtaining the original permit, a temporary permit shall be issued to make a substitution, provided the written application has been filed, which temporary permit shall be valid only until the Chief of Police renders his/her written decision. The Chief of Police shall have the same authority in granting or denying the application for permission to add to or substitute as is herein in this chapter vested in him/her, in the matter of the original application when presented to him/her, and shall be a written decision, grant or deny the petition as she/he may determine advisable after due consideration of the application.

(Ord. 1097 C.S. § 5, 1987)

§ 5.36.060. Charging in excess of schedule restricted.

No person to whom a permit has been issued hereunder to engage in the ambulance business within the City shall charge for ambulance service within the City any amount in excess of the schedule of ambulance service charges set forth in such permittee's application without first obtaining a written authorization from the City Manager to do so.

(Prior code § 6602(d))

§ 5.36.070. Permit expiration.

All permits hereafter issued shall expire on the 30th day of June next following date of issuance of such permit. Applications for permits to become effective on the 1st day of July of any year may be made at any time during the 60 days prior to such date.

(Prior code § 6602(e))

§ 5.36.080. Insurance required/terms.

- A. No person shall operate or permit to be operated any ambulance within the City unless there is in full force and effect at all times a policy of insurance insuring such ambulance, in a company authorized to do business in the State, insuring such person against loss by reason of injury or damage that may result to any person or to property by the operation of such ambulance; the policy of insurance shall be limited to not less than \$1,000,000.00 per occurrence, combined single limit liability for bodily injury or death; and the insurance policy shall name the City as a co-insured to the extent of any insurable interest, obligation or risk; shall be primary insurance; and shall contain cross-liability and waiver of subrogation clauses.

- B. Such policy of insurance shall also provide insurance to the extent of \$500,000 for damage to or destruction of any property of third persons; and the policy of insurance shall provide that it shall not be cancelled except upon 30 days' prior written notice to the City Manager; and a certificate of insurance showing compliance with this Section shall be filed in the office of the City Clerk and approved by the City Attorney.

(Prior code § 6603; Ord. 1097 C.S. § 6, 1987)

§ 5.36.081. Liability insurance—Required.

It is unlawful to drive or operate any ambulance in the City, unless the owner thereof has obtained an insurance policy or policies as provided in this chapter. In the event, during the term of a permit issued hereunder, such liability insurance policy so filed becomes ineffective by reason of its expiration or cancellation, or the corporation issuing the same becomes irresponsible or insolvent, the owner shall obtain a new policy or policies meeting the foregoing requirements to replace the ineffective policy, and file certificate thereof with the City Clerk, as aforesaid. The City Council may at any time require an owner to replace any such policy within 10 days from the date of notice requiring the same, with a policy and certificate thereof, both in accordance with the provisions of this chapter, then, at the termination of 10 days, the owner's permit for the ambulance covered by such policy, shall be, by such failure, automatically suspended until such time as the requirement is complied with.

(Ord. 1097 C.S. § 7, 1987)

§ 5.36.082. Liability insurance—Certificate required.

Each certificate required under the provisions of this chapter shall certify that the issuer thereof has issued an insurance policy or policies insuring the owner named in the certificate, and that each of the policies contains each of the provisions required to be therein as provided by this chapter. Each of the certificates shall be conclusive evidence against the issuer thereof that its contents are true and correct. All such certificates shall be subject to the approval of the City Attorney.

(Ord. 1097 C.S. § 8, 1987)

§ 5.36.090. Indemnification.

Prior to issuance of any permit to operate a private ambulance within the City, the Chief of Police shall obtain from the person to be issued the permit an agreement, in a form approved by the City Attorney, indemnifying and holding harmless the City from any loss or liability arising out of that person's operation of the ambulance or conduct of such ambulance business.

(Ord. 1097 C.S. § 9, 1987)

CHAPTER 5.40
AUCTIONS AND AUCTIONEERS

§ 5.40.010. Defined.

Every person, who at public outcry, offers for sale as principal or agent, to the highest bidder on the spot, any article of merchandise or property shall be deemed an auctioneer.
(Prior code § 6300)

§ 5.40.020. Auction sales prohibited.

It is unlawful for any person to sell, dispose of, or offer for sale in the City at public auction, or to cause or permit to be sold, disposed of, or offered for sale in the City at public auction, goods, wares, merchandise, commodities or personal property, whether the same shall be their own property or whether they shall sell the same as agents or employees of others.
(Prior code § 6301)

§ 5.40.030. Exceptions.

The provisions of Section 5.40.020 shall not apply to judicial sales by executors or administrators, nor to sales by or on behalf of licensed pawnbrokers of unredeemed pledges in manner provided by the law, nor to the sale at public auction of the stock on hand of any person, or persons, or corporation that shall, for the period of 1 year next preceding such sale, have been continuously in business in the City as a retail or wholesale merchant of goods, wares, merchandise, commodities or personal property.
(Prior code § 6302)

§ 5.40.040. Regulations for permitted sales.

Such sales at public auction of the stock on hand of such merchant shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than 30 days in all from commencement of the sale and shall be permitted only where such merchant is bona fide disposing of his stock for the purpose of retiring from business.
(Prior code § 6303)

§ 5.40.050. Application for permit.

Not less than 15 nor more than 30 days previous to conducting any such sale as provided in Section 5.40.030 of this Chapter, the merchant must make a sworn written application to the City Council for a permit to do so, specifying under oath the name and address of the applicant, the location and purpose of the sale and its expected duration, and itemizing in detail the quality, quantity, kind or grade of each item of the goods, wares and other articles to be sold, the wholesale market value thereof, and the name of the auctioneer who shall conduct the sale.
(Prior code § 6304)

§ 5.40.060. Investigation of applicant.

Before granting or denying a permit, the application must be furnished to the Chief of Police who shall investigate and report to the City Council his findings as to the character of the applicant and his auctioneer, the bona fide nature of the proposed sale, and as to whether the place where it is proposed to carry on the sale is a proper place. The City Council must also

be furnished satisfactory evidence that the goods, wares, merchandise, commodities or personal property proposed to be sold is a bona fide part of the merchant's stock in trade and not secured, purchased or brought into the place of business for or in anticipation of the sale. The City Council in considering the application and the attending facts shall exercise a reasonable and sound discretion in granting or denying the permit applied for.

(Prior code § 6305)

§ 5.40.070. Hours of operation.

In no event shall any auction sale of goods as herein specified by conducted at public auction between the hours of 6 p.m. and 8 a.m.

(Prior code § 6306)

CHAPTER 5.44
AUTOMATIC COMMUNICATION DEVICES

§ 5.44.010. Defined.

"Automatic communication device" includes any device that will, upon activation, either mechanically, electrically or by any other means select a telephone line, number or instrument assigned to a public agency in the City for the purpose of reporting intrusion or emergency.
(Prior code § 3700; Ord. 743 C.S. § 1, 1972)

§ 5.44.020. Public agency defined.

"Public agency" includes, but is not limited to, the State, City, County or Federal governments, districts or any departments or officers thereof.
(Prior code § 3701; Ord. 743 C.S. § 1, 1972)

§ 5.44.030. Telephone number defined.

For the purposes of this Chapter a "telephone number, line or instrument" includes any number or numbers assigned by a public utilities company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect to a public agency.
(Prior code § 3702; Ord. 743 C.S. § 1, 1972)

§ 5.44.040. Unlawful use.

No person, firm, corporation or business shall use, operate, cause to be operated, installed or provide any automatic communication device without the written authorization of the public agency.
(Prior code § 3703; Ord. 743 C.S. § 1, 1972)

§ 5.44.050. Authorization for use.

Any person, firm, corporation or business that desires to use, operate, cause to be operated, installed or provide any automatic communication device shall apply in writing to the public agency for authorization to use, operate, cause to be operated, installed or provide such automatic communication device.
(Prior code § 3704; Ord. 743 C.S. § 1, 1972)

§ 5.44.060. Approval for use.

If the public agency determines that:

- A. The equipment to be installed meets acceptable standards of operation;
- B. There will be no hindrance to the normal public use of the telephone number;
- C. The person, firm, corporation or business seeking approval will maintain adequate maintenance of the automatic communication device; The public agency then may issue written approval, setting forth any regulations or requirements necessary for the installation and use of the automatic communications device.

(Prior code § 3705; Ord. 743 C.S. § 1, 1972)

§ 5.44.070. Withdrawal of approval.

The public agency may withdraw approval for an automatic communication device by mailing written notice to the holder of the authorization. The device shall be disconnected within 7 days from the date the written notice was mailed.

(Prior code § 3706; Ord. 743 C.S. § 1, 1972)

**CHAPTER 5.48
CARDROOMS**

§ 5.48.010. Defined.

As used in this Chapter, "cardroom" means any room, enclosure or space furnished with a table used or intended to be used as a card table for playing cards and similar games, the use of which table is available to the public or any portion of the public.

(Prior code § 6500)

§ 5.48.020. License—Required.

No person, for himself or for any other person, shall maintain a cardroom without first having obtained a cardroom license.

(Prior code § 6501)

§ 5.48.030. License—Application.

An applicant for a cardroom license shall submit his application under oath to the Chief of Police. The application shall include:

- A. The true names and addresses of the applicant and of all persons financially interested in the business. Persons financially interested shall include all persons who share in the profits of the business in any form;
- B. The criminal record, if any, of the applicant;
- C. Fingerprints and photographs of the applicant and of all persons financially interested in the business;
- D. Any other information required by the Chief of Police;
- E. An application fee of \$5,000.00 payable to City Finance Officer.

(Prior code § 6502; Ord. 881 C.S. § 1, 1978)

§ 5.48.040. Investigation by chief of police.

Upon application for a cardroom license, the Chief of Police shall investigate the applicant. After completing the investigation, the Chief of Police shall submit his report to the City Council. The report shall include an itemization of the costs of investigation and a recommendation for approval or disapproval of the application, with reasons. If the City Council disapproves the application, but not otherwise, the application fee, less costs of investigation, shall be returned to the applicant.

(Prior code § 6503)

§ 5.48.050. License—Grounds for denial.

The City Council may deny the application for a cardroom license on any of the following grounds:

- A. That the applicant or any person financially interested in the business has been convicted of a felony;

- B. That, in the opinion of the City Council, the applicant or any person financially interested in the business is not of good moral character;
 - C. That the proposed cardroom is near a school, playground or place of business frequented by minors.
- (Prior code § 6504)

§ 5.48.060. License—Certificate—Issuance and display.

Upon approval of the application for a cardroom license, the Chief of Police shall issue a certificate of license suitable for display. The licensee shall display this certificate prominently in the cardroom during all times that the license is unsuspended and unrevoked.

(Prior code § 6505)

§ 5.48.070. License—Fee.

If the City Council approves the application for a cardroom license, the applicant shall pay an annual license fee of \$250.00 per card table.

(Prior code § 6506; Ord. 881 C.S. § 2, 1978)

§ 5.48.080. Employee work permits—Required.

No person shall work as a cardroom employee without first having obtained a work permit from the Chief of Police, nor shall any person who maintains a cardroom employ any person as a cardroom employee who does not possess a valid work permit. For the purposes of this Chapter, a "cardroom employee" is a dealer or any other person directly connected with the operation and supervision of card tables, but not a bartender, culinary worker or any other person not directly connected with the cardroom operation.

(Prior code § 6507)

§ 5.48.090. Employee work permits—Application.

An applicant for a cardroom work permit shall submit his application, under oath, to the Chief of Police. The application shall include:

- A. The criminal record, if any, of the applicant;
 - B. Fingerprints and a photograph of the applicant;
 - C. Any other information that the Chief of Police may deem necessary to determine whether a work permit shall be issued;
 - D. A permit fee of \$25.00 which shall be returned to the applicant if his application is denied, less the expense of conducting an investigation of the applicant;
 - E. An approved work permit need be renewed annually from the anniversary date of its issuance, accompanied by the payment of a fee of \$25.00 with each subsequent renewal. (See sub-Section D. if application denied.)
- (Prior code § 6508; Ord. 881 C.S. § 3, 1978)

§ 5.48.100. Employee work permits—Grounds for denial.

The Chief of Police may deny the application for a work permit on either of the following grounds:

- A. That the applicant has previously been convicted of a felony;
- B. That, in the opinion of the Chief of Police, the applicant is not a person of good moral character.

(Prior code § 6509)

§ 5.48.110. Employee work permits—Appeal from decision—Hearing.

If the Chief of Police denies an application for a work permit, the applicant may appeal from the Chief of Police's decision to the City Council by filing a notice of appeal with the Council within 10 days after denial of the application. The Council shall provide for a hearing on the application and shall give the applicant at least 5 days' written notice of the time and place of hearing. After the hearing, the Council may deny the application on either of the grounds specified in Section 5.48.100.

(Prior code § 6510)

§ 5.48.120. License and work permit—Suspension or revocation.

- A. The City Council may suspend or revoke a cardroom license on any of the grounds specified in Section 5.48.050 or on the ground that the licensee has violated a provision of this Chapter.
- B. The Chief of Police may suspend or revoke a work permit on either of the grounds specified in Section 5.48.100 or on the ground that the permittee has violated a provision of this Chapter, but this action is subject to the appeal provisions of Section 5.48.110.

(Prior code § 6511)

§ 5.48.130. Transferability.

- A. No cardroom work permit shall be assignable or transferable;
- B. A cardroom license in effect on June 1, 1978 may be transferable under the following terms and conditions:
 - 1. To a remaining partner upon the death or withdrawal of a partner, provided, however, for the remaining partner or partners to use said license, said remaining partner or partners must qualify in the same manner as required of the licensee.
 - 2. To a surviving spouse or the estate of the deceased licensee for the purpose of transfer to a qualified licensee in accordance with the provisions stated above.
 - 3. To the assignee or transferee of an active licensee, provided, however, any such assignee or transferee shall be required to apply and qualify under the terms and conditions of this ordinance.

- 4. The assignee or transferee shall pay the same of \$5,000 upon approval of the transfer.
- (Ord. 881 C.S. § 4, 1978)

§ 5.48.140. Cardroom regulations.

No person shall maintain a cardroom in violation of any of the following regulations:

- A. Not more than 1 cardroom shall be located at 1 address;
- B. Neither the licensee nor his employees shall extend credit to any player, nor accept promissory notes, nor offer to or cash checks as a service to players within the cardroom enclosure;
- C. No game prohibited by State law shall be permitted in any licensed cardroom;
- D. Not more than 4 tables shall be permitted in any cardroom;
- E. Not more than 8 players shall be permitted at 1 card table;
- F. Cardrooms shall be located on the ground floor and so arranged that card tables and players at the tables are plainly visible from the front door openings;
- G. No minor shall be permitted at any card table, particularly in any game, or remain in a cardroom;
- H. All cardrooms shall be closed at 2:00 a.m. and shall remain closed until 8:00 a.m., except that on Saturday mornings and Sunday mornings such cardrooms may remain open from 2:00 a.m. to 8:00 a.m.;
- I. Cardrooms shall be open to police inspection during all hours of operation;
- J. Only table stakes shall be permitted;
- K. Each card table shall have assigned to it a person holding a valid cardroom permit. This person shall supervise the game strictly in accordance with the laws of the State and the provisions of this Chapter;
- L. No intoxicated person shall be permitted in a cardroom;
- M. The licensee shall post in every cardroom, in letters plainly visible throughout the room, signs stating so many of these regulations as the Chief of Police may require;
- N. There shall be only 1 cardroom for each 10,000 inhabitants in the City.
(Prior code § 6513; Ord. 811 C.S. § 1, 1975)

§ 5.48.150. Nonprofit groups excluded.

Any nonprofit society, club, fraternity, labor or other organization having adopted bylaws and duly elected directors and members may be excluded from compliance with this Chapter by applying to the City Council, if the Council finds that the tables are for the exclusive use of members of the organization and that no charge is made for the use of the cardroom facilities.
(Prior code § 6514)

§ 5.48.160. Chapter limitations.

This Chapter shall not be construed to permit the licensing of any cardroom for the playing of any game prohibited by the laws of the State.

(Prior code § 6515)

CHAPTER 5.52
CLOSING-OUT SALES

§ 5.52.010. License required.

Every person, firm or corporation, before a license shall be issued therefor and before offering for sale in the City any article or product at a forced bankrupt, close-out sale or other sale outside of the ordinary channels of trade, shall file with the Chief of Police the following:

- A. A complete, itemized and verified inventory of the articles or products to be offered for sale, together with the proposed sale price of each such article or product;
 - B. A statement under oath that the articles or products contained in the inventory were purchased for sale during the normal conduct of business for which a license had previously been issued;
 - C. A statement under oath that the articles or products contained in the inventory and none others shall be offered for sale, if license issued, and at a price not less than the price stated.
- (Prior code § 6400; Ord. 836 C.S. § 1, 1976)

§ 5.52.020. Permissible sales price.

If the proposed price of any such article or product referred to in Section 5.52.010 hereof shall be a price in violation of the Unfair Trade Practices Act of the state as set forth in the Business and Professions Code Sections 17000 et seq. and any subsequent amendments thereto, then no license shall issue. Burden of proof that the price or prices is not in violation thereof to the reasonable satisfaction of the Chief of Police shall be upon the applicant for such license.

(Prior code § 6401)

§ 5.52.030. License issuance.

Upon the compliance with the provisions of Sections 5.52.010 and 5.52.020 hereof, the Chief of Police shall issue the license in the manner and as required and for the license fees fixed by the ordinances of the City and amendments, if any, thereto.

(Prior code § 6402)

§ 5.52.040. Terms of license—Fees.

If the license applied for before the sale in the City of any article or product referred to in Section 5.52.010 hereof without the compliance with all of the requirements of Section 5.52.010B and C but upon full compliance with Subsection A of Section 5.52.010, and for sale of such articles or products, together if desired of other articles or products purchased outside of the City or in the ordinary channels of trade, in the manner and for the prices permitted by the Unfair Trade Practices Act, the license shall be issued to the applicant by the Chief of Police for 1 month upon the payment of the following license fee: \$250.00. The license so issued may be reissued, monthly, upon the payment of a monthly license fee of \$100.00.

(Prior code § 6403)

CHAPTER 5.56
DANCES

§ 5.56.010. Definitions.

For the purpose of this Chapter, the following words and phrases are defined as hereinafter set forth:

- A. "Dancing club" means any club or association of persons which conducts dances, other than public dances, for its members or bona fide guests, more frequently than once a month, at which a fee is charged, either for admission or for dancing therein or of which any collection or donation of money is made or received, or in which the amount of dues to be paid by each member is dependent upon attendance at such dance by such member.
- B. "Dinner dancing place" means a place where food and music are regularly provided and the public is permitted to dance without payment of a fee.
- C. "Public dance" means a gathering of persons in or upon any premises or place where dancing is participated in and to which the general public is admitted or invited with or without charge.
- D. "Teenage dance" means a nonprofit dance held or conducted exclusively for teenagers and to which no person 20 years of age or older is admitted as participants.

(Prior code § 6146; Ord. 794 C.S. § 2, 1974)

§ 5.56.020. Regulations generally.

No person shall violate any of the regulations hereinafter provided or fail to comply with any of the mandatory provisions of this Chapter.

(Prior code § 6146.1; Ord. 794 C.S. § 2, 1974)

§ 5.56.030. Hours of operation.

No person shall conduct or assist in conducting any public dance, dance hall, dancing club, dinner dancing place or public teenage dance between the hours of 2:00 a.m. and 6:00 a.m. of any day.

(Prior code § 6146.2; Ord. 794 C.S. § 2, 1974)

§ 5.56.040. Illumination.

All public dances, dance halls, dancing clubs, dinner dancing places or teenage dances, shall be adequately lighted at all times when open or used for dancing.

(Prior code § 6146.3; Ord. 794 C.S. § 2, 1974)

§ 5.56.050. Alcoholic beverage restrictions.

Alcoholic beverages may be served at a place where public dances are being conducted, when the sale and serving of such beverages are permitted by state law, however, such alcoholic beverages shall not be taken to or permitted on the dance floor, or authorized area for dancing purposes. However, no alcoholic beverages shall be sold, consumed or be available on the premises, in or about, where any teenage dance is held. Admission to a teenage dance shall be denied to any person showing evidence of drinking any alcoholic beverage or having such

beverage on his person.

(Prior code § 6146.4; Ord. 794 C.S. § 2, 1974)

§ 5.56.060. Minors in attendance restricted.

No person under the age of 21 years shall be allowed in or about any public dance hall, or dance club that sells or serves any alcoholic beverages. Nothing in this Section however, shall be construed to prevent a person under 21 years from being in a bona fide hotel, cafe or other place where meals are regularly served and where a public dance is being held.

(Prior code § 6146.5; Ord. 794 C.S. § 2, 1974)

§ 5.56.070. Teenage dance—Parking.

All off-street parking facilities made available for the participants of teenage dances, shall be adequately supervised.

(Prior code § 6146.6; Ord. 794 C.S. § 2, 1974)

§ 5.56.080. Teenage dance—Reentry.

No minor admitted to a teenage dance shall be permitted to leave and thereafter reenter the dancing premises during the course of the event, and further, no reentry passes shall be issued unless required by the physical arrangements of the premises.

(Prior code § 6146.7; Ord. 794 C.S. § 2, 1974)

§ 5.56.090. Teenage dance—Loitering.

No person shall loiter around or about the premise of which a teenage dance is being conducted.

(Prior code § 6146.8; Ord. 794 C.S. § 2, 1974)

§ 5.56.100. Floor space.

- A. Notwithstanding those places where dances are conducted or held where they are substantially the same as previously approved to hold or conduct public dances, the provisions of this Section shall be considered continuations of existing law and shall not be considered new enactments, unless there is a change in use or occupancy of such premises;
- B. No permit shall be issued for the conduct of any public dance, dance hall, dancing club or dinner dancing place, nor shall any such dance be conducted at any establishment having less than the following prescribed area set aside and reserved exclusively for dancing, such area to be exclusive of hallway space:
 - 1. 200 square feet of dance floor where the seating capacity of the premises used is not more than 75 persons;
 - 2. 300 square feet of dance floor where the seating capacity of the premises used is not more than 75 persons;
 - 3. 400 square feet of dance floor where the seating capacity of the premises used is in excess of 75 persons.

(Prior code § 6146.9; Ord. 794 C.S. § 2, 1974)

§ 5.56.110. Disorderly persons.

No person managing, holding or conducting a public dance, dance hall, dancing club, dinner dancing place or teenage dance or persons employed in and about the same shall allow or permit any intoxicated, boisterous or disorderly person to enter, remain at or be in such place.

(Prior code § 6146.10; Ord. 794 C.S. § 2, 1974)

§ 5.56.120. Obscene dancing.

No person or persons shall dance in an obscene manner.

(Prior code § 6146.11; Ord. 813 C.S. § 2, 1975)

§ 5.56.130. Permit required—Application.

- A. No person shall conduct or maintain any public dance, dance hall, dancing club, dinner dancing place or teenage dance without a written permit as provided for herein;
- B. Any person desiring to obtain a permit to conduct or operate a public dance, dance hall, dancing club or dinner dancing place or teenage dance, shall file a written signed application with the License Collector not less than 2 weeks prior to the date of the dance showing the following:
 1. Name, address and phone numbers of the applicant;
 2. Date, hours and location where the dance or dancing is proposed and the admission fee if any to be charged;
 3. Names of the persons in charge of management or supervision;
 4. Indicate whether or not alcoholic beverages are to be served;
 5. Indicate whether or not special guards will be employed.

(Prior code § 6146.12; Ord. 794 C.S. § 2, 1974)

§ 5.56.140. Investigation.

The Chief of Police shall conduct a reasonable investigation to determine whether the allowing or permitting of a dance in the location for which the permit is sought will be inimical to the public health, welfare or safety of the community, and whether the applicant or persons in charge of the dance are of good moral character.

(Prior code § 6146.13; Ord. 794 C.S. § 2, 1974)

§ 5.56.150. Permit issuance—Posting.

If the Chief of Police, as the result of his investigation, finds that the dance or dancing for which the permit is sought will not be inimical to the public health, welfare or safety of the community and that the applicant or persons in charge of the dance are of good moral character, he shall advise the License Collector who shall issue a permit for such public dance, dance hall, dancing club or dinner dancing place or teenage dance. A copy of the report and recommendation of the Police chief shall be forwarded to the City Manager, for his approval, prior to issuing a permit. Every license or permit issued under the provisions of these Sections shall be posted in a conspicuous place at the location of such dance.

(Prior code § 6146.14; Ord. 794 C.S. § 2, 1974)

§ 5.56.160. Permit—Fees.

Every person applying for a permit to conduct or carry on a public dance, dance hall, dancing club, dinner dancing place or public teenage dance shall pay a permit fee to the City at the time a permit is issued in the sum of: \$25.00 for 1 day, \$40.00 for 6 months, \$80.00 for 12 months; provided however, that no fee is required for teenage dances, or dances where no admission fees are charged or donation requested and, provided, further, that the City Council shall have the right, on proper showing, to waive or refund the fee for legitimate nonprofit religious or charitable dances.

(Prior code § 6146.15; Ord. 794 C.S. § 2, 1974)

§ 5.56.170. Permit—Conditions.

- A. The Police Chief may require as a part of any permit issued to the person or persons, holding, conducting, carrying on or having charge or control of such dance, the employment of approved special guards to assure that orderly conduct will be maintained and to assure the compliance with the provisions of these Sections, as well as compliance with local or State laws affecting the conduct of the dance. The Police Chief may further recommend the number of such guards, which in his opinion may be necessary;
- B. The License Collector may attach any additional conditions that may be necessary for the protection of the public health, welfare or safety;
- C. The applicant and all persons participating in the management or supervision of a dance or dancing shall comply with all statements contained in their application for a permit, together with all applicable laws and ordinances as well as the terms and conditions of the permit, without exception.

(Prior code § 6146.16; Ord. 794 C.S. § 2, 1974)

§ 5.56.180. Permit—Fees—Exceptions.

A permit or fee for a teenage dance is not required for any agency or department of the City, County, Board of Education, or other political subdivision of the State or other youth organizations approved by the City Recreation Department, which are normally engaged in youth activities.

(Prior code § 6146.17; Ord. 794 C.S. § 2, 1974)

§ 5.56.190. Permit—Revocation or suspension—Grounds.

Any permit under the terms of this Chapter may be revoked or suspended at any time by the City Manager or City Council for the following reasons:

- A. The conduct of such dance hall, public dance, dancing club, dinner dancing place or teenage dance, does not or will not comport with the public welfare for any reason;
- B. The same has been conducted in an illegal, improper or disorderly manner;
- C. The proprietor or person in charge thereof violates or permits any infraction of any law of the State or any ordinance of the City.

(Prior code § 6146.18; Ord. 794 C.S. § 2, 1974)

§ 5.56.200. Permit—Revocation or suspension—Hearing.

- A. When any permit issued under the terms of this Chapter has been revoked or suspended, the person to whom the permit was issued may in writing appeal the revocation or suspension to the City Council within 5 days of such suspension or revocation;
- B. The City Council shall hold a public hearing as soon as practicable after receiving such appeal and shall consider all facts and evidence bearing on the reason for the suspension or revocation;
- C. After hearing all facts and evidence, the City Council shall, if the suspension or revocation appears warranted, affirm such suspension or revocation. Otherwise it may reinstate such permit.

(Prior code § 6146.19; Ord. 794 C.S. § 2, 1974)

CHAPTER 5.58
MESSAGE PARLORS AND MASSEURS

§ 5.58.010. Definitions.

For the purpose of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent that a different meaning is intended:

- A. "Employee" means any person working for the operator of a massage parlor or outcall massage service.
- B. "Massage" means and includes the method of treating the superficial parts of the human body for medical or hygienic purposes by rubbing, pounding, tapping, pressing, stroking, kneading, vibrating or stimulating with hands or any instrument.
- C. "Massage parlor" includes any premises where massage is given either as a primary or secondary function.
- D. "Masseur" means any person, male or female, who administers to another person a massage; but it does not apply to cosmetologists, barbers or to persons licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaged in such practice within the scope of his or her license.
- E. "Operate" and "operator" refer to operating, conducting, maintaining or allowing a massage parlor or outcall massage service, or employing a masseur to serve others.
- F. "Outcall massage service" means a massage given other than in the massage parlor.
- G. "Client" includes a customer or prospective client of a massage parlor.
- H. "Permit" means a permit required and issued pursuant to the provisions of this chapter. (Prior code § 3525; Ord. 528 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.020. Permit—Required.

It is unlawful for any person to conduct, or allow the conduct of such business in any premises, or an outcall massage service, within the City, as owner, operator, employee or otherwise, without first obtaining a permit therefor, in the manner hereinafter set forth, notwithstanding the provisions contained in these sections, the owner/operator shall, unless exempt therefrom, procure a business license pursuant to Title 5 of this Code. An employee or otherwise shall make application for a permit in the same manner as required of the owner/operator. (Prior code § 3525.1; Ord. 528 C.S. § 1, 1975)

§ 5.58.030. Permit—Application—Contents.

An applicant for a permit shall submit his application under oath to the Chief of Police. The application shall include:

- A. The true name, address of each and every person financially interested or employed in the business including each and every person's residence address and telephone number;
- B. Name and address of the massage parlor or the outcall massage service;

- C. The names and addresses of any and all previous massage establishments where the applicant has either owned or been employed;
- D. The criminal record, if any, of the applicant;
- E. Whether any license or permit to engage in the practice of massage as a masseur or otherwise has previously been denied the applicant or revoked from him and, if so, the circumstances of such denial or revocation;
- F. The furnishing of recent photographs together with a complete set of fingerprints of the applicant and of all persons financially interested in the business. Fingerprints are to be taken by the Chief of Police or his agent;
- G. Applicant's birth certificate or true copy thereof;
- H. Applicant's residence for the five years preceding date of application;
- I. A certificate from a medical doctor stating that the applicant has, within 30 days immediately prior to filing his application herein, been examined and found to be free from any contagious and communicable disease;
- J. Applicant must furnish a diploma or certificate of graduation from a recognized school wherein the method, profession and work of massage techniques is taught. The term "recognized" means any school or institution of learning has been approved pursuant to Section 29007.5 of the Education Code of the State, and which has for its purpose the teaching of the theory, ethics and practice, methods, profession or work of massage technicians, and which school or institution of learning requires a resident massage technician be furnished with a diploma or certificate of graduation from such school or institution of learning showing successful completion of such course of study already approved by the California State Department of Education. Schools offering correspondence courses not requiring actual attendance at class, or courses of a massage technician not approved by the California State Department of Education shall not be deemed "recognized schools."

Notwithstanding the provisions of this subsection, any applicant who has been gainfully employed in the City as a masseur on the effective date of this chapter shall be excused from complying with the requirements of this subsection;

- K. Owner/operator shall furnish a statement of the nature and character of the business;
- L. Owner/operator shall submit an application fee of \$50.00 payable to the City. The fee of \$50.00 shall be payable annually on a calendar year basis and submitted with each subsequent permit renewal.

(Prior code § 3525.2; Ord. 831 C.S. § 1, 1975; Ord. 832 C.S. § 1, 1976; Ord. 910 C.S. § 1, 1979)

§ 5.58.040. Permit—Application—Investigation.

The Chief of Police, upon receipt of a written application for a permit, shall conduct an investigation to determine whether the permit should be issued in accordance with the provisions of this chapter as hereinafter set forth. Permits shall be issued on a calendar year basis. The Chief of Police shall consider any relevant factual material relative to such application. The Chief of Police shall issue an annual massage parlor or outcall massage service permit required by this

chapter only if he finds that:

- A. A written application form therefor has been filed;
 - B. The required filing fee therefor has been paid; and
 - C. As a result of his investigation that all applicable provisions of this chapter, with regard to such permit application have, or will be, met.
- (Prior code § 3525.3; Ord. 831 C.S. § 1, 1975)

§ 5.58.050. Permit—Issuance.

The Chief of Police shall issue a permit, based upon his investigation within 30 days after the application has been filed, if he finds that:

- A. The operation, as proposed by the owner/operator, if permitted would comply with all applicable laws, including but not limited to the City's building, zoning and health regulations;
- B. The applicant has not been convicted of a violation of 266i, 315, 316, 318 or subdivision (b) of Section 647 of the Penal Code or is required to register under the provisions of Section 290 Penal Code or of any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code;
- C. The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statement of facts in the permit application, or any other document required by the City in conjunction therewith.

(Prior code § 3525.4(a); Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.060. Permit—Conditional.

Permits may be issued conditionally, in order to insure compliance with the provisions hereof.

(Prior code § 3525.4(b); Ord. 831 C.S. § 1, 1975)

§ 5.58.070. Permit—Denial.

If the Chief of Police finds any of the facts, as set forth in Section 5.58.050 hereof, are present, he shall decline to issue the permit as requested and return the application form with his reasons for denial set forth in writing.

(Prior code § 3525.4(c); Ord. 831 C.S. § 1, 1975)

§ 5.58.080. Unlawful to practice massage without permit.

It is unlawful for any person to practice massage as a principal, employee or otherwise, unless he has a valid masseur's permit issued to him by the City pursuant to the provisions of this Chapter.

(Prior code § 3525.3(d); Ord. 831 C.S. § 1, 1975)

§ 5.58.100. Sanitation requirements.

- A. All premises used by permittees hereunder shall be periodically inspected by the City for safety of the structure and the propriety of plumbing, ventilation and heating. One artificial

white light of not less than 40 watts shall be provided in each room where a massage is being administered. The walls shall be clean and painted with washable mold resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Separate restrooms shall be provided for men and women;

- B. Towels, sheets and linens of all types and items for personal use of operators and patients shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the same has first been laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for every person and discarded;
- C. Dressing and locker facilities shall be provided for patients. Lockers shall be separate for each patient and such lockers shall be capable of being locked for the protection of the clothing and valuables of the patient.

(Prior code § 3525.6; Ord. 831 C.S. § 1, 1975)

§ 5.58.110. Inspection by health officer when—Permit denial or revocation for health violations.

- A. The Chief of Police may call upon the City Health Officer from time to time to request assistance in conducting the City's investigation;
- B. A masseur permit holder shall each 60 days after the issuance of a permit, furnish the Chief of Police with a certificate from a medical doctor certifying that the permittee was examined for contagious and communicable disease and the doctor's findings;
- C. If the applicant for either a massage parlor, outcall massage service or a masseur's permit has a communicable or venereal disease, or if the applicant is in violation of any federal, state or local health law or regulation, then the respective application may be denied, or if a permit has already been issued, it may be revoked or suspended pursuant to the procedures set forth in this Code.

(Prior code § 3525.7; Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.120. Permit transfer.

No massage parlor or outcall massage service permit shall be transferable except with the written consent of the Chief of Police. An application for such a transfer shall be in writing and shall be accompanied by a filing and processing fee of \$50.00. If the transfer is denied by the Chief of Police, the permittee or proposed transferee lay appeal such action to the City Council pursuant to procedures hereinafter enacted in this Chapter.

§ 5.58.130. Standards.

- A. No massage parlor or outcall massage service shall perform a massage service prior to 8:00 a.m. and after 10:00 p.m. of any day, or alternatively during such hours as approved by the Chief of Police;
- B. No person under the age of 18 years shall be licensed to perform massages in a massage parlor or for a massage outcall service;

- C. No foods or beverages shall be sold, furnished or available for consumption in any massage parlor;
- D. No non-massage business shall be allowed on the premises that is licensed as a massage parlor.

(Prior code § 3525.9; Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979; Ord. No. 1448, § 3, 9/27/2023)

§ 5.58.140. Immoral practices prohibited.

- A. It is unlawful for any person to massage a patient with the intent or purpose of arousing, appealing to or gratifying the sexual desires of the patient, or prospective client to request, solicit or encourage such immoral practice;
- B. No masseur shall, while massaging a client or while in a room where massage is conducted, expose genitalia including breasts.

(Prior code § 3526; Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.150. Permit display.

The owner or operator shall display the massage parlor permit and the permit of each and every masseur employed in the establishment in an open and conspicuous place on the premises of the massage business.

(Prior code § 3526.1; Ord. 831 C.S. § 1, 1975)

§ 5.58.170. Identification required.

- A. Every person practicing massages under this chapter in any massage parlor shall post his permit in a conspicuous place in the room where massages are conducted;
- B. Any masseur performing an outcall massage service shall wear a badge on his person which shall contain his name and a recent photograph of him. The badge shall be readily identifiable by the client.

(Prior code § 3527.1; Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.180. Notification of ownership, employee or address change.

Every massage business owner or operator shall report immediately to the Chief of Police any and all changes of address or ownership of the massage establishment, and any changes or transfers of masseurs employed in the business or practice.

(Prior code § 3527.2; Ord. 831 C.S. § 1, 1975)

§ 5.58.190. Permit—Denial—Hearing.

If a permit for a massage parlor, outcall massage service or a masseur is denied, an applicant may, within seven days after such action is taken, request a hearing before the Chief of Police at which time evidence will be received for the purpose of determining whether the action of the Chief of Police in denying the issuance of an annual permit should be reversed. The Chief of Police shall render his decision within seven days after the hearing has been concluded.

(Prior code § 3527.3; Ord. 831 C.S. § 1, 1975)

§ 5.58.200. Permit—Denial—Appeal.

If the Chief of Police does not reverse his action in denying the permit under Sections 5.58.040 or 5.58.050 through 5.55.080, the applicant may within seven days after the rendition of the decision by the Chief of Police appeal such action to the City Council.

(Prior code § 3527.4; Ord. 831 C.S. § 1, 1975)

§ 5.58.210. Permit—Revocation or suspension—Grounds.

Any massage parlor or masseur's permit issued under this chapter shall be subject to suspension or revocation for violation of any provision of this Chapter, or for any grounds that would warrant the denial of the issuance of such permit in the first place.

(Prior code § 3527.5; Ord. 831 C.S. § 1, 1975)

§ 5.58.220. Permit—Revocation or suspension—Hearing.

Prior to the suspension or revocation of any permit issued under this Chapter, the permittee shall be entitled to a hearing before the Chief of Police, at which time evidence will be received for the purpose of determining whether or not such permit shall be suspended or revoked, or whether the permit may be retained. The Chief of Police shall render his decision within seven days after the hearing has been concluded.

(Prior code § 3527.6; Ord. 831 C.S. § 1, 1975)

§ 5.58.230. Permit—Revocation or suspension—Appeal.

Within seven days after any action has been taken by the Chief of Police pursuant to Section 5.58.210, the permittee, or interested persons, may appeal such action to the City Council.

(Prior code § 3527.7; Ord. 831 C.S. § 1, 1975)

§ 5.58.240. Masseur's permit—Fee—Nontransferability.

The permit fee for masseurs shall be \$10.00 annually with a new application to be submitted each year. Masseur permits are not transferable.

(Prior code § 3527.8; Ord. 831 C.S. § 1, 1975; Ord. 910 C.S. § 1, 1979)

§ 5.58.250. Exemptions.

The provisions of this chapter shall not apply to physiotherapy establishments nor to any practice of business which would be covered by the licensing provisions of the state where a city has been preempted from regulating such business.

(Prior code § 3527.9; Ord. 831 C.S. § 1, 1975)

CHAPTER 5.59
ITEM PRICE MARKING ON PACKAGED CONSUMER COMMODITIES

§ 5.59.010. Definitions.

Unless otherwise specifically provided or required by the context, the following terms have the indicated meanings in this ordinance.

- A. "Customer commodity" means any of the following:
1. Food, including all material whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients added to any such material for any purpose, but excluding individual packages of cigarettes and individual cigars.
 2. Foil wrapping and paper and plastic products, including but not limited to napkins, facial tissue, toilet tissue, plastic wrapping, paper towels, and disposable plates and cups.
 3. Detergents, soaps, and other cleaning agents.
 4. Pharmaceuticals, including non-prescription drugs, bandages, hygiene products and toiletries.
- B. "Grocery store" means a store engaged primarily in the retail sale of packaged food as distinguished from food prepared for consumption on the premises.
- C. "Grocery department" means an area within a retail store which area is used primarily in the retail sale of packaged food as distinguished from food prepared for immediate consumption on or off the premises.
- D. "Sale item" or "special" means any consumer commodity offered in good faith for a period of seven days or less on sale at a price below the normal price that item is usually sold for in that store.

§ 5.59.020. Requirements.

- A. Price mark required. Every owner, operator, manager, or person in charge of a grocery store or grocery department shall cause to have a clearly readable price indicated on each package consumer commodity offered or displayed for sale on or after January 1, 1980;
- B. Exceptions. This requirement does not apply to:
1. Any unpackaged or unwrapped fresh food produce;
 2. Any consumer commodity under three cubic inches in size and weighing less than three ounces and priced for less than thirty cents (\$0.30);
 3. Any grocery business which has as its only regular employees, the owner thereof, or the parent, spouse, or child of such owner, or in addition thereto, not more than two other persons employed on a regular schedule for a continuing period of time;
 4. Identical items within a multi-item package, which is price marked;

5. Items sold through a vending machine; and
 6. Sale items or specials.
- C. Waiver. Upon application to the City Council, the requirements of this ordinance may be waived provided that the applicant can demonstrate a proposed pricing system with the ability to provide a more cost efficient operation and to provide for consumer protection.

§ 5.59.030. Sunset provision.

The requirements specified in this ordinance shall terminate on December 31, 1986.

§ 5.59.040. Violations and enforcement.

- A. Violations. Every failure or omission to have a clearly readable price as required by this ordinance indicated on six or more units of the same item of the same commodity is an infraction;
- B. Civil enforcement. Any person may seek civil enforcement of this ordinance;
- C. Liability for violations. Any person who violates this ordinance shall be liable to any person injured for any losses and expenses thereby incurred and for the sum of fifty dollars (\$50.00) in addition thereto. This remedy applies only to actions brought by or on behalf of a single plaintiff, including any governmental agency and not to multiple plaintiffs or class actions.

(Ord. 934 C.S. § 1, 1980)

CHAPTER 5.60
TAXICABS

§ 5.60.010. Definitions.

Unless otherwise expressly stated, whenever used in this Chapter, the following term shall respectively be deemed to mean as follows:

- A. "Driver" means every person in charge of, or operating, any taxicab, or rent car, as herein defined, either as agent, employee or otherwise under the direction of the owner, or as owner, as herein defined.
- B. "Owner" means every person, firm or corporation having use or control of any taxicab or rent car, as herein defined, whether as owner, lessee or otherwise.
- C. "Rent car" means every automobile or motor-propelled vehicle, excluding taxicabs, as herein defined, and operated, at rates per hour, or portion thereof, and not equipped with a taximeter, as herein defined, used for the transportation of passengers for hire over the public streets of the City, and not over a defined route, and irrespective of whether the operations extend beyond the boundary limits of the City, and such vehicle is routed as to destination under the direction of such passenger or passengers, or of such person hiring the same.
- D. "Street" means any place commonly used for the purpose of public travel.
- E. "Taxicab" means every automobile or motor-propelled vehicle operated at rates per mile or portion thereof, or for wait time, or for both, used for the transportation of passengers for hire over the public streets of the City, and not over a defined route, and irrespective of whether the operations extend beyond the boundary limits of the City, and such vehicle is routed as to destination under the direction of such passenger or passengers, or of such persons hiring the same.
- F. "Taximeter" means any mechanical instrument, appliance, device or machine by which the charge for hire of a passenger-carrying vehicle is mechanically calculated, either for distance traveled or time consumed, or both, and upon the instrument, appliance, device or machine such charge is indicated by figures.

(Prior code § 6200)

§ 5.60.020. License—Required—Nontransferable.

It is unlawful to operate a taxicab or rent car in the City unless the owner thereof shall apply for and obtain a license to do so, which license shall be applied for, granted and be in effect, all in compliance with the provisions of this Chapter. No license issued hereunder shall be transferable.

(Prior code § 6201)

§ 5.60.030. License—Application.

- A. The application for such owner's license shall be in writing, duly certified under oath, and it, together with a copy thereof shall be filed with the City Clerk, who shall forthwith transmit to the Chief of Police the copy, and each application shall set forth:

1. A full identification of the applicant and all persons, firms or corporations directly or indirectly interested in the license, if granted;
 2. The residence and business address and the citizenship of the applicant, including all members of any firm, or partnership, or all officers and directors of any corporation applying;
 3. The exact nature of the proposed business for which the license is requested, and the name under which it is to be operated;
 4. Whether or not any license has been revoked, and if so, the circumstances of such revocation;
 5. The number of vehicles proposed to be operated;
 6. The complete description of the vehicles proposed to be operated and of the proposed operations;
 7. The color scheme and characteristic insignia to be used to designate the vehicles of the owner;
 8. The passenger seating capacity of each vehicle proposed to be operated;
 9. The make and type of a taximeter if any intended to be installed on each taxicab for which application is made;
 10. Such other relevant facts as the City Council may, prior to the filing of the application, determine by resolution as advisable or necessary.
- B. Within 10 days after the filing of any such application for license, the City Clerk shall cause to be posted on the bulletin board at the City Hall, notice of the filing of such application setting forth in the notice, the name and address of the applicant, and the date of filing such application.
- (Prior code § 6202)

§ 5.60.040. License—Issuance.

- A. No license shall be granted within 40 days after the date of filing of the application with the City Clerk. The Chief of Police shall cause an investigation to be made of the application, and shall, within 30 days from the date of filing the application, report his findings in writing and file the same with the City Clerk. If the report of the Chief of Police finds:
1. That the vehicle, or its equipment, proposed to be operated is inadequate or unsafe;
 2. That the applicant has been convicted of a felony or the violation of a narcotic law, or of any penal law involving moral turpitude, or during the previous 60 days of any provision of the ordinances of the City or law relating to traffic or use of streets in the City;
 3. That the proposed color scheme or characteristic insignia will tend to confuse the identification of the vehicles proposed to be operated with those of another operator operating in the City; or

4. That the name under which the applicant proposes to operate will tend to cause confusion with that of another owner operating in the City, then the application shall be deemed denied.
- B. It is provided, however, that in any such event, the applicant may, at any time within 40 days from the date of filing of the application with the City Clerk, as aforesaid, file in writing with the City Clerk an appeal to the City Council from the denial. In which case, at its next regular meeting, following the filing of the appeal, the City Council shall hear the appeal by the applicant, consider the written report of the Chief of Police and such other material evidence as may be presented. After due consideration, the City Council shall by resolution determine or not such application shall be granted or denied.
- C. If, however, the report of the Chief of Police finds none of the objections to the granting of the application, any citizen of the City may, likewise, within the 40-day period file in writing with the City Clerk objections to the granting of the application, then at its next regular meeting after the filing, the City Council shall review the application, the report of the Chief of Police, the objections filed, and such other material evidence as may be presented. After due consideration, the City Council shall, by resolution, determine whether or not the application shall be granted or denied.
- D. It is provided, however, that if the report of the Chief of Police finds none of the objections to the granting of the application and no written objections thereto are filed with the City Clerk as herein specified, or after hearing, in either event herein specified, the City Council determines that the application shall be granted, and 40 days have expired since the filing of the application, the License Collector shall issue the license to the applicant upon the payment of the license fee set forth in Section 5.60.050.

(Prior code § 6203)

§ 5.60.050. License—Fee.

The owner, upon the issuance of a license for the operation of a taxicab or rent car hereunder, shall pay to the City thereof a license fee of \$100.00 annually in advance for one such vehicle and \$50.00 annually in advance for each additional vehicle so licensed.

(Prior code § 6204)

§ 5.60.060. License—Suspension or revocation.

The City Council may, by resolution, and after ten days' written notice to an owner, and a public hearing at a regular meeting thereof following the notice, suspend or revoke an owner's license for any of the four grounds specified as grounds for denial as set forth in Section 5.60.040 of this Chapter, in event of a violation of any of the provisions of this Chapter, or for a failure to pay any judgment for damages arising from the operation of the vehicles, or any of them, for which the license was issued.

(Prior code § 6205)

§ 5.60.070. Change in number of vehicles.

- A. Any owner holding a license to operate one or more taxicabs or rent cars as provided in this Chapter, who desires to add to the number of such vehicles, shall do so only upon obtaining license therefor, which shall be granted only upon application made in the same manner and under the same proceedings as are required in this Chapter in the instance of obtaining

the original license and paying the license fee required for each additional vehicle;

- B. Any owner holding a license to operate one or more taxicabs or rent cars, as provided in this Chapter, who desires to substitute a different vehicle for a vehicle operated under such license, shall do so only upon obtaining permission to do so from the City Council, which shall be granted only upon written application to the City Council filed with the City Clerk, setting forth the particulars of such proposed substitution and upon otherwise complying with the requirements of this Chapter; provided, however, the License Collector shall issue a temporary permit to make a substitution provided the written application has been filed, which temporary permit shall be valid only until the first regular meeting of the City Council next following the date of issuance. The City Council shall have the same authority in granting or denying the application for permission to add to or substitute, as is herein in this Chapter vested in it, in the matter of the original application when presented to it, and shall, by resolution, grant or deny the petition as it may determine advisable after due consideration of the application.

(Prior code § 6206)

§ 5.60.080. Liability insurance—Required.

It is unlawful to drive or operate or cause or permit to be driven or operated any taxicab or rent car in the City, unless the owner thereof has obtained a motor vehicle liability insurance policy or policies from a responsible and solvent corporation, authorized to issue such policies under the laws of the State, insuring the owner and covering such taxicab or rent car, and also unless the owner files with the City Clerk the written certificate or certificates of such corporation, all as provided in this Chapter. In the event, during the term of such license, such liability insurance policy so filed becomes ineffective by reason of its expiration or cancellation, or the corporation issuing the same becomes irresponsible or insolvent, the owner shall obtain a new policy or policies meeting the foregoing requirements to replace the ineffective policy, and file certificate thereof with the City Clerk, as aforesaid. The City Council may at any time require an owner to replace any such policy within 10 days from the date of notice requiring the same, with a policy and certificate thereof, both in accordance with the provisions of this Chapter, then, at the termination of the 10 days, the owner's license for the taxicab or rent car covered by such policy, shall be, by such failure, automatically suspended until such time as the requirement is complied with, or the license is revoked, whichever is sooner in event.

(Prior code § 6207)

§ 5.60.090. Liability insurance—Terms of policy.

Each motor vehicle liability insurance policy required under the provisions of Section 5.60.080 of this Chapter, in addition to the provisions required to be therein under the laws of the State, shall provide coverage under the National Standard Liability Form and shall also provide that such policy covers any and all taxicabs or rent cars which may be driven or operated by or for the owner insured under the policy and regardless of whether or not any license has been granted the insured under the provisions of this Chapter; such policy insures the owner, as defined in this Chapter, any other person driving, using or responsible for the use of any taxicab or rent car, covered by the policy, with the consent, express or implied, of the owner, and also the City, against loss from the liability imposed on any of them by law for injury to, or death of, the person or damage to property arising from or growing out of the maintenance, operation or ownership of any taxicab or rent car covered by the policy to the amount of limit of \$100,000.00 for injury, to, or the death of, any one person in any one accident and \$300,000.00 for injury to, or the death

of, two or more persons in any one accident and \$25,000.00 for damage to, or the destruction of property in any one accident. Such policy is a continuing liability up to the full amount thereof, notwithstanding any recovery thereon; such policy, in the event of the death of the owner, insures to, and is for the benefit and protection of, any person who sustains or suffers any damage or injury, or to the heirs, or legal representatives of any such person, as the case may be, who may be so damaged or injured or suffer death, by reason of the negligent operation of any taxicab or rent car covered by the policy during the period covered by the policy and the life of the owner, and any such person, or the heirs or legal representatives of any such person, as the case may be, may, in such event sue the insurance carrier, provided that any such action must be brought within the period of time that an action on the policy would have been brought against the owner if he had not died and that no recovery can be had in such action in excess of the limits of the policy, and further provided, that the payments required to be made, in such event, shall be made directly to any such person, or the heirs or legal representatives of any such person, as the case may be.

(Prior code § 6208; Ord. 813 C.S. § 3, 1975)

§ 5.60.100. Liability insurance—Certificate required.

Each certificate required under the provisions of Section 5.60.080 of this Chapter shall certify that the issuer thereof has issued a motor vehicle liability insurance policy or policies insuring the owner named in the certificate, and that each of the policies contains each of the provisions required to be therein as provided by Section 5.60.090 of this Chapter and that none of the policies can or will be cancelled except upon 30 days' prior written notice thereof to the City Clerk. Each of the certificates shall be conclusive evidence against the issuer thereof that its contents are true and correct. All such certificates shall be subject to the approval of the City Attorney.

(Prior code § 6209)

§ 5.60.110. Bond in lieu of insurance.

- A. Subject to the approval of the City Council, the owner of any taxicabs or taxicab or rent car or cars, operated under the provisions of this Chapter, may file a bond of a responsible and solvent corporation authorized to issue such bonds under the laws of the State, containing the conditions, and giving the protection required in the motor vehicle liability insurance policy required by Sections 5.60.080 and 5.60.090 hereof, in lieu of either, all or any part of the insurance coverage required by said Sections.
- B. In view of the filing of a bond under the provisions of this Section, the applicable provisions of Sections 5.60.080, 5.60.090 and 5.60.100 hereof shall govern the furnishing and the contents of such bond and the owner filing it.

(Prior code § 6210)

§ 5.60.120. Driver's permit—Required—Application.

It is unlawful for any driver to operate any taxicab or rent car in the City unless there exists a valid permit to do so as herein provided. The application for such driver's permit shall be in writing, duly certified under oath, and it, together with a copy thereof shall be filed with the City Clerk, who shall transmit the copy to the Chief of Police, who shall file the same. Each such application shall set forth the name, age and address of the applicant, his past experience in operating automobiles, the name, business and address of each of his employers, during the

preceding period of 3 years, the number of existing operators' or chauffeurs' licenses, whether or not a chauffeur's license issued to him by the State or any state or governmental agency has ever been revoked, the name and address of the owner by whom he is to be employed as a driver (which owner shall endorse the application) and such additional information as the City Council, by resolution prior to the filing of the application, may require.

(Prior code § 6211)

§ 5.60.130. Driver's permit—Issuance—Nontransferable—Notice of termination—Mandatory controlled substance and alcohol testing certification program.

- A. Upon application for a driver's permit and before it shall be issued, the driver, whether the owner or otherwise, must (1) possess a valid, permanent California driver's license and must not have been convicted within the last five years of driving while under the influence of alcohol and/or drugs and (2) evidence a proficient knowledge of the traffic laws of the City and of the State, and demonstrate his ability to operate a taxicab or rent car, all to the satisfaction of the Chief of Police, who may issue such permit. Upon satisfying the foregoing requirements, the driver shall be fingerprinted by, and his record filed in the Police Department. The driver shall also file with his application two recent photographs (size 1 ½ inch by 1 ½ inch), one to be filed with his application and one to be permanently attached to his driver's permit when issued, which permit shall be in his possession while the driver is operating a taxicab or rent car, and shall be exhibited to any person on request. Every driver's permit issued hereunder shall set forth the name of the owner for whom the driver is authorized to operate a taxicab or rent car and shall be valid only so long as he continues in the employ of such owner. Upon the termination of such employment, the driver shall forthwith surrender his driver's permit to the Chief of Police. No such driver's permit shall be granted to any person under the age of 18 years, to any person who is not either employed as a driver within the City of Martinez or in possession of an offer of employment as a driver within the City of Martinez, to any person who has not complied with subsection D of this Section 5.60.130, or to any person who has been convicted of a violation, during the previous 60 days, of any provision of the ordinance of the City or law relating to traffic use of streets in the City. Such driver's permit may be denied upon substantial evidence of the facts of either physical or moral deficiencies of the applicant which, in the sound discretion of the Chief of Police would render such applicant incompetent to operate a taxicab or rent car, and the Chief of Police may require an examination and report by an optometrist or physician as to possible physical defects before issuance of such permit.
- B. No driver's permit issued hereunder shall be transferable in any event.
- C. Upon the termination of the employment of any driver, the owner for whom such driver has been working shall immediately give the Chief of Police written notice of such termination.
- D. All drivers shall comply with the mandatory controlled substance and alcohol testing certification program, as set forth below:
 1. Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of

less than 0.02 percent.

2. Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this Subsection D of this Section 5.60.130 Requirements for rehabilitation and for return-to-duty and follow-up testing and other requirements, except as provided otherwise in this Subsection D of this Section 5.60.130, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.
3. A test consistent with subsection (D)(1) and (2) performed in a jurisdiction other than the City shall be accepted as meeting the same requirement in the City of Martinez. Any negative test result shall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in the City of Martinez if the driver has not tested positive subsequent to the negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment or any testing requirements under the program other than periodic testing.
4. In the case of a self-employed independent driver, the test results shall be reported directly to the City, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the City of positive results.
5. All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.
6. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and follow-up testing.
7. Upon the request of a driver applying for a permit, the City shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the City knows offer tests in or near the City.

(Prior code § 6212; Ord. 1255 C.S. § 1, 1998)

§ 5.60.140. Driver's permit—Suspension or revocation.

- A. The Chief of Police shall have the power to suspend or revoke any driver's permit issued hereunder for any of the reasons for which an application for such permit may be denied, or if the holder thereof shall be found guilty by any court, of reckless driving, or the violation of any other law. The Chief of Police shall in writing forthwith report any such suspension or revocation to the City Council, stating the reasons for such action. The City Council may affirm or reverse, in whole or in part, any such order on a written appeal filed with the City Clerk by the driver within 10 days from the date of any such order, such

action to be taken by the City Council by resolution after a hearing thereon to be had at its next regular meeting following the filing of the appeal.

- B. In the event of such suspension or revocation of a driver's permit, such permit shall be, by the holder thereof, forthwith surrendered to the Chief of Police.

(Prior code § 6213)

§ 5.60.150. Driver's permit—Owner's license—Term—Renewal.

- A. Except as otherwise provided in this Chapter, each owner's license and driver's permit shall be issued for one year and shall expire at the end of the term for which issued, and may be renewed each year only on regular application made as required in this Chapter.
- B. Any owner's license or driver's permit heretofore issued under the provisions of any ordinance of the City, and now in force and effect shall remain in force and effect until revoked or suspended as herein provided, or until one year after their issuance, whichever is sooner.

(Prior code § 6217)

§ 5.60.160. Vehicle and equipment specifications.

- A. No vehicle shall, under the license to the owner, be operated as a taxicab or rent car unless it conforms with all of the provisions of this Chapter, or unless the vehicle has been operated under a license as a taxicab or rent car prior to October 15, 1965, in which latter event it may so operate only for the period of time for which the license was issued, except that it shall, in all events, conform to the provisions of Section 5.60.060 through 5.60.110 and 5.60.240 through 5.60.300 of this Chapter and all regulations subsequent hereto.
- B. Taximeters placed upon taxicabs either in the first operation, or to replace broken or faulty meters, shall not be operated more than 24 hours prior to being inspected, tested, approved and sealed by an authorized representative of the City Council.
- C. Each taxicab or rent car so licensed shall have on both sides and the rear of the vehicle the name of the owner or name under which operated, the word "Martinez" and the number assigned to such vehicle by the License Collector. The type, design and size required therefor shall be as may be designated by the City Council by resolution. At the time of the issuance of a license for the operation of any vehicle hereunder, the License Collector shall assign to, and for that vehicle, a number not in excess of the total number of licensed vehicles, keep a record of the number so assigned, and file a copy of the record with the Chief of Police.

The License Collector shall assign, record in his office, and file a copy in the same manner, to and for each such vehicle licensed to be operated under the provisions of this Chapter, and each owner, so licensed to operate that vehicle shall comply with all provisions of this Subsection as respects that vehicle including the number so assigned.

(Prior code § 6215)

§ 5.60.170. Inspection—Required.

Before a license is issued to any owner, the vehicle for which such license is required shall be delivered to a place designated by the City Council for inspection, and the City Council shall designate an agent or agents, to inspect such taxicab or rent car, its equipment and taximeter, if

any, to ascertain whether such taxicab or rent car complies with the provisions of this Chapter.
(Prior code § 6216(a))

§ 5.60.180. Inspection—Failure to pass.

Any taxicab or rent car which is found, after such inspection, to be in such violation shall be immediately ordered out of service, and before again being placed in service, shall be placed in a safe and proper condition.
(Prior code § 6216(c))

§ 5.60.190. Cleanup required—Reporting valuable property left in vehicle.

The interior of each taxicab or rent car shall be thoroughly cleaned at least once in each 24 hours, and all property of value left in any such vehicle by a passenger shall be forthwith reported by the owner of the licensed vehicle to the Chief of Police, who shall keep a record thereof.
(Prior code § 6216(d))

§ 5.60.200. Taking most direct route required.

Any driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his destination safely and expeditiously.
(Prior code § 6216(e))

§ 5.60.210. Failure to pay fare a misdemeanor.

It is unlawful for any person to refuse to pay the lawful fare as fixed herein of any of the vehicles regulated by this Chapter after employing or hiring the same, and any person so doing is guilty of a misdemeanor.
(Prior code § 6216(f))

§ 5.60.220. More than allowable number of passengers restricted.

No driver of any taxicab or rent car shall accept or take into his vehicle or transport any large number of passengers than the rated seating capacity of his vehicle, provided, however, that children under 12 years of age with an adult escort may be taken in addition thereto.
(Prior code § 6216(g))

§ 5.60.230. Driver's log.

The driver of every vehicle covered by this Chapter shall keep a complete and accurate record of each trip upon a daily sheet showing the time and place of origin and the time and place of destination of the trip, the number of passengers carried, and the amount of fare collected. This record shall be signed by the driver and filed daily with the company by whom he is employed, which record shall be kept on file and made available for inspection by the Martinez Police Department upon request for a period of not less than 6 months.
(Prior code § 6216(h))

§ 5.60.240. Taximeter—Generally.

Taxicabs, duly licensed to operate in the City as in this Chapter provided, may be so operated, either with or without a taximeter. If a taximeter is so installed, it shall be the duty of the owner

operating such taxicab to keep such taximeter in perfect condition so that the taximeter will, at all times, correctly and accurately indicate the legal charge for the distance traveled and waiting time, and such taximeter shall, at all times, be subject to inspection by the Chief of Police, and the Chief of Police is authorized at his instance, or upon complaint of any person, to investigate or cause to be investigated such taximeter, and upon the discovery of any inaccuracy in the taximeter, to remove or cause to be removed such vehicle equipped with such taximeter from the streets of the City until such time as the taximeter has been correctly adjusted or the taximeter equipment has been removed from the vehicle.

(Prior code § 6214(a))

§ 5.60.250. Taximeter—Flag—Operation.

Every such taximeter shall register the charge to the nearest 100¢ and be equipped with a flag or other mechanical device with the words "For Hire" printed or stamped thereon, and the flag shall be so attached and connected to the mechanism of the taximeter as to cause the mechanism to operate when the flag is in a position other than upright and indicate that the taxicab is not for hire, and which flag shall, when moved forward or downward, start the operation of the taximeter so that the same will operate in the manner defined in this Chapter.

(Prior code § 6214(b))

§ 5.60.260. Taximeter—Flag—Unlawful operation.

It is unlawful for any driver of a taxicab while carrying passengers to display the flag or device attached to such taximeter in such a position as to denote that such vehicle is for hire, or is not employed, or to have such flag or other attached device in such a position as to prevent the taximeter from operating and it is unlawful for any driver to throw such flag or other device of a taximeter into a position which causes the taximeter to record when such vehicle is not actually employed or to fail to throw the flag or other device on such taximeter into a nonrecording position at the termination of each and every service, provided that the foregoing shall not apply to trips to or from points outside the City where the charge is fixed on a trip basis.

(Prior code § 6214(c))

§ 5.60.270. Taximeter—Charges to be based on taximeter.

All charges for transportation of passengers in taxicabs equipped with a taximeter, operated in the City, must be based on the charge indicated on the taximeters and it is unlawful for any owner, driver or operator of any such taxicab to charge any passenger or passengers any sum in excess of the sum indicated on the taximeter, provided that the foregoing shall not apply to trips to or from points outside the City where the charge is fixed on a trip basis.

(Prior code § 6214(d))

§ 5.60.280. Taximeter—Placement.

The taximeter shall be so placed in the taxicab that the reading dial showing the amount to be charged shall be well-lighted and readily discernible by the passenger riding in such taxicab.

(Prior code § 6214(e))

§ 5.60.290. Card display and information required of same.

There shall be displayed in the passenger compartment of each taxicab or rent car, in full view of the passenger, a card not less than 2 inches by 4 inches in size which shall have plainly

printed thereon the name of the owner, or the fictitious name under which the owner operates, the business address and telephone number of the owner, and a correct schedule of the rates to be charged for conveyance in the vehicle.

(Prior code § 6214(f))

§ 5.60.300. Rate schedule—Overcharging prohibited—Submittal to clerk—Fare deductions for disabled vehicles.

- A. It is unlawful, except for trips to or from points outside the City where the charge is fixed on a trip basis, for the owner or driver of any taxicab or rent car, as defined in Section 5.60.010 of this Chapter to fix or charge or collect a rate in excess of the rate schedule filed by the owner of the vehicle with the City Clerk. Before operation of such vehicle under any license issued under the provisions of this Chapter, the owner shall file with the City Clerk, in duplicate, a complete rate schedule to be charged to a passenger or passengers of such taxicab or rent car, and the City Clerk shall file a copy thereof with the Chief of Police and report to the City Council at its next regular meeting the rate schedule so filed. A changed rate schedule may likewise be filed from time to time by the owner but no charges shall be made thereon until consent to such new schedule has been given by resolution of the City Council.
- B. In case any taxicab or rent car shall become disabled or break down, while conveying passengers for hire, the time of stoppage shall be deducted from the time charged for.

(Prior code § 6214(g))

§ 5.60.310. Penalties for violations.

- A. Any person violating any of the provisions of this Chapter is guilty of a misdemeanor, and upon conviction thereof shall be punishable by a forfeiture of his license or permit and by a fine not exceeding \$500.00 or by such forfeiture and imprisonment in jail for not more than 6 months or by both such forfeiture, fine and imprisonment.
- B. For the purpose of this Chapter it shall be considered that each day during which any provision of this Chapter is violated shall constitute a distinct and separate offense.

(Prior code § 6218)

CHAPTER 5.70
PROCEDURES AND REQUIREMENTS FOR FILM PERMITTING

§ 5.70.010. Definitions.

- A. "Charitable filming activity" means a filming activity conducted or produced by a non-profit organization/corporation which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization/corporation.
- B. "Filming activity" means the staging, shooting, filming, videotaping, photographing or other similar process conducted for the making of still photographs, motion picture, television programs, commercial and non theatrical film productions.
- C. "Filming activities coordinator" means such public official designated by the City Manager to issue film permits within the city.
- D. "Location manager" means the person in charge at the location of the filming activity within the city associated with the permittee.
- E. "News purposes" means filming activity conducted for the purpose of reporting on persons, events or scenes which are in the news or newspapers, television news services and other news media.
- F. "Student filming activity" means a filming activity conducted to fulfill a course requirement by a student enrolled at a public school, private school registered with the state, school within the California State University System or University of California.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.020. Purpose.

Filming permits shall be granted in accordance with the requirements and procedures set forth in this chapter.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.030. Administration.

The Filming Activities Coordinator is responsible for administering this Chapter, and is authorized to promulgate rules or regulations consistent with and necessary for its efficient administration. The Filming Activities Coordinator or his designee shall work cooperatively with the film industry to expedite the permit process by coordinating all City department reviews and approvals.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.040. Permit required.

- A. No person shall engage in commercial motion picture production on public property or requiring public services without obtaining a filming permit pursuant to the provisions of this Chapter. The film permit is not transferable without the written authorization of the Filming Activities Coordinator.
- B. The provisions of this chapter shall not apply to any of the following activities; provided, that the activity will not require the closure of a public street, or substantially impede

vehicular traffic thereon:

1. Filming activities conducted for news purposes as defined in Section 5.70.010(e);
 2. Filming activities conducted for use in a criminal investigation or civil or criminal court proceedings;
 3. Noncommercial filming activities conducted solely for private or family use.
- (Ord. 1246 C.S. § 1, 1997)

§ 5.70.050. Application.

An applicant for a filming permit may commence the application process by providing all application information to the City by telephone. The application and permit shall be on the form developed by the California Film Commission, which must be signed by an authorized representative of the applicant.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.060. Permit issuance.

A. The time line for issuing permits shall be:

1. Permits not requiring traffic control exceeding three (3) minutes shall be issued within two (2) working days of completion of application;
2. Permits requiring traffic control exceeding three (3) minutes shall be issued within four (4) working days of completion of application;
3. Permits requiring road closures shall be issued within ten (10) working days of completion of application.

B. An application shall not be deemed complete until all required information is provided, all fees are paid, the application is properly signed, and evidence of adequate insurance coverage is provided to the Film Activities Coordinator.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.070. Permit conditions.

The Filming Activity Coordinator may condition the issuance of a film permit by imposing reasonable requirements concerning the time, place and manner of filming activities.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.080. Amendments.

Permits may be amended from time to time to accommodate minor changes to the permit. The amendment shall be in the form of an attachment to the permit. A permit may not be amended or extended after the completion of filming activity.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.090. Permit revocation or suspension.

A. The Filming Activities Coordinator may revoke the film permit if he determines after the permit is issued that the permit application was false in any material detail or if the

permittee, or the agents, employees or contractors of the permittee at the filming activity site, fail to comply with the filming rules. Notice of the grounds for revocation of the film permit shall be provided in writing by the Filming Activities Coordinator to the permittee or location manager.

- B. The Police Department officer assigned to police the filming activity site may suspend the film permit when the filming activity poses an immediate hazard to persons or property and the permittee or location manager will not, or cannot, prevent the hazard after being instructed to do so by the officer. The grounds for the permit suspension shall be provided in writing by the filming activity coordinator to the permittee or location manager within one business day of the suspension.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.100. Appeals.

- A. The permit applicant may appeal a permit denial, revocation, suspension, permit condition or insurance or fee requirement. Such appeal shall be filed with the City Clerk not later than seven calendar days after the date written notice of the decision is made. The appeal shall be heard by the City Council at its next available regular meeting.
- B. If there is insufficient time for a timely appeal to be heard by the City Council prior to the planned date for the filming activity or the filming activity is already underway, the applicant/permittee may at his option request that the City Clerk schedule the appeal before the City Manager. The City Manager shall hold a hearing no later than two business days after the filing of the appeal, and shall render his decision not later than one business day after the appeals hearing. If the appeal is heard before the City Manager, his decision is final.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.110. Permit copy.

The applicant shall have a copy of the permit on site at all times, and shall make the copy available for inspection by the Filming Activities Coordinator or his designee.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.120. Fees.

A permit application processing fee in an amount established by City Council resolution shall be charged to cover the cost of permit issuance. In addition, a fee which shall reasonably reflect the cost of providing services occasioned by the filming, including administration, police, fire, and other necessary services shall be paid by the applicant upon filing of an application with the Filming Activities Coordinator. Any excess of the application fee shall be refunded to the applicant. In case of cancellation, a cancellation fee not to exceed the actual cost expended for services provided prior to said cancellation shall be assessed to the applicant.

A waiver or reduction in city fees may be authorized by the City Manager for charitable and student filming activities.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.130. Insurance.

The applicant shall, at no cost to City, furnish evidence of comprehensive liability insurance coverage, including coverage of owned and non-owned automobiles, with a minimum combined single limit coverage of at least \$1,000,000 for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including loss of use thereof, arising out of each accident or occurrence. The City, its officers and employees shall be named as additional insureds, and coverage shall not be canceled or reduced in coverage or limits except after 30 days written notice to City. Evidence of coverage shall be provided on the standardized insurance form approved by the California Film Commission.

(Ord. 1246 C.S. § 1, 1997)

§ 5.70.140. Liability and indemnification.

- A. Prior to the issuance of the film permit, the permit applicant must sign an agreement to reimburse the City for any costs incurred to repair or replace city property which is damaged as the result of the filming activity.
- B. Hold harmless. As a condition of obtaining a filming permit, the applicant shall defend, indemnify, save and hold harmless the City and its officers and employees from any and all claims, costs and liability for any damages, injury, or death arising directly or indirectly from or connected with the permit, due to or claimed to be due to negligent or wrongful acts, errors or omissions of the applicant or any person under its control, save and except claims or litigation arising through the sole negligence or sole willful misconduct of the City, and will make good to and reimburse the City for any expenditures, including reasonable attorneys' fees, the City may make by reason of such matters and, if requested by the City will defend any such suits at the sole cost and expense of the applicant.

(Ord. 1246 C.S. § 1, 1997)

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ANIMALS

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ANIMAL CONTROL

§ 6.04.020.

§ 6.04.030.

Penalties.

**Request enforcement in
City.**

**§ 6.04.010. Adoption-By-Reference of
county's animal control
code.**

CHAPTER 6.04
ANIMAL CONTROL

§ 6.04.010. Adoption-By-Reference of county's animal control code.

The Board of Supervisors of the County of Contra Costa, an agency of the State of California within the meaning of Government Code Section 50022.1, has adopted County Ordinances Nos. 80-97, 83-10, 85-23, 87-74, 2005-24, 2006-05 being a codification of provisions for animal control services (and constituting Division 416-2 to 416-12 of Division 416 of the County Code) collectively referred to herein as the "Animal Control Ordinance," and it is a code within the meaning of Government Code Section 50022.2; and at least one certified copy of it is and has been on file with the City Clerk where it is open to public inspections, all as required by Government Code Section 50022.3. This Animal Control Ordinance is hereby referred to and adopted by this reference as part of this City of Martinez Ordinance, as provided for in Government Code Section 50022.2.

(Prior code § 5100; Ord. 946 C.S. § 1, 1981; Ord. 1052 C.S. § 1, 1985; Ord. 1116 C.S. § II, 1988; Ord. 1249 C.S. § 1, 1997; Ord. 1326 C.S. § 1, 2006)

§ 6.04.020. Penalties.

- A. Notwithstanding Section 14-8.004 of the Animal Control Ordinance, and pursuant to Food and Agricultural Code Section 3140, violations of Division 416 of the Animal Control Ordinance, excepting Chapter 416-10 and Article 416-12.2, are punishable by a fine of not more than \$50.00 for the first offense and not more than \$100.00 for the second or subsequent offense.
- B. Notwithstanding subsection A above, violation of Section 416-404 Abandonment of the Animal Control Ordinance, excluding abandonments under Section 416-8.014 is a misdemeanor and punishable as such.

(Ord. 1249 C.S. § 1, 1997)

§ 6.04.030. Request enforcement in City.

The County Animal Control Ordinance referred to and hereby adopted contains the provisions of those sections of the California Food & Agricultural Code referred to in Section 30501, and therefore this City Ordinance constitutes the City's request that the provisions of this County Animal Control Ordinance be applicable within this City, and they shall hereafter so apply, pursuant to Food & Agricultural Code Section 30501.

(Prior code § 5101; Ord. 946 C.S. § 1, 1981; Ord. 1116 C.S. § II, 1988; Ord. 1249 C.S. § 1, 1997)

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Chapter 8.50
SEISMIC HAZARD RETROFIT
PROGRAM FOR UNREINFORCED
MASONRY BUILDINGS

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		§ 8.52.050.	Enforcement.

CHAPTER 8.04
PUBLIC HEALTH LICENSES AND FEES

§ 8.04.010. County Ordinance—Adopted—Authority.

Chapter 413-3 (Public Health and License Fees) as set forth in the Ordinance Code of Contra Costa County is hereby adopted by reference with those changes, additions and deletions made from time to time by the Contra Costa County Board of Supervisors.
(Ord. 780 C.S. § II, 1974; Ord. 972 C.S. § I, 1982)

§ 8.04.020. County Ordinance—Interpretation.

In the Ordinance Code of the County as adopted by reference, the reference in that Code to an office, official title or other designation means the corresponding office, title or designation in the governmental structure of the City. If there is no corresponding office, title or designation, then the reference means the office or person in the City who performs the function or duty referred to in the Ordinance Code adopted by reference.
(Ord. 780 C.S. § III, 1974)

§ 8.04.030. Penalty for violations.

A person who violates a provision of the Ordinance Code of the County as adopted by reference is guilty of a misdemeanor and upon conviction shall be punished by a fine of \$500.00, imprisonment or 6 months or both.
(Ord. 780 C.S. § IV, 1974)

CHAPTER 8.05
PROHIBITION OF SMOKING⁶

§ 8.05.010. Purpose and findings.

The City Council of the City of Martinez hereby finds and declares as follows:

- A. Tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs, as evidenced by the following:
1. More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death according to the U.S. Department of Health and Human Services Centers for Disease Control and Prevention; and
 2. The National Cancer Institute has found that secondhand smoke is responsible for an estimated 38,000 deaths among nonsmokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and
 3. The U.S. Department of Health and Human Services has found that secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and
 4. The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and
 5. The U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke; and
 6. The California Air Resources Board has put secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and
 7. The California Environmental Protection Agency has included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm; and
 8. The American Academy of Actuaries has determined that the medical and economic costs to nonsmokers suffering from lung cancer or heart disease caused by secondhand smoke are nearly \$6 billion per year in the United States; and
 9. The total cost of smoking in California was estimated as \$475 per resident, or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone, according to a California Department of Health Services study.
- B. Cigarette butts pose a health threat to young children, as evidenced by the following:
1. In 2004, American poison control centers received nearly 8,000 reports of children

6. Editor's note: Prior history: Ord. 1093 C.S. of 1987 and Ord. 1175 C.S. of 1992.

poisoned by the ingestion of cigarette butts; and

2. Children who ingest cigarette butts can experience vomiting, nausea, lethargy, and gagging.
- C. Cigarette butts are a major and persistent source of litter, as evidenced by the following:
1. It is estimated that over 2 billion cigarette butts are discarded every day worldwide, and that Americans alone discard more than 175 million pounds of cigarette butts every year; and
 2. Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm drains that flow into streams, rivers, bays, lagoons, and ultimately the ocean; and
 3. Cigarette butts, made of plastic cellulose acetate, take approximately 15 years to decompose.
- D. Most Californians do not smoke and a majority favors limitations on smoking in multi-unit residences, as evidenced by the following statistics from the California Department of Health Services and the American Lung Association of California:
1. Eighty-six percent of Californians are nonsmokers; and
 2. Sixty-seven percent of Californians surveyed favor limiting smoking in outdoor common areas of apartment buildings.
- E. Secondhand smoke can seep under doorways and through wall cracks.
- F. There is no Constitutional right to smoke.

Accordingly, the City Council finds that the health, safety and general welfare of the residents of, persons employed in, and persons who frequent the City of Martinez will be benefited regulating exposure to secondhand smoke.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.020. Definitions.

The following words and phrases, whenever used in this section, shall have the following meanings to be interpreted in accord with State statute if a contradiction appears:

- A. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.
- B. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes.
- C. "City" means the City of Martinez.
- D. "Employee" means any person who is employed, or retained as an independent contractor, by any employer or business in consideration for direct or indirect monetary wages or profit, or any person who volunteers his or her services for an employer, business, or nonprofit entity.

- E. "Employer" means any person, partnership, association, corporation, including a municipal corporation, or nonprofit entity, which employs or retains the services of 1 or more employees.
- F. "Enclosed" means:
 - 1. Any covered or partially covered space having more than 50% of its perimeter area walled in or otherwise closed to the outside such as, for example, a covered porch with more than 2 walls; or
 - 2. Any space open to the sky having more than 75% of its perimeter area walled in or otherwise closed to the outside such as, for example, a courtyard;
 - 3. Except that, an area open to the sky of 3,000 square feet or more is not enclosed, for example, a field in an open-air arena.
- G. "Landlord" means any person who owns real property leased or rented as residential property, any person who lets residential property, or any person who manages such property, except that "landlord" does not include sublessors.
- H. "Minor" shall mean any individual who is less than 18 years old.
- I. "Multi-unit common area" means any enclosed or unenclosed area of a multi-unit residence or multi-unit commercial facility (such as hotels, motels, mobile home parks, shopping centers, and office buildings) accessible to and usable by more than 1 resident, tenant, employee, employer, or member of the public, including but not limited to areas such as halls and paths, lobbies, elevators, laundry rooms, common areas, outdoor eating areas, swimming pools, and parking areas. Multi-unit common areas do not include private parks or playgrounds which are included in the definition of public place.
- J. "Multi-unit residence" means a premises such as an apartment, co-op, condominium building, senior citizen or nursing home, or building site that contains 4 or more attached dwelling units. This definition excludes detached and attached single-family homes.
- K. "Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "nonprofit entity" within the meaning of this section.
- L. "Openings" shall include entrances, exits, operable windows and ventilation intake systems.
- M. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- N. "Place of employment" means any area under the legal or actual control of an employer, business or nonprofit entity that an employee may have cause to enter during the normal course of operations, but regardless of hours of operation, including, but not limited to, enclosed and unenclosed work areas, construction sites, vehicles used for work-related purposes, taxis, employee lounges and breakrooms, conference and banquet rooms, classrooms, bingo and gaming facilities, long term health care facilities, warehouses, and private residences used as child/elder care or health care facilities subject to licensing

requirements.

- O. "Premises" means a piece of land and any improvements upon it such as is usually described in a deed, deed of trust or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same natural person or by legal persons under common control.
- P. "Private outdoor space" means any outdoor area associated with a unit that is used solely by the resident of that unit, including but not limited to balconies, patios, decks, entry porches, and carports.
- Q. "Public place" means any place, public or private (excluding streets and sidewalks), open to members of the general public regardless of any fee or age requirement, including but not limited to, bars, restaurants, clubs, stores, stadiums, amphitheaters, sports events, public or private parks, common areas of common interest developments, public plazas, playgrounds, taxis, buses, bus shelters, public transportation facilities, hotels and motels, fairs, farmers' markets, parades and theaters. "Public place" does not mean on the premises of private clubs, so long as there are no employees and/or volunteers; or within private vehicles in or on public places, so long as no minor is present, pursuant to State law.
- R. "Reasonable distance" means a distance of at least 20 feet in any direction from an area in which smoking is prohibited.
- S. "Service area" means any area at which 1 or more persons are waiting for a transaction, entry or service of any kind, whether or not such service involves the exchange of money, including, but not limited to ATM's, bank teller windows, telephones, ticket lines, bus stops and shelters, cab stands, and other hubs of transportation such as the AmTrak/Intermodal Station.
- T. "Smoking" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).
- U. "Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.
- V. "Tobacco product" means (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, clove cigarettes, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body by inhalation; but does not include any cessation product specifically approved by the U. S. Food and Drug Administration for use in treating nicotine or tobacco dependence.
- W. "Tobacco store" means a business that primarily sells tobacco products and tobacco paraphernalia; does not permit any person under 18 years of age to be present or enter at any time; and does not sell beverages or food for consumption in or around the store.
- X. "Unenclosed" means any area that is not enclosed.
- Y. "Unit" means: (1) a dwelling space consisting of essentially complete independent living

facilities for 1 or more persons, including, for example, permanent provisions for living and sleeping, and (2) a dwelling space that may lack private cooking facilities or private plumbing facilities, including, for example, senior citizen housing, long-term health care facilities, or single room occupancy hotels, as defined in California Health and Safety Code section 50519(b)(1). "Unit" does not include lodging in a hotel or motel that meets the requirements set forth in California Civil Code section 1940(b)(2).

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.030. City-owned vehicles and enclosed facilities.

All City-owned vehicles and all enclosed facilities owned or controlled by the City, shall be subject to the provisions of this Chapter.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.040. Vehicles used for work-related purposes.

Smoking in vehicles used for work-related purposes is prohibited pursuant to the provisions of this Chapter. Enforcement of smoking regulations in such vehicles shall be the responsibility of the employer, and/or the employee by legal action if necessary.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.050. Prohibition of smoking in designated enclosed areas.

A. Except as otherwise provided, smoking shall be prohibited in the following Enclosed areas:

1. Places of employment, as defined in Section 8.05.020;
2. Public places, as defined in Section 8.05.020;
3. Buses, taxicabs, and other means of public transit under the authority of the City;
4. Service areas, as defined in Section 8.05.020;
5. Areas that have a common or shared air space with other enclosed areas in which smoking is prohibited such as, without limitation, air conditioning systems, heating systems, ventilation systems, entries, doorways, hallways, and stairways;
6. Any facility which is primarily used for exhibiting motion pictures, stage productions, lectures, musical recitals or other similar performances, except for smoking which is an integral part of such production; and
7. A designated nonsmoking guest room of any hotel, motel, or bed-and-breakfast facility.

B. A minimum of 80% of guest rooms in every hotel and motel, and bed-and-breakfast facilities must be permanently designated as completely nonsmoking.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.060. Prohibition of smoking in certain unenclosed areas.

A. Except as otherwise expressly authorized by State or Federal law, smoking shall be prohibited in any place where food and/or drink is offered for sale, including but not limited to outdoor dining areas of restaurants, bars and farmers' markets.

B. Smoking is prohibited within the following unenclosed areas:

1. Places of employment, as defined in Section 8.05.020;
2. Public places, as defined in Section 8.05.020;
3. Public events including but not limited to, sports events, entertainment, speaking performances, ceremonies, pageants and parades;
4. A reasonable distance from any opening of any enclosed or unenclosed area within which smoking is prohibited, except while passing on the way to another destination;
5. Service areas, as defined in Section 8.05.020;
6. Courtyards and other areas where air circulation may be impeded by architectural, landscaping or other barriers; and
7. A reasonable distance from road, building, and construction crews, while working.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.070. Prohibition of smoking in multi-unit residence common areas and private outdoor spaces.

A. Effective June 1, 2010, smoking is prohibited in all multi-unit residence common areas and private outdoor spaces (including but not limited to balconies, patios, decks, entry porches, carports, and pool areas), and within 20 feet of any entrance, exit, or operable windows and ventilation intake systems of a multi-unit residence, except that a landlord may designate a portion of the outdoor area of the premises as a smoking area as provided in paragraph B. below.

B. A designated smoking area:

1. Must be located a reasonable distance from any indoor area where smoking is prohibited;
2. Must not include, and must be a reasonable distance from, outdoor areas primarily used by children including, but not limited to, areas improved or designated for play or swimming;
3. Must be no more that 25% of the total outdoor area of the premises for which it is designated;
4. Must have a clearly marked perimeter;
5. Must be identified by a minimum of 1 conspicuous sign at the designated smoking area, and 1 conspicuous sign elsewhere on the premises; and
6. Must not overlap with any area in which smoking is otherwise prohibited by this chapter or other provisions of this Code, State law, or Federal law.

C. Required lease terms:

1. Every lease, renewal of a lease, lease extension or other agreement for the occupancy of a unit in a multi-unit residence shall, by June 1, 2010, include:

- a. A clause stating that smoking is prohibited in all multi-unit residence common areas and private outdoor spaces, except for those designated smoking areas identified by the landlord pursuant to Section 8.05.070.B. of this Chapter; and
 - b. A clause stating that it is a material breach of the lease or other agreement, and grounds for termination of the lease or other agreement, to (i) violate any law regarding smoking while on the premises; or (ii) smoke in any multi-unit residence common area or private outdoor space in which smoking is prohibited by the landlord; and
 - c. A clause stating that all lawful occupants of the multi-unit residence are express third-party beneficiaries of the above required clauses.
 2. The California Apartment Association's form 34.0, revised January of 2007, meets the requirements for lease terms as outlined and is an option for use to comply with this section.
 3. The lease or agreement terms required by subsection C.1. are hereby incorporated by force of law into any lease, renewal of a lease, lease extension or other agreement for the occupancy of a unit in a multi-unit residence made on or after June 1, 2010.
 4. A tenant who breaches the smoking regulations of a lease or knowingly allows another person to do so shall be liable to: (i) the landlord; and (ii) to any lawful occupant of the multi-unit residence who is exposed to secondhand smoke as a result of that breach. A landlord shall not be liable to any person for a tenant's breach of smoking regulations if the landlord has fully complied with subsection C.1.; however, landlords with knowledge of violations shall take reasonable steps to enforce the regulations, such as informing the tenant of landlord's knowledge of the violation, and the course of action to be taken if the violation is not corrected. Tenants may bring legal action to enforce this Chapter, but tenants do not have the authority to evict.
 5. Failure to enforce any smoking regulation of a lease or agreement on 1 or more occasions shall not constitute a waiver of the lease or agreement provisions required by this ordinance and shall not prevent future enforcement of any such smoking regulation on another occasion.
- D. Prohibitions and duties generally:
1. No person shall smoke or knowingly permit smoking in an area of the premises under his or her legal or de facto control in which smoking is prohibited by law or a lease or agreement term, by this Chapter, this Code, or any other State or Federal law, provided, however, that this prohibition does not apply to a person who is already compelled to act under State or Federal law.
 2. No person shall knowingly permit the presence or placement of ash trays, cans, or other receptacles within multi-unit residence common areas under his or her legal or de facto control in which smoking is prohibited by this Chapter, this Code, or any other State or Federal law, including, for example and without limitation, within a reasonable distance of any non-smoking area.
 3. The person with legal or actual control of a multi-unit residence subject to this Chapter shall clearly and conspicuously post "No Smoking" signs in every multi-unit

residence common area on the premises in which smoking is prohibited by this Chapter or by the person in control, except that signs are not required in private outdoor spaces of individual units. Signs must be sufficient to make areas where smoking is prohibited obvious to a reasonable person.

4. The absence of signs shall not be a defense to a violation of any provision of this Chapter.
 5. Notwithstanding any other provision of this Section, nothing shall prevent a landlord from designating units as nonsmoking, or establishing smoke-free regulations more restrictive than otherwise provided for in this Chapter.
- E. Disclosure by landlords: Every landlord shall maintain a list of designated nonsmoking units and a floor plan identifying the relative position of smoking and nonsmoking units. The floor plan also shall identify the location of any designated smoking areas. A copy of this list and floor plan, and a copy of procedures for addressing smoking-related complaints, shall accompany every new lease or other agreement for the occupancy of a unit in a multi-unit residence entered into on or after June 1, 2010. If a copy of the list and floor plan is not supplied, the unit subject to the lease shall be a nonsmoking unit.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.080. Smoking optional areas.

- A. Except as otherwise prohibited by State or Federal law, the following areas shall not be subject to the smoking restrictions of this section:
1. Private, detached and attached single-family homes, except when used as a child care or health care facility; and
 2. Tobacco stores, but only if the facility is freestanding, and no smoke from such stores enters an adjacent enclosed area where smoking is not permitted.
- B. Nothing in this Section shall be construed to prevent any business, employer, nonprofit entity, landlord or other person who controls any establishment or facility from declaring and enforcing a nonsmoking policy in the entire establishment or facility, or from posting signs as described by Section 8.05.100.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.090. Duty of person, employer, business, or nonprofit entity.

- A. No person, employer, business, or nonprofit entity shall knowingly permit the smoking of tobacco products in an area which is under the legal or actual control of the person, employer, business, or nonprofit entity and in which smoking is prohibited by law or lease, and the person, employer, business or nonprofit entity is not otherwise compelled to act under State or Federal law.
- B. No person, employer, business, or nonprofit entity shall knowingly or intentionally place, cause to be placed, or permit the presence or placement of ash receptacles, such as, for example, ashtrays or ash cans, within an area which is under the legal or actual control of the person, employer, business, or nonprofit entity and in which smoking is prohibited.
- C. No person, employer, business, or nonprofit entity shall dispose of smoking waste within

the boundaries of an area in which smoking is prohibited, including inside the perimeter of any reasonable distance requirement. Littering on public or private property, including but not limited to littering of tobacco products, cigarette butts, or cigars, is expressly prohibited by California Penal Code 374.4.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.100. Posting requirements.

- A. The person, employer, business or non-profit entity with legal or actual control of a building subject to this Chapter shall clearly and conspicuously post "No Smoking" signs at the entrances of every building, as well as at every other place where smoking is prohibited under this Chapter. "No Smoking" signs will have letters of no less than 1 inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a bar).
- B. Multi-unit residence posting requirements shall be made pursuant to Section 8.05.070.D.3. of this Chapter.
- C. The absence of "No Smoking" signs shall not be a defense to a violation of any provision of this Chapter.
- D. Every tobacco store and every vendor of tobacco products shall visibly post Business and Professions Code Section 22952 signage that expressly references Penal Code Section 308 at the entrance of any premises subject to regulation under Sections 8.05.050 and 8.05.060 of this Chapter; Section 8.06.050 of the Martinez Municipal Code; and applicable state and/or federal law.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.110. Enforcement.

- A. The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.
- B. Notice of this Chapter will be provided to all applicants for a business license or renewal thereof. However, lack of such notice shall be no defense to a violation of this Chapter.
- C. Any business, employer, landlord, or nonprofit entity of any establishment controlled by this Chapter shall have the right to inform persons violating this Chapter of the appropriate provisions thereof.
- D. Enforcement of sections 8.05.050 and 8.05.060 of this Chapter shall be implemented by the City Manager or his/her designee, and may be enforced by any peace officer or code enforcement official. Prohibition of smoking in multi-unit residence common areas and private outdoor spaces shall be enforced by the landlord and/or tenant pursuant to Section 8.05.070 C(4).
- E. Any citizen who desires to register a complaint under sections 8.05.050 and 8.05.060 of this Chapter may initiate enforcement with the City Manager or his/her designee.
- F. Notwithstanding any other provision of this Chapter, a private citizen may bring legal action to enforce this Chapter.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.120. Violations and penalties.

- A. The remedies provided by this Chapter are not intended to preclude any other remedy available at law or inequity.
 - B. It is unlawful for any person, employer, business, or nonprofit entity who owns, manages, operates or otherwise controls the use of any property subject to regulation under this Chapter to refuse to comply with any of its provisions, or to permit any employee or patron to violate this Chapter.
 - C. It shall be unlawful for any person to smoke in any area where smoking is prohibited under this Chapter.
 - D. Any person, employer, business, nonprofit entity, or tobacco retailer who violates any provision of sections 8.05.050 and 8.05.060 of this Chapter shall be deemed guilty of an infraction, punishable by:
 - 1. A fine, not exceeding \$100.00 and/or 5 days of community service, for the first violation.
 - 2. A fine, not exceeding \$200.00 and/or 10 days of community service, for a second violation of this section within 1 year.
 - 3. A fine not exceeding \$500.00 and/or 15 days of community service, for a third violation or any subsequent violation of this section within one year.
 - E. Violations of Section 8.05.070 of this Chapter shall be enforced by the Landlord and/or tenant.
- (Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.130. Non-retaliation.

No person, employer, business, landlord or nonprofit entity shall discharge or in any manner retaliate against any person, tenant, or employee because such individual exercises any right to a smoke free environment afforded by this Chapter.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.140. Public education.

- A. The City Manager or his/her designee will engage in a continuing educational program to explain and clarify the purposes and requirements of this Chapter, and help guide businesses, employers, landlords, and nonprofit entities with compliance. However, lack of such education shall be no defense to a violation of this Chapter.
 - B. The City Manager shall leave the responsibility of conducting a public education campaign regarding the health consequences of smoking to other governmental and health agencies equipped with the needed expertise to conduct such campaigns.
- (Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.150. Governmental agency cooperation.

The City Manager or his/her designee may annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation

and compliance with this section. This includes urging all Federal, State, County and School District agencies to update their existing smoking control regulations to be consistent with current health findings regarding environmental tobacco smoke.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.160. Secondhand smoke—Declaration of nuisance.

Secondhand smoke constitutes a nuisance. Notwithstanding any other provisions of this Chapter, a private citizen may bring a legal action to abate secondhand smoke as a nuisance.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

§ 8.05.170. Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 1352 C.S., § 2, 5/6/2009)

CHAPTER 8.06
**RESTRICTING THE ADVERTISING AND PROMOTION OF TOBACCO PRODUCTS
TO MINORS**

§ 8.06.020. Purpose.

The purpose of this Chapter is to promote the welfare of minors by discouraging the commercial exploitation of potential underage tobacco users and by discouraging actions that promote the unlawful sale of tobacco products to minors as well as the unlawful purchase or possession of tobacco products by minors.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.030. Definitions.

- A. "Advertising display sign" means a sign, billboard, signboard, poster, placard, free-standing sign, pennant, banner, graphic display, mural, or similar device that is used to advertise or promote a product. It includes a sign which is temporary or permanent, placed on or affixed to the ground, sidewalk, a pole or post, fence, or a building, or displayed in the window or door of a commercial establishment.
- B. "City manager" means the City Manager or his/her designee.
- C. "Mobile billboard" means an advertising display sign which is placed on or affixed to a vehicle if the vehicle is parked within a public right-of-way or on private property and is used primarily to advertise a product.
- D. "Offering for sale" means that tobacco products are actually sold and or displayed in the retail establishment.
- E. "Promotion" means a display of any logo, brand name, character, graphic, artwork, colors, scenes, or designs that are a recognized image of a particular product brand that calls the public's attention to the product brand.
- F. "Publicly visible location" means an outdoor location that is visible from any street, sidewalk, or other public thoroughfare, or a location inside a commercial establishment that is in or adjacent to a window or doorway and is visible from any street, sidewalk, or other public thoroughfare. To be considered "publicly visible," an inside location must be within one foot of a window or doorway.
- G. "Tobacco product" means a substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, and smokeless tobacco.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.040. Administration.

This Chapter shall be administered by the City Manager. The City Manager may develop guidelines to ensure implementation of this Chapter.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.050. Restrictions on the advertising of tobacco products.

Restriction. No person shall place or maintain, or cause or allow to be placed or maintained, any advertising or promotion of tobacco products on any advertising display sign in a publicly visible location within 1,600 feet of the perimeter of: a public or private elementary, middle or secondary school; or a public playground or playground area in a public park (e.g. a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts).
(Ord. 1280 C.S. § 2, 2001)

§ 8.06.060. Exceptions.

Section 8.06.050 does not apply to advertising or promotion for tobacco products which are:

- A. Located inside a commercial establishment, unless the advertising display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact with any window or door in such a manner that it is visible from a street, sidewalk or other public thoroughfare;
 - B. On vehicles, other than mobile billboards;
 - C. On any sign located inside or immediately outside a commercial establishment if the sign provides notice that the establishment sells tobacco, so long as the sign does not promote any brand of tobacco product; or
 - D. On tobacco product packaging.
- (Ord. 1280 C.S. § 2, 2001)

§ 8.06.070. Sale and distribution of tobacco—Related promotional items prohibited.

- A. No manufacturer, distributor, or retailer of tobacco products may market, license, distribute, sell, or cause to be marketed, licensed, distributed or sold, any items (other than tobacco products) or service to a minor, which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or patterns of colors, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of tobacco product.
 - B. No person in the business of selling or otherwise distributing tobacco products for commercial purposes shall, in the course of such business, distribute, or direct, authorize or permit any agent or employee to distribute any of the following on a public street or sidewalk, in a public park or playground, or on any other public ground or in a public building: (1) a cigarette or other tobacco product; or (2) a coupon, certificate, or other written material which may be redeemed for tobacco products without charge.
- (Ord. 1280 C.S. § 2, 2001)

§ 8.06.080. Self-service displays prohibited.

It is unlawful for a person to sell, permit to be sold, offer for sale, or display for sale any packaged tobacco product by means of a self-service display, rack, counter top or shelf that allows a self-service customer access to a packaged tobacco product. All packaged tobacco products shall be offered for sale exclusively by means of seller assistance. Packaged tobacco products shall be located exclusively in a locked case, located behind counters out of reach from customers, or in a similar location that is inaccessible to customers, requiring seller assistance

for the customer to obtain access to the packaged tobacco products.
(Ord. 1280 C.S. § 2, 2001)

§ 8.06.090. Violations.

- A. City manager review. A private citizen or a City officer or employee may submit a written complaint to the City Manager concerning any advertising or promotion prohibited by this article. The City Manager will review and, if determined to be appropriate, act upon the complaint in a timely manner. The City Manager may serve written notice requiring correction of any violations of this article upon the person responsible for the business or for the advertising display sign or promotion or self-service display prohibited by this article. Any notice issued shall specify a date by which the violation must be corrected. The notice shall be served by (1) personal service or by (2) certified and first class mail.
- B. Correction. The person responsible shall correct the violation within the time specified in the notice.
- C. Each display and each day a separate offense. Each separate display of tobacco advertising or promotion prohibited by this article is considered a separate violation. Each day a violation continues is considered a separate violation.
- D. Each business location a separate entity. For purposes of determining liability, each individual franchise or business entity is deemed a separate entity.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.100. Additional remedies—Disclaimers.

- A. Intent as to additional legal restrictions and remedies. Nothing in this Chapter is intended to alter the obligations or restrictions that apply to any person under any other law governing signs, billboards, tobacco advertising or any other matter covered by this Chapter. The remedies set forth in this article are not exclusive. If any action prohibited by this Chapter is also unlawful under any other law, the penalties and remedies under other laws may be pursued in addition to those provided in this Chapter.
- B. Disclaimers. By prohibiting the advertising or promotion of tobacco products in outdoor or publicly visible locations, prohibiting the distribution of tobacco-related promotional items and self-service displays of tobacco products, the City is only promoting the general welfare. It is not assuming, nor is it imposing upon its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.110. License requirement generally.

- A. License required. It is unlawful for a person or retailer who, within the last 12 months, has been determined to be in violation of a provision of this Chapter, or applicable state or federal law governing the sale and distribution of tobacco to sell or offer for sale any tobacco products within the city without first obtaining and maintaining a tobacco retailer's license from the city.

It is unlawful for a person or retailer who is required to have a tobacco retailer's license to sell or offer for sale any tobacco products if the license has been suspended under Section

8.05.170.

A tobacco retailer's license shall be obtained from the City Manager.

- B. Term of license—Obligation to maintain. A license is valid from three years, and a person or retailer subject to this license requirement must maintain the license during the three-year period. If there are no further violations of any laws regulating the sale or distribution of tobacco in that three-year period, a tobacco retailer's license will no longer be required. (Ord. 1280 C.S. § 2, 2001)

§ 8.06.120. License application procedure.

An application for a tobacco retailer's license shall be submitted in the name of the person or retailer, who, following a finding of violation as specified in Section 8.06.090, proposes to conduct retail tobacco sales on the business premises. The application shall be signed by the person or retailer or its authorized agent. The application shall be submitted on a form provided by the City and shall contain the following information:

- A. The names, address, and telephone number of the applicant;
- B. The business name, address, and telephone number where tobacco is sold; and
- C. Such other information as the City Manager determines is reasonably necessary for implementation of this Chapter. (Ord. 1280 C.S. § 2, 2001)

§ 8.06.130. Issuance of license.

Upon receipt of a completed application for a tobacco retailer's license, including payment of the license fees, the City Manager will issue a license. A license may not be issued if there are continuing, uncorrected violations. (Ord. 1280 C.S. § 2, 2001)

§ 8.06.140. Fee for license.

The fee for a tobacco retailer's license shall reflect the actual cost of processing the license, including inspection of the tobacco retailer's business premises and implementation of the licensing program, as established by resolution of the City Council. The fee shall not exceed \$500 annually. (Ord. 1280 C.S. § 2, 2001)

§ 8.06.150. Display of license.

The license must be prominently displayed at the location where tobacco retail sales are conducted. (Ord. 1280 C.S. § 2, 2001)

§ 8.06.160. License nontransferable.

The tobacco retailer's license is nontransferable. If there is a change in location, a new tobacco retail license will be issued for the new address upon receipt of an application for change of location. The new license will retain the same expiration dates as the previous one.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.170. Suspension of license.

- A. Suspension of license. In order to discourage violations of law, a tobacco retailer's license may be suspended if the City Manager finds that the licensee of his or her employee has violated any law regulating the sale or distribution of tobacco. See Section 8.05.100 A above). The City Manager may suspend the license only after giving the licensee notice and a reasonable opportunity to be heard on the matter. The City Manager shall put his or her findings in writing.
- B. Time period of suspension.
 - 1. The first time that the City Manager finds a violation occurred, the license to sell tobacco products may be suspended for up to 60 days.
 - 2. After the second time that the City Manager finds a violation occurred within a 12-month period, the license to sell tobacco products may be suspended for up to 120 days.
 - 3. After the third and each subsequent time that the City Manager finds a violation occurred within a 12-month period, the license to sell tobacco products may be suspended for up to one year.
- C. Appeal of suspension. A decision of the City Manager to suspend a tobacco retailer's license may be appealed to the City Council.

(Ord. 1280 C.S. § 2, 2001)

§ 8.06.180. Administrative fine.

- A. Imposition of Fine—Amounts. If the City Manager finds a person or retailer is selling or offering tobacco products for sale without a valid tobacco retailer's license (or has a suspended license), that person or retailer may be subject to an administrative fine, as permitted under Government Code Section 53069.4. A fine may be imposed only after the City Manager has given notice and an opportunity to be heard.

The fine amount is:

- 1. Up to a maximum \$100.00 for a first violation;
 - 2. Up to a maximum \$200.00 for a second violation within 1 year;
 - 3. Up to a maximum \$500.00 for the third and subsequent violations within 1 year.Each day that tobacco products are offered for sale without a license by a tobacco retailer required to have a license shall constitute a separate violation.
- B. Fine procedures. Notice of the fine shall be served on the tobacco retailer or person who is the owner of the establishment by certified and first class mail. The notice shall contain an advisement of the right to request a hearing by the City Council contesting the imposition of the fine. The hearing must be requested within 10 days of the date of the notice of the fine.
- C. Appeals. A fine may be appealed to the City Council. A person contesting the decision of

the Council may seek court review under Government Code Section 53069.4(b).

- D. Failure to pay fine. Any outstanding fines must be paid before the issuance of a tobacco retailer's license.
(Ord. 1280 C.S. § 2, 2001)

CHAPTER 8.08
PROTECTED TREES⁷

§ 8.08.010. Purpose.

The purpose of this Chapter is to promote health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of protected trees within the City, and for the planting of trees throughout the City.
(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.020. Street tree planting plan.

The Public Works Department shall maintain a street tree planting plan for City streets. The plan shall provide a list of recommended tree species. The street tree planting plan may be amended with approval by the Public Works Director or designee.
(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.030. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

"Certified arborist" means someone who has successfully completed the requirements set by the Arborist Certification Board of the International Society of Arboriculture.

"Development" means any changes to private property which requires the issuance of a permit from the City which permit is subject the requirements of Title 15 (Buildings and Construction), Title 21 (Subdivision) and/or Title 22 (Zoning).

"Development application" means an application for development requiring either ministerial or discretionary approvals including design review, conditional use permits, variances or exceptions, subdivisions, planned unit developments, amendments, building permits, and/or grading permits.

"Person" means any individual, agency, corporation, entity, or organization.

"Pruning standards" means standards of pruning for certified arborists. Proper pruning is performed in a manner intended to achieve a specific goal while minimizing the negative effects on the tree. Excessive or improper pruning is that which employs techniques that result in negative physiological or structural impacts on the tree. Excessive and improper pruning includes topping or removing 25-percent or more, of the functioning leaf, stem, or root area.

"Routine pruning" means the removal of dead or dying, diseased, weak, or objectionable branches of a tree in a scientific manner.

"Street tree" means any tree located in a City street right-of-way.

"Tree" means a large woody perennial plant with one or more trunks, branches, and leaves, not including shrubs shaped to tree forms.

"Tree maintenance" means regular pruning, fertilization, irrigation, and normal garden management practices necessary for plant growth.

7. Editor's note: Prior history: Prior code, § 4409; Ord. 887 C.S., adopted in 1978; Ord. 1052 C.S., adopted in 1985; Ord. 1069 C.S., adopted in 1986; and Ord. 1301 C.S., adopted in 2003.

"Tree permit" means written authorization issued by the Community and Economic Development Director or designee to cut down, destroy, trim by topping, or remove a protected tree.

"Tree removal" means the destruction of any tree by cutting, regrading, girdling, interfering with water supply, applying chemicals, or by other means.

"Topping" means the removal of the upper 25 percent or more of a tree's trunk(s) or primary leader.

"Undeveloped property" means:

1. A parcel of private land which is vacant or a developed parcel which has remaining development potential;
2. A parcel of land which can be further divided in accordance with zoning regulations of the City;
3. A parcel of land on which the structures are proposed to be demolished or relocated.
(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.040. Encroachment permit.

No person shall remove, set out, or plant any street tree without first obtaining an encroachment permit from the Public Works Department. The Public Works Department shall review and approve the tree removal and/or proposed species, size, and location of proposed street trees.
(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.044. Tree permit required.

- A. No person shall trench, grade, or fill within the dripline of any protected tree (as defined below) or cut down, destroy, trim by topping, or remove any protected tree on private property within the City without a tree permit, except as provided by this Chapter. A protected tree is one of the following:
1. On all properties within the City:
 - a. All oak trees and indigenous trees measuring 12 inches or more in diameter, measured four and one-half feet from grade. Oak trees include but are not limited to: *Quercus agrifolia* (California or Coast Live Oak), *Quercus douglasi* (Blue Oak), *Quercus kelloggii* (California Black Oak), or *Quercus lobata* (Valley Oak). Indigenous trees include but are not limited to: *Sequoia Sempervirens* (Coast Redwood), *Alnus Rhombifolia* (White Alder), *Alnus Oregona* (Red Alder), *Acer Macrophyllum* (Bigleaf Maple), *Aesculus Californica* (California Buckeye), *Arbutus Menziesii* (Madrone), *Umbellularia Californica* (California Bay or Laurel), *Juglans Hindsii* (California Black Walnut), or *Platanus Racemosa* (California Sycamore).
 - b. Any tree shown to be preserved on an approved tentative map or development plan or required to be retained as a condition of approval.
 - c. Any tree required to be planted as a replacement for an unlawfully removed tree.
 - d. Any tree within the public right-of-way or private access easement.

- e. Any tree within the Downtown Specific Plan area.
- 2. On any of the properties specified in Subsection 3 below:
 - a. Any tree measuring 24 inches or more in diameter, measured four and one-half feet from grade.
 - b. Any multi-stemmed tree where the sum of the individual trunks measure 24 inches or more in diameter measured four and one-half feet from grade.
 - c. Any significant grouping of trees, including groves of four or more trees.
- 3. Specified properties referred to in Subsection 2 above includes:
 - a. Any developed property within any commercial, professional office, or industrial zoning district.
 - b. Any undeveloped property within any zoning district.
 - c. Any area designated on the General Plan for recreational purposes or open space.
 - d. Any area designated in the General Plan Open Space Element as visually significant riparian or skyline vegetation and where the tree is adjacent to or part of a riparian, foothill woodland, or oak savanna area, or cultivated orchard (within the Open Space Element). Riparian trees include but are not limited to those listed as indigenous trees in Subsection A.1.a. above.
- B. Any person proposing to trench, grade, or fill within the dripline of any protected tree or cut down, destroy, trim by topping, or remove any protected tree located on private property shall apply to the Planning Division for a tree permit.
- C. The tree permit application shall be filed with the Planning Division, on a form established by the City, along with the application fee established by resolution. The tree permit application shall include the following information:
 - 1. The number, size (including height and diameter measured four and one-half feet above grade), species, location, dripline, and condition of each tree proposed to be altered or removed;
 - 2. The reason(s) for proposed alteration or removal;
 - 3. A site plan showing the approximate location of all trees on the site, including those proposed to remain;
 - 4. Proposed method of tree alteration or removal;
 - 5. Information indicating the effect of tree alteration or removal on soil stability and erosion if located on a steep slope or near any creek;
 - 6. The signature of the property owner or if the permit is requested by someone other than the owner, a written authorization from the owner.
 - 7. Additional information as may be required by the City upon review of the above information.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.045. Review of tree permit application.

- A. Prior to making a decision, a representative of the Planning Division may make a site inspection and shall review the tree permit application using the criteria in Subsection C below.
- B. If the reasons for alteration or removal relate to the health of the tree, or if grading, trenching, or filling is proposed under the dripline of an existing tree and the Planning Division determines that more technical expertise is necessary to make the decision, a report prepared by an arborist may be required, to be paid for by the applicant.
- C. In granting or denying the tree permit, the following factors shall be considered:
 - 1. General.
 - a. The proximity and number of other trees in the vicinity; and
 - b. The relationship of the subject property to open space or open space plans and policies.
 - 2. Approval.
 - a. The arborist report indicates that the tree is in poor health and cannot be saved;
 - b. The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers);
 - c. The tree is in danger of falling and cannot be saved by some other means (such as pruning);
 - d. The tree is damaging existing private improvements on the lot, such as a building foundation, walls, patios, decks, roofs, and retaining walls;
 - e. The tree is a species known to be highly combustible and is determined to be a fire hazard;
 - f. The proposed tree species or the form of the tree does not merit saving (such as a tree stunted in growth or poorly formed);
 - g. Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.
 - 3. Denial.
 - a. The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for non-discretionary permits);
 - b. It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed

removal of the tree.

- c. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
- d. The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner.
- e. If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.

D. Tree permit decision.

- 1. The Community and Economic Development Director or designee shall grant or deny tree permits in accordance with this Chapter. If a permit is granted, the Director or designee may impose conditions to ensure compliance with this Chapter. These conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity, as outlined in Section 8.08.047. Tree permits shall be valid for up to one year and may be renewed by the Director or designee upon request by the applicant.
- 2. If a permit is denied, the Director or designee shall state the reason for denial.
- 3. Notice of decision shall be provided in writing to the applicant.

E. Appeals.

- 1. Any person may appeal the Director's or designee's decision to the City Council within ten days after the decision has been given or sent to the applicant. An appeal shall be set forth on a form provided by the City Clerk or designee.
- 2. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria for granting or denial of a permit as stated in this Chapter.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.046. Tree protection.

A. Tree protection required. On all properties where trees are required to be saved during the course of development, the developer shall follow the following tree preservation standards:

- 1. Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the drip line or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits the fences shall be inspected and the location thereof approved by City staff.
- 2. No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the drip line unless indicated on the grading plans approved by the City and addressed in a report prepared by a licensed arborist. If grading or construction is approved within the dripline, the arborist may be required to be present

during grading operations. The arborist shall have the authority to require protective measures to protect the roots and to stop construction if necessary to protect the trees. Upon completion of grading and construction, the arborist shall prepare a report outlining further methods required for tree protection if any are required.

3. No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the drip line of any tree to be saved.
- B. Deposit. Prior to the issuance of any grading or building permit for a property where trees are required to be saved, the owner or developer may be required to deposit cash or other acceptable security with the City on a per tree basis in an amount determined by City Council resolution. The City shall hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they shall agree to maintain said trees in a living and viable condition throughout the term of the agreement. This agreement may be transferred to any new owner of the property for the remaining length of the agreement.
- C. Replacement. The property owner or developer shall notify the Community and Economic Development Department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist.

Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species approved by the Community and Economic Development Director or designee. If it is not possible or feasible to replace the tree, the Community and Economic Development Director may accept the equivalent monetary value as determined by the City to be used for other related improvements such as replacement or addition of street trees in the area.

- D. Stop work/development moratorium for intentional harm to protected tree.
 1. If any protected tree is damaged or destroyed during the course of construction, the City may stop further work on the project until measures to replace the tree or mitigate the damage have occurred.
 2. No building or construction-related permits shall be issued, and no permits or use of the property shall be allowed for two years from the date of the intentional unpermitted damage, destruction, or removal of a protected tree. A development moratorium is an additional remedy to the Public Works Director, Community and Economic Development Director, or designee(s) in addition to any other penalties for unpermitted damage, destruction, or removal of a protected tree.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.047. Protected tree replacement.

- A. Protected tree replacement. When the removal or destruction of a protected tree is permitted, the applicant shall comply with the following replacement requirements or an alternative replacement ratio approved by the Public Works Director, Community and Economic Development Director, or designees:

1. One 15-gallon tree for each street tree;
 2. One 15-gallon tree for each tree 24 inches in diameter or less;
 3. Two 15-gallon trees for each tree greater than 24 inches in diameter.
- B. Replacement tree species. Replacement tree species, except for street trees, are subject to approval of the Community and Economic Development Director or designee and shall be a species identified in the Tree List, on file with the Community and Economic Development Department. Prohibited replacement trees include trees that may pose a fire safety hazard, are invasive, or may otherwise pose a health impact on protected trees, including, but not limited to:
1. *Pyrus calleryana* (Bradford Pear);
 2. *Sequoia sempervirens* (Coast redwood);
 3. *Eucalyptus globulus* (Eucalyptus);
 4. *Pyrus kawakamii* (Evergreen Pear);
 5. *Ginkgo biloba* (female) (Mainerhair tree);
 6. *Juniperus communis* L. (Juniper);
 7. *Liquidambar styraciflua* (Liquidambar/Sweetgum);
 8. *Pinus radiata* (Monterey Pine);
 9. *Acer platanoides* (Norway maple);
 10. *Populus* (Poplar);
 11. *Ailanthus altissima* (Tree of Heaven);
 12. Other species as determined by the Community and Economic Development Director or designee.
- C. Tree replacement payment. If the property cannot accommodate a replacement tree, as a condition of the permit, the applicant shall make an in-lieu payment of an amount set by resolution by the City Council for each 15-gallon replacement tree. The in-lieu payment shall be used by the city for a tree education and planting program.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.048. Exceptions.

- A. A Tree permit is not required for the following situations:
1. Any tree whose condition creates a hazardous situation which requires immediate action as determined by the Community and Development Director, Public Works Director, Police Department, Fire District, or designee(s).
 2. Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, or other discretionary project.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.049. Property proposed for development.

- A. On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.
- B. All trees proposed to be removed, altered, or otherwise affected by construction shall be clearly indicated on all grading and development plans. A tree survey shall be required as a part of the project application indicating the number, size, species and location of the dripline of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.
- C. The granting or denial of a tree permit which is a part of a development proposal covered by this Chapter shall be governed by Section 8.08.045.C.3. A separate tree permit shall not be required.
- D. Any tree alteration or removal in violation of this Section may result in a development moratorium, pursuant to Section 8.08.046.D.2.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.050. Street tree planting standards.

- A. The street tree shall be planted normally at 40-foot intervals or alternative distance approved by the Public Works Director or designee.
- B. The street tree trunk at maturity shall not be within one and one-half feet of public sidewalk, except in existing parkway areas as approved by the Public Works Department.
- C. The street tree roots shall not be within ten feet of any sewer or water line, or gas line.
- D. The street tree trunk at maturity shall not be within five feet of a driveway, street corner, fire hydrant, or utility pole.
- E. A newly planted street tree shall be of the following minimum size: a diameter of one inch measured four feet six inches above the grade and which has a maximum height of eight feet or 15-gallon size.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.070. Street tree removal.

A street tree not otherwise regulated may be removed with a permit, provided the tree is replaced in compliance with all provisions of this Section. All street trees removed shall be at the expense of the adjacent permit applicant.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.080. Street tree installation obligation.

All street trees installed pursuant to a request by the applicant pursuant to the provisions of this Chapter shall be at the expense of the applicant.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.090. Street tree maintenance obligation.

- A. Maintenance duties. Street trees provide a benefit to the adjacent property owner(s) whose property fronts the area. Property owners whose property is adjacent to and fronts the area containing the street tree shall be responsible for all street tree maintenance. All maintenance shall conform to International Society of Arboriculture or National Arborist Association Standards.
- B. Scope of duty. It shall be a public nuisance for property owners or persons in possession of street trees to permit branches of street trees to restrict access or impede the public use of adjacent sidewalks or streets, or prevent access of City street sweepers to clean the street.

In the event of such public nuisance, the responsible person shall receive a written notice of such nuisance directing that the tree shall be pruned appropriately within ten days from receipt of notice. The City at its option may prune the tree, in the event the responsible person has not complied with the notice of public nuisance, at the cost of the responsible person.

- C. Sidewalk damage. The property owner or person in possession of street trees responsible for maintenance of street trees shall also be responsible for sidewalk damage caused by street trees and shall be required to repair the sidewalk pursuant to Streets and Highways Code Sections 5601 et seq.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.091. Abuse or mutilation of protected trees.

- A. Topping of protected trees. This practice will only be permitted when a property owner has a copy of a certified arborist report attached to an approval permit.
- B. No person may:
1. Abuse, mutilate or destroy street trees.
 2. Attach or place a rope or twine (other than a rope or twine typically used to support a young or broken tree) sign, poster, handbill, paint or other substance, structure, or thing to or on a street tree.
 3. Allow a gaseous liquid or solid substance which is harmful come in contact with a street tree.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.100. Moving buildings.

No person, firm, or corporation shall move any building, house, or portion thereof without notifying the Public Works Director or designee at least three days in advance of such moving. The notice shall designate the route to be followed and all other details, pertinent to such work. The Public Works Director or designee shall have the authority to change such route and designate on which, in his opinion, will cause less damage to trees, shrubs, or plants owned by the City along and adjacent to the route. If necessary to protect such trees, shrubs, or plants, the Public Works Director or designee may require that the house, building, or portions thereof be cut into segments small enough to fit the available width between such trees, shrubs, or plants along the designated route. As a condition to approving any route for the moving of any building, house, or portion thereof, the Public Works Director or designee may require the person, firm, or corporation doing such work to enter into an agreement to pay all costs incurred for any labor,

equipment, or materials used to protect or preserve such trees, shrubs or plants either before or after such moving.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.101. Administration.

The Public Works Director or designee shall plan, administer, control, and regulate the street tree programs at the City in accordance with this Chapter. The Director or designee shall develop policies and procedures to implement this Chapter. The policies and procedures shall include an annual tree maintenance work plan and an inventory that defines community tree needs.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.102. Authority of public works director.

The Public Works Director or designee has the authority to maintain and care for street trees. The Director shall develop a program to encourage planting of approved street trees throughout the City. The Director has the authority to require that street trees be planted on all streets.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.103. Open ground for trees.

No person may place or maintain a stone, cement, or other substance so that it impedes the full access of water or air to a street tree.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.104. Penalty for violation.

A. Misdemeanor.

1. Violation of this Chapter constitutes a misdemeanor punishable as such.
2. Each tree damaged or removed in violation of this Chapter shall constitute a separate offense.

B. Joint and several liability. If two or more persons are responsible for any violation of the provisions of this Chapter, they shall be jointly and severally liable for the penalties and remedies set forth herein. In this connection, the person(s) who actually performs the removal, damage, or cutting of a tree in violation of this Chapter shall be liable for the penalties, punishment, and remedies specified in 8.08.104.A and C, irrespective of whether or not such conduct was authorized, directed, or permitted by any other person.

C. Restitution/mitigation.

1. In addition to and not in lieu of the criminal penalties set forth in subsection A above, any person who damages or removes a tree or causes the damage or removal of a tree in violation of this Chapter shall be civilly liable to the City for (i) providing and planting a replacement tree of value equal to the tree so damaged or removed or (ii) a payment to the City of a monetary penalty equal to such value. Said value shall be determined by City Council resolution.
2. Any person who violates any provision of this Chapter is liable in a civil action brought by the City Attorney to collect the replacement fees as listed above.

3. Amounts recovered under this Section shall be deposited into a fund which shall be used exclusively for the planting of trees in public places in the City and for tree related educational projects or programs.

D. Violation/city approvals.

1. For as long as Section 8.08.104(C)(1) has not been complied with, the owner, owner's agent, or occupant of any property on which a violation of the provisions of this Chapter was committed shall be precluded from applying for any approval or permit issued by the City for the development or further improvement of such property. Prohibited approvals or permits shall include, but not be limited to, conditional use permits, tentative maps, variances, design review approvals, building permits, demolition permits, or grading permits. The provisions of this Chapter shall not apply to any approval or permit which is needed or required to maintain the health or safety of those occupying existing improvements on the property.
2. Before criminal or civil proceedings may be initiated against the suspected violator, or before the City may institute the application preclusion specified in Subsection D(1), above, a hearing shall be scheduled with the Zoning Administrator, on the alleged violation, giving the property owner notice thereof and a summary of the facts which indicated a violation has occurred. Said notice and hearing shall comply with any other procedural due process requirements that are determined to be applicable. Following the hearing at which the owner or any other interested party may present testimony and evidence, the Zoning Administrator shall determine whether a violation has occurred on the property. Notice of a violation and the restriction of development of the property shall be recorded in the office of the county recorder to implement the provisions of this Section. If no violation of this Chapter is determined to have occurred or have been perpetrated by the persons notified of said proceedings, then no criminal or civil proceedings may be initiated against said persons under Section 8.08.104, and the City may not apply the application preclusion described in Section 8.08.104.D.1, above.

E. Liability for costs.

1. Any person criminally or civilly liable hereunder shall further be liable for all costs incurred by the City in connection with the investigation and enforcement of the violation.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.105. Civil sanction.

In addition to paying the penalties for violation of this Chapter, a person who removes or destroys a tree in violation of this Chapter shall at the option of the City either:

- A. Replace the tree with one of a similar kind and size; or
- B. Compensate the City for the value of the tree(s). The value of the tree shall be based upon the opinion of an arborist.

(Ord. No. 1450, § IV, 12/20/2023)

§ 8.08.106. Public utilities.

When a tree interferes with and interrupts service of a public utility company providing gas, water, electricity, telephone, telegraph, or cable service within the City, the City may, without first obtaining a permit trim or remove branches of trees to the extent necessary to restore service.

(Ord. No. 1450, § IV, 12/20/2023)

CHAPTER 8.13
VIEW AND SUNLIGHT PRESERVATION

§ 8.13.010. Purposes.

The purposes of this Chapter are to:

- A. Establish a person's right to preserve or restore the view or sunlight which existed at the time of that person's purchase or initial occupation of the property (or at the time which is 30 years prior to the person's claiming said right, whichever is later) from unreasonable obstruction by the growth of a tree; and
- B. Establish a process by which one may seek restoration of such view or sunlight when unreasonably obstructed by the growth of a tree.

(Ord. 1270 C.S. § 1, 2000)

§ 8.13.020. Definitions.

For the purposes of this Chapter, the meaning and construction of words and phrases hereinafter set forth shall apply:

- A. "Arbitrator" means a neutral person who conducts a process similar to a trial, and who hears testimony, considers evidence, and makes a binding decision for the disputing parties.
- B. "Binding arbitration" means the legal procedure set forth in the provisions of the Code of Civil Procedure section 1280 et seq. The decision which results from "binding arbitration" shall be final and not subject to appeal, review or attack, except as provided in said sections of the Code of Civil Procedure.
- C. "Claimant" means a property owner (or legal occupant with written permission of the property owner) who alleges that trees located on the property of another person are causing unreasonable obstruction of his or her pre-existing views or sunlight.
- D. "Crown reduction" means minimal cut back of branch crown. It should not destroy the visual proportions of the tree, adversely affect the tree's growth pattern or health, or otherwise constitute a detriment to the tree(s) in question.
- E. "Mediator" means a neutral, objective, professionally trained third person who assists people in finding a mutually satisfactory solution to a problem.
- F. "Pre-existing view or sunlight" means the view or sunlight (1) that existed at the time the property was first purchased by the current property owner, (2) that existed at the time the property was first lawfully possessed by the current occupant or (3) that existed any time during the year 30 years prior to the date upon which the property owner or occupier ("claimant") first makes his/her claim that he/she is entitled to the view and/or sunlight rights established herein, whichever is later (the "view/sunlight right establishment date").
- G. "Primary living areas" are those portions of a residence from which observed most often by the occupants relative to other portions of the residence. Primary living areas include decks or other permanent, human-made structures (1) immediately adjacent to the main residence and (2) occupied or regularly used by the occupants of the main residence. The determination of primarily living areas is made on a case-by-case basis.

- H. "Protected tree" is a tree which has been so designated in accordance with Section 8.12.020 of the Martinez Municipal code.
- I. "Replacement planting" means tree removal accompanied by replacement planting of appropriate plant materials to restore, to the extent feasible, the maximum level of benefits lost due to tree removal.
- J. "Restorative action" means a task, obligation or undertaking required to resolve a tree dispute.
- K. "Stand thinning" means the removal of a small percentage of the total number of trees from a grove of trees without any replacement planting.
- L. "Thinning" means the selective removal of entire branches from a tree to improve visibility through the tree or improve the tree's structural condition.
- M. "Topping" means elimination of the upper portion of a tree's trunk or main leader. Topping as a restorative action should be used with caution. Topping can have deleterious effects on a tree's health, appearance and cost of maintenance. Tree removal, with replacement plantings, may be a preferable alternative.
- N. "Tree" means a woody plant with the potential to obstruct a view or sunlight, including but not limited to a tree, shrub, hedge, and bush.
- O. "Tree owner" means a person owning real property upon whose land is located a tree alleged by a claimant to cause an unreasonable obstruction.
- P. "Tree removal" means the elimination of a tree from its present location. While normally considered a drastic measure, tree removal may be the preferred solution in many circumstances.
- Q. "Trimming" means the selective removal of portions of branches from a tree so as to alter the tree's shape or appearance. Trimming is recommended when minor unreasonable obstruction has occurred, provided that ongoing maintenance is guaranteed.
- R. "Unreasonable obstruction" means the obstruction of a view or sunlight, or both, which is determined to be unreasonable applying the criteria set forth in Section 8.13.040. An unreasonable obstruction shall be further defined as an impairment, diminution, obscuring, interference and/or blocking of a view from or sunlight to a primary living area which, when analyzed using the criteria set forth in Section 8.13.040, is determined to (1) materially and adversely affect said views and/or sunlight and (2) so affect views and/or sunlight which have a character or quality which outweighs the benefits derived by the tree(s) which are causing the obstruction.
- S. "View" means a scene from the primary living area of a residence. The term "view" includes both upslope and downslope scenes, but is generally medium or long range in nature, as opposed to short range. View includes but is not limited to distinctive geologic features, hillside terrains, wooded canyons, ridges, and bodies of water.
- T. "Windowing" is a form of thinning by which openings or "windows" are created to restore a view or sunlight.

(Ord. 1270 C.S. § 1, 2000; Ord. No. 1404 C.S., § 3, 5/17/2017)

§ 8.13.021. Rights established.

- A. Persons shall have the right to preserve and seek restoration of pre-existing views and/or sunlight which existed on or after the "view/sunlight right establishment date," when such views or sunlight are from the primary living area and have subsequently been unreasonably obstructed by the growth of trees.
- B. In order to establish such rights pursuant to this Chapter, the person (claimant) must follow the process established in this Chapter. In addition to the above rights, private parties have the right to seek remedial action for imminent danger caused by trees.

(Ord. 1270 C.S. § 1, 2000)

§ 8.13.030. Process for resolution of claims.

To establish view and sunlight rights recognized and established herein, the claimant must follow the process established by this Chapter. First, the claimant must complete the "initial discussion" process described below. Second, if that process does not yield a result mutually satisfactory to the claimant and the tree owner, then the claimant must seek to mediate his/her view/sunlight claim in accordance with this chapter. If the tree owner refuses to mediate or if the mediation is unsuccessful in resolving their differences, then the claimant must attempt to initiate arbitration as set forth hereinafter. If arbitration is not accepted by the tree owner, and the initial discussion and mediation have proved unsuccessful in resolving the view/sunlight claim, the claimant may then initiate litigation to determine his/her view/sunlight claim rights. Except in instances regarding city owned property, no city action or decisions are required to establish or exercise a claimant's view/sunlight rights.

- A. Initial discussion. A claimant who believes that tree growth, maintenance or location on another person's property diminishes the beneficial use, economic value and enjoyment of views of his/her property shall first notify the tree owner in writing of such concerns. The notification should be accompanied by personal discussions to work towards a mutually agreeable solution.
 - 1. If the Parties Agree: Following the initial discussion, if agreement is reached between the parties as to the existence and nature of the claimant's rights and on what restorative action is to be taken on the tree(s) in question, that agreement shall be reduced to writing and executed by all parties concerned. Said agreement must set forth the following:
 - a. Establishing the claimant's right under Section 8.13.021;
 - b. Specifying the detail of said right; and
 - c. Specifying the nature and timing of the action and the parties responsible for performing said action required to effectuate the said rights so established.
 - 2. If the Parties Do Not Agree: If the parties do not agree as to the rights in question and what action should be taken regarding the tree(s) in question, the claimant must prepare and provide the tree owner a view/sunlight claim and provide a copy of the view/sunlight claim to the City.
- B. View/sunlight claim. A "View/Sunlight Claim" shall consist of the following:
 - 1. A description of the nature and extent of the alleged obstruction, including pertinent

and corroborating physical evidence. Evidence may include, but is not limited to, photographic prints, negatives or slides. The evidence must show absence of the obstruction at a point in time during the tenure of the claimant's ownership or occupancy of the claimant's property. Evidence to show the date of property acquisition or occupancy by the claimant must be included;

2. The location of each tree alleged to cause the obstruction, the address of the property upon which the tree is located, and the present tree owner's name and address;
3. Evidence of the failure of initial reconciliation, (Section 8.13.030 A) to resolve the dispute. The claimant must provide physical evidence that a written attempt at reconciliation has been made and failed. Evidence may include a copy of and receipt for certified or registered mail correspondence;
4. Specific restorative action proposed by the claimant to resolve the unreasonable obstruction.

C. View sunlight claim process.

1. Mediation. If the initial discussion fails to achieve agreement between the tree owner and the claimant, then the claimant, in order to preserve and perfect his/her rights hereunder, shall prepare and deliver to the tree owner a written offer ("offer notice") to submit the dispute to mediation to settle the dispute. Acceptance of mediation by the tree owner shall be voluntary, but the tree owner shall have no more than 30 days from service of the offer notice either to accept or to reject the offer of mediation. Failure to respond within 30 days after the service of the claimant's offer notice shall be deemed rejection of the offer of mediation. If mediation is accepted, the parties shall mutually agree upon a mediator within 21 days of the date the tree owner's acceptance of the offer notice, and should commence mediation within 60 days after the tree owner's acceptance of the offer notice.

The mediator shall use and be governed by this chapter in attempting to help resolve the dispute. The mediator does not have the power to issue binding orders for view or sunlight restorative action, but shall strive to enable the parties to resolve their dispute by written agreement in order to eliminate the need for arbitration or litigation.

2. Binding arbitration. Where the initial reconciliation and mediation are declined or fail, the claimant shall submit to the tree owner a written offer to propose binding arbitration ("arbitration notice"). The acceptance of binding arbitration by the tree owner is voluntary. The tree owner has 30 days from service of the arbitration notice to either accept or reject binding arbitration. Failure to respond within said 30 days shall be deemed to be a rejection of the offer of arbitration. If binding arbitration is accepted, the parties shall agree on a specific arbitrator within 21 days of the date of the tree owner's acceptance, and shall indicate such agreement in writing. If the parties do not agree on a specific arbitrator within said 30 days, either party may petition the court to appoint an arbitrator.

The arbitrator shall use and be governed by this Chapter to reach a fair resolution of the view/sunlight claim and shall submit a complete written decision to the claimant and the tree owner. This decision shall include the arbitrator's findings with respect to the applicable provisions of Sections 8.13.040 and 8.13.050 of this Chapter, a pertinent list of all mandated restorative actions with any appropriate conditions

concerning such actions, and a schedule by which the mandated actions must be completed. The decision of the arbitrator is enforceable under the California Code of Civil Procedure. A copy of the arbitrator's decision shall be submitted by the claimant to the Community Development Department immediately after it is received by the claimant.

3. Litigation. If arbitration is declined by the tree owner, the claimant may pursue civil action for resolution of his/her view/sunlight claim rights. The litigation must state in the lawsuit that arbitration was offered and not accepted. The litigating claimant shall file a copy of the lawsuit with the City Community Development Department.

(Ord. 1270 C.S. § 1, 2000; Ord. No. 1404 C.S. § 4, 5/17/2017)

§ 8.13.040. Criteria for determining extent of view/sunlight rights and unreasonableness of obstruction.

The following criteria are to be considered (but are not exclusive) in determining the (1) existence and nature of claimant's alleged rights hereunder and (2) unreasonableness of the obstruction at issue in the dispute:

- A. No view or sunlight right may be based upon and no view or sunlight right may be exercised with respect to any tree located more than 500 feet from any boundary of claimant's real property.
- B. The claimant shall not have a right to a greater view or access to sunlight than existed on or after the view/sunlight right establishment date.
- C. In determining whether the claimant possesses the rights established under Section 8.13.021, the nature thereof and/or the extent to which the claimant may exercise said rights, the character of the subject view and/or sunlight and the benefits and burdens of the subject tree(s) shall be considered, and balanced against one another with due consideration given to the purposes of this chapter as set forth in 8.12.010.
- D. The character of the view shall be determined by evaluating:
 1. The vantage point(s) from which the view is obtained;
 2. The extent of the view and/or sunlight obstruction;
 3. The quality of the view being obstructed, such as the obstruction of vistas, ridge lines, or other unique features;
 4. The view or sunlight and the size and quality of the tree(s) which existed at the time the claimant first occupied the property;
 5. The added value the view affords to the claimant's residence; and
 6. The length of time the claimant party has resided on the property.
- E. The benefit derived by the tree shall be determined by evaluating:
 1. The extent to which the tree(s) provide:
 - a. Privacy, screening and sound buffering;

- b. Energy conservation and/or climate control;
 - c. Soil stability, as measured by soil structure, degree of slope and extent of tree(s) root system;
 - d. Wildlife habitat.
 - e. Screening of nearby residences or other structures and, if the tree(s) is restored as proposed by the claimant, the effect such restoration would have on views of the tree owner.
 - f. Visually pleasing settings or qualities in their own right.
 2. Visual quality of the tree including but not limited to, species, size, growth, aesthetic form, vigor, location;
 3. Potential for replacement of removed trees and the number of trees existing in the area;
 4. The variety of tree, whether the tree is a protected tree or has historic value;
 5. Economic value of the tree as measured by the International Society of Arboriculture; and
 6. The hazard posed by a tree to a person or structure on the property of the claimant including, but not limited to, fire danger and the danger of falling limbs or trees.
- (Ord. 1270 C.S. § 1, 2000; Ord. No. 1404 C.S., § 5, 5/17/2017)

§ 8.13.050. Guidelines concerning restorative action.

The following general guidelines shall apply to restorative action:

- A. View and/or sunlight restorative actions must be consistent with all other provisions of this chapter.
- B. All tree work authorized by this Chapter shall be performed, supervised or reviewed by a certified arborist.
- C. Ongoing maintenance requirements are recommended as part of the restorative action.
- D. By reason of tall height at maturity, rapid growth, dense foliage, shallow root structure, flammability, breakability, or invasiveness, the City has determined that certain types of trees are "undesirable," including but not limited to Blue Gum Eucalyptus, Monterey Pine, Monterey Cypress trees and other trees which generally grow more than 3 feet per year and are capable of reaching a height of over 35 feet at maturity. When considering restorative action for "undesirable" trees, aggressive action is preferred.
- E. The city has designated certain trees to be "protected trees" as set forth in Chapter 8.12. The alteration or removal of a protected tree requires a permit from the Community Development Department.
- F. Restorative action shall be limited to the following, typically in order of preference:
 1. Trimming;

2. Thinning or Windowing;
 3. Crown Reduction;
 4. Stand Thinning;
 5. Topping;
 6. Tree Removal, with Replacement Plantings;
 7. Removal.
- G. In selecting the restorative action deemed best suited to the resolution of a view/sunlight claim, consideration shall be given to:
1. Serving the purpose of this chapter as set forth in 8.12.010;
 2. The effectiveness of the proposed restorative action balanced against the likelihood of the claim being repeated due to rapid tree re-growth; and
 3. The effectiveness of the proposed restorative action shall be balanced against its cost.
- (Ord. 1270 C.S. § 1, 2000; Ord. No. 1404 C.S., § 6, 5/17/2017)

§ 8.13.060. Apportionment of costs.

- A. Cost of mediation and arbitration. The claimant and tree owner shall each pay 50% of mediation or arbitration fees and costs, unless they agree otherwise or allow the mediator or arbitrator discretion to allocate fees and costs.
- B. Cost of litigation. The costs of litigation is determined by the court or through a settlement.
- C. Cost of restorative action. To be determined by mutual agreement, or through mediation, arbitration, court judgment or settlement.
- (Ord. 1270 C.S. § 1, 2000; Ord. No. 1404 C.S. § 7, 5/17/2017)

§ 8.13.070. Liabilities and limitations.

- A. The City shall not be liable for any damages, injury, costs or expenses which are the result of any decision made by the city or any other person (e.g., mediator, arbitrator or judge) concerning a view/sunlight claim or a claimant's assertions pertaining to views or sunlight rights granted or conferred in this Chapter.
- B. Failure of the City to enforce this Chapter does not give rise to civil or criminal liability on the part of the City.
- C. It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement.
- (Ord. 1270 C.S. § 1, 2000)

§ 8.13.080. Enforcement.

- A. Violations of this Chapter are not misdemeanors or infractions. Enforcement of this Chapter shall be by the involved private parties. Any claimant may seek to enforce any restorative action mandated pursuant to this Chapter through ordinary legal proceedings.

- B. Under no circumstances shall the city have any responsibility or liability to enforce or seek any legal redress, civil or criminal, for any decision it or any other person (except in a case where the City is a named party and is subject to a lawful order of a court of competent jurisdiction) makes concerning a view/sunlight claim.

(Ord. 1270 C.S. § 1, 2000)

§ 8.13.090. Properties subject to ordinance regulations.

- A. Except as provided in subsection (B) below, any and all trees located on any property situated in any district in the City are subject to this Chapter and the rights established herein.
- B. Trees located on the following described property owned by or in which the City has an interest shall be exempt from this Chapter: (1) public rights-of-way; (2) parks, and (3) open spaces. Requests or complaints regarding trees located on property in which the City has an interest other than those listed above shall be made in writing to the Superintendent of Public Works.
- C. To the extent a claimant and/or a predecessor in interest to the claimant, by recorded instrument or other document about which the claimant has actual knowledge, has waived the right to a view and/or sunlight as to trees located on property which is the subject of the waiver, said claimant shall enjoy no rights under this Chapter.

(Ord. 1270 C.S. § 1, 2000)

CHAPTER 8.14
DRAINAGE

§ 8.14.010. Purpose.

This division is adopted to provide for the implementation of drainage improvements, recreational uses, protection of riparian vegetation, permit control of projects that may change the hydraulic characteristics of watercourses and drainage facilities, control erosion and sedimentation, prevent the placement or discharge of polluting matter into watercourses or the Contra Costa Canal, and require adequate watercourse drainage facilities.
(Ord. 1187 C.S. § I, 1992)

§ 8.14.020. Findings and nuisance.

- A. Findings. The City Council finds and declares that the unregulated obstruction, modification and use of watercourses creates conditions tending to reduce the value of private property, to promote blight and deterioration of property, to cause flooding and drainage losses, and to be injurious to the public health, safety and general welfare.
- B. Nuisance. Violations of this division and the resulting watercourse conditions constitute public nuisances which may be abated as such in accordance with the provisions of this Chapter and code.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.030. Activities requiring a permit.

No person, firm, corporation, or public district shall allow on its property or commit or cause to be committed any of the acts hereinafter described, unless a written permit has first been obtained from the enforcing officer or his duly appointed representative:

- A. Impair or impede the natural flow of storm waters, or other water, running in a defined channel, natural or man-made;
- B. Deposit any material in such channel;
- C. Excavate, grade or otherwise alter the surface of land so as to reduce the capacity of such channel;
- D. Destroy or significantly alter riparian or bank stabilizing vegetation, including without limitation the use of herbicides or pesticides, cutting, clearing, grubbing, burning, removing, excavating or grading;
- E. Plant any shrub, vine or tree within a riparian corridor;
- F. Construct, alter, or repair any storm water drainage structure, facility, or channel;
- G. Commit any act within any easement dedicated for drainage purposes that will impair the use of such easement for such purposes;
- H. Install or construct any new non-drainage structures, improvements thereto or expansion thereof including, but not limited to, buildings, swimming pools, patios, paving, fences, poles, retaining walls, rip-rap and similar improvements, within watercourses;

- I. Commit any act, within the defined drainage corridor, which will reduce aesthetic values;
 - J. Make any alterations that will adversely impact any adjacent properties, private or public. (eddying, bank scouring, etc.)
- (Ord. 1187 C.S. § I, 1992)

§ 8.14.040. Emergency work authorization.

This Chapter shall not prevent any person or the enforcing officer from performing emergency maintenance or work within, on, over, under, or through any watercourse, channel, ditch, conduit, or natural drainageway, as necessary and proper for the preservation of life or property when an urgent necessity arises. The person performing the emergency work shall notify the enforcing officer and the State Department of Fish and Game within the next working day and apply for a written permit within five calendar days of the beginning of work.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.050. Fees.

The fees for permits and inspections of the performance of acts or works under this Chapter and appeals shall be those recommended by the enforcing officer and established and adopted by the City Council from time to time by resolution.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.060. Administration.

The Community Development Department is charged with the responsibility for the administration of the provisions of this Chapter. Pursuant to this code, the Community Development Director may appoint or delegate authority to qualified persons or deputies for the purpose of the administration of this division.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.070. Stop work orders.

Whenever any watercourse work or related activity is being done contrary to this Chapter, the enforcing officer may order the work or activity stopped by notice in writing and posted served on any persons engaged in the doing or causing of the work or activity; and these persons shall stop immediately until authorized by valid permit or the enforcing officer to proceed with the work or activity.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.080. Definitions.

- A. Generally. Unless otherwise specifically provided, or required by the context, the following terms have the meanings set forth in this Chapter for the purposes of this Chapter.
- B. "Defined channels," natural or man-made, means any of the following:
 - 1. Intermittent stream. Any watercourse which has been verified by field investigation to:
 - a. Have a significant water flow at anytime within 30 days after the last significant storm; or

- b. Have a well-defined channel; or
 - c. Be a watercourse designated by a broken line symbol on the largest scale USGS Map most recently published.
- 2. Perennial stream. Any watercourse which is either:
 - a. A watercourse which has been verified by field investigation as a stream which normally flows throughout the year; or
 - b. A watercourse designated by a solid line symbol on the largest scale USGS Map most recently published.
- C. "Defined drainage corridor" shall include the defined channel and the defined riparian corridor, plus any special setbacks or drainage easements.
- D. "Drainage easement" means an easement provided for the installation, preservation or maintenance of drainage facilities, including conduits or channels.
- E. "Emergency" means a sudden, unexpected occurrence which presents a clear and imminent danger to life, health, property, or essential public services which requires immediate action to mitigate.
- F. "Enforcing officer" means the Community Development Director.
- G. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- H. "Improved channel" means a watercourse which has been modified through man-made construction including but not limited to increasing its width and/or depth, straightening its alignment, or stabilizing its banks through grading, concrete, rip-rap or other means.
- I. "Riparian corridor" means an area of watercourse riparian vegetation which may be identified through field investigations in conformance with State Department of Fish and Game guidelines. The boundary shall be defined as the outer limit of the occurrence of riparian vegetation.
- J. "Riparian vegetation" means vegetation associated with the banks, edges, or terrestrial limits of watercourses requiring or tolerating soil moisture levels in excess of that available in adjacent uplands as defined in State Department of Fish and Game guidelines.
- K. "Runoff" means the surface water flow or rate of flow following precipitation.
- L. "Sedimentation" means the process by which mineral or organic matter is removed from its site of origin, transported, and deposited by water, wind, or gravity.
- M. "Structure setback area" is as provided in Chapter 29 of the City's Building Code. Setbacks from dedicated easements will control, but in no case may structures encroach within ten feet of the upper bank. The property owner is responsible for his/her entire creek area and is responsible to assure stability of the upper bank.
- N. "Watercourse" means any natural or man-made channel for transporting water, including the streambed and the banks, whether continuously flowing or intermittent.
- O. "Acts and works" means clearing or thinning of natural growth or any construction in the

defined drainage corridor.
(Ord. 1187 C.S. § I, 1992)

§ 8.14.090. Permits.

- A. Issuance. The written permits required by this Chapter shall be issued by the enforcing officer for any lawful use, subject to conditions set forth in this division, the permit and as required by law. The terms of the permit shall require the property owner and permittee to be responsible for all work done and to hold harmless and defend the City, and their officers, employees and agents against any damage claims. The issuance of a permit shall in no manner whatsoever imply or impute a responsibility or liability to the City of Martinez, or their officers, employees or agents, for injuries resulting from any act or condition regulated by this Chapter.
- B. Application form.
1. The enforcing officer shall prescribe and provide a standard form of application for a permit required by this division.
 2. The application form shall state the property owner's and permittee's name, if different, together with such details which in the opinion of the enforcing officer are necessary to establish the purpose of the act or work to be performed, the location, dimensions, estimated total cost, and the dates for commencement and for completion of the act or work; except that at the enforcing officer's discretion, a completion date may be specified.
 3. The application form shall include a right to enter to abate a nuisance created by acts or works authorized by the permit with five working days notice.
 4. The permit form shall include right for immediate access to abate an emergency situation.
 5. To be complete, the application shall be executed by the property owner or the owner's duly appointed agent, be accompanied with the required fee or fees, and deposited with the enforcing officer.
- C. Exhibits and conditions. The applicant shall attach to the application:
1. A copy of a State Department of Fish and Game permit or letter of exemption, and of any other agency permits required.
 2. An exhibit as the enforcing officer may prescribe, on which shall be plainly shown any and all information necessary to locate, illustrate, and substantiate the right and necessity of the applicant to perform the act or work.
 3. The enforcing officer may require to be submitted such soil investigation, tests of materials, biological reports, environmental documents, engineering plans and investigations, technical reports and other permits as the officer deems necessary and proper.
 4. If a soils report is required, second party review will also be required.
 5. Necessary changes, corrections, and notes may be made on any such exhibit and/or

conditions inserted on the permit and these items shall become an integral part of the permit when attested to by the enforcing officer.

6. The applicant shall enclose with, attach, or add to the application for a permit the written consent and waiver of liability given by any and all persons political agencies having jurisdiction or any interest in the property where work is to be performed, who of themselves or their property would be affected in any manner by the acts or works to be performed.

The granting of a permit pursuant to this Chapter shall not be construed as permission or license to enter on, occupy or otherwise utilize private, City, or property without the express consent of the owner or agent in possession thereof.

- D. Types of permits. Written permits required by this Chapter shall be one of the following types, depending on the decision of the enforcing officer:

1. "Regular permits" to do work under the provisions of this division shall be issued for the performance of those acts or works permitted by this Chapter. Regular permit include any pre-approved procedures, or mail-in permits which may be established by procedures.
2. "Conditional permits" shall be issued when such conditions or circumstances exist or will foreseeably occur which could in any manner be adverse to the performance of the proposed acts or works or be adverse to the purpose for which the proposed acts or works are to be performed. Such conditions or circumstances shall be attached hereto and shall be considered incorporated in the permit.
3. "Emergency permits" shall be issued for reasons necessitating emergency action as set out in Sections 8.14.014.
4. Permit must comply with CEQA requirements.
5. A State Fish and Game Streambed Alteration Agreement may be required.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.100. Appeals.

- A. Appeals and exceptions. Any person aggrieved by the refusal or the terms of a permit required by this Chapter may appeal to the zoning administrator.

1. Notification of adjacent property owners will be made after acceptance of the application. Properties 300 feet upstream and downstream and effected agencies will be notified.
2. The applicant and or effected property owner may appeal within 10 days of receipt of notice.

- B. Exceptions. If, in following the procedural provisions of 8.14.100 the Zoning Administrator is satisfied that all of the following are true, the permit shall be granted:

1. That there are unusual circumstances or conditions affecting the property;
2. That the applicant will be substantially damaged by the refusal to grant the permit;
3. That the exception is necessary for the preservation and enjoyment of a substantial

- property right of the applicant or necessary for the proper design and function of an existing activity on the property;
4. That no other reasonable method of obtaining the desired results is available except as proposed by the applicant;
 5. That the granting of the permit will not be materially detrimental to the public interest, safety, health, and welfare, or injurious to other property;
 6. That the granting of the exception will not unreasonably reduce or adversely impact the riparian corridor, and there is no feasible, less environmentally damaging alternative; and
 7. That the granting of the exception will not adversely affect the purposes of this division and the policy and goals of the general plan;
 8. That the project meets all building code and engineering standards and specifications;
 9. That the design is aesthetically acceptable.
- C. Term and beginning work. The permittee shall begin the act or work authorized by a permit issued pursuant to this Chapter within thirty calendar days from date of issuance, unless another date is specifically indicated in the permit. The permittee shall notify the enforcing officer at least two working days prior to beginning work. Should the act or work not be commenced on or before the date indicated in the permit, the permit shall become void unless, prior to the date of expiration, the permittee presents good and sufficient reason for an extension of time and the date is extended by the enforcing officer in writing. A permit which has become void by reason of non-commencement of work prior to the stipulated date may be renewed at the discretion of the enforcing officer and upon payment of a renewal fee as provided for in the schedule of fees adopted by the City Council.
- D. Inspection during and at completion of work.
1. The permittee shall notify City inspectors 24 hours prior to commencement of work.
 2. The permittee shall complete the act or work authorized by a permit issued pursuant to this division within the time and before the date stipulated in the permit.
 3. The permittee shall notify the enforcing officer in writing upon completion of any act or work; and no work shall be deemed to have been completed until such written notification has been received and a final inspection of the work has been made by a representative of the enforcing officer, unless such inspection is waived in writing by the enforcing officer. No permittee shall be deemed to have complied with this Chapter until such inspection has been performed and the enforcing officer is satisfied that everything required to be done has been completed.
 4. Any work or act performed without a permit or not covered by an issued permit may be acknowledged as complete by the enforcing officer, provided that such work or act complies with the requirements of this division and is otherwise acceptable to the enforcing officer, and provided that all permit fees are paid.
 5. In the event the work or act is unacceptable the enforcing officer may exercise any available remedies, including without limitation the procedure prescribed in Sections

8.14.100.

- E. Performance security. Prior to the issuance of a permit, the applicant shall deposit with the enforcing officer cash or check for payment to the City of Martinez in an amount deemed adequate by the enforcing officer but not exceeding the estimated total cost, including all labor and materials, of the work to be performed. In lieu of a cash deposit, the applicant may file an approved surety bond issued by a company or corporation authorized to engage in general surety business in the State of California or an acceptable instrument of credit meeting subdivision security standards. The conditions of any cash deposit or surety bond made pursuant to this Section shall be that the permittee will diligently and in good faith comply with all provisions of this Chapter with all terms and conditions contained in the issued permit, and will pursue the work to completion without undue delay except for reasonable cause. Upon satisfactory and acceptable completion of the work as set forth in Sections 8.14.100 C., the cash deposit shall be refunded to the permittee. The permittee shall be exonerated from the surety bond or the instrument of credit released by the enforcing officer in writing upon the expiration of ninety days. The enforcing officer shall not be responsible to ascertain whether there exist unsatisfied liens against the premises upon which the work was performed.
- F. Liability insurance. In addition to the other requirements of this division, satisfactory proof by certificate of insurance is required that the permittee has in force a valid public liability insurance policy which includes the City of Martinez, its officers, employees and agents as additional insureds. Unless such insurance coverage is waived by the enforcing officer, it shall be in an amount the officer deems sufficient to adequately protect the additional insureds from liability for damages to person(s) or property(s) arising from the activities related to the permit.
- G. Changes. No changes shall be made in the location, dimensions, materials, or character of the work authorized in a permit, except upon written authorization to do so by the enforcing officer.
- H. Non-transferable. A permit issued pursuant to this division shall not be transferable by, for, or on behalf of the permittee, his or her heirs, assigns, or successors.
- I. Unsatisfactory permit work. If the enforcing officer determines that the performance of the work described in a permit is unsatisfactory or unacceptable, or both, the permittee shall reconstruct the work to the satisfaction of the enforcing officer.

If the enforcing officer determines that delay in pursuit or completion of the act or work is due to lack of diligence or willful act on the part of the permittee, or that the work is unsatisfactory or unacceptable, or both, if essential to the health, safety, or welfare of the public, the enforcing officer may request the City Council for authorization to perform or contract with any licensed general contractor to complete, erect, install, reconstruct, or alter all structures or work in conformance with the permit, or to remove all structures and obliterate all work not completed. The costs (including administrative and overhead expenses) incurred thereby shall be repaid to the City from the cash, instrument of credit or surety bond deposited by the permittee with the City for the performance of the work provided that any and all costs incurred by the City which exceed the cash deposit, instrument of credit or surety bond's penalty sum shall be paid by the permittee to the City.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.110. Nuisance abatement.

- A. Abatement. The enforcing officer may have nuisances, created after the effective date of the ordinance, abated and/or removed in accordance with the procedure prescribed in this Chapter.
- B. Notice. In the event of a violation of this Chapter constituting a public nuisance, and in addition to other remedies and penalties provided in this code, the enforcing officer may deliver or mail, by registered or certified mail, to the owner of the property on which the violation occurred (or is occurring) and to any involved permittee, a ten-day notice of intention to abate the nuisance unless the owner does so within ten days after the notice is received. Notice shall be provided at the address of the owner as it appears on the last equalized assessment roll.
- C. Content. The notice shall contain:
 - 1. A statement of the nature of the nuisance;
 - 2. That the owner and any involved permittee must abate the nuisance within ten days; or if they fail to do so, the nuisance may be abated by the enforcing officer and the owner and any involved permittee shall be liable to the City for the costs thereof.
 - 3. An estimate of the cost of abatement (including overhead and administrative costs).
 - 4. A statement that this cost may be levied as a special assessment on the owner's land.
 - 5. A statement of the property owner and any involved permittee's hearing rights and notice to them that they may appear in person at a hearing or by sworn written statement in lieu of appearing.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.120. Hearing and appeals.

- A. Hearing requests.
 - 1. Request. Within ten days after the mailing, delivery and receipt date(s), whichever is later, of the notice of intention to abate and remove, the property owner or possessor of the property and any involved permittee may request the Zoning Administrator for a public hearing on the question of abatement and the estimated cost thereof.
 - 2. Notice. The Zoning Administrator shall immediately notify the enforcing officer of any such request.
- B. No hearing. If no request for hearing is received within the ten-day period, the enforcing officer or any person the enforcing officer authorizes may abate the nuisance. Thereafter, the costs of abatement shall be collected pursuant to Sections 8.14.140.
- C. Hearing notice. When a hearing is requested, the Zoning Administrator shall mail notice of the hearing at least ten calendar days before the hearing date to the enforcing officer, the property owner, any known possessor of the property, and any involved permittee.
- D. Hearings. All hearing(s) under this Chapter shall be held before the Zoning Administrator who shall receive all evidence related to the condition of the property, the circumstances of the nuisance and the location and the estimated cost of the abatement. The Zoning

Administrator shall not be limited by the technical rules of evidence. The property owner, any known possessor of the property or involved permittee or affected property owner or agency may appear in person or present a sworn written statement in time for consideration at the hearing.

- E. Decisions. The Zoning Administrator may impose such conditions and take other such action as the Zoning Administrator deems appropriate under the circumstances to carry out the purpose of this Chapter. The Zoning Administrator may delay the time for removal of the nuisance if, in the Zoning Administrator's opinion, the circumstances justify it. At the conclusion of the public hearing, if the Zoning Administrator finds that there is a nuisance, the Zoning Administrator may order it abated and/or removed as a public nuisance as hereinafter provided and determine the cost of abatement to be charged against the landowner. The order requiring abatement shall include a description of the nuisance.
- F. Notice of decision. If an interested party makes a written presentation to the Zoning Administrator but does not appear, such interested party shall be notified in writing of the decision.
- G. Appeals.
 - 1. The enforcing officer, the property owner, any known possessor of the parcel, or any involved permittee may appeal the Zoning Administrator's decision by filing with the Zoning Administrator a written notice of appeal, accompanied with any required fee, within ten calendar days after the Zoning Administrator's decision. The Zoning Administrator shall promptly transmit the proceedings to the City Council of the City of Martinez.
 - 2. The City Clerk or designee shall promptly give written notice of the time and place of the hearing to the appellant and those persons specified in Sections 8.14.120 C.
 - 3. The Council shall promptly hear such appeal, and may affirm, amend, or reverse the order, or take other action it deems appropriate. It shall not be limited by the technical rules of evidence.

(Ord. 1187 C.S. § I, 1992)

§ 8.14.130. Final abatement action.

- A. Action. This Chapter's nuisances may be abated when:
 - 1. Releases authorizing abatement and property cost collection have been signed by the involved property's owner(s); or
 - 2. There is no reply to the notice of intent to abate by the end of the ten-day waiting period; or
 - 3. The Zoning Administrator decides the nuisance is to be abated and no appeal is made to the board; or
 - 4. After an appeal has been decided in favor of abatement.
- B. Cost record. The enforcing officer shall prepare an itemized written account of all expenses, including administration and overhead, incurred to abate the nuisance, plus any attorneys' fees the City seeks to recover in connection with the proceeding.

(Ord. 1187 C.S. § I, 1992; Ord. 1258 C.S. § 1, 1998)

§ 8.14.140. Cost allocation.

- A. Submittal to council. The enforcing officer shall forward the itemized written account to the City Council for consideration and action.
- B. Notice to property owner. Before the itemized written account is submitted to the City Council, a copy shall be posted for at least three days on the bulletin board of the City Hall, with a notice of the time when the account will be considered by the City Council for confirmation. A copy of the account and notice shall also be mailed to the owner of the property, at the address shown on the last tax roll, at least ten days prior to its consideration by the City Council.
- C. Hearing. At the time fixed for receiving and considering the written account, the City Council shall hear it and any objections by the property owners liable to be assessed for the work of abatement. Thereupon, the City Council may make such modifications in the report as it deems necessary; after which, by order of resolution, the report shall be confirmed; and if the City has requested payment of its attorney's fees, attorney's fees shall be awarded to the prevailing party.
- D. Special assessment. The cost of such abatement, as determined by the City Council, shall become a special assessment and lien against the aforesaid property, which assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.
- E. Assessment notice. The enforcing officer shall send notice by certified mail to the property owner if the property owner's identity can be determined from the County Assessor's or County Recorder's records. The notice shall be given at the time of imposing the assessment and shall state that the property may be sold after three years by the tax collector for unpaid delinquent assessments.

(Ord. 1258 C.S. § 2, 1998)

CHAPTER 8.16
SOLID WASTE MANAGEMENT⁸

§ 8.16.010. Violations.

- A. Violation of any provision of this chapter may constitute an infraction and may be grounds for issuance of a Notice of Violation and, except for the violation of prohibited container contaminants, assessment of an administrative citation and penalty by the City Manager or designated enforcement agency.
- B. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative citations and fines as contained in Chapter 1.12 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the City of Martinez, or, if agreed to, by its designated enforcement agency.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.020. Definitions.

- A. For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them by this section:
 - 1. Approved recycling collection program. A recycling and organic waste collection program operated by an authorized recycler under a contract, franchise agreement, or license with the City.
 - 2. Approved recycling container. The bag, box, or other container supplied by or identified by the City or an authorized recycler as the container into which recyclable materials or organic waste shall be placed and which shall be located at the curb or other collection station.
 - 3. Authorized collector. Any person authorized under a contract or Franchise Agreement with the City to collect, transport, store, transfer or process refuse in the City whether such activities are done with or without compensation. The Authorized Collector may also be referred to in this Chapter as the Franchisee. Authorized Franchisee/collector shall not include or mean an individual hauling refuse from his/her own home for purposes of disposing of same at an established disposal area or recycling facility; provided, however, such refuse is not produced, created, or accumulated in the course of any business operations and the individual is not engaged in the business of handling, hauling, collecting, transporting, storing, transferring or processing refuse.
 - 4. Authorized recycler. The City or a person authorized by a City contract or license to collect recyclable materials and organic waste. The Franchised Collector is the Authorized Recycler.
 - 5. Authorized disposal area. A disposal area or areas identified and designated by the City for the disposal of solid waste.

8. Editor's note: Prior history: Ord. 1197 C.S., adopted in 1993; Ord. 1272 C.S., adopted in 2000; and Ord. 1317 C.S., adopted in 2004.

6. Authorized solid waste container. A receptacle for solid waste conforming to the specifications of this Chapter or to regulations as may from time to time be promulgated and adopted by the City pursuant to this Chapter.
7. Bulky waste. Large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
8. City manager. The City Manager or their designee, which may include city employees.
9. Collection station. An approved location at which solid waste, refuse, or recyclable material is placed in containers for collection by the City, the authorized collector, or an authorized recycler.
10. Compost operation. A process whereby the biological decomposition of organic wastes is controlled so as to yield a safe and nuisance free product.
11. Curbside recycling collection program. The City's curbside recycling program by which recyclables are picked up from single-family residences without payment of any redemption value to the property owner.
12. Donor. The person taking recyclables to a recycling facility or the person placing recyclable material at the curb or other recycling collection station for scheduled collection.
13. Franchise agreement. An agreement between the City and such person, firm or corporation collecting and delivering Solid Waste for disposal, recycling or processing originating in the City under an exclusive Franchise Agreement with the City. Franchise Agreement includes the agreement between Allied Waste Systems, Inc. and the City in effect on the effective date of this ordinance.
14. Franchised hauler or franchised collector. Persons, firms or corporations collecting and delivering for disposal, recycling or processing Solid Waste originating in the City and doing so under a Franchise Agreement with the City.
15. Hazardous waste. A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may either:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
16. Multi-family unit. A dwelling which includes two or more individual living units and which receives communal refuse and/or recycling services.
17. Non-residential establishment. A business, commercial, industrial and other types of premises other than single-family and multi-family residential and includes without limitation all commercial and industrial use classifications.
18. Organic waste. Solid waste containing material originated from living organisms and

their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, lumber, wood, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Organic waste subject to collection in the approved recycling container shall be promulgated by the City Manager.

19. Place or premises. Every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the City.
20. Recyclable material. Refuse material generated or collected at a place or premises, and in a condition such that it can be re-manufactured or reprocessed into usable materials or new products, which includes, but is limited to, unsoiled mixed paper, glass, aluminum, cardboard, chipboard (i.e. cereal and shoe boxes), newsprint, plastic food and beverage containers (labeled #1 through #7 or as so directed by the City Manager), tin/bimetal containers, E-waste peripherals (such as keyboards, mouse, and speakers), hardcover books, rigid plastics (such as toys, buckets, trays, and crates), plastic bags, scrap metal/aluminum, used motor oil, oil filters, automotive batteries, brick, stone, wood, soil, construction and demolition debris, asphalt or concrete in reusable condition, or such other materials designated by City Manager. Organic waste subject to collection in the approved recycling container shall be promulgated by the City Manager.
21. Recycle or recycling. The process of separating and collection used materials which would otherwise become solid waste, for the purpose of reprocessing them to create new materials to be returned to the economic mainstream.
22. Recycling facility. A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public and includes the facilities regulated by Chapter 22.37.
23. Single family unit. A dwelling which receives individual refuse and/or curbside recycling service.
24. Solid waste. Except as provided in subdivision (b):
 - a. "Solid waste" has the same meaning as defined in Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, recyclable materials, organic waste, trash, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, provided, however, that solid waste does not include recyclable material.
 - b. "Solid waste" does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Sections 25800) of Division 20 of the California Health and Safety Code.

- c. "Solid waste" does not include medical waste which is regulated pursuant to the Medical Waste Management Act Chapter 6.1 (commencing with Sections 25015) of Division 20 of the California Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this Chapter.

25. Transfer or processing station. Those facilities utilized to receive refuse, temporarily store, separate, convert, or otherwise process the materials in the refuse, or to transfer the refuse directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.030. Ownership of solid waste.

- A. All solid waste, upon being removed by the authorized collector from the premises where produced and accumulated, shall become and be the property of the City unless otherwise provided in a contract, license, or franchise agreement.
- B. Unless otherwise provided in an agreement, the City maintains the right to salvage recyclable materials placed in solid waste containers for collection by the authorized collector.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.040. Rules and regulations—Appeal process.

- A. The City Manager, or his/her designated representative, may adopt such rules and regulations as may be necessary for the proper administration and enforcement of this Chapter. Such regulations may include: (1) the required frequency of collection from various types of places and premises; (2) the types of special containers required for certain classes of solid waste; (3) the types of special containers required for certain classes of places and premises; and (4) the licensing of authorized collectors and recyclers.
- B. Unless otherwise provided in an agreement, the City Manager or his/her designated representative shall resolve all disputes concerning the administration or enforcement of this Chapter. Any affected person who is dissatisfied with the determination of the City Manager may appeal the same to the City Council. Such appeal must be in writing and set forth the reasons for such appeal. The written appeal and the appeal fee, as set by City Council resolution, must be filed with the City Clerk within ten days after such decision. No alleged violation of this Chapter shall be permitted, or be continued, during the time any such appeal is pending.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.050. Inspection for sanitation.

The City Manager or other duly authorized representative of the City, including the Franchised Collector, may cause all places or premises governed by this Chapter to be inspected from time to time to determine whether the provisions of this Chapter are complied with. Such inspections shall be conducted in accordance with the law.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.060. Removal generally.

- A. All solid waste shall be collected according to a schedule established by the City Manager or his/her designated representative, or as provided by license, contract, or Franchise Agreement between the Franchised Collector or recycler and the City.
- B. It shall be unlawful for any person to handle, haul, collect, transport, store, transfer, process, accumulate, or dispose of solid waste in such a manner as to cause a nuisance.
(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.070. Disposal areas and transfer stations.

- A. The City shall have the right to designate a disposal area or areas for the disposal of solid waste collected from within the City.
- B. The City may designate one or more intermediary transfer or processing stations of its choice and direct any authorized collector to deposit collected solid waste in said facility.
(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.080. Prohibited disposal.

- A. Except as authorized in this Chapter, it shall be unlawful for any person to:
 - 1. Throw, bury, deposit, or cause to be thrown or deposited, any solid waste, or allow any collection of same to remain in or upon any public right-of-way, watercourse, waterway, levees or banks of watercourses or waterways, or upon any premises whatsoever other than in an approved disposal area or collection station or an authorized solid waste container or approved recycling container.
 - 2. Throw, cast, place, sweep, or deposit anywhere within the City, any solid waste in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, parkway, or other public place, or onto any private premises within the City.
 - 3. Deposit any solid waste in any City sewer or plumbing fixture or pipe connected thereto, except through a mechanical device (garbage disposal) which shreds or grinds solid waste material.
 - 4. Burn solid waste within the City.
 - 5. Deposit any household or business solid waste into street litter receptacles which the City may place and maintain, or authorize to be placed and maintained, at such locations as are deemed necessary for public convenience.
 - 6. Deposit solid waste in a container belonging to another person, or provided for premises in which the person does not reside, except with the permission of the owner of the container or premises.
 - 7. Deposit any solid waste in a receptacle or container specifically identified for the collection of recyclable materials.
 - 8. Deposit in any solid waste container any hazardous waste, explosive, highly inflammable or otherwise hazardous material or substance.

- B. The City may, by resolution or amendment of this Chapter, add other materials as being prohibited from deposit in solid waste containers to protect the public's health and safety and to achieve state mandated waste diversion goals.
(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.090. Exceptions—Disposal permitted.

- A. Solid waste may be fed to animals on the premises where such solid waste is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the City Manager or other authorized agent of the City; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable ordinances and regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- B. Solid waste may be disposed and used in a compost operation, provided that such operation at all times conforms to the applicable ordinances and regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.100. Mandatory subscription required.

- A. Except as otherwise provided by this Chapter, all occupied premises shall subscribe for solid waste collection service with the Franchised collector as herein specified, and for such service a charge shall be collected as per a schedule of rates as shall be set by resolution of the City Council.
- B. If any person should fail to subscribe for the collection and disposal of solid waste or violate any other provision of this Chapter, said violation shall be an infraction and shall be presumed to be a nuisance upon the premises.
- C. The authorized collector shall give written notice to the City Manager or his/her designated representative of the address of any occupied premise within the City which is not subscribing to the collection and disposal service provided by the authorized collector.
- D. The owner of each occupied premise shall subscribe for solid waste disposal services within seven days of the occupancy of the premises. If the owner fails to subscribe for service, the authorized collector shall give the owner written notification that such service is required.
- E. Nothing in this Chapter shall prohibit an occupant or owner of any occupied premises from regularly disposing of solid waste at an authorized disposal facility or transfer station, either personally or through the uncompensated services of another in compliance with Section 8.18.360 addition to subscription to solid waste collection service with the authorized collector.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.110. Failure to pay franchised collector.

It is unlawful for any person having solid waste collected and disposed of as provided in this City to willfully fail, neglect, or refuse to pay to the Franchised collector the rate provided by agreement between the City and the Franchised collector, by ordinance (if required by law) or by resolution of the City Council to be paid for such service.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.120. Collection billing.

The Franchised collector is responsible for the collection of any solid waste fee on behalf of the City and the collector. The Franchised collector may bill its customers in advance of service, but in no case more than two months in advance of service.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.130. Collection schedule.

- A. Solid waste collection shall be six days per week, excluding Sundays, between the hours of 6:00 a.m. and 7:00 p.m. in residential and commercial districts, and in industrial districts by hours approved by the City Manager or his/her designated representative.
- B. Solid waste will not be collected on legal holidays as approved by the City. The Franchised collector shall be required to provide collection during the week of the holiday and shall be required to provide customers with advance notice of any change to scheduling.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.140. Solid waste licensing and franchising requirements.

- A. Solid waste shall only be collected and transported by a Franchised collector unless otherwise specified in this Chapter.
- B. The Franchised collector shall obtain a current license, contract, or Franchise Agreement, as determined by the City Council, authorizing the collector to handle, haul, collect, transport, store, transfer or process solid waste within the City, except as otherwise provided by state or federal law. Such license, contract, or franchise agreement may be revoked by the City Council for noncompliance with the provisions of said license, contract, or franchise agreement or for violations of the provisions of this Chapter or any pertinent federal, state or local law. The terms and conditions under which a Franchised collector is required to operate shall be specified in the applicable license, contract, and/or franchise, and shall be administered by the City Manager or his/her designated representative. Unless otherwise provided by agreement or by applicable law, the maximum rates, if any, for such collection and disposal operations shall be established by a resolution of the City Council.
- C. It shall be unlawful for any person to handle, haul, collect, transport, store, transfer or process solid waste within the City, except as otherwise provided in this Chapter or, in the case of an emergency, as authorized by the City Council.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.150. Exceptions to licensing and franchising requirements.

- A. No license, franchise or contract shall be required for a person:
 - 1. Handling, hauling, or transporting solid waste from his/her own residence for purposes of disposing of same at an authorized disposal area or transfer station, provided, however, that such solid waste is not produced, created, or accumulated in the course of any business operations and the person is not engaged in the business of handling, hauling, collecting, transporting, storing, transferring or processing solid

waste.

2. Transporting solid waste over the streets of the City, where all of such solid waste so transported originates or originated: (a) outside the limits of the City; or (b) landscape maintenance waste being transported to another location outside the City or to an authorized disposal area, compost operation, or transfer station.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.160. Interference with franchised collector prohibited.

It shall be unlawful for any person in any manner to interfere with the handling, hauling, collecting, transporting, storing, transferring, or processing of solid waste by the Franchised collector.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.170. Requirements generally for vehicles, conveyances, and containers.

- A. All vehicles, conveyances or containers used for handling, hauling, collecting, transporting, storing, transferring or processing solid waste within or through the City shall be:
 1. Of such construction as to comply fully with all laws, rules and regulations of the State pertaining thereto;
 2. Maintained in a clean and sanitary condition;
 3. Uniformly painted;
 4. Include the name and phone number of the authorized collector in letters not smaller than six inches high.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.180. Collection vehicles and hauling requirements for franchised collector.

- A. The Franchised collector who conveys, handles, hauls, collects, transports, stores, transfers or processes solid waste within or through the City shall comply with the following requirements:
 1. Solid waste shall be hauled in all-metal, watertight bodied motor trucks, of sufficient strength to withstand fire within, without endangering persons or property, and to prevent spillage, leakage or escape of noxious gases.
 2. Each truck shall be equipped with covering drawn over the load as completed to full depth. Solid waste in the truck shall be completely covered between the point of collection and the point of disposal, and in a manner so that the contents do not sift through or fall upon the street and do not blow upon the street or adjacent property. Any spillage of materials shall be immediately cleaned up at the expense of the authorized collector.
 3. The trucks shall be registered with the Department of Motor Vehicles and shall be kept in good repair.
 4. In addition to the name and phone number of the authorized collector, each collection truck shall also include the truck number in letters not smaller than six inches high.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.190. Solid waste container requirements.

It shall be unlawful for any person occupying any premises within the City, or any person owning, controlling, or maintaining any premises within the City where solid waste is created, produced, or accumulated upon such premises, to fail or neglect to procure a sufficient number of authorized solid waste containers provided by the Franchised collector, as specified in this section, for receiving and holding, without spillage, leakage, or escape of solids, liquids, or noxious gases, all solid waste, except as otherwise provided in this Chapter.

A. An authorized solid waste container for residential use shall:

1. Be fully enclosed.
2. Have a tight-fitting cover with handle.
3. Have two handles adequate for lifting, one located on each side of the container.
4. Be covered continuously except when being filled or emptied.
5. Be kept in a good, usable, and sanitary condition.
6. Not exceed 50 pounds in weight when filled for removal, except when special containers are furnished or approved by the authorized collector pursuant to regulations prescribed by the City.
7. Meet all specifications as to size, capacity and type which the City may from time to time prescribe by regulation or by City Council action.

B. An authorized solid waste container for multi-family units, and non-residential establishments and industrial uses shall:

1. Meet all specifications as to size, capacity and type which the City may from time to time prescribe by regulation or by City Council action.
2. Be kept in a good, usable and sanitary condition.

C. With the permission of the respective owner, persons residing in a multi-family dwelling complex and tenants of a non-residential establishment may share in the use of containers furnished or approved by the authorized collector pursuant to regulations prescribed by the City.

(Ord. No. 1432 C.S., § I, 12/1/2021)

§ 8.16.200. Solid waste container placement.

- A. No solid waste container, other than one owned by the City, shall be placed or kept in or on any public street, sidewalk, footpath or any public place whatsoever, or remain in public view from any public right-of-way. No person shall place a container so that either the sidewalk or street gutter is obstructed.
- B. Authorized solid waste containers are permitted to be placed in public view and on a public street, sidewalk or footpath only during the 48-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at 12:01 a.m. on the day

following such pick-up.

- C. For curbside pick-up, the collection station shall be the street curb line adjacent to such premises and authorized solid waste containers shall be placed in that location by the occupant of such premises for collection by the authorized collector.
- D. The number and location of collection stations for other than curbside collection shall be determined by the occupant of such premises, provided that the location shall be easily accessible to the authorized collector.
- E. Each person who has a solid waste container shall keep the area where the container is located a clean, safe and sanitary condition.

(Ord. No. 1432 C.S., § I, 12/1/2021)

CHAPTER 8.18
SOURCE REDUCTION AND RECYCLING⁹

§ 8.18.010. Violations.

- A. Violation of any provision of this chapter may constitute an infraction, in City's discretion, and may be grounds for issuance of a Notice of Violation and, with the exception of the violation of prohibited container contaminants, assessment of an administrative citation and penalty by the City Manager or designated enforcement agency.
- B. Enforcement actions under this chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative citations and fines as contained in Chapter 1.12 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the City of Martinez, or, if agreed to, by its designated enforcement agency.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.020. Definitions.

- A. For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them by this Section:
 - 1. Act. The California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), Public Resources Code § 40000 and following as it may be amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.
 - 2. Approved recycling collection program. A recycling and organic waste collection program operated by an authorized recycler under a contract, franchise agreement, or license with the City.
 - 3. Approved recycling container. The bag, box, or other container supplied by or identified by the City or an authorized recycler as the container into which recyclable materials or organic waste shall be placed and which shall be located at the curb or other collection station.
 - 4. Authorized recycler. The City or a person authorized by a City contract or license to collect recyclable materials and organic waste.
 - 5. Authorized solid waste container. A receptacle for solid waste conforming to the specifications of this Chapter or to regulations as may from time to time be promulgated and adopted by the City pursuant to this Chapter.
 - 6. Bulky waste. Large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

9. Editor's note: Prior history: Ord. 1198, adopted in 1993; and Ord. 1272 C.S., adopted in 2000.

7. CFC-processed food packaging. Any food packaging which uses chlorofluorocarbons ("CFCs") as blowing agents in its manufacture. Chlorofluorocarbons are the family of substances containing carbon, fluorine and chlorine, having no hydrogen atoms and no double bonds.
8. City manager. The City Manager or their designee, which may include city employees.
9. Collection station. An approved location at which solid waste is placed in containers for collection by the City, the authorized collector, or an authorized recycler.
10. Commercial business or commercial. A firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or as otherwise defined in 14 CCR Section 18982(a)(6). A multi-family dwelling that consists of five or more dwelling units is "Commercial", for the purposes of this Chapter.
11. Commercial edible food generator. Tier one or tier two commercial edible food generator as defined in 14 CCR Section 18982(a)(73) and (a)(74).
12. Compost operation. A process whereby the biological decomposition of organic wastes is controlled so as to yield a safe and nuisance free product.
13. Curbside recycling collection program. The City's curbside recycling program by which recyclables are picked up from single-family residences without payment of any redemption value to the property owner.
14. Development project. Means any of the following:
 - a. A project for which a building permit is required for a commercial, industrial, or institutional building, marina, or residential building having five or more living units, where solid waste is collected and loaded and any residential project where solid waste is collected and loaded in a location serving five or more living units.
 - b. Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.
15. Designated contractor or franchised collector/recycler. An entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A designated contractor may be a City employee, government entity, the Franchised collector/recycler, a private entity, or a combination of those entities.
16. Donor. The person taking recyclables to a recycling facility or a person placing recyclable material at the curb or other recycling collection station for scheduled collection.
17. Edible food. Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12

requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

18. Enforcement action. An action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.
19. Enforcement agency. An entity with the authority to enforce part or all of this chapter as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the City. The City is an Enforcement Agency for all Sections of this chapter. City may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the County of Contra Costa.
20. Exempt waste. Biohazardous or biomedical waste, Hazardous Waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.
21. Food recovery organization. An entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - a. A food bank as defined in Section 113783 of the Health and Safety Code;
 - b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code;
 - c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
22. Food recovery service. A person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26).
23. Food waste. Food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food Waste includes, but is not limited to, meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food Waste does not include Exempt Waste.
24. Garbage. All non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the premise wherein the garbage is collected. Garbage does not include recyclable materials, organic waste, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

25. Generator. For the purpose of this Chapter, means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined as "organic waste generator" in 14 CCR Section 18982(a)(48).
26. Hazardous waste. A waste, or combination of wastes, which because of its quantity, concentration, or physical chemical, or infectious characteristics may either:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating, reversible illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
27. Inspection. A site visit where the City Manager, designated contractor, or designated enforcement agency, reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid waste or edible food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
28. Multi-family unit. A dwelling unit which includes two or more individual living units and which receives communal refuse and/or recycling services.
29. Non-residential establishment. A business, commercial, industrial and other types of premises other than single-family and multi-family residential and includes without limitation all commercial and industrial use classifications.
30. Organic waste. Solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46), or such other materials designated by City Manager. Organic waste subject to collection in the approved recycling container shall be promulgated by the City Manager.
31. Place or premises. Every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the City.
32. Plastic film. Plastic film includes plastic shopping and dry cleaning bags, and shrink wrap used to wrap pallets for shipping. This material is generally coded "4" for low density polyethylene and "2" for high density polyethylene.
33. Polystyrene plastic. A thermoplastic petrochemical material utilizing a styrene monomer and a blowing agent compound which is used to produce molded expanded or extruded polystyrene plastic foam.
34. Post-consumer recycled material. A finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item, and which is separated or collected separately from the waste stream and made available for reuse as a raw material.

35. Prohibited container contaminants means: (i) discarded materials placed in the designated recycling container that are not identified as acceptable source separated recyclable materials for the designated recycling container (ii) discarded materials placed in the designated organic waste container that are not identified as acceptable source separated organic waste for the designated organic waste container; and (iii) discarded materials placed in the garbage container that are acceptable source separated recyclable materials and/or source separated organic wastes to be placed in designated organic waste container and/or designated recycling container; and (iv) exempt waste placed in any container.
36. Recyclable material or recyclables. Refuse material generated or collected at a place or premises, and in a condition such that it can be re-manufactured or reprocessed into usable materials or new products, which includes, but is limited to, unsoiled mixed paper, glass, aluminum, cardboard, chipboard (i.e. cereal and shoe boxes), newsprint, plastic food and beverage containers (labeled #1 through #7 or as so directed by the City Manager), tin/bimetal containers, E-waste peripherals (such as keyboards, mouse, and speakers), hardcover books, rigid plastics (such as toys, buckets, trays, and crates), plastic bags, scrap metal/aluminum, used motor oil, oil filters, automotive batteries, brick, stone, wood, soil, construction and demolition debris, asphalt or concrete in reusable condition, or such other materials designated by City Manager. Recyclable materials subject to collection the approved recycling container shall be promulgated by the City Manager.
37. Recycle or recycling. The process of separating and collecting used materials which would otherwise become solid waste, for the purpose of reprocessing them to create new materials to be returned to the economic mainstream.
38. Recycling facility. A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public and includes the facilities regulated by Chapter 22.37.
39. Residential. For the purposes of this chapter, any premise consisting of between one and four dwelling units, and onsite domestic uses accessory to these dwelling units. A multi-family unit that consists of fewer than five dwelling units is "Residential", for the purposes of implementing the compliance requirements of this Chapter.
40. Retail food establishment. All sales outlets, stores, shops, restaurants, vending machines, vehicles, or other places of business located within the City which sell or convey ready-to-eat foods or beverages directly to the ultimate consumer for immediate consumption.
41. Returnable. Take-out food packaging, such as but not limited to, soft drink bottles and milk containers that are capable of being returned to the distributor or supplier for reuse as the same food or beverage container at least once.
42. Self-hauler. A person who hauls solid waste, organic waste or recovered material they have generated using their own vehicles, equipment and employees to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees, vehicles and equipment, or as otherwise defined in 14 CCR Section 189881(a)(66)(A).

43. Single-family unit. A dwelling which receives individual refuse and curbside recycling service.
44. Solid waste. Except as provided in subdivision (b):
 - a. "Solid waste" has the same meaning as defined in Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, recyclable materials, organic waste, trash, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, provided, however, that solid waste does not include recyclable material.
 - b. "Solid waste" does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Sections 25800) of Division 20 of the California Health and Safety Code.
 - c. "Solid waste" does not include medical waste which is regulated pursuant to the Medical Waste Management Act Chapter 6.1 (commencing with Sections 25015) of Division 20 of the California Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this Chapter.
45. Source separate. The process of removing recyclable materials and organic waste from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic waste, or as otherwise defined in 14 CCR Section 17402.5(b)(4).
46. Take-out food. Prepared foods or beverages requiring no further preparation to be consumed and which are normally consumed within one hour of purchase. Take-out food includes food prepared for consumption on a restaurant's premises but not entirely consumed by the purchaser, with leftovers boxed, bagged or wrapped for later consumption off premises. Take-out food does not include food packaged and sealed by a distributor or supplier prior to being received by a retail food establishment.
47. Take-out food packaging. All containers, boxes, bags, cups, lids, cans, trays, wraps, straws, utensils, and napkins provided with take-out food and beverages sold at retail food establishments.
48. Tier one commercial edible food generator. A commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a), and as amended:
 - a. Supermarkets with gross annual sales of \$2,000,000.00 or more.
 - b. Grocery store with a total facility size equal to or greater than 10,000 square feet.
 - c. Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations or others based on contractual arrangements with these types of organizations,

or as otherwise defined in 14 CCR Section 18982(a)(27).

- d. Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
 - e. Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.
49. Tier two commercial edible food generator. A commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a), and as amended:
- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - b. Hotel with an on-site food facility and 200 or more rooms.
 - c. Health facility with an on-site food facility and 100 or more beds.
 - d. Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.
 - e. Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.
 - f. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 - g. A local education agency facility with an on-site food facility as defined in 14 CCR Section 18982(a)(40).
50. Transfer or processing station. Those facilities utilized to receive refuse, temporarily store, separate, convert, or otherwise process the materials in the refuse, or to transfer the refuse directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.
- B. Unless defined above, the terms used in this Chapter shall have the same meaning as the same terms are defined in Chapter 8.16.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.030. Ownership of recyclable materials and organic waste.

- A. All recyclable materials and organic waste, upon being placed by the generator into an approved recycling container and placed at an approved collection station, shall become the property of the Franchised Collector/authorized recycler owning the recycling container, unless otherwise provided in a contract, license, or franchise agreement.
- B. Unless otherwise provided in an agreement, the City maintains the right to salvage recyclable materials placed in authorized solid waste containers for collection by the authorized collector.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.040. Rules and regulations—Appeal process.

- A. The City Manager, or his/her designated representative, may adopt such rules and regulations as may be necessary for the proper administration and enforcement of this Chapter. Such regulations may include: (1) the required frequency of collection from various types of places and premises; (2) the types of special containers required for certain classes of solid waste; (3) the types of special containers required for certain classes of places and premises; and (4) the licensing of authorized collectors and recyclers.
- B. Unless otherwise provided in an agreement, the City Manager or his/her designated representative shall resolve all disputes concerning the administration or enforcement of this Chapter. Any affected person who is dissatisfied with the determination of the City Manager may appeal the same to the City Council. Such appeal must be in writing and set forth the reasons for such appeal. The appeal must be filed with the City Clerk within ten days of the City Manager's decision and must be accompanied by the fee set by resolution of the City Council. No alleged violation of this Chapter shall be permitted, or be continued during the time any such appeal is pending.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.050. Inspections and investigations.

- A. The City Manager, the Franchisee, or a designated City contractor or designated enforcement agency is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any approved recycling container or authorized solid waste container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting approved recycling containers or authorized solid waste containers for compliance, the City Manager, designated contractor or designated enforcement agency may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.
- B. A Person subject to the requirements of this chapter shall provide or arrange for access during all inspections and shall cooperate with the City Manager, designated contractor or designated enforcement agency during such Inspections and investigations. Such

inspections and investigations may include confirmation of proper placement of materials in approved recycling container or authorized solid waste container, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties. Nothing herein shall preclude curbside container inspections for residential, multi-family dwellings and commercial units.

- C. Any records obtained by the City Manager, designated contractor or designated enforcement agency during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.060. Removal generally.

- A. All recyclable material and organic waste placed in approved recycling containers for collection shall be collected according to a schedule established by the City Manager or his/her designated representative or as provided in a license, contract, or franchise agreement between an authorized collector or an authorized recycler and the City.
- B. It shall be unlawful for any person to handle, haul, collect, transport, store, transfer, process, accumulate, or dispose of recyclable material and organic waste in such a manner as to cause a nuisance.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.070. Recycling facilities, organics processing facilities, and transfer stations.

- A. Recycling facilities and organics processing facilities must comply with all provisions in Chapter 22.37 of the Municipal Code.
- B. The City may designate one or more intermediary transfer or processing stations of its choice and direct any authorized collector, authorized recycler or self-hauler to deposit collected recyclable material, organic waste, and/or other solid waste in said facility.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.080. Mandatory duty to recycle and participate in recyclable material and organic waste collection.

- A. A mandatory obligation is imposed on each person occupying any premise to source separate and recycle all recyclable material and organic waste generated on the premise.
- B. The duty to recycle imposed herein may be discharged through the use of the City's curbside recycling collection program provided by the City's Franchised Collector/ authorized recycler, an approved recycling collection program at a non-residential establishment provided by the Franchised Collector/ authorized recycler licensed by the City, or at a recycling facility approved by the City.
- C. Generators shall arrange for a size, quantity and collection frequency of collection containers to adequately store all solid waste generated in connection with the residence or

business between the times designated for collection service. The City and Franchised Collector/authorized recycler shall have the right to review the number and size of such collection containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation and containment of materials. Generators shall adjust service levels for their collection services as requested by the City in order to meet the standards set forth in this chapter.

- D. Generators shall place source separated organic waste, as directed by the City Manager, in the designated approved recycling container; source separated recyclable material, as directed by the City Manager, in the designated approved recycling container; and garbage in the authorized solid waste container designated for garbage. Generators shall not place materials designated for the authorized solid waste container into the approved recycling containers.
- E. Generators may additionally manage their organic waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c), provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- F. Organic waste may be fed to animals on the premises where such organic waste is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the City Manager; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- G. This Chapter does not limit the right of a person to donate, sell or otherwise dispose of recyclable material and organic waste in a fashion different than that described in subsection (B) so long as the disposal otherwise complies with this Chapter.
- H. Nothing in this Chapter shall prohibit a generator from self-hauling solid waste in accordance with the requirements set forth in Section 8.18.330 in addition to subscription to solid waste collection service with the authorized collector and recycler.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.090. Collection—Residential subscription and participation.

- A. Except as otherwise provided by this Chapter, the owners or occupants of all residential generator occupied premises/units shall subscribe to the approved curbside recycling collection program and shall participate in the City's approved recycling collection program by placing source separated solid waste materials in approved recycling containers as described in Section 8.18.080, and shall not place prohibited container contaminants in approved recycling containers.
- B. The owner or occupancy of each occupied residential premise/unit shall subscribe for recycling and organic waste collection services within seven days of occupancy of the premises. If the owner occupant fails to subscribe for service, the authorized recycler shall give the owner or occupant written notification that such service is required.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.100. Collection—Commercial generator subscription and participation.

- A. Except as otherwise provided by this Chapter all non-residential establishments shall subscribe to an approved recycling collection program provided by an authorized recycler licensed by the City as herein specified, and for such service a charge may be collected as agreed upon between the generator and the authorized recycler.
- B. Each commercial generator shall be responsible for compliance with the requirements of this Section.
 - 1. Subscribe to the City's approved recycling collection program with the Franchisee/authorized collector and comply with requirements of those services, except commercial generators that meet the requirements in Section 8.18.320 of this Chapter. Each commercial generator shall subscribe to a level of service with the Franchisee/authorized collector that is sufficient to handle the volume of garbage, recyclable materials and organic waste generated or accumulated on the premises. Additionally, each commercial generator shall ensure the proper separation of solid waste, as established by the City Manager, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper source separation of solid waste.
 - 2. Supply and allow access to adequate number, size and location of approved recycling, organic waste, and garbage containers with sufficient labels or colors (conforming with requirements of this Chapter) for employees, contractors, tenants, and customers, consistent with the City's collection service.
 - 3. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper source separation of solid waste.
 - 4. Provide educational information before, or within, 14 days of occupation of the premises to new tenants that describes requirements to keep source separated organic waste and source separated recyclable materials separate from garbage (when applicable) and the location of approved recycling containers and authorized solid waste containers and the rules governing their use at each property.
 - 5. Accommodate and cooperate with the Franchisee/authorized collector's monitoring program for inspection of the contents of approved recycling containers for prohibited container contaminants, to evaluate generator's compliance.
 - 6. If a commercial generator self-hauls, the commercial generator shall meet the self-haul requirements set forth in Section 8.18.330 of this Chapter.
- C. Commercial generators, excluding multi-family dwellings consisting of five or more dwelling units, shall comply with the following requirements.
 - 1. Provide containers for the collection of source separated organic waste and source separated recyclable materials in all areas where garbage disposal containers are provided for customers, for materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of collection container in all areas where disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the collection containers shall have either:

- a. A body or lid that is gray or black for collection of garbage, blue for collection of recyclable materials, and green for collection of organic waste. A commercial generator is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
2. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing solid waste materials in a container not designated for those materials per the approved recycling collection program.
 3. Periodically inspect approved recycling containers and authorized solid waste containers for contamination and inform employees if containers are contaminated and of the requirements to keep prohibited container contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
 4. Commercial generators that are commercial edible food generators, as defined in Section 8.18.020, shall comply with commercial edible food generator requirements, pursuant to Section 8.18.340.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.110. Failure to pay authorized recycler.

It is unlawful for any person subscribing to an approved recycling program as provided in this Chapter to willfully fail, neglect, or refuse to pay to the authorized recycler the rate provided by resolution of the City Council, by ordinance (if required by law), by an agreement between the City and the authorized recycler, or as determined through an agreement between the generator and the authorized recycler.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.120. Collection billing.

An authorized recycler is responsible for the collection of any recycling fee on behalf of the City and the authorized recycler. An authorized recycler may bill its customers in advance of service, but in no case more than two months in advance of service.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.130. Collection schedule.

- A. Collection of recyclables through an approved recycling collection program may occur six days per week, excluding Sundays, between the hours of 6:00 a.m. and 7:00 p.m. in residential and commercial districts, and in industrial districts by hours approved by the City Manager or his/her designated representative.
- B. The City's approved curbside recycling collection program will not be operated on legal

holidays as approved by the City. The authorized recycler shall be required to provide collection during the week of the holiday and shall be required to provide customers with advance notice of any change to scheduling.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.140. Recycling licensing requirements.

- A. Unless otherwise provided in this Chapter, no one other than the Franchised Collector/ authorized recycler shall collect and transport recyclables.
- B. The Franchised Collector/ authorized recycler shall obtain a current license from, or enter into a contract, or Franchise Agreement with the City, as determined by the City Council, authorizing the recycler to handle, haul, collect, transport, store, transfer, process, or market recyclable material and organic waste within the City, except as otherwise provided by state or federal law. Such license, contract, or franchise agreement may be revoked by the City Council for noncompliance with the provisions of said license, contract, or franchise agreement or for violations of the provisions of this Chapter or any pertinent federal, state or local law. The terms and conditions under which an authorized recycler is required to operate shall be specified in the applicable license, contract, and/or franchise, and shall be administered by the City Manager or his/her designated representative. The fees and rates, if any, for such collection and processing and marketing operations shall be established by resolution of the City Council, by ordinance (if required by law) or by agreement with the City.
- C. The City's Franchised collector/authorized recycler providing residential, commercial, or industrial organic waste collection services to generators within the City's boundaries, meets the following for collection of organic waste:
 - 1. Through written notice to the City annually on or before January 1, 2022, identify the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated organic waste.
 - 2. Transport source separated recyclable materials and source separated organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - 3. Obtain approval from the City to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR Section 18989.1.
 - 4. It shall be unlawful for any person to handle, haul, collect, transport, store, transfer, process, or market recyclable material and organic waste within the City, except as otherwise provided in this Chapter or, in the case of an emergency, as authorized the City Council.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.150. Nonprofit organization recycling fund raising permits.

- A. A recycling fund raising permit shall be required for any nonprofit organization wishing to collect and haul recyclable materials. Such permit shall be obtained from the City Manager or his/her designee and shall be granted only if the following conditions have been, or will

be, complied with:

1. Only recyclable materials shall be collected and hauled.
2. Collection schedule shall not conflict with collection by authorized solid waste collectors and authorized recyclers.
3. Such recycling activities shall be incidental to the main purpose of the nonprofit organization.
4. Reporting information on categories and volume of recyclable materials collected shall be provided to the City as prescribed by the City.
5. The organization demonstrates to the City Manager or his/her designee that the organization is nonprofit.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.160. Exceptions to licensing and franchising requirements.

A. No license, franchise or contract shall be required for a person or business:

1. Handling, hauling, or transporting recyclable materials from his/her own residence or business for purposes of recycling of same at an authorized recycling facility or transfer station, provided, however, that the person or business is not engaged in the business of handling, hauling, collecting, transporting, storing, transferring or processing of solid waste.
2. Transporting recyclable materials over the streets of the City, where all of such recyclable materials so transported originates or originated: (a) outside the limits of the City; or (b) from a landscape maintenance work site and is being transported to another location outside the City or to an authorized disposal area, compost operation, or transfer station.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.170. Interference with authorized recyclers prohibited.

It shall be unlawful for any person in any manner to interfere with the handling, hauling, collecting, transporting, storing, transferring or processing of recyclable materials by an authorized recycler.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.180. Unauthorized collection prohibited.

Commencing at 12:01 a.m. on the day preceding the day designated for collection of recyclable materials, no other person other than the generator or the authorized recycler shall remove recyclable material which has been placed in an approved recycling container at a designated recycling collection station. Each unauthorized collection from one or more designated recycling collection stations shall constitute a separate and distinct offense punishable as provided in this Chapter.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.190. Civil action by authorized recycler.

This Chapter does not limit the right of an authorized recycler to bring a civil action against a person who violates Section 8.18.180A criminal conviction for such violation does not exempt a person from a civil action brought by an authorized recycler.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.200. Requirements generally for vehicles, conveyances, and containers.

A. Except for vehicles, conveyances, and containers used by persons described in Sections 8.18.170 and 8.18.180, all vehicles, conveyances or containers used for handling, hauling, collecting, transporting, storing, transferring or processing recyclables within or through the City shall be:

1. Of such construction as to comply fully with all laws, rules and regulations of the State pertaining thereto.
2. Maintained in a clean and sanitary condition.
3. Uniformly painted.
4. Include the name and phone number of the authorized recycler in letters not smaller than six inches high.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.210. Collection vehicles and hauling requirements for authorized recyclers.

A. Except for vehicles used by persons described in Sections 8.18.170 and 8.18.180, the Franchised Collector/ authorized recycler who conveys, handles, hauls, collects, transports, stores, transfers or processes recyclables within or through the City shall comply with the following requirements:

1. Recyclables shall be hauled in all-metal, watertight bodied motor trucks, of sufficient strength to withstand fire within, without endangering persons or property, and to prevent spillage, leakage or escape of noxious gases.
2. Each truck shall be equipped with covering drawn over the load as completed to full depth. Recyclables in the truck shall be contained in a manner so that the contents do not sift through or fall upon the street and do not blow upon the street or adjacent property. Any spillage of materials shall be immediately cleaned up at the expense of the authorized recycler.
3. The trucks shall be registered with the Department of Motor Vehicles and shall be kept in good repair.
4. In addition to the name and phone number of the authorized recycler, each collection truck shall also include the truck number in letters not smaller than six inches high.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.220. Requirements for food recovery organizations and services.

A. Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section

18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

1. The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
 3. The quantity in pounds of edible food transported to each food recovery organization per month.
 4. The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.
- B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
 2. The quantity in pounds of edible food received from each commercial edible food generator per month.
 3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- C. Food recovery organizations and food recovery services that have their primary address physically located in the City and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the City it is located in the total pounds of edible food recovered in the previous calendar year from the commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
- D. In order to support edible food recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the City and its commercial edible food generators. A food recovery service or food recovery organization contacted by the City shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the City.
- (Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.230. Recycling container placement.

- A. No recycling container, other than one owned by the City, shall be placed or kept in or on any public street, sidewalk, footpath or any public place whatsoever, or remain in public view from any public right-of-way except as herein provided. No person shall place a container so that either the sidewalk or street gutter is obstructed.

- B. Approved recycling containers are permitted to be placed in public view and on a public street, sidewalk or footpath only during the 48-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at 12:01 a.m. on the day following such pick-up.
- C. For curbside pick-up, the collection station shall be the street curb line adjacent to such premises, and approved recycling containers shall be placed in the location by the occupant of such premises for collection by the authorized recycler.
- D. The owners of multi-family residential complexes and other non-residential establishments which receive communal refuse and recycling services shall provide and maintain space within or adjacent to each trash enclosure, or adjacent to each dumpster or other trash container for placement of sufficient approved recycling containers.
- E. Each person who has an approved recycling container shall keep the area where the container is located in a clean, safe and sanitary condition.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.240. Recycling collection site plan required—Existing structures.

- A. Each owner of a multi-family residential complex and other non-residential establishments shall ensure that a recycling collection site Plan is submitted to the City Manager or his/her designee. The Plan shall:
 - 1. Include a waste audit on a form to be prescribed by the City which shall identify the categories and volume of recyclables generated on the property.
 - 2. Designate space on the property to be used for collection of all recyclable material and organic waste generated on the property.
 - 3. Identify the means of recycling to be used by the property, such as reverse vending machines, off-site collection facilities, mobile recycling units, on-site or off-site processing facilities.
 - 4. Identify the means and frequency of any off-site transport of recyclables.
 - 5. Identify the contact person responsible for coordinating the recycling collection site plan.
- B. The first Plan shall be submitted to the City by January 1, 1994, and thereafter upon reasonable notice by the City.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.250. Recycling collection site plan required—New development projects.

- A. On or after September 1, 1993, in addition to the requirements of Section 8.18.250, any new development project and/or any project for which an application for a building permit is submitted for modifications that meet one or both of the conditions below shall also meet all the requirements of Section 8.18.252:
 - 1. Modification to the project adds 30 percent or more to the existing floor area, or
 - 2. The price of modification exceeds ten percent of the then current assessed value of

the subject parcel.
(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.252. Recycling collection site plan design standards—New development projects.

- A. The design and construction of the recycling area(s) shall be compatible with surrounding land uses and shall be located so they are at least as convenient as the location where solid waste is collected. Areas for collecting and loading recyclable material and organic waste should be adjacent to the solid waste collection area(s) and shall be adequate in capacity, number, and distribution to serve the development project.
- B. Dimensions of the recycling area shall accommodate an adequate number of containers consistent with current methods of collection and loading of recyclable material and organic waste generated by the development project.
- C. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of access to the recycling area(s).
- D. Driveways or travel aisles shall provide unobstructed access for collection vehicles and personnel and provide at least minimum clearance required by the collection methods and vehicles utilized by the authorized recycler in the area in which the development project exists.
- E. Residential developers and property owners are encouraged to include recycling areas or systems within the residence; such as roll-out drawers below the sink for recycling receptacles; fireproof, cleanable, secure chutes from the living space to the space for collecting and loading recyclable material and organic waste, etc. The recommended internal storage space for recyclables for individual living units of residential development projects is three cubic feet.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.260. Recycling collection site plan approval.

- A. The City Manager or his/her designee shall approve the Plan for conformance to the requirements and intent of this Chapter and consistency with provisions of the Municipal Code.
- B. The applicant shall be notified in writing of the action taken by the City Manager. Each Plan submitted under 8.18.260 must be fully implemented within three months after the approval date and/or in the case of new development projects within three months from receiving occupancy permit.
- C. If the Plan is denied, the applicant must resubmit a revised Plan within one month after the denial date.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.270. Food packaging voluntary phase out period.

The City encourages the immediate, voluntary phase out of take-out food packaging sold or offered at retail food establishments within the City, that is neither returnable, nor made with a significant amount of post-consumer recycled material.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.280. Returnable and recyclable food packaging.

- A. On and after January 1, 1995 at least 25 percent by volume of each retail food establishment's packaging in which take-out food is sold or provided to customers or which is kept, purchased or obtained for this purpose, shall be returnable or recyclable.
- B. On and after January 1, 1997 at least 50 percent by volume of each retail food establishment's packaging in which take-out food is sold or provided to customers or which is kept, purchased or obtained for this purpose, shall be returnable or recyclable.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.290. Prohibited food packaging.

On and after January 1, 1995 no retail food establishment shall purchase, obtain, keep, sell, distribute or otherwise use in its business any polystyrene CFC-processed take-out food packaging.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.300. Retail food establishment reporting requirements.

- A. On and after January 1, 1995, a retail food establishment shall maintain a written statement from the take-out food packaging supplier or manufacturer specifying:
 - 1. The identity of the packaging's manufacturer.
 - 2. Whether the packaging is returnable.
 - 3. Whether the packaging is recyclable.
 - 4. The minimum amount of post-consumer recycled material in the packaging material.
 - 5. That the packaging is not CFC-processed.The written statement shall be made available to any person upon request.
- B. It shall be unlawful for any food packaging manufacturer or retail food establishment to make any misstatement of material fact to the City Manager or his/her designee regarding the returnable or recyclable nature of the packaging material or the use or non-use of CFCs in the manufacture of the packaging material.
- C. A retail food establishment shall maintain written records evidencing its compliance with this Chapter.
- D. A retail food establishment shall confirm its compliance with this ordinance on its annual business license renewal form.
- E. All statements and documents required by this Chapter shall be made available for inspection by the City Manager or his/her designee.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.310. Food packaging exemptions.

Except as provided in Section 8.18.290, the City Manager or designee may exempt a retail food establishment or a take-out food packaging material from the provisions of this Chapter for a one-year period, renewable annually, upon proper written application and a showing of undue hardship or a showing that no appropriate substitute take-out food packaging is available. Such application shall include a list of all food packaging suppliers or manufacturers contacted regarding the availability of substitute take-out food packaging.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.320. Waivers.

- A. Pursuant to 14 CCR Section 18984.11, the City may grant waivers to generators. Generators seeking a waiver shall submit their request in a form specified by the City Manager or designated contractor. After reviewing the waiver request, and after an on-site review, if applicable, the City Manager may either approve or deny the following waiver requests.
1. De Minimis Waivers: The City may waive a commercial business' obligation to comply with some or all the requirements of Section 8.18.080 and Section 8.18.100 if the commercial business meets the following requirements:
 - a. Submit an application specifying the type of waiver requested and provide documentation as described below.
 - b. Provide documentation that either:
 - i. The commercial business receives two or more cubic yards of weekly solid waste collection service, as defined in (iii), and disposed organic waste subject to collection comprises less than 20 gallons per week of the business' total weekly solid waste volume; or
 - ii. The commercial business receives less than two cubic yards of weekly solid waste collection service, as defined in (iii), and disposed organic waste subject to collection comprises less than ten gallons per week of the business' total weekly solid waste volume.
 - iii. For the purposes of subsections (i) and (ii) above, weekly solid waste collection service shall be the sum of weekly volume of the authorized solid waste container designated for garbage, volume of approved recycling container for recyclable material and volume of approved recycling container for organic waste, measured in cubic yards.
 - c. Notify the City Manager or designated contractor if circumstances change such that volume of commercial business' organic waste disposed exceeds threshold required for waiver, in which case waiver will be rescinded.
 - d. Provide written verification of eligibility for de minimis waiver every five years if the City Manager has approved de minimis waiver.
 2. Physical Space Waivers: The City Manager may waive a generator's obligations to comply with some or all of the approved recycling collection program requirements if the City Manager has evidence from its own staff, authorized recycler, licensed

architect, or licensed engineer demonstrating that the premises lacks adequate space for the approved recycling containers required for compliance. A generator may request a physical space waiver through the following process:

- a. Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from the approved recycling collection program.
- b. Provide documentation that the premises lacks adequate space for the approved recycling container(s) including documentation from its authorized recycler, licensed architect, or licensed engineer.
- c. Provide written verification to the City Manager that it is still eligible for physical space waiver every five years if the City Manager has approved application for a physical space waiver.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.330. Self-haul requirements.

- A. Self-haulers, including landscapers and back-haulers, must source separate and transport organic waste to a solid waste disposal area, transfer or processing station authorized to process or recover source separated organic waste in a manner consistent with 14 CCR Sections 18984.1 or 18984.2
- B. Self-haulers, including back-haulers, must source separate and transport recyclable materials to a facility that is authorized to process or recover those materials.
- C. Self-haulers that are commercial businesses shall keep a record of the amount of organic waste delivered to each solid waste disposal area, transfer or processing station that is authorized to process or recover organic waste; this record shall be subject to inspection by the City. The records shall include the following information:
 1. Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.
 2. The amount of material in cubic yards or tons transported by the generator to each entity.

(Ord. No. 1432 C.S., § II, 12/1/2021)

§ 8.18.340. Commercial edible food generator requirements.

- A. Tier one commercial edible food generators must comply with the requirements of this section January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.
- C. Commercial edible food generators shall comply with the following requirements:

1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 2. Contract with or enter into a written agreement with food recovery organization or food recovery service for: (a) the collection of edible food for food recovery; or (b) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
 3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
 4. Allow the City's designated contractor or designated enforcement agency to access the premises and review records pursuant to 14 CCR Section 18991.4.
 5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each food recovery service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those food recovery services or food recovery organization:
 - i. The name, address and contact information of the food recovery services or food recovery organization.
 - ii. The types of food that will be collected by or self-hauled to the food recovery services or food recovery organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery services or food recovery organization for food recovery.
- D. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).
- (Ord. No. 1432 C.S., § II, 12/1/2021)

CHAPTER 8.19
RECYCLING OF CONSTRUCTION AND DEMOLITION DEBRIS

§ 8.19.010. Findings.

The Martinez City Council finds the following:

- A. The State of California through its California Waste Management Act of 1989, Assembly Bill 939 ("AB 939"), requires that each local jurisdiction in the state divert 50 percent of discarded materials from landfills.
- B. In compliance with AB 939, the City Council adopted the City of Martinez Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE) in 1993.
- C. Reuse and recycling of Construction and Demolition (C&D) debris is essential to reduce waste and comply with AB 939 since construction and demolition debris make up approximately 19 percent of the City's waste stream and approximately 30 percent of the statewide waste stream.
- D. Except in unusual circumstances, it is feasible to divert at least 65 percent of all construction and demolition debris from construction, demolition, and renovation projects, as established by the California Green Building Standards Code ("CalGreen"). This diversion percentage shall automatically adjust with any changes stipulated by CalGreen.
- E. The City of Martinez joined other cities in Contra Costa County and the California Integrated Waste Management Board (CIWMB), now known as the California Department of Resources, Recycling, and Recovery (CalRecycle), in adopting an ordinance in 2006 that required construction, demolition and renovation projects to recycle and divert construction and demolition debris from landfill disposal.
- F. The passage of the revised CalGreen Building Code requires that all new construction projects be subject to the 65 percent recycling requirements, and shall automatically adjust with any changes stipulated by CalGreen.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.020. Definitions.

For the purposes of this Chapter, the following definitions shall apply:

- A. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits or approvals to undertake construction, demolition or renovation projects within the City.
- B. "AB 939" shall mean the California Integrated Waste Management Act of 1989, as it may be amended from time to time.
- C. "Construction" means the building or improvement of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

- D. "Construction and demolition debris" ("C&D debris") means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair or demolition operations on any pavement, residential or commercial building or other structure.
- E. "Conversion factor" means the value set forth in the standardized volume-to-weight conversion table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan (WMP).
- F. "Covered project" means projects that shall be subject to the requirements of this Chapter.
- G. "Deconstruction" means the process of carefully dismantling a building or structure in order to salvage components for reuse or recycling.
- H. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- I. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.
- J. "Diversion requirement" means diversion from the waste stream of at least 65 percent (or other percentage as stipulated by CalGreen) of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption pursuant to Section 8.19.070, in which case the diversion requirement shall be the maximum feasible diversion rate established by the WMP compliance official for the project.
- K. "Non-covered project" shall have the meaning set forth in Section 8.19.040(B) of this Chapter.
- L. "Project" means any activity, which requires an application for a building, grading or demolition permit, or any similar permit from the City.
- M. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.
- N. "Renovation" means any change, addition, or modification in an existing structure.
- O. "Reuse" means further or repeated use of construction or demolition debris.
- P. "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse or storage for later recycling or reuse.
- Q. "Solid waste" shall have the same meaning as provided in the City's Municipal Code, and shall exclude recyclables placed in an approved recycling container.
- R. "Total costs" means the total construction value of the project using standard commercial and residential valuation formulas.
- S. "Waste management plan" ("WMP") means a completed WMP form, approved by the City

for the purpose of compliance with this Chapter, submitted by the applicant for any covered project. The WMP shall identify anticipated C&D debris materials that will be generated for disposal and recycling. The WMP will record actual material weight or volume and disposal and recycling receipts.

T. "WMP compliance official" ("official") means the designated City employee(s) authorized and responsible for implementing this Chapter.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.030. Diversion requirement.

The applicant for a covered project, as defined below, shall divert at least 65 percent (or other percentage as stipulated by CalGreen) of construction and demolition debris unless the applicant is granted an infeasibility exemption.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.040. Threshold for covered projects.

A. Covered projects. Every construction, demolition or renovation project within the City of Martinez and locally permitted additions and alterations to non-residential and residential buildings or structures shall be considered a covered project and shall comply with the diversion requirement and with the other requirements of this Chapter. For the purposes of determining whether a project meets the foregoing thresholds for a covered project, all phases of the project and all related projects taking place on a single or adjoining parcel shall be deemed a single project.

B. Non-covered projects. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by a public safety official or code compliance officer shall be considered a non-covered project. Projects eligible for an exemption as described in the (CalGreen) Mandatory Residential and Non-Residential Measures shall be considered "non-covered."

C. Public projects of the city. All construction, demolition and renovation projects undertaken by the City of Martinez shall be considered covered projects for the purposes of this Chapter. The project sponsor shall submit a WMP to the official prior to beginning any construction or demolition activities.

D. Building and demolition permits. Compliance with the provisions of this Chapter shall be identified as a condition of approval on any building or demolition permit issued for a covered project.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.050. Submission of the Waste Management Plan (WMP).

A. WMP form. All applicants for covered projects shall complete and submit a WMP in accordance with a City-approved format (paper form or online system) as part of the application requirements for a building, grading or demolition permit. The completed WMP shall include all of the following:

1. Identification of C&D debris material to be generated by the project and be diverted from disposal by recycling, reuse, or salvage;
 2. For each type of C&D debris material, declare whether the disposal method will be "recycle," "salvage" or "landfill;"
 3. For each type of C&D debris material which will be diverted, identification of the vendor or facility that will collect or receive the material and identify the approved or certified diversion rate achieved by that vendor or facility;
 4. Specify that the amount of construction and demolition waste materials diverted shall be calculated by weight or volume, but not by both.
- B. Deconstruction and material salvage. In preparing the WMP, applicants for building or demolition permits involving the removal of all or part of an existing structure shall consider deconstruction to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to being transported for disposal to a recycling center, transformation facility, or landfill.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.060. Diversion security deposit required.

Each applicant of a covered project involving structures of at least 1,000 square feet or estimated construction costs of at least \$200,000.00 shall submit as part of the WMP a diversion security deposit, in cash or by irrevocable letter of credit, in the amount of one percent of the total costs for the project or \$500.00, whichever is greater. The deposit shall be returned, without interest, in total or in proportion, upon the WMP compliance official's determination, in accordance with Section 8.19.090 that the applicant has satisfied, or failed to satisfy, the diversion requirement approved as part of the WMP. For the purposes of this Section, the value of projects shall be as determined by the City's Building Official or designee in connection with permit issuance. The valuation and square footage thresholds established by this Section may be adjusted every five years by the City Manager or his/her designee, beginning in the year 2020, to reflect an increase or decrease in the cost of construction due to inflation or deflation, or other changes in the local construction marketplace.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.070. Infeasibility exemption.

- A. Application. If an applicant for a covered project believes that circumstances exist which make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the WMP as required by Section 8.19.050 of this Chapter. The applicant shall state on the WMP form the maximum rate of diversion the applicant believes is feasible for each type of C&D debris material and the specific circumstances why the applicant believes it is infeasible to comply with the diversion requirement.
- B. WMP compliance official review. The WMP compliance official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement. Based on the information supplied by the

applicant, the official shall determine whether it is possible for the applicant to meet the diversion requirement.

- C. Granting the exemption. If the WMP compliance official determines that it is infeasible for the applicant to meet the diversion requirement, the official shall put the reasons for this determination in writing based on the criteria contained in paragraph E below. The WMP compliance official shall determine the maximum feasible diversion rate for each C&D debris material and shall indicate this rate on the WMP application submitted by the applicant. The official shall then determine the diversion rate which will be applicable for the project. The official shall return a copy of the WMP application to the applicant marked "approved for infeasibility exemption" and shall notify the building department that the WMP has been approved, given that applicant has posted the required diversion security deposit.
- D. Denial of exemption. If the WMP compliance official determines that it is possible for the applicant to meet the 65 percent (or other percentage as stipulated by CalGreen) diversion requirement specified in Section 8.19.030, the official shall state the reasons therefore in writing based on the criteria contained in paragraph E below. The applicant shall have 30 days to resubmit a WMP application that complies with Section 8.19.050. If the applicant fails to resubmit the WMP, or if the resubmitted WMP does not satisfy the requirements of Section 8.19.080(B), the official shall deny the WMP in accordance with Section 8.19.080(D).
- E. Criteria. In determining whether to approve or deny an application for an exemption from the diversion requirement, the WMP compliance official shall base his or her written determination on the following criteria.
 - 1. The presence or absence of exceptional or extraordinary circumstances or conditions applicable to the project that do not apply to similar projects.
 - 2. A determination of whether the granting the exemption constitutes a grant of special privilege inconsistent with the limitations imposed on like projects.
 - 3. In determining whether to approve or deny an application for an exemption, the cost to the applicant of satisfying the diversion requirement shall not be the primary reason for granting an exemption although cost may be a factor in the official's determination of whether there are exceptional or extraordinary circumstances or conditions applicable to the project.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.080. Review of the Waste Management Plan (WMP).

- A. WMP approval required for issuance of construction permits. No building or demolition permit shall be issued or approved for any covered project unless and until the WMP has been approved.
- B. WMP approval. A WMP shall be approved only if the official determines that the following conditions have been satisfied:
 - 1. The WMP form submitted by the applicant satisfies all of the requirements specified in Section 8.19.050 and the official has determined that the form is complete.

2. The applicant demonstrates to the WMP compliance official's satisfaction that at least 65 percent (or other percentage as stipulated by CalGreen) of the C&D debris for the covered project, or an alternative percentage approved by the official as part of the infeasibility exemption, will be diverted. WMP compliance official may request additional documentation of diversion or reuse as applicable as a part of this review.
 3. The applicant has posted the required diversion security deposit (if applicable).
- C. Notification to applicant and building official. If the official determines that these conditions have been met, the official shall approve the WMP application, issue a copy of the approved application to the applicant and notify the City building official that the WMP application has been approved.
- D. Disapproval. If the WMP compliance official determines that the WMP application is incomplete, fails to include the required diversion security deposit, or fails to demonstrate compliance with the diversion requirement, the official shall either:
1. Return the WMP application form to the applicant marked "denied," and include a written statement of the reasons for the disapproval; or
 2. Return the WMP application form to the applicant with the WMP marked "further explanation required" and include written instructions for providing the necessary explanation.
- E. Notification to building official if WMP disapproved. If the WMP application is disapproved by the WMP compliance official in either manner specified in Section 8.19.080(D), the official shall so notify the City building official who shall immediately stop processing the building or demolition permit for the project.
- (Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.090. Determination of compliance and release of diversion security deposit.

- A. WMP final submission. Within 30 days after the completion of construction for any covered project, the applicant shall submit to the WMP compliance official documentation that the applicant has met the diversion requirement for the project. This documentation shall include the following:
1. A copy of the previously approved WMP for the project with actual material volume or weight generated by the project; and
 2. Receipts and/or disposal weight records from both disposal and recycling facilities and/or vendors that received each material showing whether the material was landfilled or recycled; and
 3. Any additional information that the applicant believes is relevant to determining its efforts to comply in good faith with this Chapter;
 4. Any additional information requested by the [WMP] compliance official that is relevant to determining efforts to comply in good faith with this Chapter.
- B. Weighing of C&D debris materials. Applicants shall make reasonable efforts to ensure that all C&D waste diverted or landfilled is measured and recorded using the most accurate

method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical due to small size or to other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates provided by the City for this purpose.

- C. Determination of compliance. The WMP compliance official shall review the information submitted by the applicant and determine whether the applicant has complied with the diversion requirement.
- D. Full compliance. If the official determines that the applicant has fully complied with the diversion requirement applicable to project, as contained in the approved WMP, the official shall release the full diversion security deposit to the applicant.
- E. Less than full compliance. If the WMP compliance official finds that the applicant has not satisfied the diversion requirement for the project, the official shall calculate the applicant's percentage rate of compliance. The official shall then determine whether the applicant has made a good faith effort to comply with the diversion requirement. In making this determination, the official shall consider the availability of markets for the C&D debris, the size of the project and the documented efforts of the applicant to divert the C&D debris. The official shall then authorize the release of some or all of the deposit to the applicant. At a minimum, the applicant shall be entitled to a release of that portion of the diversion security deposit, which equals the applicant's percentage rate of compliance. Therefore, if the applicant has achieved 60 percent of the diversion requirement for the project, the official shall release at least 60 percent of the diversion security deposit. The official shall furnish the applicant in writing with the method by which the official calculated the applicant's percentage of compliance and the reasons for the official's determination of the amount of the deposit to be released to the applicant.
- F. Failure to submit documentation. If the applicant fails to submit the documentation required by Section 8.19.090(A) within the required time period of 30 days after the completion of a covered project, the entire diversion security deposit shall be deemed forfeited. The official shall inform the applicant in writing of the forfeiture of the deposit for failure to timely submit the required documentation. If the documentation is submitted after the required time period, but before the City has informed the applicant in writing, the official shall evaluate whether the applicant has complied with the diversion requirement for the project. However, ten percent of the deposit shall be deemed forfeited to the City because of the applicant's failure to submit the required documentation within the required time period.
- G. Withdrawal of building or demolition permit application. The WMP compliance official shall authorize the refund of the entire diversion security deposit if the building or demolition permit is withdrawn or cancelled before any work begins.
- H. Use of retained diversion security deposits. All diversion security deposit monies retained by the City shall be used only for the purpose of administering the program established through this Chapter or for the purpose of promoting recycling within the City.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.100. Appeals.

- A. Appeal to the City Manager or the City Manager's Designee. An applicant shall have the right to appeal any decision or determination of the WMP compliance official to the City Manager or the City Manager's designee. The applicant must file a notice of appeal within ten calendar days from the date of the official's decision or determination. The notice of appeal shall state the reasons for the appeal as well as all of the evidence and legal arguments upon which the applicant bases the appeal. The appeal must also be accompanied by the appeal fee established by resolution of the City Council. The City Manager or the City Manager's designee shall schedule the appeal for a hearing and provide the applicant at least five days' written notice of the time and place of the hearing. Within 30 days of the conclusion of the hearing, the City Manager or the City Manager's designee shall inform the applicant in writing whether the decision or determination of the WMP compliance official shall be affirmed, denied or modified. The written determination by the City Manager or the City Manager's designee shall include the reasons for the determination.
- B. Appeal to the City Council. The applicant may appeal the determination of the City Manager or the City Manager's designee to the City Council by filing a written notice of appeal with the City Clerk within ten days from the date of the City Manager's or the City Manager's designee's written determination. The notice of appeal shall be accompanied by the appeal fee established by City Council resolution. The notice of appeal shall also include all evidence and legal arguments which the applicant wishes the City Council and any reviewing court to consider. The City Clerk shall cause the appeal to be set for hearing before the City Council. The City Clerk shall provide the applicant with no less than ten days' written notice of the time and place of the hearing. The written determination of the City Council at the conclusion of the hearing shall be final.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.110. Administrative fee.

As a condition precedent to the issuance of any building or demolition permit for a covered project, the applicant shall pay the City a fee, established by resolution of the City Council and equivalent to one "pre-work or site inspection" staff hour per the city's staff cost rate table, to compensate the City for staffing expenses incurred in administering this Article.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

§ 8.19.120. Enforcement.

- A. Public nuisance. Violation of any provision of this Chapter shall constitute a public nuisance and be subject to abatement pursuant to the provisions of Chapter 1.13 of this Code.
- B. Civil action. Violation of any provision of this Chapter may also be enforced by any means available to the City, including, but not limited to, an action for injunctive relief. In any civil action, administrative or judicial, the City shall be entitled to recover its attorney fees and costs from the defendant if it is determined that defendant violated this Chapter.
- C. Misdemeanor. Violation of any provision of this Chapter shall constitute a misdemeanor

punishable by a fine of not more than \$1,000.00 or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment.

(Ord. 1325 C.S., § 1, 2006; Ord. No. 1376 C.S., § 1, 1/22/2014; Ord. No. 1428 C.S., § 1, 2/19/2020)

CHAPTER 8.20
JUNKED OR ABANDONED VEHICLES

§ 8.20.010. Abatement—Authority—Findings—Definitions.

- A. In addition to and in accordance with the determination made and the authority granted by the State under Sections 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the legislative body of the City makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property not including highways, creates a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, constitutes a public nuisance which may be abated as such in accordance with the provisions of this Chapter.

- B. As used in this Chapter:

1. "Highway" means a way or place of whatever nature, publicly maintained and opened to the use of the public for purposes of vehicular travel. Highway includes street.
2. "Public property" does not include "highway."
3. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.
4. "Inoperative vehicle" includes a mobile home not currently being used legally as a residence under the provisions of Chapter 22.25 of this Code.

- C. No person shall permit the presence of or park an abandoned, wrecked, dismantled, or inoperative vehicle or part thereof on private or public property, including highways, except as expressly hereinafter permitted.

(Prior code § 3519; Ord. 1119 C.S. § II, 1988; Ord. 1137 C.S. § I, 1989; Ord. 1140 C.S. § I, 1989)

§ 8.20.020. Exceptions to chapter.

- A. The following are exceptions to this Chapter:

1. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
2. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

- B. Nothing in this Section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Sections 22650 et seq. of the Vehicle Code and the ordinance codified in this Chapter.
(Prior code § 3520)

§ 8.20.030. Chapter not exclusive regulation.

This Chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City or the State, or any other legal entity or agency having jurisdiction.
(Prior code § 3521)

§ 8.20.040. Enforcement—Right of entry—Removal—Administrative cost assessment.

- A. Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Chief. In the enforcement of this Chapter, such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle declared to be a nuisance pursuant to this Chapter.
- B. When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Chapter.
- C. The City Council shall from time to time, determine and fix an amount to be assessed as administrative costs excluding the actual cost of removal of any vehicle or part thereof under this Chapter.
(Prior code § 3522)

§ 8.20.045. Abatement—Authority.

Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private property or public property within the City, the Chief of Police or his designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this Chapter.
(Ord. 1119 C.S. § III, 1988)

§ 8.20.050. Abatement—Notices.

A ten (10) day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified mail, return receipt requested, to the owner of the land and to the owner of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following form:

NOTICE OF INTENTION TO ABATE AND REMOVE
AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE
OR PARTS THEREOF AS A PUBLIC NUISANCE

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned, pursuant to Sections 8.20.045 of the Martinez Municipal Code, has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of Sections 8.20.010 of the Martinez Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle or said parts of a vehicle within ten (10) days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle or said parts of a vehicle is or are located.

As owner of the land on which said vehicle or said parts of a vehicle is or are located, you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Chief of Police within such ten (10) day period, the Chief of Police or his designee shall have the authority to abate and remove said vehicle or said parts of a vehicle as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of said vehicle or said parts of a vehicle on said land, with your reason for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed _____ /s/ _____
(date) (Chief of Police)

NOTICE OF INTENTION TO ABATE AND REMOVE AN
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered
and/or legal owner of record of vehicle
— notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle—make, model, license, etc.), the undersigned, pursuant to Sections 8.20.045 of the Martinez Municipal Code, has determined that said vehicle or parts of a vehicle exist(s) as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitute(s) a public nuisance pursuant to the provisions of Sections 8.20.010 of the Martinez Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle, or said parts of a vehicle, within ten (10) days from the date of mailing of this Notice.

As registered (and/or legal) owner of record of said vehicle or said parts of a vehicle, you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Chief of Police within such ten (10) day period, the Chief of Police or his designee shall have the authority to abate and remove said vehicle or said parts of a vehicle without a hearing.

Notice Mailed _____ /s/ _____
(date) (Chief of Police)

If any of the foregoing notices are returned undelivered, a hearing shall be held by the Chief of Police or his designee on the question of abatement and removal no earlier than five (5) days after receipt of the return. Further notice of the hearing need not be sent to the addressee to whom a notice was earlier sent but undelivered.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.060. Abatement—Hearing—Procedure.

- A. Upon request, by the owner of the vehicle or owner of the land, received by the Chief of Police within ten (10) days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Chief of Police or his designee on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle, or parts thereof, against the property on which it is located.
- B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such ten (10) day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by certified mail, return receipt requested, at least ten (10) days before the hearing to the owner of the land and the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said ten (10) days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.070. Abatement—Hearing—Action.

- A. All hearings under this Chapter shall be held before the Chief of Police or his designee who is designated as hearing officer in this Chapter, who shall hear all facts and testimony he/she deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on the said private property or public property. The hearing officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his/her reasons for such denial.
- B. The hearing officer may impose such conditions and take such other action as he/she deems appropriate under the circumstances to carry out the purpose of this Chapter. It may delay the time for removal of the vehicles, or parts thereof, if in his/her opinion the circumstances justify it. At the conclusion of the public hearing, the hearing officer may find that a vehicle, or parts thereof, has (have) been abandoned, wrecked, dismantled, or is or are

inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as provided in Sections 8.20.090 and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle, or parts thereof, and the correct identification number and license number of the vehicle if available at the site.

- C. If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he/she has not subsequently acquiesced in its presence, the hearing officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner of the land.
- D. The decision made after hearing shall be written and mailed to the property and/or vehicle owner.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.080. Abatement—Hearing—Appeal of decision.

- A. Any interested party may appeal the decision of the hearing officer by filing a written notice of appeal with the said hearing officer within five (5) days after mailing its decision.
- B. Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.
- C. The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Sections 8.20.050.
- D. In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.090. Removal of vehicles—Reconstruction restricted—Final disposition.

- A. Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance under Sections 8.20.060 (B) where no hearing was held, five (5) days from the date of mailing of notice of the decision pursuant to Sections 8.20.090, or fifteen (15) days after such action of the governing body authorizing removal following appeal, the vehicle, or parts thereof, may be disposed of as provided in subsections B of this Section. After a vehicle has been removed it shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates pursuant to Sections 5004 of the California Vehicle Code, in which case the vehicle may be reconstructed or made operable.
- B. Vehicles, or parts thereof, may be disposed of by removal to a scrapyard or automobile dismantler's yard.
- C. Within five (5) days after the date of removal of the vehicle or part thereof notice shall be given to the Department of Motor Vehicles identifying the vehicle or part thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificate, certificates of title and license plates.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.100. Assessment of costs as tax on property.

If the administrative costs and the costs of removal which are charged against the owner of a parcel of land are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Sections 38773.5 of the Government Code and shall be transmitted to the Tax Collector for collection, except under those circumstances described in Sections 8.20.070(C). The assessment shall have the same priority as other City taxes.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.110. Penalty for failure to remove.

It is unlawful and an infraction punishable as provided in Sections 1.12.030 for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or part thereof, or refuse to abate such nuisance, and citations may be issued and served for such violations at any time, irrespective of whether or not abatement proceedings have been initiated hereunder.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.115. Administration and enforcement.

Except as otherwise provided herein, the provisions of Sections 8.20.045 through 8.20.110 shall be administered and enforced by the Chief of Police or his designee. In the enforcement of Sections 8.20.045 through 8.20.110 such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle declared to be a nuisance pursuant to Sections 8.20.045 through 8.20.110, and/or remove or cause the removal of such a vehicle or part(s) thereof.

(Ord. 1119 C.S. § III, 1988)

§ 8.20.120. Removal of vehicles from streets when.

Any regularly employed and salaried officer of the Police Department of this City may remove, or cause to be removed:

- A. Any vehicle that has been parked or left standing on a street or highway for 72 or more consecutive hours.
- B. Any vehicle which is parked or left standing upon a street or highway between the hours of 7:00 a.m. and 7:00 p.m. when such parking or standing is prohibited by ordinance or resolution of this City and signs are posted giving notice of such removal.
- C. Any vehicle which is parked or left standing on a street or highway where the use of such street or highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the street or highway, or the installation of underground utilities, or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided that such signs giving notice that such vehicles may be removed are erected or placed at least 24 hours prior to the removal.

(Ord. 1119 C.S. § III, 1988)

CHAPTER 8.22
LARGE VENUE AND LARGE EVENT RECYCLING

§ 8.22.010. Definitions.

For the purposes of this Chapter, the following definitions shall apply:

- A. "Applicant" means any individual, association, club, business, government agency, or any other public or private entity whatsoever who applies to the City for the applicable permit to hold a large event within the City.
- B. "AB 939" means the California Integrated Waste Management Act of 1989, as it may be amended from time to time.
- C. "AB 2176" means AB 2176, Montanez, (Statutes of 2004), as it may be amended from time to time.
- D. "Diversion requirement" means redirection from the waste stream of at least 50% of waste materials generated by large events or venues through reuse or recycling.
- E. "Individual" means a person who works at (with or without compensation), or attends, a large venue or large event, or a customer who is seated or served at the large venue or large event.
- F. "Jurisdiction" means a City, County, a combined City and County, or a group of cities or counties acting as a Board-approved regional agency with the responsibility for meeting AB 939 State Integrated Waste Management Act requirements.
- G. "Large event" means an event that charges an admission price, or is operated by a local agency, and serves and/or is attended by an average of more than 2,000 individuals per day of operation of the event, including, but not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event, including, but not limited to, a sporting event or a flea market.
- H. "Large venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.
- I. "Large event and venue recycling plan" or "plan" means a plan developed by the large venue owner or the large event organizer or his/her designated representative that describes how materials will be segregated and collected for reuse or recycling.
- J. "Recycling" or "recycle" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

- K. "Recyclables or recyclable material" shall have the same meaning as provided in the City's Municipal Code and includes materials which are reused or processed or are in the future reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the California Integrated Waste Management Act of 1989. The term "recyclables or recyclable material" includes mixed paper, glass, aluminum, cardboard, chipboard (e.g., cereal and shoe boxes), newsprint, plastic food and beverage containers No. 1-7, tin/bimetal containers, compostable materials, used motor oil, oil filters, automotive batteries, antifreeze, latex paint, brick, stone, wood, soil, or concrete in reusable condition, and such other materials designated by City's AB 939 Coordinator, or designated as recyclables by the California Integrated Waste Board, or other agency with jurisdiction.
- L. "Reuse" means further or repeated use of materials in their original form.
- M. "Solid waste" shall have the same meaning as provided in the City's Municipal Code, and shall exclude recyclables placed in an approved recycling container.
- N. "Commercial recycler" means a licensed business which specializes in accepting waste materials for recycling or reuse and is authorized to operate in the City of Martinez.
(Ord. 1343 C.S. § 1, 2008)

§ 8.22.020. Large event and venue recycling procedure.

An applicant who wishes to conduct a large event or conduct an event in or at a large venue must first apply for and obtain a special event permit from the City. As a condition to the issuance of said permit (along with any other conditions imposed by the City pursuant to any other permitting authority it may have) the applicant must prepare a recycling plan in the form approved by the City. Among other things, the plan shall include an estimate of the amount and types of waste anticipated to be generated by the event and a description of the proposed actions or services to be used by the applicant to reduce or recycle the solid waste generated by or at the event. The recyclables that shall be subject to and addressed in said plan include, but are not limited to, glass, aluminum, plastic food and beverage containers, newspaper/magazines, mixed paper waste, cardboard, and organic waste, including food waste. The applicant shall comply with the terms and conditions of the plan. Within 10 days after the large event or the event in the large venue has terminated, the applicant shall submit the plan to the City, properly filled out and executed.

(Ord. 1343 C.S. § 1, 2008)

§ 8.22.030. Applicability.

Any applicant seeking permission for the temporary or periodic use or occupancy of a public, or privately owned park, parking lot, golf course, street system, or other open space within the City of Martinez for a civic, commercial, recreational, or social event which meets the definition of a "large event" shall be required to comply with this Chapter.

Large venue facilities include, but are not limited to, stadium, amphitheater, arena, hall, amusement park, conference or civic center, performing arts center, fairground, museum, theater, or other public attraction. Any owner or operator of a permanent facility located within the City of Martinez which meets the definition of a "large venue" shall be required to comply with this Chapter. When a large venue owner provides space for a tenant, event management subcontractor, or otherwise permits the large venue to be used by a third party, that owner shall

be jointly responsible for user's compliance with this Chapter.
(Ord. 1343 C.S. § 1, 2008)

CHAPTER 8.23 CARRYOUT BAGS

§ 8.23.010. Definitions.

For the purposes of this Chapter only, the following words and phrases shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. "Carryout bag" means any bag, including a plastic bag, provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food, merchandise, or other goods out of a retail establishment or a public eating establishment. Carryout bags do not include product bags or plastic garment bags.
- B. "Customer" means any person purchasing goods from a retail establishment or a public eating establishment.
- C. "Inspector" means an individual designated by the City Manager to conduct any inspections required or permitted under this Chapter.
- D. "Operator" means the person in control of, or having the responsibility for, the operation of a retail establishment or public eating establishment, which may include, but is not limited to, the owner of a retail establishment or a public eating establishment.
- E. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.
- F. "Plastic bag" means any bag made predominantly of plastic derived from either petroleum, ethylene derived from natural gas, or a biologically-based source, such as corn or other plant sources. The term "plastic bag" includes compostable and biodegradable bags but does not include reusable bags, recycled paper carryout bags, produce bags, or products bags.
- G. "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.
- H. "Prepared food" means foods or beverages which are prepared on premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed, other than heating. Prepared food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed or mixed.
- I. "Produce bag" means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a retail establishment or to prevent such food items from coming into direct contact with other purchased items.
- J. "Product bag" means a bag integrated into the packaging of the product or a bag used:
 - 1. To hold prescription medication dispensed from a pharmacy; or
 - 2. To segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper carryout bag (examples include small paper bag for greeting cards, paper bags to protect glass

bottles, plastic bags around ice cream or other wet items, paper bags used to weigh candy, etc.);

3. Plastic garment bags.

K. "Public eating establishment" means a restaurant, take-out food establishment, or any other business that received 90% or more of its revenue from the sale of prepared food to be eaten on or off its premises.

L. "Recyclable" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purposes of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

M. "Recycled paper carryout bag" means a paper bag that meets all of the following requirements:

1. Contains no old growth fiber;
2. Is 100% recyclable overall and contains a minimum of 40% postconsumer recycled material;
3. Displays the word "Recyclable" in a highly visible manner on the outside of the bag; and
4. Displays the percentage of postconsumer recycled material used.

Recycled paper carryout bags do not include produce bags or product bags.

N. "Retail establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to a customer; and is located within or doing business within the geographical limits of the City of Martinez. Retail establishment does not include nonprofit charitable reuser organization.

O. "Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all the following requirements:

1. Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet;
2. Is machine washable or capable of being cleaning and disinfected;
3. Does not contain lead, cadmium, or any other heavy metal in toxic amounts as defined by applicable state and federal standards and regulations for packaging or reusable bags; and
4. If made of plastic, a minimum of 2.25 mils thick.

P. "Nonprofit charitable reuser" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50% of its revenues from the handling and sale of those donated goods or materials.

(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.020. Plastic carryout bags prohibited.

Effective January 1, 2015, no retail establishment or public eating establishment shall provide any carryout bag to a customer except as provided in this Chapter.

(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.030. Permitted bags.

All retail establishments or public eating establishments shall provide or make available to a customer only recycled paper carryout bags or reusable bags for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the retail establishment or public eating establishment themselves or from carrying away goods that are not placed in a bag.

(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.040. Regulation of recycled paper carryout bags for retail establishments.

- A. Any retail establishment that provides a recycled paper carryout bag to a customer must charge the customer for each bag provided, except as otherwise as exempted in paragraph D below.
- B. Except as exempted in paragraph D below, the minimum charge per recycled paper carryout bag will initially be \$0.10. The City Manager may increase the minimum charge up to no more than \$0.25 if he or she finds the amount should be increased to appropriately disincentivize consumers from electing to use recycled paper carryout bags. All collected monies will be retained by the retail establishment.
- C. All Retail Establishments must indicate on the customer receipt the number of recycled paper carryout bags provided and the total amount charged for the bags.
- D. All Retail Establishments must provide at the point of sale, free of charge, either reusable bags or recycled paper carryout bags or both, at the retail establishment's option, to any customer participating either in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or the Supplemental Food Program Pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the Welfare and Institutional Code, the State Department of Social Security's Food Stamp program, other government-subsidized purchase programs for low income residents.

(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.050. Use of reusable bags.

- A. All retail establishments must make reusable bags available to customers for purchase. Exemptions will be made for sanctioned reusable bag giveaway events that are intended to promote the use of reusable bags not exceeding a total of 90 days in any consecutive 12-month period.
- B. Each retail establishment is strongly encouraged to educate its staff to promote reusable

bags and to post signs encouraging customers to use reusable bags.
(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.060. Inspection.

An inspector shall have the right to enter any retail establishment or public eating establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this Chapter.
(Ord. No. 1381 C.S., § 3, 6/8/2014)

§ 8.23.070. Enforcement.

- A. The City Manager and Chief of Police or their designees are authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, investigating violations, issuing citations, and entering the premises of any retail establishment or public eating establishment during business hours. Other City staff may assist with this enforcement responsibility by entering the premises of a retail establishment or public eating establishment as part of their regular inspection functions and reporting any alleged violations to the City Manager, Chief of Police or his/her designee.
- B. If any of those individuals specified above determine that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of the retail establishment or public eating establishment that a violation has occurred and the potential penalties that will apply for future violations.
- C. Any retail establishment or public eating establishment that violates or fails to comply with any of the requirements of the Chapter after a written notice has been issued for a previous violation shall be guilty of an infraction punishable as specified in Title 1 of this Code.
(Ord. No. 1381 C.S., § 3, 6/8/2014)

CHAPTER 8.24
PARK AND RECREATION AREA REGULATIONS

§ 8.24.010. Purpose.

In the interest of the public health, safety and welfare of the many residents and nonresidents who utilize the various City park facilities, it is necessary to regulate the specific use(s) within the municipal park system. The purpose of this Chapter is to control animals, vehicular traffic, equestrian traffic, dumping garbage and the requiring of permits for use of specific areas within the parks by groups.

(Ord. 838 C.S. § II, 1976)

§ 8.24.012. Definitions.

The following words and phrases shall apply in this Chapter:

- A. "Director" means the Recreation Director of the City.
- B. "Legal authority" means the City Council, the Recreation and Park Commission, or any person or persons authorized by the City Council to enforce the rules and regulations promulgated under this Chapter.
- C. "Park and recreation area" means any public area in the City devoted or dedicated to park and recreational purposes.
- D. "Skate board" means a board-like object which the user rides or stands upon, which has 2 axles attached to the bottom of the board-like object with 2 wheels attached to each axle.
- E. "In-line skates" means footwear containing 4 or more axles mounted in a straight line extending generally from or behind the heels of the footwear to or in front of the toe of the footwear with a single wheel attached to each axle.
- F. "Skate park facility" means the area located in the Martinez Marina Park Facility adjacent to North Court Street which is surfaced with concrete and which contains dips, bowls and jumps designed for use by skateboarders and in-line skaters.
- G. "Designated dog park facility" means a park and recreation area facility set aside (temporarily or otherwise) for dogs to exercise and play off-leash in a controlled environment under the supervision of their owners/handlers.

(Ord. 838 C.S. § II, 1976; Ord. 1052 C.S. § V, 1985; Ord. 1300 C.S. § 1, 2003; Ord. No. 1405 C.S., § 1, 6/7/2017)

§ 8.24.014. Rules and regulations.

The rules and regulations contained in this Chapter shall apply to and be in full force and effect at all park and recreation areas which now are or which may hereafter be under the jurisdiction and control of the City, and shall govern the use of all such park and recreation areas, and it is unlawful to violate the rules and regulations set forth in this Chapter.

(Ord. 838 C.S. § II, 1976)

§ 8.24.020. Reservations and permits required.

No group of more than 30 persons shall use a recreational facility without first obtaining

a written permit from the Director, and then only under the terms and conditions set forth in Sections 8.24.180 of this Chapter. Fees shall be established by resolution when deemed necessary.

(Ord. 838 C.S. § II, 1976)

§ 8.24.022. Control of dogs and other domestic animals.

The owner/handler of all dogs and other domestic animals shall maintain such animals under such owner/handler's complete control at all times. Said animals shall be controlled by use of a leash, excepting those dogs within a designated dog park facility. Domestic animals shall not be permitted in picnic or play areas, or any other areas so designated, with the exception of a designated dog park facility.

(Ord. 838 C.S. § II, 1976; Ord. No. 1405 C.S., § 2, 6/7/2017)

§ 8.24.024. Horses and livestock.

Horses and other livestock shall be permitted only on those trails and in those areas specifically designated for equestrian use.

(Ord. 838 C.S. § II, 1976)

§ 8.24.030. Motorized vehicles.

It is unlawful and a violation of this Chapter for any motorized vehicle of any kind to use any area of the park(s) other than those areas clearly established for public vehicular use.

(Ord. 838 C.S. § II, 1976)

§ 8.24.040. Parking and hours.

A. It is unlawful for any person to park a vehicle in other than an established or designated parking area, and such use shall be in accordance with any posted directions or with the instructions of any attendant who may be present.

B. No person shall cause any private vehicle to enter or remain on any recreational facility between those hours posted and/or without written permission of the Director.

(Ord. 838 C.S. § II, 1976)

§ 8.24.050. Boating.

Boating shall be permitted only in those areas specifically designated for that purpose.

(Ord. 838 C.S. § II, 1976)

§ 8.24.060. Refuse, trash and litter.

No person shall dump, deposit or leave any bottles, broken glass, ashes, paper boxes, cans, dirt, rubbish, waste, garbage or refuse or any trash anywhere on the park grounds, but it shall be placed in proper receptacles provided for such purposes. No such items, refuse or trash shall be placed in any waters contiguous to any park or recreation area. Where receptacles are not provided, all such items, refuse or trash shall be carried away from the park or recreation area by the person or persons responsible for its presence.

(Ord. 838 C.S. § II, 1976)

§ 8.24.070. Exhibitions.

No person shall conduct or maintain any show, performance, concert, place of amusement or exhibition, or make any public speech or address any group or gathering of persons within any recreation facility without written permission of the Director.

(Ord. 838 C.S. § II, 1976)

§ 8.24.080. Trees, plants and property.

It is unlawful for any person to pick, dig, remove, injure or destroy any tree, flower, seed, plant, shrub, rock, wood, soil, or leaf mold without authorization of the Parks Division, or deface, mar, move or remove any sign or public property in any recreation facility.

(Ord. 838 C.S. § II, 1976; Ord. 1052 C.S. § VI, 1985)

§ 8.24.090. Wild animals and birds.

No person shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles or objects at any animal, reptile or bird; or remove or have in possession the young of any animal or the eggs or nest or young of any reptile or bird.

(Ord. 838 C.S. § II, 1976)

§ 8.24.100. Fires.

No person shall light or maintain any fire in any recreation facility unless such fire is lighted and maintained in a place specifically provided for that purpose. Fuel shall be of such types and kindled in such a manner as to prevent the danger of fire in the surrounding vegetation.

(Ord. 838 C.S. § II, 1976)

§ 8.24.110. Swimming.

Swimming, bathing or wading is permitted only in those areas and at such times specifically designated and posted for such purposes.

(Ord. 838 C.S. § II, 1976)

§ 8.24.120. Interference with activities prohibited.

No person shall willfully interfere with any person or persons lawfully using the park and recreation areas pursuant to these rules and regulations, nor shall any person interfere with any park maintenance or recreation activities being carried on by any employee or agent of the City by refusing to move from any park and recreation area when requested to do so.

(Ord. 838 C.S. § II, 1976)

§ 8.24.122. Use of electronic sound amplification.

The use of electronic sound amplification equipment, portable speakers, and other accessories which have for their purpose the amplification of any sound, including but not limited to the amplification of sound produced by the playing of musical instruments, voices, calls and other sound producing devices, whether mechanical or electronic, is prohibited within the boundaries of any City park, playground or recreational area without the issuance of a permit for the specific use of any amplification equipment by the director.

(Ord. 838 C.S. § II, 1976)

§ 8.24.130. Vending and peddling.

No person shall sell or offer to sell any goods, wares, merchandise, article or thing whatsoever, or to station or place any stand, cart or vehicle for the transportation, sale or display of any such goods, wares, merchandise, article or thing on any park or recreation areas, without first having obtained permission to do so from the director and securing the necessary City and/or state permits.

(Ord. 838 C.S. § II, 1976)

§ 8.24.140. Camping, mass picnics and meetings.

No person shall camp or lodge within any park or recreation facility except by written permission of the director. Further, no mass picnics or meetings shall be held except as provided in Section 8.24.180 of this Chapter.

(Ord. 838 C.S. § II, 1976)

§ 8.24.150. Hours of use.

A. All City parks, open spaces and public parking lots serving City parks or open space areas, and cemeteries shall be closed for public use from 1 hour after sunset to sunrise. It is unlawful for any person to enter, loiter or remain in any City park, open space area, public parking lot adjacent to such areas, or cemetery during hours of closure except as permitted and pursuant to restrictions of a permit issued by the Park and Recreation Commission or as stated in subsection B of this Section.

B. Subsection A does not apply to:

1. Persons engaged in playing tennis, basketball, playgrounds, tot lots, baseball on courts or fields specifically designed for nighttime use prior to 10:30 p.m. or until the completion of a bona fide game in progress.
2. Lighted picnic areas until 10:30 p.m. when bona fide picnicking is in progress.
3. Public parking lots while the driver or passenger is engaged in the activities authorized in this subsection.

C. The City Engineer may close any park, open space or cemetery to the public prior to the time specified herein, when after consultation with the City Manager and Chief of Police, it is determined that such closure will protect the public health, safety and/or welfare or is necessary to protect park facilities or cemetery from misuse or destruction. The City Engineer shall cause notice of amended park hours or cemetery hours to be posted in conspicuous locations in the affected park, open space or cemetery at least 24 hours prior to the effective date of such change.

(Ord. 878 C.S. § 1, 1978; Ord. 935 C.S. § I, 1981; Ord. 1052 C.S. § VII, 1985; Ord. 1314 C.S. § 1, 2004)

§ 8.24.160. Exemption.

These rules and regulations shall not apply to any City employee, agent or representative in the duly authorized performance of their duties under this Chapter.

(Ord. 838 C.S. § II, 1976)

§ 8.24.170. Posting of signs.

Any signs required to be posted by the City pursuant to this Chapter shall be placed at or near the entrance to the park and/or area requiring any posting.
(Ord. 838 C.S. § II, 1976)

§ 8.24.180. Mass picnics, meetings and overnight camping.

No persons or organizations of any type shall hold, conduct or address any assemblage, meeting or gathering in any public park or recreation area nor hold a picnic when the number of participants exceeds 30 persons, or shall any person or organization conduct any overnight camping activities without a written permit granted by the legal authority of the City, as provided in this Section as follows:

- A. Application. A person seeking issuance of a permit hereunder shall file an application with the legal authority on a form provided for that purpose.
- B. Standards of issuance. The legal authority shall issue a permit under this Section when it finds:
 - 1. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general enjoyment of the park by the public;
 - 2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
 - 3. That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - 4. That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the City;
 - 5. That the facilities desired have not been reserved for other use at the day and hour required in the application.
- C. Appeal. Within 7 days after receipt of an application which is denied, the legal authority shall apprise an applicant in writing of its reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within 5 days thereafter to the City Council, which shall consider the application under the standards set forth in subsection B of this Section and sustain or overrule the legal authority's decision within 14 days. The decision of the City Council shall be final.
- D. Effect of permit. The permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.
- E. Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.
- F. Certificate of insurance. If, in the opinion of the legal authority, the event or program would constitute a hazard to public safety, then the applicant for a permit shall provide the City with certificates of insurance evidencing bodily injury liability in the amount of \$250,000.00 for each person and \$500,000.00 for each occurrence. Such certificates of

insurance shall be filed with the City Clerk prior to the granting of said permit.

- G. Revocation. The legal authority shall have the authority to revoke a permit upon a finding of a violation of any rule, regulation or ordinance, or upon good cause shown.
- H. Copy of permit. Permittee shall have a copy of the permit in his possession and shall produce same upon request made by any duly authorized City employee, representative or agent.

(Ord. 838 C.S. § II, 1976)

§ 8.24.190. Supplemental rules and regulations.

The City Council, by resolution, may establish such supplemental rules and regulations as may from time to time be required or necessary for the proper administration and regulation of conduct in the City's parks and recreation areas.

(Ord. 838 C.S. § II, 1976)

§ 8.24.200. Skate park facility regulations.

- A. All users of the skate park facility are required to wear a helmet, elbow pads and kneepads at all times while present in the skate park facility.
- B. The skate park facility is for use by persons using skateboards and in-line skates only. All other uses and equipment are prohibited in the skate park facility.
- C. Smoking is prohibited in the skate park facility.
- D. All persons using the skate park facility shall do so at their own risk.
- E. No person shall be present in the skate park facility between dusk and 8:00 a.m.
- F. No person between the ages of 5 and 18 shall be present in the skate park facility between the hours of 8:00 a.m. and 3:00 p.m. Monday through Friday while the Martinez Municipal School District and/or the Mount Diablo Unified School District is in regular session.
- G. Any violation of this Section shall be an infraction as set forth in Section 1.12.030(A)(2) of the Martinez Municipal Code. In addition to the penalties set forth in Section 1.12.030, for a third of subsequent offence within any 12-month period, the offender's right to use the skate park facility shall be suspended for a period of 6 consecutive months.

(Ord. 1300 C.S. § 2, 2003)

§ 8.24.210. Designated dog park facility regulations.

- A. Hours of operation. Notwithstanding Section 8.24.150, hours of operation of designated dog park facilities shall be 7 days a week, from dawn to dusk, except as set forth herein. Designated dog park facilities shall be closed each Monday from 8:00 a.m. to noon, and on days/times designated by the City Manager in the exercise of his/her discretion, including, but not limited to, periods of extreme/inclement weather conditions or as otherwise posted. Owners/handlers shall remove dogs from the designated dog park facility during hours that such facility is closed.
- B. Designated users. Use of a designated dog park facility is limited to dog owners/handlers and their guests.

- C. Separate areas. Designated dog park facilities containing 2 areas shall include 1 designated for small dogs and 1 designated for larger dogs. Small dog areas are for dogs under 30 pounds only; large dog areas are for dogs 30 pounds and up. Dogs weighing under 30 pounds are allowed in large dog areas at the discretion of the owners/handlers. Dogs weighing 30 pounds and up are not allowed in small dog areas for any reason. Owners/handlers shall observe these weight restriction requirements.
- D. Limit on number of dogs. Each owner/handler is limited to no more than 3 dogs.
- E. Age of dogs-vaccinations required. Dogs under the age of 6 months are not permitted to be present in the designated dog park facility. Owners/handlers shall not permit a dog under the age of 6 months or a dog in heat to be present in the designated dog park facility. Owner/handler shall ensure that all dogs are up-to-date on all vaccinations and free of contagious conditions, with current licensing/registration tags displayed on their collar.
- F. Owners/handlers are legally responsible for the behavior of their dog(s) at all times. Aggressive dogs must be immediately removed by the owner/handler.
- G. Owners/handlers must be within the designated dog park facility and supervising their dog(s) with leash readily available. Owner/handler shall not leave a dog unattended in the facility at any time. Owner/handler shall place dogs on a leash while entering and exiting the designated dog park facility.
- H. Dog owners/handlers must immediately clean up after their dog(s) and dispose of waste in the provided trash receptacles.
- I. Dog owners/handlers must be at least 16 years of age.
- J. Children under 13 must be accompanied by an adult and supervised at all times.
- K. No alcohol is allowed in designated dog park facilities, except as authorized by a valid event permit issued by the City.

Any violation of this section shall be an infraction as set forth in Section 1.12.030(A)(2) of the Martinez Municipal Code. In addition to the penalties set forth in Section 1.12.030, for a third of subsequent offence within any 12-month period, the offender's right to use the designated dog park facility shall be suspended for a period of 6 consecutive months.

(Ord. No. 1405 C.S., § 3, 6/7/2017)

CHAPTER 8.26
CAMPING IN PUBLIC PLACES¹⁰

§ 8.26.010. Definitions.

As used in this Chapter:

- A. "Camp" shall have the definition stated by Section 8.26.020.
- B. "Camp facilities" include, but are not limited to, tents, huts, or temporary shelters.
- C. "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, blankets, sleeping bags, hammocks, bedding, mattresses, couches, dressers, other furniture, luggage, shopping carts, other sleeping equipment, or non-city designated cooking facilities and similar equipment.
- D. "Park or recreation facility" means any space, facility, structure or improvement open to the public for use for any recreational, educational, cultural or community activity.
- E. "Public property" shall mean that portion of any public area or public areas within the City of Martinez that are owned, managed, controlled, or maintained by the city or another government agency, including, without limitation, any parking lot, lot, street, median strip, space, ground, building, structure, sidewalk, avenue, highway, lane, alley, court, place, square, parkway, curbs, bikeway, or any right-of-way or other public way in the city, improved or unimproved, flood protection facilities, including levees, pumps, drainage ditches, access and patrol roads and related facilities, sloughs, rivers, canals and waterways, including shoreline of said waterways.
- F. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- G. "Street" shall have the definition stated by Section 1.04.010.
(Ord. No. 1462, § 2, 9/18/2024)

§ 8.26.020. Unlawful camping.

- A. Restrictions. No person shall camp anywhere in the City, whether on public or private property, except as hereinafter expressly permitted. "To camp" means to do any of the following:
 - 1. Sleeping (11:00 p.m. to 8:30 a.m.). To sleep at any time between the hours of 11:00 p.m. and 8:30 a.m. in any of the following places:
 - a. Outdoors, with or without any camp paraphernalia;
 - b. In, on, or under any structure or thing not intended for human occupancy, whether with or without any camp paraphernalia.
 - 2. Setting up or maintaining bedding. To establish, occupy, or maintain, outdoors or in, on, or under any structure or thing not intended for human occupancy, a temporary or permanent place for sleeping by setting up or maintaining camp paraphernalia in such

10. Editor's note: Prior history: Ord. 1222 C.S., adopted in 1995; Ord. No. 1390 C.S., adopted 12/2/2015.

a manner as to be immediately usable for sleeping purposes.

3. Setting up or maintaining campsite. To establish, occupy, or maintain, outdoors or in, on, or under any structure or thing not intended for human occupancy, a temporary or permanent place for cooking or sleeping by setting up or maintaining camp paraphernalia with the intent to remain in that location.

B. Permitted camping. Camping is permitted in the City only in the following circumstances:

1. Camping in public areas specifically set aside and clearly marked for public camping purposes;
2. Camping events authorized by the City;
3. Camping in the yard of a residence, with the consent of the owner or occupant of the residence, where the camping is in the rear yard of the residence or where the camping is in an area of a side yard of the residence that is separated from view from the street by a fence or hedge or other obstruction; except that camping shall not be permitted under this subsection where it is conducted in such a manner as to constitute a nuisance because of noise, inadequate sanitation, or other matters offensive to persons of ordinary sensibility; nor shall camping be permitted under this subsection where the camping in any yard is of such frequency, intensity, or duration as to constitute a use of land prohibited by any provision of this Code; nor shall camping be permitted under this subsection where any fee, charge, or other monetary consideration is collected for the privilege of camping or for any services or the use of any facilities related thereto;
4. Camping events for minors sponsored by any nonprofit organization; except that camping shall not be permitted under this subsection where it is conducted in such a manner as to constitute a nuisance because of noise, inadequate sanitation, or other matters offensive to persons of ordinary sensibility; nor shall camping be permitted under this subsection where the camping at any location is of such frequency, intensity, or duration as to constitute a use of land prohibited by any provision of this Code.

(Ord. No. 1462, § 2, 9/18/2024)

§ 8.26.030. Storage of personal property in public places.

A. It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, in the following areas:

1. Any park or recreation facility, except as provided in Section 8.24.140.
2. Any public property.
3. Any property owned, managed, or under control of another government entity without the express consent of that entity and when such use is not otherwise prohibited by this Code.
4. Any private property open to the public, without the consent of the owner or other lawful user of such property, and when such use is not otherwise prohibited by this Code.

(Ord. No. 1462, § 2, 9/18/2024)

§ 8.26.040. Obstructing access.

- A. It shall be unlawful for any person to obstruct a street, sidewalk, or other public right-of-way or impede the use of street furniture, whether publicly or privately owned, by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, including camp facilities and camp paraphernalia, in a manner that impedes passage, including as provided by the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327 (1990), as amended from time to time.
- B. This shall not apply to any person:
 - 1. Experiencing a medical emergency; or
 - 2. Participating in, attending, or viewing any parade, festival, performance, rally or other event conducted in accordance with this code and for which the appropriate permit has been obtained; or
 - 3. Engaging in activities authorized by a City permit; or
 - 4. Who is authorized by the owner of the private property when such activity is not otherwise prohibited by this Code.
- C. Prior to issuing a citation or making an arrest for this section, the enforcement officer shall warn the person that their conduct is unlawful and provide them an opportunity to stop their conduct. One warning shall be sufficient for a 12-month period as to any subsequent violations of this section by that person during that period. However, if the person shall fail, neglect or refuse to cease the violation upon order of the officer, the officer may proceed with a citation or arrest.

(Ord. No. 1462, § 2, 9/18/2024)

§ 8.26.050. Summary abatement.

- A. Any violation of this chapter may be abated by the City upon 72 hours of prior notice; but a violation may be abated immediately by the City without prior notice, if the violation poses an imminent threat to public health or safety, including, but not limited to, when such violation obstructs the free passage of people or vehicles.
- B. Abatement may include, but is not limited to, removal of camp facilities, camp paraphernalia, personal property, garbage, hazardous waste, infectious waste, junk, or debris; and securing the perimeter of the property with fencing, gates, or barricades to prevent further occurrences of the nuisance activity.
- C. Nothing in this section shall prevent, restrict, or otherwise limit the city's right to remove, without prior notice, (1) evidence of a crime or contraband, (2) personal property placed in a public area after the closure time of such public area, (3) abandoned personal property, and (4) any personal property otherwise authorized by law to be removed with or without prior notice.
- D. Regardless of the city's authority to conduct abatement pursuant to this section, every owner, occupant, or lessee of real property, and every holder of any interest in real property, is required to maintain the property in compliance with local, state, and federal law; and is liable for violations thereof.

- E. The cost of abatement, including all administrative costs of any action taken hereunder, may be assessed against the subject premises as a lien, made a personal obligation of the owner, or both, in accordance with procedures in Section 1.13.100 of this Code.
- F. No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with a city official, employee, contractor, or volunteer in their execution of an abatement pursuant to this chapter.

(Ord. No. 1462, § 2, 9/18/2024)

§ 8.26.070. Violations.

Violations of this Chapter in addition to all other remedies or penalties available under this Code or under any other laws shall be a misdemeanor or infraction, in the discretion of the prosecuting authority.

(Ord. No. 1462, § 2, 9/18/2024)

CHAPTER 8.27
SINGLE-USE FOODWARE ACCESSORIES AND CONDIMENTS

§ 8.27.010. Definitions.

For the purposes of this Chapter only, the following words and phrases shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. "Consumer" means a person is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.
 - B. "Correctional institution" means any state prison, county jail, city jail, Division of Juvenile Justice facility, county-or city-operated juvenile facility, including juvenile halls, camps, or schools, or any other state or local correctional institution, including a court facility.
 - C. "Food facility" means any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, regardless of whether the food is consumed on or off the premises or whether there is a charge for the food.
 - D. "Ready-to-eat food" means food that is in a form that is edible without additional preparation to achieve food safety, is raw or partially cooked food of animal origin and the consumer is advised as such, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.
 - E. "Single-use" means designed to be used once and then discarded, and not designed for repeated use and sanitizing.
 - F. "Single-use foodware accessory" means all of the following single-use items provided alongside ready-to-eat food:
 - 1. Utensils, which is defined as forks, knives, spoons, and sparks.
 - 2. Chopsticks.
 - 3. Condiment cups and packets.
 - 4. Straws.
 - 5. Stirrers.
 - 6. Splash sticks.
 - 7. Cocktail sticks.
 - G. "Standard condiment" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including, but not limited to, ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.
 - H. "Third-party food delivery platform" has the same meaning as in section 113930.5 of the Health and Safety Code.
- (Ord. No. 1438, § 2, 9/14/2022)

§ 8.27.020. Food facilities shall not provide single-use foodware accessory or condiment package unless requested.

- A. Except as provided in subsections (C) and (D), below, a food facility, for on-premises dining or when using a third-party food delivery platform, shall not provide any single-use foodware accessory or standard condiment packaged for single use to a consumer unless the single-use foodware accessory or standard condiment is requested by the consumer.
- B. Single-use foodware accessories and standard condiments packaged for single use provided by food facilities for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use foodware accessory or standard condiment desired without also having to take a different type of single-use foodware accessory or standard condiment.
- C. A food facility may ask a drive-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.
- D. A food facility that is located entirely within a public use airport, as defined in Section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants a single-use foodware accessory if the single-use foodware accessory is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.
- E. A third-party food delivery platform shall provide consumers with the option to request single-use foodware accessories or standard condiments from a food facility serving ready-to-eat food. If a food facility uses any third-party delivery platform for ready-to-eat food, the food facility shall customize its menu with a list of available single-use foodware accessories and standard condiments, and only those single-use foodware accessories or standard condiments selected by the consumer shall be provided by the food facility. If a consumer does not select any single-use foodware accessories or standard condiments, no single-use foodware accessory or standard condiment shall be provided by the food facility for delivery of ready-to-eat food.
- F. Nothing in this section shall prohibit a food facility from making unwrapped single-use foodware accessories available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for single-use foodware accessories to be obtained.
- G. Nothing in this section shall prohibit a food facility from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food facility that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use.
- H. Nothing in this section shall prevent a city, county, city and county, or other local public agency from adopting and implementing an ordinance or rule that would further restrict a food facility or a third-party food delivery platform from providing single-use foodware accessories or standard condiments to a consumer.
- I. A food facility is encouraged, but not required, to take actions in addition to the requirements of this section that support a goal of reducing the use of and waste generated by all single-use food service products.

(Ord. No. 1438, § 2, 9/14/2022)

§ 8.27.030. Exceptions.

This Chapter does not apply to any of the following:

- A. Correctional institutions.
- B. Health care facilities licensed pursuant to Article 1 of Chapter 2 of Division 2 of the Health and Safety Code (commencing with Section 1250), or facilities that are owned or operated by a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Health & Safety Code Section 1340).
- C. Residential care facilities licensed pursuant to Division 2 of the Health and Safety Code (commencing with Section 1200).
- D. Public and private school cafeterias.
(Ord. No. 1438, § 2, 9/14/2022)

§ 8.27.040. Enforcement.

- A. The City Manager or the City Manager's designee has the primary responsibility for the enforcement of this chapter. The City Manager or the City Manager's designed is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing fines, and entering the premises of any food facility during business hours. Other City staff may assist with this enforcement responsibility by entering the premises of a food facility as part of their regular inspection functions and reporting any alleged violations to the City Manager or the City Manager's designee.
- B. If any of those individuals specified in subsection (A) above determine that a violation of this Chapter has occurred, he/she will issue a written warning notice to the operator of the food facility that a violation has occurred and the potential penalties that will apply for future violations.
- C. The first and second violations of this Chapter shall result in a notice of violation. Any subsequent violation shall constitute an infraction punishable by a fine of \$25.00 for each day in violation, but not to exceed \$300.00 annually.
(Ord. No. 1438, § 2, 9/14/2022)

CHAPTER 8.28
GRAFFITI ABATEMENT¹¹

§ 8.28.010. Definitions.

- A. Words and phrases used in this chapter shall have the same meaning as under Cal. Penal Code §§ 594 and 594.2 and Cal. Gov't. Code §§ 38772, 38773.2, and 53069.3, unless otherwise defined herein, or where otherwise required by the context, in which case such word or phrase shall have such reasonable meaning as shall give effect to the purposes of this chapter.
- B. **COST (or costs) OF REMOVAL** Includes the costs of removal of the graffiti, or if the graffiti cannot be removed cost effectively, the costs of repair and replacement of property defaced with graffiti, and not the painting, repair or replacement of other parts of the property that were not defaced, and those expenses described in Cal. Gov't. Code § 38772(d)(1).
- C. **DAYS** Means calendar days.
- D. **GRAFFITI** Means "graffiti or other inscribed material" as defined in Cal. Gov't. Code §§ 38772 and 53069.3 and Cal. Penal Code § 594.
- E. **PROPERTY OWNER** or **OWNER** Includes the lessee of the property or other person in possession thereof, in addition to the definition of "owner" given in Section 1.04.010(K).
- F. **RESPONSIBLE ADULT** Is a parent or guardian having custody or control of an individual under the age of 18 years.
(Ord. No. 1478, 10/22/2025)

§ 8.28.020. Prohibitions.

It shall be unlawful for any person:

- A. To have graffiti on property which can be seen from the public right-of-way of adjacent or neighboring property; or
- B. To have graffiti on property which causes a depreciation of property values or is detrimental to the public health and welfare of neighborhoods.
(Ord. No. 1478, 10/22/2025)

§ 8.28.030. Declaration of nuisance.

The existence of graffiti in the City of Martinez is hereby declared to be a public nuisance, and may be summarily abated pursuant to Cal. Gov't. Code §§ 53069.3 and 38772 et seq., and this chapter.
(Ord. No. 1478, 10/22/2025)

§ 8.28.040. Restriction of markers and aerosol paint.

All persons offering for sale markers with a marking tip of 1/4 inch or more in diameter or any aerosol or pressurized container of paint shall keep such markers or paint in a location where

11. Editor's Note: Prior legislation: Ord. 1084 C.S. § IV, 1986.

they can be in constant view of the employee, agent, or other authorized representative of the person selling the markers or paint.
(Ord. No. 1478, 10/22/2025)

§ 8.28.050. Removal of graffiti.

- A. Property owners shall remove graffiti from their property within 20 calendar days after notification by the City to remove such graffiti. Failure to remove graffiti within the time allowed shall automatically cause the building or property to be deemed a nuisance, and the expense of abatement of the nuisance shall be a lien or special assessment against the property and a personal obligation of the property owner pursuant to Cal. Gov't. Code § 38773.1 or 38773.5.
- B. Where graffiti is applied by an individual under the age of 18 years, in addition to such individual, the responsible adult shall be responsible for such removal or payment for the costs of removal. In the event that such individual or responsible adult fails to remove the graffiti or pay for the costs of removal within seven days after being served with notice to remove the graffiti, then the cost of removal shall become the personal obligation of such individual and/or responsible adult pursuant to Cal. Gov't. Code § 38773.2 or 38773.6. Any notice from the City shall contain an admonition that any costs of removal incurred by the City shall be the responsibility of the person(s) being notified and, if not paid by said person(s), may become an assessment or lien against the property of said person(s). If the graffiti is on private property, then the person required to remove it shall obtain consent of the private property owner to go upon that property to remove the graffiti.
- C. All notices required or given hereunder to property owners shall be provided in accordance with Cal. Gov't. Code § 38773.1 et seq, as applicable. No lien or special assessment shall be recorded until after such notice has been provided.
- D. In the event the property owner, responsible adult, or individual who has applied the graffiti fails to remove the graffiti after notice has been sent, then the City may abate the graffiti as a nuisance as provided herein.
- E. The City may remove the graffiti with the consent of the property owner and shall charge the property owner for the cost of removal; unpaid graffiti abatement costs may be recovered through the special assessment lien procedures set forth in Section 1.13.090.

(Ord. No. 1478, 10/22/2025)

§ 8.28.060. Appeals.

- A. The property owner, responsible adult, or individual who has applied the graffiti may request a hearing with respect to any of the duties, responsibilities, or liabilities under this chapter before the Chief of Police within 10 days after mailing or delivery of any notice provided under Section 8.28.050. The Chief of Police shall schedule a hearing within 30 days of receipt of the request for a hearing. The Chief of Police shall hear facts and testimony relevant to the graffiti abatement and shall not be limited to the technical rules of evidence. The property owner may appear at the hearing or submit a written statement, attesting under penalty of perjury to the accuracy of the information provided, in time for consideration at the hearing.
- B. The Chief of Police shall notify the property owner of the decision rendered at the hearing

within 15 days of the hearing. If not timely appealed, the Chief of Police or designee's decision shall be final. The Chief of Police may delegate any of the authority granted under this section to an appropriate hearing officer.

- C. The property owner, responsible adult, or individual who has applied the graffiti may appeal the decision of the Chief of Police by filing a written request for appeal, along with the application fee, with the City Clerk within 10 days of receipt of the decision of the Chief of Police. The City Clerk or designee shall give written notice of the time and place of the hearing to the property owner. The appeal shall be heard by the City Council, which may affirm, amend, or reverse the decision of the Chief of Police or designee, and shall not be limited by the technical rules of evidence. The City Council's decision shall be final.

(Ord. No. 1478, 10/22/2025)

§ 8.28.070. Liens.

All liens recorded pursuant to this chapter shall comply with the requirements of Cal. Gov't. Code § 38773.2. Any fee imposed on the City by the County Recorder in connection with the processing and recording of any lien hereunder, or the providing of notice to the property owner, may be recovered from the property owner as provided in Cal. Gov't. Code § 38773.2.

(Ord. No. 1478, 10/22/2025)

§ 8.28.080. Costs.

Whenever this chapter allows for the recovery of costs, such costs may include, but are not limited to, administrative costs, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the City in identifying and apprehending the minor.

(Ord. No. 1478, 10/22/2025)

§ 8.28.090. Reward.

The City may pay to any person who provides information which leads to the arrest and conviction of any person who applies graffiti a reward as established by Council resolution.

(Ord. No. 1478, 10/22/2025)

§ 8.28.100. Appropriations.

The City may apply and administer City funds (as defined in Cal. Gov't. Code § 53069.3(d)(3)) to abate or remove graffiti under this chapter, and to replace or repair property within the City that has been defaced with graffiti that cannot be removed cost effectively.

(Ord. No. 1478, 10/22/2025)

§ 8.28.110. Criminal action.

- A. The violation of any section of this chapter shall be a misdemeanor.

- B. Community service in the City of Martinez may be imposed in lieu of any financial penalties and punishments where there has been a conviction or guilty or nolo contendere plea to a misdemeanor.

(Ord. No. 1478, 10/22/2025)

§ 8.28.120. Non-liability.

Prior to the entry onto private property by the City for the purpose of graffiti removal, written consent in a form acceptable to the City Attorney shall be obtained from the property owner or designated agent for authorization of entry and release of liability. Notwithstanding the foregoing, consent of the property owner shall not be required if the City is authorized by court order to enter the property for the purpose of graffiti removal.

(Ord. No. 1478, 10/22/2025)

§ 8.28.130. Administrative fee.

A reasonable administrative fee may be imposed against any person found in violation of this chapter as a part of any abatement hereunder in addition to and not in lieu of any other fine, charge, fee, cost, assessment, or payment imposed in connection with any violation of this chapter.

(Ord. No. 1478, 10/22/2025)

CHAPTER 8.30
MOSQUITO AND VECTOR HABITATS

§ 8.30.010. Purpose.

The City recognizes that the potential emergence of the West Nile Virus, as well as the continuing presence of vectors such as rodents and skunks, in the County of Contra Costa are matters of increasing public health concern. Mosquitoes have the ability to transmit the West Nile Virus to humans and to other species. Vectors, such as rats, carry disease to humans and other species.

It is in the interest of the public health safety and welfare of the citizens of Martinez as well as the area as a whole to reduce or eliminate the presence of vectors in the City and to abate nuisances supporting the development, attraction, or harborage of mosquitoes or other vectors in circumstances constituting a threat to public health, safety or welfare.

(Ord. 1305 C.S. § 1, 2003)

§ 8.30.020. Definitions.

For the purposes of this Chapter, the following words and terms shall be defined as set forth in this Section.

"Vector" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, and rodents and other vertebrates.

(Ord. 1305 C.S. § 1, 2003)

§ 8.30.030. Public nuisance.

It shall be a violation of this Chapter and a public nuisance for anyone to create, cause, commit, or maintain any one or more of the following:

- A. Any artificial alteration of property, excluding water, from its natural condition, resulting in it supporting the development, attraction, or harborage of vectors, with the presence of vectors in their developmental states on property being prima facie evidence that the property is a public nuisance;
- B. Any water that is a breeding place for vectors, with the presence of vectors in their developmental stages in the water being prima facie evidence that the water is a public nuisance;
- C. Any activity that supports the development, attraction, or harborage of vectors, that facilitates the introduction or spread of vectors.

(Ord. 1305 C.S. § 1, 2003)

§ 8.30.040. Vector abatement.

- A. The Chief Building Official or his/her designee is hereby authorized to issue citations on behalf of the City to address violations of this Chapter and to abate public nuisances supporting the development, attraction or harborage of mosquitoes or other vectors, in accordance with Chapter 1.13 or by any other remedy provided by law.

- B. Upon the specific, prior request of the City in a circumstance constituting an immediate threat to public health or safety, field employees of the Contra Costa Mosquito and Vector Control District are hereby authorized to assist the City to abate and to abate public nuisances supporting the development, attraction or harborage of mosquitoes or other vectors, in accordance with Chapter 1.13 or by any other remedy provided by law.
(Ord. 1305 C.S. § 1, 2003)

CHAPTER 8.32 HAZARDOUS WASTE ABATEMENT ACT

§ 8.32.010. Purpose and findings.

We, the people of Martinez, find the passage of this Act is necessary in order to protect and defend the health and safety of ourselves and our posterity by prohibiting the importation of hazardous wastes and requiring that any hazardous waste facility be approved by a majority vote of the people.

(Ord. 1143 C.S., 1990)

§ 8.32.020. Prohibition of importation of hazardous wastes.

All substances commonly known as "toxic wastes", "chemical wastes", and/or "hazardous wastes" (defined herein below in Sections 8.32.040) which originate and/or are generated outside the City limits of the City of Martinez, shall not be: (a) incinerated; (b) stored for incineration; or (c) otherwise disposed of and/or stored within the City limits of the City of Martinez.

(Ord. 1143 C.S., 1990)

§ 8.32.030. Vote required for approval of hazardous waste facility.

All proposed facilities intended for the: (a) incineration; (b) storage; or (c) disposal by other means, of substances (defined herein below in Sections 8.32.040) which originate and/or are generated outside the City limits of the City of Martinez, shall not be approved without a majority vote of the electorate at a regularly scheduled municipal election.

(Ord. 1143 C.S., 1990)

§ 8.32.040. Hazardous wastes defined.

Hazardous waste subject to this Act shall include those defined by current Sections 25117 of the Health and Safety Code of the State of California and/or as defined by current regulations adopted pursuant to Sections 3001 of the Resource Conservation and Recovery Act, as amended (P. L. 94-580), and/or any additional hazardous wastes defined by substantially similar laws and regulations enacted or adopted hereafter. Therefore, substances subject to this Act, include but are not limited to, the following representative list:

Verbal Description of Waste	EPA Hazard Code	EPA Hazardous Waste Number
Aniline	I,T	UO12
Arsenic trioxide	-	PO12
Chloroacetaldehyde	H	PO23
Chlorodibromomethane	T	UO40
DDT	T	UO61
EP Toxic, 2,4-D	E	D016
EP Toxic, Arsenic	E	D004
Ethyl cyanide	H	PO52
Hexachlorobenzene	T	U127

Verbal Description of Waste	EPA Hazard Code	EPA Hazardous Waste Number
Lead Acetate	-	U144
Methyl parathion	H	B071
Nitrobenzene	I,T	U169
Pentachloronitrobenzene	T	U185
Phosgene	-	PO95
Tetraethyl lead	H	P110

(Ord. 1143 C.S., 1990)

CHAPTER 8.34 NOISE CONTROL

§ 8.34.010. Purpose.

It is the intent of the City, in the exercise of its police power, to control, and in some instances, prohibit, noise and vibration, in order to protect properties and the general health, safety and welfare of persons from unnecessary, excessive and annoying noise disturbances. At certain levels, noises are detrimental to the health and welfare of the citizenry and, in the public interest, shall be prohibited or systematically proscribed.

It is the purpose of this chapter to implement the goals of the Noise Element of the General Plan by prescribing standards prohibiting detrimental levels of noise and by providing an effective and readily available remedy for violations. The provisions of this Chapter and the remedies contained herein shall be cumulative and are not intended to replace any otherwise available remedies for public, private, or mixed nuisances, nor any other civil or criminal remedies otherwise available.

In addition, the regulations contained herein are not intended to substitute for any noise analysis conducted as a part of the City's environmental review process for discretionary permit approvals, nor intended to limit more strict noise control requirements for discretionary permit approvals, should more strict measures be found to be necessary, in order to maintain noise levels that are not detrimental to the health, safety and welfare of the citizens.

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.020. Noise standards.

A. Acceptable standards for noise levels shall be as follows:

1. A day-night noise level (Ldn) of 45 dB is the standard for interior noise levels. An Ldn of 45 dBA is achieved by an allowable interior noise level of 35 dBA between 10 p.m. — 7 a.m. and 45 dBA between 7 a.m. — 10 p.m.
2. A day-night level (Ldn) of 60 dB is the standard for exterior noise. An Ldn of 60 dBA is a maximum noise level of 50 dBA between 10 p.m. — 7 a.m. and 60 dBA between 7 a.m. — 10 p.m.

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.030. Noise regulations.

The following specific acts are declared to be public nuisances and are prohibited, subject to the exemptions set forth herein.

- A. No person shall cause or allow to cause, any source of sound at any location within the City or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which when measured within public or private indoor or outdoor space on the property where the noise disturbance is being experienced, causes the noise level to exceed the standards set forth in Section 8.34.020.
- B. The operation or use of any of the following before 7:00 a.m., or after 7:00 p.m. daily (except Saturday, Sunday, and State, Federal or Local Holidays, when the prohibited time shall be before 9:00 a.m. and after 5:00 p.m.).

1. A hammer or any other device or implement used to repeatedly pound or strike an object.
 2. An impact wrench, or other tool or equipment powered by compressed air.
 3. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack leaf blower, and lawn mower. Except as specifically included in this Chapter, motor vehicles, powered by an internal-combustion engine and subject to the State of California Vehicle Code, are excluded from this prohibition.
 4. Any electrically or battery powered tool or piece of equipment used for cutting drilling, or shaping wood, plastic, metal or other materials or objects, such as but not limited to a saw, drill, lathe or router.
 5. Any of the following: the operation and/or loading or unloading of heavy equipment (such as but not limited to bulldozer, road grader, back hoe), ground drilling and boring equipment, hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump and the like.
 6. Construction, demolition, excavation, erection, alteration or repair activity.
 7. Operating or permitting the operation of powered model vehicles including but not limited to cars, aircraft and boats.
 8. Use or operation of a loudspeaker, loudspeaker system, sound-amplifying equipment, public address system or similar device, in a fixed or movable position or mounted on a sound truck for the purpose of transmitting sound to a person in or on a street, sidewalk, park or public property in such a manner as to create a noise disturbance, unless specifically approved by the City of Martinez (i.e. Use Permit, City Council approval, or permit obtained under Section 8.34.050. Any amplified sound within a public park with a permit issued by the City is exempt from this Section.
 9. Use, operation or maintenance of any horn, radio, machine or device used for the production or reproduction of sound which is directed to, or cast upon, public streets or highways which distracts, or is intended to distract, the attention of drivers of motor vehicles, unless operated to request assistance or warn of a hazardous situation.
 10. The operation of any licensed motor vehicle in violation of the State Vehicle Code or the operation of stereo, public address or other such amplified equipment on or within a motor vehicle in violation of the State Vehicle Code.
- C. Owning, possessing or harboring, any animal or bird which frequently or for long duration howls, barks, meows, squawks, bays, or makes other sounds which create a noise disturbance.
- D. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. daily in such a manner so as to create a noise disturbance.
- (Ord. 1288 C.S. § 1, 2001)

§ 8.34.040. Exceptions.

The provisions of this section shall not apply to the following types of noise:

- A. Aerial warnings which are required by law to protect the health, safety and welfare of the community shall be exempt from the provisions of this chapter.
- B. An emergency signaling device, standby machinery or equipment operated only in emergency situations.
- C. Emergency vehicle responses and all necessary equipment utilized for the purpose of responding to a declared state of emergency are exempt from this chapter.
- D. Uses established through the discretionary review process containing specific noise conditions of approval and/or mitigation measures.
- E. In the case of urgent necessity, in the interest of public health and safety, the Noise Control Officer may grant an exemption to the requirements of this Chapter for the duration of the emergency. The Noise Control Officer may limit time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested. The Noise Control Officer may at any time, revoke said authorization or impose requirements for continuance of the permitted action, depending upon the nature of the emergency and the type of action requested.
- F. Noises permitted by permit granted under Section 8.34.050 of this chapter.
(Ord. 1288 C.S. § 1, 2001)

§ 8.34.050. Permits.

- A. Authority. The Noise Control Officer is authorized to issue permits granting exceptions to any provision of this chapter, subject to limitations of proximity to noise sensitive uses, noise levels, time limits and other terms and conditions as the Noise Control Officer determines are appropriate to protect the public health, safety and welfare from the noise emanating therefrom. This section shall in no way affect the duty to obtain any other permit or license required by law for such activities.
- B. Application.
 - 1. Any person seeking a permit pursuant to this section shall file an application with the Noise Control Officer consistent with the provisions and requirements of Chapter 22.06. The application shall contain information which demonstrates that bringing the source of sound or activity for which the permit is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. The application shall be accompanied by a fee as established by Council Resolution. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application.
 - 2. Any individual who claims to be adversely affected by approval of the permit may file a statement with the Noise Control Officer containing any information to support his/her claim.
 - 3. If at any time the Noise Control Officer finds that a sufficient controversy exists

regarding an application, a public hearing before the Planning Commission shall be required in accordance with Chapter 22.06.

- C. Decision criteria. The following factors shall be considered in determining whether to grant or deny the application for a noise permit:
1. The adverse impact on the health, safety and welfare of other persons affected;
 2. The reasonableness of compliance with this code given the existing conditions and scope of the necessary improvements to comply;
 3. The adverse impact on property affected;
 4. Any other adverse impacts of granting the exception; and
 5. Consistency with the general plan. Applicants for permits and persons contesting permits shall be required to submit such information as the Noise Control Officer may reasonably require to adequately address the above five areas of consideration.
- D. Approval/findings. Permits shall be granted by notice to the applicant containing all necessary conditions. The permit shall not become effective until all conditions (if any) are agreed to in writing by the applicant. Non-compliance with any condition of the permit shall terminate the permit and subject the person holding it to those provisions of this chapter for which the permit was granted.
- E. Revocation/new conditions. The Noise Control Officer may at any time, revoke said permit or impose additional requirements for continuance of the permitted action, as necessary to adequately address the above five areas of consideration.
- F. Term of permit. The term of the permit shall run continuously with the associated use and shall terminate upon cessation of the use for a period of one (1) month or more. A permit shall only be transferred to a similar use at the same location upon the Noise Control Officer receiving sufficient information to find that: the new use is of the same or lesser intensity; and, the new use will not substantially alter the pattern of noise generation established by the previous use (i.e., increase evening or morning noise over the previous use).

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.060. Noise standards for new construction.

- A. All new multi-family residential development, hotels and motels, subject to California Administrative Code Title 25, which are to be proposed be located in zones exceeding 60 dB CNEL, or residential developments which are proposed to be located within 500 feet of any major arterial, highway, railroad or mass transit line shall submit, to the Community Development Department, as part of a development application, on-site noise measurements to determine existing and future noise levels, and shall include noise attenuation provisions in the design of those developments if they are found to exceed the adopted standards set forth herein.
- B. All new commercial or industrial development to be located within 500 feet of any residential development shall be designed and operated within the acceptable standards for noise.

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.070. Noise measurement.

Noise level shall be measured in accordance with the following:

- A. Noise level shall be measured with a sound level meter satisfying at least the applicable requirements for Type 1 sound level meters as defined in American National Standard Section 1.4-1971 or the most recent revisions thereof. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. Prior to each measurement, the meter shall be verified, and adjusted to +0.3 decibel by means of an acoustical calibrator.
- B. Utilizing the "A" weighting scale of a sound level meter, the ambient noise level shall first be measured at a position or positions at any point on the receiver's property.
 - 1. For outside measurements, the microphone shall be located no less than 4 feet above the ground; 10 feet or more from walls or similar large reflective surface where possible, and shall be protected from the effects of wind, noise and other extraneous sounds by the use of screens, shields or other appropriate devices.
 - 2. For inside measurements, the microphone shall be at least 3 feet distant from any wall, and the average sound measurement shall be determined from at least 3 microphone positions throughout the room.
 - 3. If possible, the ambient noise shall be measured with the alleged offending noise source inoperative. If for any reason the alleged offending noise source cannot be shut down, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance such that the noise from the source is at least 10dB below the ambient in order that only the ambient level be measured.

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.080. Violations.

Violations of the Chapter shall be enforced as provided in Chapter 1.12 and/or may be declared a nuisance and subject to enforcement as provided in Chapter 1.13.

(Ord. 1288 C.S. § 1, 2001)

§ 8.34.090. Noise control officer.

The Community Development Director, Chief Building Official or Chief of Police or their designee, are hereby appointed the Noise Control Officers of the City. It shall be the responsibility of the Noise Control Officer or his/her designated representative to enforce the provisions of this Chapter and to perform all other functions required of the Noise Control Officer by this Chapter. Such duties shall include, but not be limited to, investigating potential violations of this Chapter and referring evidence of violations either to the Police Department or City Attorney for initiation of legal action.

§ 8.34.100. Definitions.

- A. "A-weighted sound level (dBA)" is a decibel scale that approximates the way the human ear responds to frequency levels. A—weighted scales are used for measurement of overall noise levels.

- B. "Ambient noise" is the total noise occurring over any hourly time period from all sources within a given area.
- C. "Community noise equivalent level (CNEL)" is another 24-hour average which includes both an evening and nighttime weighting. Appendix A of the General Plan Noise Element shows the day-night levels that were calculated from the field data for each of the 21 survey locations at a specified distance from the center-line of the road. Establish as the basic exterior and interior noise standards for residential uses a day-night level (Ldn) of 60 dB for exterior noise levels and 45 dB Ldn for interior noise levels. Ensure that all non-residential development proposals comply to the extent feasible with the exterior.
- D. "Community noise ratings" various criteria are available for noise measurement. In some situations a simple sound level meter reading is adequate and in other times the spectrum of the noise and time characteristics are needed. Rating scales require info on the distribution of levels of fluctuation noise, time duration repetitive rate for impulsive and intermittent noise background levels at the time of occupancy etc.
- E. "Decibel (dB)" shall mean the measurement unit used for loudness of sound/noise.
- F. "Ldn (day/night average sound level)" Ldn accounts for human sensitivity to nighttime noise, calculated from the cumulative noise exposure measured over a 24 hour day in terms of A—weighted sound energy. The 24 hour day is divided into two subperiods, the daytime period from 7:00 a.m. to 10 p.m. and the nighttime period from 10 p.m. to 7:00 a.m. A 10 dBA weighting factor is applied to the noise levels during the nighttime period. This is the noise scale used in the City of Martinez Noise Element.
- G. "Noise disturbance" shall mean any sound which, as judged by the Noise Control Officer, (a) endangers or injures the safety or health of human beings or animals, or (b) annoys or disturbs reasonable persons of normal sensitivities, or endangers or injures personal or real property.
- H. "Noise level meter" an instrument including a microphone, amplifier, output meter and frequency weighting device for the measurement of noise levels satisfying at least the applicable requirements for Type 1 sound level meters as defined in American National Standard Section 1.4-1971 or the most recent revisions thereof. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. Prior to each measurement, the meter shall be verified, and adjusted to ± 0.3 decibel by means of an acoustical calibrator.

(Ord. 1288 C.S. § 1, 2001)

CHAPTER 8.36 PROPERTY NUISANCES

§ 8.36.010. Findings.

The City Council finds and declares that it is in the public interest and necessary to protect public health and safety, promote civic pride, and preserve property values, to establish minimum standards for the maintenance of real property by prohibiting specified activities and declaring these activities to be public nuisances subject to abatement or enforcement by any lawful means. (Ord. 1306 C.S. § 1 Exh. A, 2003; Ord. 1309 C.S. § 1, 2003)

§ 8.36.020. Definitions.

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

- A. "Attractive nuisance" means any condition, machine or instrumentality which is unsafe or unprotected and thereby dangerous to young children, and which may reasonably be expected to attract young children to the property and to risk injury by playing with, in or on it.
- B. "Building official" means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this Chapter.
- C. "Dwelling" shall have the same meaning as set forth in Section 22.04.150.
- D. "Dwelling unit" shall have the same meaning as set forth in Section 22.04.160.
- E. "Real property" means a lot located in any zoning district upon which is located a dwelling or dwelling unit, or other structure.

(Ord. 1306 C.S. § 1 Exh. A, 2003; Ord. 1309 C.S. § 1, 2003)

§ 8.36.030. Property nuisance.

No person owning, leasing, renting, occupying, or having charge or possession of real property shall maintain or allow the maintenance of the property in such a manner that any of the following conditions exist on the property:

- A. Any building or structure which is structurally unsafe, partially destroyed, permitted to remain in an unreasonable state of partial construction, a fire hazard, or otherwise dangerous, regardless of the issuance of a building permit to initiate correction of the condition;
- B. Building exteriors, walls, roofs, fences, accessory structures, driveways, sidewalks, walkways, or alleys that are maintained in a condition of deterioration or disrepair. A state of disrepair includes maintaining tarps or other covers over any portion of the property;
- C. Unpainted structures, structures with peeling paint, cracked or broken stucco, visible decay, warping, termite infestation, or other deteriorating exterior covering or finish, in excess of four square feet of any single facade (i.e., any exterior side) of a structure, or any structures in which the exterior paint, covering, or finish has become so deteriorated as to permit decay, excessive cracking, peeling, chalking, warping, or termite infestation as to render the building unsightly or in a state of disrepair;

- D. Broken, cracked, or missing windows or doors, including but not limited to windows and/or doors containing broken or no glass at all, where the window or door is of a type which would normally contain glass; or unsecured doors inviting trespass;
 - 1. Plywood or other material used to cover window and/or door space may be used as a temporary, emergency repair. However, the property owner must replace such plywood with functioning window(s) and/or door(s) within 90 days from the installation of any such plywood, unless the Chief Building Official or designee authorizes a longer period in writing. If plywood coverings will be in place for longer than 10 days, then the property owner must paint the plywood coverings in a paint color matching the exterior of the structure and maintain the plywood coverings in good condition until such time as the window(s) and/or door(s) will replace the plywood coverings;
- E. Roofs with missing shingles, tile, or other material used as roof composition; roofing material that is loose or unstable; or roofs covered with material not manufactured as a roofing product;
- F. Improperly maintained (torn, tattered, shredded, broken, rusted) awnings;
- G. Fences, walls, or gates with peeling paint, broken bricks, broken mortar, cracked or broken stucco, or which are not constructed of uniform materials or in a uniform manner;
- H. Storing or allowing the storage of, in outdoor areas visible from public rights-of-way or neighboring properties:
 - 1. Discarded, abandoned, neglected, or broken furniture, appliances, equipment, or machinery; or
 - 2. Personal belongings that are not designed to withstand the elements; or
 - 3. Construction materials, except when permitted construction is occurring nearby;
- I. Accumulating any human or animal waste material or substances, stagnant water, or any combustible or hazardous materials or substances, fluid or solid, on any part of or in any structure on real property in such a manner as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties;
- J. A pond, spa, swimming pool, fountain, or other body of water which is abandoned, unattended, unfiltered or not otherwise properly maintained, resulting in polluted or stagnant water;
- K. Maintaining or allowing the maintenance of any paved areas for vehicle parking and access, porches, steps or walkways in a hazardous condition due to cracked, raised, or missing surface material;
- L. Landscaping, weeds, or vegetation that:
 - 1. Is overgrown, dead, decayed, or diseased; or
 - 2. Constitutes a fire hazard, or a condition considered dangerous to the public health, safety, or general welfare; or
 - 3. Is likely to harbor rats, rodents, vermin, or other similar infestations or vectors; or

4. Encroaches upon a public right-of-way; or
 5. Restricts or impedes the use of a public right-of-way, easement, sidewalk, or roadway; obstructs street signs or traffic signal lights; or impedes streetlights from illuminating the public right-of-way, easement, sidewalk, or roadway; or
 6. Includes branches that (a) allow a clearance of less than 14 feet in height above any vehicular way or right-of-way dedicated to the public, or a clearance of less than eight feet over any sidewalk, or that (b) otherwise restricts, impedes, or obstructs pedestrian or emergency access of said public right-of-way, easement, or roadway; or
 7. Is detrimental to aesthetic and property values in the neighborhood or otherwise detrimental to the public welfare; or
 8. Is not regularly maintained, irrigated, mowed, or trimmed;
- M. Rubbish, refuse, and/or waste materials (including but not limited to lumber, junk, trash, debris, automotive parts or tools, salvage materials, household appliances, fixtures, or equipment, but excluding stacked firewood (not to exceed one cord of such wood) for use on the premises) that is:
1. Accumulated on private property;
 2. Accumulated on any public property or right-of-way;
 3. Not properly contained and disposed of; or
 4. Which, by reason of its location or character, may constitute a fire hazard or threat to the public health, safety, and general welfare, including aesthetic impacts, of the surrounding area;
- N. Land, the topography, geology, or configuration of which, whether in a natural state or as a result of grading operations, modifications or excavation, causes erosion, subsidence, or surface water drainage problems that may be potentially injurious to the public health, safety, and welfare or to adjacent properties;
- O. Allowing obstructions to water flow to occur or develop within a natural drainage whether from a natural state, vegetative growth, placement of fill or any structures, or an object from an upstream location;
- P. Abandoned shopping carts, broken or discarded appliances and furniture, or furniture not intended and manufactured for outdoor use;
- Q. Garbage or trash cans in violation of Section 8.16.190 or 8.16.200;
- R. Boats, trailers, motorcycles, recreational vehicles, trailers, campers, boats, or parts thereof, or other articles of personal property that are abandoned, dismantled, wrecked, inoperable, or left in a state of partial construction or repair, except:
1. When completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or
 2. When stored or parked in a lawful manner on private property in connection with the business or a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such

storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise;

- S. Construction and wood debris, vegetation cuttings or clippings, not contained within a waste containers meeting the requirements of Chapter 8.16;
 - T. Compost piles to the extent that they attract vermin or flies, or emit offensive odors, are a public health and safety hazard due to pathogens or improper decomposition;
 - U. An attractive nuisance dangerous to children, including, but not limited to, open excavations; unsecured, abandoned, broken, or neglected household appliances (e.g., refrigerators, freezers, etc.), equipment, or machinery; unsecured storage containers; liquid cleaning materials; chemicals; unsecured pools, ponds, or other bodies of water;
 - V. The outdoor cultivation of cannabis plants in any stage of growth whatsoever, including, but not limited to, mature or immature plants, clones, seedlings or germinating seeds;
 - W. Commercial cannabis activity undertaken without a license as required by Division 10 (commencing with Cal. Bus. & Prof. Code § 26000) of the Business and Professions Code and Chapter 5.29 (Commercial Cannabis);
 - X. Any building or structure that is abandoned or vacated, or caused to be abandoned or vacated, so that:
 - 1. It becomes accessible to unauthorized persons; or
 - 2. It is used for storage, use, or manufacture of unlawful or hazardous materials; or
 - 3. It becomes infested with insects, vermin, or rodents; or
 - 4. The inside or outside of the premises contains any waste, rubbish, debris, excessive vegetation, or graffiti; or
 - 5. It attracts or harbors criminal activities; or
 - 6. It becomes a threat to public health or safety; or
 - 7. It is left open and accessible and/or is not secured in accordance with Chapter 8.38 (Vacant Commercial Structures) or Chapter 8.40 (Regulation of Vacant Property);
 - Y. Obstruction of or unpermitted encroachment into, on, under, over, or upon any public property, including but not limited to any public street, highway, right-of-way, park, or building;
 - Z. Individual sewage disposal systems in violation of Chapter 13.16 (Individual Systems);
 - AA. The renting of a residential dwelling, or any portion of a residential dwelling, to a person or persons for less than 30 consecutive days;
 - BB. A violation of any provision of, or condition of approval imposed in connection with, a lease, permit, license, franchise, agreement, certificate, or other entitlement issued by the City, whether temporary or permanent, including, for example and without limitation, a rezone, variance, or subdivision approval.
- (Ord. 1306 C.S. § 1 Exh. A, 2003; Ord. 1309 C.S. § 1, 2003; Ord. No. 1380 C.S., § 4, 5/7/2014; Ord. No. 1478, 10/22/2025)

§ 8.36.040. Nuisance declaration—Abatement.

Any real property maintained in a condition that violates Section 8.36.030 is declared to be a public nuisance. The condition may be abated pursuant to Chapters 1.12 or 1.13 or by any other remedy provided by law.

(Ord. 1306 C.S. § 1 Exh. A, 2003; Ord. 1309 C.S. § 1, 2003)

CHAPTER 8.38
VACANT COMMERCIAL STRUCTURES¹²

§ 8.38.010. Findings.

The City Council finds and declares that improperly maintained and secured vacant commercial structures attract a range of negative elements, including vagrants, thieves, vandals, rodents, and individuals involved in illegal activities; that vacant and improperly secured commercial structures are vulnerable to being set on fire by unauthorized persons; that improperly maintained and secured vacant commercial structures are a blight and cause deterioration and instability in neighborhoods; that improperly maintained and secured vacant commercial structures invite the dumping of garbage and trash; and that improperly maintained and secured vacant commercial structures pose serious threats to the public's health and safety and therefore constitute public nuisances.

(Ord. No. 1478, 10/22/2025)

§ 8.38.020. Purpose.

The purpose of this chapter is to require vacant commercial structures in the City of Martinez be properly maintained and secured during periods of vacancy with the goal that commercial structures do not remain vacant and unoccupied for extended periods of time without proper regulation.

(Ord. No. 1478, 10/22/2025)

§ 8.38.030. Definitions.

For purposes of this chapter, the following words and phrases shall have the following meanings:

- A. **BUILDING OFFICIAL** Means the Director of the Building Division or designee who is authorized and directed to enforce this chapter.
- B. **COMMERCIAL** or **COMMERCIAL USE** Means activities related to business, trade, the provision of services, or other economic activity, such as retail stores, offices, restaurants, and other establishments where goods or services are bought, sold, or exchanged.
- C. **EVIDENCE OF VACANCY** Means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown and/or dead vegetation; inactive utilities; statements by neighbors, passers-by, delivery agents or other officials; lack of response to notices; returned or forwarded mail; unsecured doors; absence of, or condition of, personal belongings on the property; habitation by trespassers; lack of marketing for purposes of selling or renting the property; lack of a current, valid lease with an active and/or present tenant or lessor for a legal and Code compliant use of the property; etc.
- D. **PROPERTY OWNER** or **OWNER** Means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property as shown on the latest equalized assessment roll of Contra Costa County or as otherwise known to the Building Official by virtue of more recent and reliable information. If more

12. Editor's Note: Prior legislation: Ord. 1306 C.S., 2003; Ord. 1340 C.S., 2007.

than one person or entity owns the subject real property, "owner" refers to each entity holding any portion of the fee interest in the property, and the owners' obligations in this chapter are joint and several as to each owner.

- E. PROPERTY Includes tracts, improved lots, easements, or improved parcels of land, and any and all improvements thereon.
- F. READY FOR OCCUPANCY Means that a commercial structure complies with all applicable building, fire, health, zoning, and safety codes and regulations; is in a condition suitable for immediate use or lease without the need for substantial repairs, alterations, or improvements (except for tenant improvements pursuant to the terms of proposed or actual lease); and is being actively offered for sale, lease, or rent. The structure shall have all necessary utilities available and operational, including but not limited to electricity, water, and heating/cooling systems, and free from any hazardous conditions or code violations that would preclude lawful occupancy.
- G. VACANT COMMERCIAL STRUCTURE Means any building, structure, or portion thereof used or permitted for commercial uses or mixed-use commercial activities, that shows evidence of vacancy and is not ready for occupancy.

(Ord. No. 1478, 10/22/2025)

§ 8.38.040. Application.

This chapter applies to all property in the City of Martinez where any of the conditions specified in this chapter exist.

(Ord. No. 1478, 10/22/2025)

§ 8.38.050. Duty of property owner.

Every property owner shall maintain vacant commercial property in accordance with the provisions of this chapter and correct all violations of the standards listed in this chapter, and is liable for violations of this chapter regardless of any contract or agreement with any third party concerning the property.

(Ord. No. 1478, 10/22/2025)

§ 8.38.060. Vacant commercial structures prohibited.

Vacant commercial structures are declared to be a public nuisance subject to abatement, unless the property owner establishes by substantial evidence to the reasonable satisfaction of the Building Official that one of the following applies:

- A. The structure and the property on which the structure is located complies with this Code and is ready for occupancy, subject to all provisions and exceptions contained herein; or
- B. The structure is the subject of an active planning entitlement and/or building permit for repair, rehabilitation, or renovation and the property owner is progressing diligently to complete the repair, rehabilitation, or renovation with regular inspections by the Building Official. The building permit must have been issued within one calendar year, unless the Building Official determines good cause exists to grant additional time for completion, in no event no more than one additional calendar year. "Good cause" shall require a factual showing by the property owner, satisfactory to the Building Official in his or her sole discretion, that (1) additional time is made necessary by conditions or events beyond the

property owner's control, such as unanticipated delays in construction or unanticipated damage to property, and that (2) the property owner has exercised reasonable and due diligence in attempting to complete the needed work or in attempting to sell, rent, or lease the building or property, as determined by the Building Official.

(Ord. No. 1478, 10/22/2025)

§ 8.38.070. Registration.

- A. The property owner of any commercial structure that is vacant shall register the property with the City.
- B. Registration shall be made within 90 days of a commercial structure becoming vacant.
- C. Property owners shall register their vacant commercial structures by submitting the registration form prescribed by the Building Official, accompanied by the annual registration fee established by resolution of the City Council, to the Building Division. Co-property owners may register using a single registration form. The registration form shall contain, at a minimum, the following information:
 - 1. The name, mailing address, telephone number, and email address of the property owner(s);
 - 2. The name, mailing address, telephone number, and email address of a local property management service provider or other responsible party accountable for the security and maintenance of the real property;
 - 3. The name, mailing address, telephone number, and email address of any realtor who has been engaged to market the structure or real property, as applicable;
 - 4. The expected period of vacancy;
 - 5. A detailed plan for the security and regular maintenance of the structure and the property on which the structure sits during the period of vacancy;
 - 6. Written acknowledgment that the Vacant Commercial Structure Registry is a public record subject to disclosure pursuant to the California Public Records Act (Cal. Gov't. Code, § 7920.000, et seq.); and
 - 7. Written consent permitting City personnel to conduct periodic inspections and necessary re-inspections of the structure and the property on which the structure sits, following reasonable notice and subject to applicable fees, to determine compliance with this chapter and any other relevant ordinances of the City or State law.
- D. Persons required to register pursuant to this chapter shall also report in writing to the City any change of information contained in the registration form within 10 calendar days of the change.
- E. When the property on which a vacant commercial structure subject to registration pursuant to this chapter sits is transferred to a new property owner, the City shall be notified in writing within 10 calendar days of the transfer of title. The new property owner shall submit a registration form containing, at a minimum, all the information required by subsection C of this section, accompanied by the registration fee as set by City Council resolution, within 10 calendar days of the transfer.

- F. If the Building Official determines a vacant commercial structure has not been registered as required by this section, then the Building Official shall send a notice requiring the property owner of the vacant commercial structure to register the structure within 10 calendar days of receipt of the Notice to Register. Such Notice to Register shall include a statement that the property owner has the right to submit in writing any information relating to a determination of vacancy and the right to appeal the determination of vacancy to the City Council within 10 calendar days of receipt thereof following the form, content, and procedures provided in Chapter 1.15 (Administrative Citations).
- G. A property owner may appeal a determination of vacancy to the City Council by filing a notice of appeal with the City Clerk's Office within 10 calendar days of receipt of a Notice to Register, following the form, content, and procedures provided in Chapter 1.15 (Administrative Citations). The City Council's determination shall be final.
- H. If a property owner fails to timely file an appeal, or if the City Council has rendered a final determination on appeal and the property owner thereafter fails to register the property within 10 calendar days of such final determination, the Building Official is authorized to cause the property owner and the subject property to be listed on the Vacant Commercial Structure Registry without further notice to the property owner. Such registration shall have the same force and effect as if the property owner had voluntarily registered the property.
- I. A property owner may be relieved from the obligation to register if the property owner establishes by substantial evidence to the reasonable satisfaction of the Building Official that one of the following applies:
 - 1. The structure is physically occupied, inhabited, and in use; or
 - 2. The structure and the property on which the structure is located complies with this Code and is ready for occupancy.
- J. The fee for registration and for any re-inspections necessary to confirm compliance with this chapter shall be paid upon registration and annually thereafter in an amount established by the City of Martinez in the fee schedule as adopted by the City Council.
- K. In addition to other criminal and civil remedies available to the City, a property owner who fails to register property in accordance with this section shall be subject to an administrative penalty of \$500 for the first violation. Thereafter, the property owner shall be subject to an additional fine of \$1,000 for every 30 days the property remains subject to registration but has not been registered in accordance with this section.

(Ord. No. 1478, 10/22/2025)

§ 8.38.080. Standards for securing a vacant commercial structure.

The property owner shall secure and maintain a vacant commercial structure according to all the following specifications and requirements:

- A. Maintain the vacant commercial building such that it complies with all applicable building, fire, health, zoning, and safety codes and regulations.
- B. Remove all waste, rubbish, and/or debris from the interior of the vacant commercial structure.
- C. Remove all waste, rubbish, debris, and/or dead, dying, or overgrown vegetation from the

premises surrounding the vacant commercial structure.

- D. Remove all accumulations of newspapers, circulars, flyers, notices, or other printed material that give the appearance that the structure is vacant (except those required by federal, state, or local law).
- E. Lock, secure, and maintain all doors and windows in good, working condition.
- F. Replace or temporarily board, barricade, and secure any broken, cracked, missing, or unsecured doors, windows, or exterior openings in accordance with the following specifications and requirements:
 - 1. Barricade all unsecured doorways, windows, or exterior openings with minimum 1/2 inch thickness exterior grade plywood which shall extend to the molding stops or studs.
 - 2. Mount at least two wood stocks of minimum 2x4 inch thickness to the reverse face of the plywood with minimum 3/8 inch carriage bolts mated with nuts and two flat washers.
 - 3. Extend the wood stock a minimum of eight inches on each side of the interior wall.
 - 4. If boarding materials will be in place for longer than 30 days, paint all exterior barricade and/or boarding material in a paint color matching the color of the exterior of the building or trim thereon.
 - 5. No commercial structure may have a boarded door, window, or exterior opening for a period of more than 90 days unless the Building Official authorizes a longer period in writing.
 - 6. In lieu of requiring the property owner to board a vacant commercial structure as set forth above, the Building Official may allow the property owner to board the structure in a manner that the Building Official determines adequately prevents unauthorized entry or vandalism.
- G. Ensure all exterior door hardware utilizes corrosion-resistant finishes certified to meet or exceed Builders Hardware Manufacturer's Association (BHMA) or American Society of Testing and Materials (ASTM) standards.
- H. If applicable, cap the sewer in a manner approved by the Building Official to prevent the accumulation of methane gas in the structure.
- I. If required by the Building Official, terminate utility services to the structure.
- J. Actively monitor and inspect no less than once every 90 days the structure, and the property on which the structure sits, to ensure:
 - 1. Landscaping and plant material is maintained and kept in good condition;
 - 2. The exterior of the structure, including but not limited to paint, roofing, and finishes, are maintained and kept in good condition;
 - 3. All exterior trash, debris, and graffiti are promptly removed; and
 - 4. Criminal activity does not occur on the premises, including but not limited to use and

sale of controlled substances, prostitution, criminal street activity, vandalism, loitering, or trespassing.

- K. If required by the Building Official, the property owner shall erect a temporary or permanent fence that meets the specifications of the Building Division and Planning Division on the property where the vacant commercial structure is located. Any fence erected in accordance with this section shall be maintained in a safe condition without tears, breaks, rust, or dangerous protuberances.
- L. Remove signage advertising or announcing the presence of abandoned commercial uses and/or commercial uses that are no longer present on-site, except when authorized to remain by the Planning Manager, Building Official, or designee thereof.
- M. Install and maintain in good operating condition security measures, approved by the Building Official, such as alarm systems, video systems, night security lighting, and security guard or inspection services as necessary to prevent access by unauthorized persons and deter unlawful activity on site. The use of guard dogs, untended security alarms, or other security measures tending to disturb the public peace and quiet enjoyment of property shall be prohibited.
- N. Retain the services of a local property management company that shall be responsible for the security, maintenance, and marketing of the property, as applicable.
- O. Cause the vacant commercial building to be inspected by the Building Official no less than once every 90 days.
- P. Construct and maintain at least one of the following types of displays on or inside all ground-floor windows visible from public rights-of-way or public places:
 - 1. Temporary faux window dressings containing permitted goods or services with the appearance of a vibrant business using background panels or other methods to screen views of the vacant commercial space from public rights-of-way and public places; or
 - 2. Temporary faux window dressing containing promotions for upcoming City-sponsored events; or
 - 3. Temporary works of art, including paintings, photographs, or sculptures or other displays of cultural, historical, seasonal, local, or educational value, utilizing colorful and vibrant materials, and using background panels or other methods to screen views of the vacant commercial space from public rights-of-way and public places; or
 - 4. Temporary paintings or other temporary window dressings applied directly to the window surface featuring visually appealing, colorful, vibrant scenes, shapes, or images visible from public rights-of-way and public places; or
 - 5. Other measures approved by the Building Official or designee in writing that achieve the purposes of this chapter, to avoid visual blight and enliven pedestrian experiences.
- Q. A window display required by subsection P of this section shall occupy at least 75% of the window area and be replaced and updated at least once every six months while the commercial building remains vacant.
- R. Post a sign providing the name and contact phone number of the property owner, or the

service provider or agent of the property owner, responsible for the required inspection, maintenance, and reporting obligations. The sign shall be a minimum of 17 inches x 22 inches in size and shall consist of white lettering no smaller than one inch in height on a contrasting background. The sign shall be weatherproof in design. The sign shall provide the contact's name and phone number, along with the words, "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or substantially similar words. The sign shall be placed at the front of the property in a conspicuous location and shall be maintained in good condition at all times.

- S. Maintain adequate liability insurance coverage. The property owner shall maintain liability insurance coverage on the property with minimum coverage amount of \$1,000,000 of general liability coverage. The City Manager or designee may lower or waive the coverage amount in their reasonable discretion.
- T. Maintain any and all records or documents evidencing or relating to compliance with this chapter throughout the period of vacancy, including but not limited to records of adequate insurance coverage, security and/or monitoring services, maintenance records, and inspection reports. All such documents shall be made available for inspection, audit, and/or copying by the City during regular business hours upon 48 hours' request by the Building Official.

In addition to the specific maintenance and security requirements set forth above, the Building Official shall have the authority to require property owners to implement additional maintenance and security measures in order to effectuate the purpose of this chapter and to protect the public health, safety, and welfare, including, but not limited to, the installation of security monitoring systems, requiring or increasing the frequency of on-site inspections, and/or posting of specified signage at the subject property.

(Ord. No. 1478, 10/22/2025)

§ 8.38.090. Prohibited entry.

It is unlawful for any person, other than the property owner or an authorized agent thereof, to enter or occupy any vacant commercial structure without consent of the property owner except to inspect, repair, or demolish the structure under proper permit or for a purpose authorized by the property owner.

(Ord. No. 1478, 10/22/2025)

§ 8.38.100. Authority.

The Building Official is authorized to administer and enforce this chapter. The Building Official may promulgate rules and procedures implementing this chapter consistent with its terms.

(Ord. No. 1478, 10/22/2025)

§ 8.38.110. Entry on premises.

To the extent allowed by law and as outlined in Section 1.08.010, whenever necessary to enforce any provision of this chapter or, whenever the Building Official has reasonable cause to believe that a violation of this chapter exists, the Building Official may inspect any vacant commercial structure and its associated premises to determine whether the structure or its premises complies with applicable provisions and requirements of this Code or of statutes or regulations enforced by the Building Official.

(Ord. No. 1478, 10/22/2025)

§ 8.38.120. Demolition permit.

- A. To ensure that potential historic resources are properly evaluated before they are demolished, owners of vacant commercial structures which were constructed 50 years or more prior to the date of application for a demolition permit shall be required to obtain a discretionary demolition permit from the City's Building Division in accordance with this section.
- B. For purposes of this section, "demolition" is defined as the destruction and removal, in part or in whole, of the foundation, exterior walls, roof structure, exterior framing, exterior siding and/or finish cladding material, porches, chimney and/or architectural details.
- C. Any application for a discretionary demolition permit shall be accompanied by:
 - 1. A written historic assessment or survey prepared by a qualified architectural historian certified to meet the Secretary of the Interior's Professional Qualifications Standards which concludes that the property proposed to be demolished is not classified under the California Historical Resource Status Codes 1 to 5; and
 - 2. An application for a replacement development project consistent with the standards and requirements of the applicable zoning district; and
 - 3. A signed affidavit attesting to the posting of a sign at least three feet by four feet in size, located in a conspicuous place on the property abutting a public street or alley, identifying the property as the subject of an application for a demolition permit.Both the discretionary demolition permit and the application for the replacement development project shall be reviewed concurrently and no discretionary demolition permit shall be approved unless and until the replacement development project is approved. The reviewing body for a demolition permit shall be the same body or individual that would review and approve the accompanying replacement development project.
- D. A discretionary demolition permit may be approved if the reviewing authority makes one of the following determinations:
 - 1. The structure proposed to be demolished is neither designated on the national, state, or local list of historic resources nor eligible for designation as an individual resource, and the replacement development project is approved; or
 - 2. The City Engineer or Building Official or designee thereof has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety.
- E. Exceptions. The following applications do not require a discretionary demolition permit:
 - 1. Demolition of any interior walls of any structure for the purpose of remodel, repair or maintenance, subject to any required permits;
 - 2. Removal and replacement, subject to any required permits, of exterior windows, doors, roof covering, foundation, exterior siding and/or finish cladding material, porches, chimney, architectural details and other structural or decorative elements deemed by the Building Official to be minor alterations, where the materials used for

maintenance and replacement do not materially alter the appearance, size or character of the existing structure; or

3. Any proposed demolition of a structure constructed less than 50 years from the date of the permit application.
 4. The Building Official may rely on definitions and permitting processes in the Municipal Code to consider circumstances which do not meet the exact criteria defined in subsections E.1 through E.3 of this section to determine that a specific case meets the intent of one or more of the exceptions.
 5. The Building Official may refer any applications that do not require a discretionary demolition permit to the Planning Commission if the Building Official determines in his or her sole discretion that the proposed development has the potential to result in significant impacts to the structure. In the event the Building Official refers an application to the Planning Commission, the Planning Commission shall follow the requirements for a discretionary demolition permit as set forth in this section.
 6. Supportive housing, as defined in Cal. Gov't. Code. § 65650, shall be a use by right under Cal. Gov't. Code § 65651.
- F. Before any demolition permit is granted, the application shall show, to the reasonable satisfaction of the Building Official, the existence of the following facts:
1. That the structure proposed for demolition:
 - a. Has no local, state or national historic significance as determined by the historic resource evaluation in the form of State of California Department of Parks and Recreation (DPR) Series 523 Forms pursuant to subsection D of this section; or
 - b. Is deemed to be eligible for local listing or designation under the California Historic Resource Codes 1 to 5, or a contributor to an existing or potential district, and all environmental review has been conducted, and/or a historical resource evaluation report with analysis of proposed alterations to determine if a proposed project would result in a substantial adverse change to a historical resource as defined in Section 15064.5(b) of the State [of] California Environmental Quality Act (CEQA) Guidelines, allowing the project to proceed with applicable permit requirements including, but not limited to: construction of a replacement structure in substantially similar architectural style and facade, maintenance of a plaque, photographs and/or publication describing the original structure and its local, state or national historic value, or other mitigation measures described in the environmental review document or the historical resources evaluation report; or
 - c. The city engineer or building official or his or her designee has provided a written determination that demolition is necessary to immediately abate an imminent hazard to public safety;
 2. That the proposed demolition activities will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties;
 3. That there is a demonstrated need for the demolition activity requested;

4. That the result of the demolition activity is consistent with the objectives of the general plan; and
 5. That the public interest, convenience, and necessity require that the demolition activity be undertaken at the location requested.
- G. An applicant who does not qualify for a discretionary demolition permit under this section may apply for a certificate of economic hardship as follows:
1. The owner shall have the burden of proof to show, by clear and convincing evidence, that the economic hardship caused by designation is disproportionate to the value of the property with the designation in place.
 2. The reviewing authority shall consider the cost of the stabilization of the historic elements of the property as it relates to the appraised value, and evidence of the economic return of maintaining the designation versus other proposed uses.
 3. The reviewing authority shall consider the application at a public hearing and shall either grant or deny the request based on one or more of the following findings:
 - a. Sale or lease of the property is impractical in comparison to holding or demolishing the property.
 - b. Denial of the request will diminish the value of the property so as to leave substantially no value or damage the owner unreasonably in comparison to benefits conferred on the community.
 - c. An adaptive reuse study has been satisfactorily conducted, and found that utilization of the property for other lawful uses is not feasible, or that it would not allow a reasonable rate of return to the owner.
 - d. A rehabilitation study has been satisfactorily conducted, and that it would not allow a reasonable rate of return to the owner.
 - e. All means have been explored to relieve possible economic disincentives to no avail, involving city-sponsored incentives, tax abatements, financial assistance, application of the State Historical Building Code, zoning variances, loans, grants or reimbursements.
 - f. The owner has made every possible effort to find a willing buyer for the property who would agree to restore the structure and has not been able to find a buyer who would offer a purchase price which afforded the owner a reasonable rate of return.
- H. Any person may submit a written request to appeal a decision of the reviewing authority to the City Council within 10 calendar days of receipt thereof following the form, content, and procedures provided in Chapter 1.15 (Administrative Citations).
- (Ord. No. 1478, 10/22/2025)

§ 8.38.130. Notice of violation.

- A. If the Building Official determines that a violation of this chapter exists, the Building Official may transmit a Notice of Violation to the property owner by certified mail, return

receipt requested, or by personal service by an authorized representative of the Building Official.

B. The Notice of Violation shall contain the following information:

1. The date and street address and such other description as is required to identify the property;
2. A statement of the conditions constituting the violation;
3. An order that the property owner take certain specified action(s) to bring the vacant commercial structure and/or the property on which the structure sits into compliance with this chapter within a certain deadline;
4. A statement that, if the property owner fails to take the specified action(s) to bring the vacant commercial structure and/or the property on which the structure sits into compliance with this chapter by the applicable deadline, the City may seek compliance using any remedy allowed by this Code and any other remedy allowed by law, including but not limited to the securing, repair, rehabilitation, demolition, or removal of the vacant commercial structure, recording a lis pendens against the property, or seeking a court ordered receivership to remediate the property;
5. A statement that the property owner has the right to submit in writing any information relating to a determination of the existence of a violation and the right to request a show cause hearing before the City Council following the form, content, and procedures provided in Chapter 1.13 (Nuisance Abatement).

C. If the Building Official determines that an effort is being made to correct the violation, the Building Official may grant an additional period of time for correction in excess of that set forth in the Notice of Violation. Any such additional period of time shall be in writing delivered in the same manner as the Notice of Violation.

(Ord. No. 1478, 10/22/2025)

§ 8.38.140. Remedies.

- A. If, after a notice to comply, a property owner fails to correct the violation within the time allowed, the City may seek compliance by any remedy allowed under applicable law or this Code, including, but not limited to, seeking enforcement pursuant to Chapter 1.12 (Enforcement), nuisance abatement pursuant to Chapter 1.13 (Nuisance Abatement), and administrative citations pursuant to Chapter 1.15 (Administrative Citations); a court ordered receivership to remediate the property; or recording a lis pendens or notice of noncompliance against the property with the Contra Costa County Recorder's Office.
- B. Nothing in this chapter shall be construed as requiring the securing of a substandard vacant commercial structure prior to an abatement of the property under other sections of the Martinez Municipal Code. If a substandard building becomes a vacant commercial structure before or during abatement, the Notice of Violation and Order to Abate may require the securing and maintaining of the vacant commercial structure and/or the property on which the vacant commercial structure sits in accordance with the standards set forth in Sections 8.38.070 and 8.38.080, as applicable.

(Ord. No. 1478, 10/22/2025)

§ 8.38.150. Receipt of notice.

The failure of a person to receive a properly addressed notice shall not affect the validity of the proceedings.

(Ord. No. 1478, 10/22/2025)

§ 8.38.160. Reinspections.

The Building Official may periodically reinspect vacant commercial structures to ensure compliance with this chapter and all applicable court and administrative orders.

(Ord. No. 1478, 10/22/2025)

§ 8.38.170. Remedies.

The remedies and procedures provided by this chapter are cumulative to each other and to any others available under this Code or State law. The election to pursue the remedies or procedures provided by this chapter shall not preclude the City from seeking any other cumulative remedy available under this Code or other applicable law. Nothing in this chapter prohibits the summary abatement of a nuisance.

(Ord. No. 1478, 10/22/2025)

§ 8.38.180. Costs and fees.

Abatement costs and summary abatement costs may be recovered by way of civil action against the property owner or may be assessed against the subject property as a special assessment lien, pursuant to the procedures under Chapter 1.13 (Nuisance Abatement). Abatement costs include the cost to perform the actual work, the cost of materials, and all administrative costs.

(Ord. No. 1478, 10/22/2025)

§ 8.38.190. Enforcement.

Nothing in this chapter shall be construed as imposing on the Building Official or the City any duty to issue an Order to Abate, nor to abate, nor to take any other action with regard to any unlawful, vacant commercial structure. Neither the Building Official nor the City shall be held liable for failure to issue an Order to Abate nor to take any other action with regard to any unlawful, vacant commercial structure. The Building Official may waive all or portions of the provisions of this chapter upon finding at their sole discretion that there is a unique condition or unusual circumstance beyond a property owner's control that would prohibit or prevent them from adhering to said provisions.

(Ord. No. 1478, 10/22/2025)

§ 8.38.200. Compliance.

Property owners of vacant commercial structures that are vacant on the effective date of the ordinance codified in this chapter must achieve compliance within 90 days of the ordinance's effective date.

(Ord. No. 1478, 10/22/2025)

CHAPTER 8.40
REGULATION OF VACANT PROPERTY

§ 8.40.010. Title.

This Chapter shall be known as the vacant property ordinance of the City of Martinez.
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.020. Findings.

The City of Martinez finds and declares that vacant property can attract vagrants, gang members and criminals and can be a prime location to conduct illegal activities; that vacant property can be a blight and cause deterioration and have a negative effect of property values; that vacant property can invite the accumulation of garbage, trash, discarded vehicles or boats, weeds, and other nuisance conditions; and that vacant property can pose a serious threat to the public's health, safety and welfare and therefore constitute a public nuisance.
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.030. Purpose.

The purpose of this ordinance is to identify vacant properties where nuisance conditions frequently occur and to require the proper securing of those properties to prevent additional nuisance conditions from occurring on the property.
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.040. Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- A. **BUILDING OFFICIAL** Means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this chapter.
- B. **NUISANCE CONDITION** Is one or more of the following conditions occurring on a vacant property:
 - 1. Accumulation of substantial amounts of trash, debris, rubbish, or garbage;
 - 2. Presence of discarded vehicles or boats, discarded trailers, vehicle or boat parts, vehicle or boat hulks, or other articles of personal property that are abandoned or left in a state of partial construction or repair;
 - 3. Presence of an attractive nuisance dangerous to children, such as abandoned, broken or neglected equipment, machinery, refrigerators or freezers, or unsafe pools, ponds or excavations;
 - 4. Shopping carts, discarded household equipment, or broken or discarded furniture;
 - 5. Any nuisance condition included in Section 8.36.030.
- C. **OWNER** Means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject real property, "owner" refers to each entity holding any portion of the fee interest in the property, and the owners' obligations in this chapter are joint and

several as to each owner.

D. VACANT PROPERTY Means any property that is unimproved and includes unimproved tracts, lots, easements, or parcels of land.

(Ord. 1306 C.S. § 1 Exh. A, 2003; Ord. No. 1478, 10/22/2025)

§ 8.40.050. Application.

This Chapter applies to all property in the City of Martinez where any of the nuisance conditions specified in this Chapter exist.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.060. Duty of property owner.

Every owner shall maintain property in accordance with the provisions of this Chapter and correct all violations of the standards listed in this Chapter, and is liable for violations of this Chapter regardless of any contract or agreement with any third party concerning the property.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.070. Duty to maintain property.

A. No owner shall maintain or allow the maintenance of vacant property in such a manner that any nuisance condition exists on the vacant property.

B. If a notice and order to abate has been transmitted to an owner, the vacant property must remain secured in accordance with this Chapter.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.080. Standards for securing vacant property.

Any vacant property that must be secured pursuant to this Chapter shall be secured according to the following specifications and requirements:

A. A fence that meets the specifications of the Building Department shall be erected on the vacant property;

B. One or more signs must be posted on the fence and must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this property or to remove or deface this notice. Trespassers will be prosecuted.

C. Any fence erected in accordance with this Section shall be maintained in a safe condition without tears, breaks, rust, or dangerous projections.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.090. Prohibited acts.

A. Entry prohibited. It is unlawful for any person other than the owner, the Building Official, or a designated representative of the Building Official, to enter or occupy any vacant property that has been posted pursuant to Section 8.40.080 (B), except for a lawful purpose authorized by the owner.

B. Interference with notice prohibited. It is unlawful for any person to remove or deface any

notice posted pursuant to Section 8.40.080 (B).
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.100. Enforcement authority.

The Building Official is authorized to administer and enforce this Chapter. The Building Official may promulgate rules and procedures implementing this Chapter.
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.110. Entry on premises.

To the extent allowed by law and as outlined in Section 1.08.010, whenever necessary to enforce any provision of this Chapter, the Building Official, or his or her designated representative, may inspect any vacant property to determine whether it complies with applicable provisions and requirements of this code or of statutes or regulations enforced by the Building Official or to enter for the purpose of abatement.
(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.120. Notice to comply.

- A. If the Building Official determines that any nuisance condition exists on a vacant property, the Building Official may transmit a notice to comply to the owner by first class mail or by personal service by an authorized representative of the Building Official.
- B. The owner must remove or remedy the nuisance condition specified on the notice to comply within the time specified in the notice to comply.
- C. The notice to comply will contain the following information:
 - 1. The street address and such other description as is required to identify the property;
 - 2. A statement of the nuisance condition existing on the vacant property;
 - 3. An order that the owner remove or remedy the nuisance condition within 10 days of the date of the notice to comply;
 - 4. A statement that if the nuisance condition is not removed within the time specified, the City of Martinez may issue a notice and order to abate ordering the securing of the vacant property;
 - 5. A statement that the owner has the right to submit in writing, any information relating to a determination of the existence of a violation and his or her right to appeal as provided in Chapter 1.13. D. If the Building Official determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction in excess of that set forth in the notice to comply. Any such additional period of time shall be in writing delivered in the same manner as the notice to comply.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.130. Notice and order to abate.

- A. The Building Official may transmit a notice and order to abate to the owner by certified mail and posting at site, or by personal service by an authorized representative of the

Building Official, if either of the following occur:

1. The nuisance condition specified in the notice to comply has not been removed or remedied within the time specified.
 2. Any nuisance condition occurs or reoccurs on the vacant property within 12 months of the date of the notice to comply.
- B. The owner must remove or remedy the nuisance condition specified in the notice and order to abate and secure the vacant property in accordance with the standards listed in Section 8.40.080 within 10 days of the transmittal date of the notice and order to abate or within a reasonable time specified by the Building Official.
- C. The notice and order to abate will contain the following information:
1. The date and street address and such other description as is required to identify the property;
 2. A statement that the nuisance condition specified in the notice to comply has not been removed or remedied within the time specified, or that a nuisance condition has occurred or reoccurred on the vacant property within 12 months of the date of the notice to comply;
 3. An order that the owner remove or remedy the nuisance condition and secure the vacant property within the time specified in the notice and order to abate;
 4. A statement that, if the vacant property is not secured in accordance with the standards listed in Section 8.40.080 within the time specified, the City of Martinez may seek compliance with any remedy allowed by this Code and any other remedy allowed by law. The statement will inform the owner that the City of Martinez may secure the vacant property and recover all costs, including the cost of the fence, from the owner;
 5. A statement that the owner has the right to appeal as provided in Chapter 1.13. D. If more than 12 months have passed from the date of the first notice to comply and no notice and order to abate has been issued, no notice and order to abate will be issued until after another notice to comply has been issued in accordance with Section 8.40.120.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.140. Remedies.

- A. If, after a notice and order to abate, a property owner fails to correct the violation in the manner and within the time specified in the notice and order to abate, the City of Martinez may seek compliance by any remedy allowed under this Code, including, but not limited to, securing of the vacant property (Section 8.40.150) and any other remedy allowed by law.
- B. If a nuisance condition occurs on a secured vacant property, the City of Martinez may seek compliance by any remedy allowed under this Code, and any other remedy allowed by law.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.150. Securing by City of Martinez.

- A. After issuing a notice and order to abate, the Building Official may secure the vacant property and recover costs as provided for in Section 8.40.200 if the owner does any of the following:
1. Fails to erect a fence in the manner and within the time specified in the notice and order to abate;
 2. Fails to erect a fence that meets the specifications of Section 8.40.080;
 3. Fails to maintain a fence in accordance with the provisions of Section 8.40.080.
- B. If a notice and order to abate a substandard building includes an order to secure the property with a fence that meets the specifications of the Building Department, the Building Official may secure the vacant property and recover costs as provided for in Section 8.40.200 after abating the substandard building.
- C. If a vacant property previously secured by the owner or Building Official again becomes unsecured within 24 months of any previous securing, the Building Official may resecure the vacant property and recover costs as provided for in Section 8.40.200. When re-securing a vacant property within 24 months of any previous securing, the Building Official is not required to transmit a notice and order to abate before re-securing the vacant property.
- D. After securing or re-securing a vacant property, the Building Official will transmit a notice to the owner of the vacant property. The notice will be transmitted to the owner by certified mail and posted at the site or by personal service by an authorized representative of the Building Official. The notice will inform the owner that the vacant property must be maintained in a condition that complies with this Chapter.
- E. If more than 24 months have passed from the date of a previous securing of a vacant property by the owner or Building Official, the Building Official will not secure or re-secure the vacant property until after a notice to comply and notice and order to abate have been issued in accordance with this Chapter.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.160. Receipt of notice.

The failure of a person to receive a properly addressed notice shall not affect the validity of the proceedings.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.170. Reinspections.

The Building Official may periodically reinspect vacant properties to ensure compliance with this Chapter and all applicable court and administrative orders.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.180. Summary abatement.

Nothing in this Chapter prohibits the summary abatement of a nuisance.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.190. Appeals.

The property owner may appeal any determination of the Building Official made pursuant to this Chapter as provided in Chapter 1.13.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.200. Costs and fees.

- A. Abatement costs may be recovered by way of civil action against the owner or may be assessed against the subject property as a lien. Abatement costs include the cost of materials including the fence, the cost to perform the actual work, and all administrative costs.
- B. Summary abatement costs may be recovered by way of civil action against the owner or may be assessed against the subject property as a lien. Summary abatement costs include the cost of materials including the fence, the cost to perform the actual work, and all administrative costs.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

§ 8.40.210. Reinspection fee.

The fee for any reinspection shall be an amount established by the City of Martinez in the Building Department's fee schedule adopted by the City Council.

(Ord. 1306 C.S. § 1 Exh. A, 2003)

CHAPTER 8.50
**SEISMIC HAZARD RETROFIT PROGRAM FOR UNREINFORCED MASONRY
BUILDINGS**

§ 8.50.010. Purpose.

The city of Martinez is located in a geographic area of high seismic risk, due to its proximity to the Hayward, Calaveras and Concord faults, and may reasonably be expected to experience moderate to severe ground shaking in the event of a significant local earthquake. Such ground shaking could result in the serious injury or loss of life due to damage or collapse of buildings. Historically, unreinforced masonry buildings have been shown to be especially vulnerable. The purpose of this chapter is to promote public safety by requiring mandatory strengthening of those buildings in the city of Martinez that exhibit structural deficiencies in their capacities to resist damage during an earthquake.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.020. Application.

- A. The provisions of this chapter are applicable to those buildings on the city of Martinez inventory list of Unreinforced Masonry Buildings prepared in 1989 as required by SB547 (Chapter 12.2 of Division 1 of Title 2 of the Government Code (Government Code Section 8875 et seq.) and any other building determined by the Building Official to be a URM building under this chapter and deemed a possible threat to public health and safety which is not included in any of the following exceptions.
- B. Notwithstanding the above, the following buildings are exempt from the requirements of this Chapter.
 - 1. Residential buildings with five or fewer dwelling units.
 - 2. Buildings which have already been completely upgraded to not less than the Uniform Code for Building Conservation, Appendix Chapter 1 standards in effect at the time the work was done, provided that such work has been completed with all required permits and inspection approvals.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.030. Definitions.

For the purpose of this chapter the following definitions apply:

- A. "Building official" means the Director of the Public Works Department or his or her designated representative who is authorized and directed to enforce this Chapter.
- B. "Civil engineer or structural engineer" means a licensed civil or structural engineer registered by the state of California
- C. "California Existing Building Code (CEBC)" is the 2007 California Existing Building Code or version contained in the California Building Standards Code most recently adopted by the State of California.
- D. "Unreinforced masonry" includes adobe or burned clay, concrete or sand-lime brick; hollow clay or concrete block; plain concrete; stone masonry; and hollow clay tile.

- E. "Unreinforced masonry (URM) building" means any building containing walls and/or columns which relies on the tensile strength of masonry units, mortar and grout in resisting design loads, and in which the area of reinforcement is less than 25 percent of the minimum ratio for reinforced masonry required by the most recently adopted Building Code.
- F. "Risk categories" are defined as follows:
1. Essential building: any building housing a hospital or other medical facility having surgery or emergency treatment areas; fire or police stations; municipal government disaster operation and communication centers.
 2. High risk building: any non-essential building having an occupant load of one hundred persons or more.
 3. Medium risk building: any non-essential building having an occupant load less than one hundred and not included within the definition of "low risk building" below.
 4. Low risk building: any non-essential building not open to the public and used as a warehouse/storage building. Warehouses /storage buildings housing emergency services equipment or supplies are considered Medium risk buildings.
- G. "Owner" means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property.
- H. "Seismic strengthening" is all work necessary to comply with the requirements of this chapter.
- I. "Adoption date" shall refer to July 15, 2009, the date that this Chapter was adopted by an ordinance of the City Council.
- J. "Appeals board" refers to a panel of no less than three persons, selected by the Building Official, who shall serve without compensation. The persons serving on the panel shall be knowledgeable, employed or formerly employed in one of the following fields: construction, architecture, engineering, planning, law enforcement or related fields.
- (Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.040. Engineer's report required.

- A. Within two years after the Adoption Date of this ordinance, owners of URM buildings subject to this ordinance shall be required to have an engineering report submitted to the city's Building Department which evaluates the existence, nature, and severity of any structural deficiencies in their buildings' capacities for earthquake resistance which could result in damage or collapse and potentially cause injury or loss of life. The engineering report shall include the following information:
1. Time frame: Engineering reports shall be submitted within twenty-four months after the Adoption Date.
 2. Authorized Preparers: Engineering reports shall be prepared by a civil or structural engineer who is familiar with seismic analysis and design.
 3. Purpose: The purpose of each such engineering report shall be to investigate, in a thorough and unambiguous fashion, a building's structural systems that resist

earthquake forces, and to evaluate their adequacy to resist the seismic forces.

4. Engineering standards: The minimum engineering standards to be used in preparation of engineering reports or drawings shall be those contained in the California Existing Building Code (CEBC), Appendix Chapter A1.
 5. Format: The written engineering report shall include all portions of the building and any measures necessary to correct deficiencies to not less than the minimum engineering standards.
- B. The Building Official shall review the engineering report for each identified building to insure conformance with this chapter. The Building Official may, at its option, engage the services of a consulting civil or structural engineer to assist in evaluation of the submitted report at the sole Cost of the owner. If the Building Official in consultation with the consulting civil or structural engineer determines that the building needs to be seismically strengthened to be in compliance with this Chapter despite the conclusions of the engineering report, the Building Official may require the owner to submit construction drawings and repair any deficiency in accordance with the requirements of this Chapter.
- C. Owners of each URM building shall provide each of their tenants with written notification that an engineer's report has been completed and submitted to the city of Martinez and is available for review at the Building Department. Such notification shall occur within ninety days of submission of the engineering report to the City.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.050. Construction drawings required.

- A. Owners of those buildings needing seismic strengthening as determined by the engineer's reports outlined in section 8.50.040 are required to submit a complete set of construction drawings to the city of Martinez Building Department no later than 5 years after the Adoption Date of this ordinance. Required drawings must be professionally prepared and stamped and signed by a civil or structural engineer licensed to do work in the State of California. Construction drawings must be complete and include all improvements to be made to comply with this Chapter. Drawings shall include engineering calculations.
- B. Construction Drawings shall include:
1. Dimensioned floor and roof plans showing existing walls and the size and spacing of floor and roof framing members and sheathing materials.
 2. All existing and new crosswalls and their materials of construction. The location of the crosswalls and their openings shall be fully dimensioned or drawn to scale on the plans.
 3. Dimensioned wall elevations showing openings, thickness, heights, the type of veneer, its thickness and its bonding, and/or ties to the structural wall masonry.
 4. The extent and type of existing wall anchorage to floors and roof when used in the design.
 5. The extent and type of any parapet corrections which were previously performed, if any.

6. Repair details, if any, of cracked or damaged unreinforced masonry walls.
- C. Design standards applicable to the work to be performed under this Chapter shall be at a minimum those contained within the California Existing Building Code (CEBC), Appendix Chapter A1.
- D. The Building Official shall review the construction drawings for conformance with this chapter and, at its option, engage the services of a consulting civil or structural engineer to assist in evaluation of the drawings. The costs of each such review shall be recoverable from the building owner.
- E. A building permit shall be required for the work shown on the construction drawings. The fee for this permit and plan review shall be established by the City Council. Any outside consulting or special inspection shall be services retained by the City to review the permit application plans or to inspect the work performed under this permit at the expense of the permit applicant or permit holder.

(Ord. 1353 C.S., § 1, 7/15/2009; Ord. No. 1374 C.S., § 1, 11/6/2013)

§ 8.50.060. Repair of deficiencies required.

- A. Any owner of building which requires seismic strengthening as determined by engineers report or the Building Official pursuant to section 8.50.040 shall complete work required by approved construction drawings within the following time frame that is applicable:
 1. Essential buildings and High risk buildings: work must be completed and receive a final approval from the Building Official within four years of the Adoption Date.
 2. Medium and Low risk buildings: work must be completed and receive a final approval from the Building Official within six years of the Adoption Date.
- B. If, after review of the engineer's report required in section 8.50.040 a building is determined to pose an immediate threat to public health or safety the Building Official may require repairs be made in a more timely manner than set forth in 8.50.060 (A).
- C. If a building owner determines that the cost to seismically strengthen the building is not financially reasonable, the building owner can submit documentation and apply for a demolition permit to remove the building. Such documentation/application shall be made to the Martinez Building Official for review and must follow all applicable procedures for building demolition under this code. Approved demolition work must be completed within the time frames outlined in subsection (A). The Building Official may modify or extend time frames for demolition based upon the specific circumstances of the demolition work.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.070. Application to building permits for URM buildings.

Whenever an owner applies for a building permit under Title 15 to make any alteration, modification or renovation of any URM building, the owner shall submit an engineering report pursuant to section 8.50.040 as part of the permit application. The report shall include an evaluation of whether the proposed work is in any portion of the building needing seismic strengthening. If the Building Official determines that the proposed work does include an area where seismic strengthening is required the building owner shall submit the construction drawings required by section 8.50.050 with the permit application. The Building Official will

determine which portions of the required seismic strengthening work must be included as part of the proposed project. All other provisions of this Chapter shall also be applicable to any construction drawings or work required by this section.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.080. Failure to comply.

Any violation of this Chapter is a public nuisance and the Building Official can order the building vacated. Vacated buildings must comply with the provisions of the Martinez Municipal Code Chapter 8.38 and other applicable codes and regulations.

(Ord. 1353 C.S., § 1, 7/15/2009)

§ 8.50.090. Appeal.

Appeals of the requirements, determinations or actions pursuant to this Chapter shall be made to the Building Official. Such appeal shall be filed with the Public Works Department within sixty (60) days of the rendering of the decision, action, or order that is the subject of the appeal. The written appeal shall include a clear and concise statement of the grounds, material facts and specific reason for the appeal.

The appeal shall include an address at which the appellant agrees notice of any additional proceedings, decisions or orders relating to the imposition of the appeal may be received by first class mail. The Building Official shall bring the appeal to the appeals board within thirty (30) days following the filing of the written appeal. The appeals board shall render a decision in writing within thirty (30) days of the appeals hearing. The decision of the appeals board shall be final.

(Ord. 1353 C.S., § 1, 7/15/2009)

CHAPTER 8.52
FIREWORKS

§ 8.52.010. Definitions.

For the purposes of this chapter the following definitions shall apply:

- A. "Fireworks" shall be defined as set forth in Health and Safety Code Section 12511.
1. The term "fireworks" includes the following:
 - a. "Dangerous fireworks" as defined in Health and Safety Code Section 12505.
 - b. "Safe and sane fireworks" as defined in Health and Safety Code Section 12529.
 2. The term "fireworks" excludes the following:
 - a. "Exempt fireworks" as defined in Health and Safety Code Section 12508.
 - b. "Party poppers" and "snap caps" as each is defined in California Code of Regulations, Title 19, section 980.
- B. "Responsible party" includes but is not limited to:
1. A person that owns, rents, leases, or otherwise has possession of, or is in immediate control of, a residence or other private property or a vessel.
 2. A person that organizes, supervises, sponsors, conducts, allows, controls, or controls access to, the possession, manufacture, sale, offer for sale, use, or discharge of fireworks at a residence or other private property or on a vessel.

Notwithstanding this definition, if a residence or other private property is rented or leased for a period of more than 30 consecutive days, the landlord or lessor is not a responsible party unless the landlord or lessor: has possession of, or is in immediate control of, the residence or other private property; or has knowledge of the possession, manufacture, sale, offer for sale, use, or discharge of fireworks at the residence or other private property.

- C. "Vessel" shall be defined as set forth in Harbors and Navigation Code Section 651.
(Ord. No. 1430 C.S., § 1, 6/16/2021)

§ 8.52.020. Prohibition.

No person shall possess, manufacture, sell, offer to sell, use, or discharge any fireworks.
(Ord. No. 1430 C.S., § 1, 6/16/2021)

§ 8.52.030. Exceptions.

This chapter does not prohibit the proper use of flares by railroad personnel, peace officers, fire officials, or motorists, or the public display of fireworks at a City-sponsored or City-organized event or other event that is permitted by written consent of the City Council.
(Ord. No. 1430 C.S., § 1, 6/16/2021)

§ 8.52.040. Responsible party liability.

A responsible party shall maintain, manage, and supervise the residence or other private property, or vessel, for which they are responsible to prevent violations of this chapter. A responsible party violates this chapter if any person possesses, manufactures, sells, offers to sell, uses, or discharges any fireworks at the residence or other private property, or on the vessel, for which the responsible party is responsible, regardless of whether the responsible party is present when the violation occurs.

(Ord. No. 1430 C.S., § 1, 6/16/2021)

§ 8.52.050. Enforcement.

Any violation of this chapter shall be punishable as an infraction in accordance with Section 1.12.010 and enforceable as may be otherwise allowed by law.

(Ord. No. 1430 C.S., § 1, 6/16/2021)

MARTINEZ CODE

PUBLIC PEACE, MORALS AND WELFARE

Title 9

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Division I
Offenses By Or Against Public Officers And Government

CHAPTER 9.04
FALSE INFORMATION

§ 9.04.010. Unlawful.

It is unlawful for any person to give information, either orally or in writing, to any officer or employee of any law enforcement agency of the City, County, or State, concerning a felony or a misdemeanor knowing such information to be false.

(Prior code § 1202)

CHAPTER 9.08
INTERFERENCE WITH CANINE UNITS

§ 9.08.010. Unlawful.

It is unlawful for any person to willfully or maliciously torture, tease, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the City Police Department while any such dog is in the performance of the functions or duties of the Police Department or to willfully interfere with any such dog while it is being used in the performance of any of the functions or duties of the department.

(Prior code § 3529.1; Ord. 753 C.S. § I, 1972)

Division III
Offenses Against Public Decency

CHAPTER 9.28
GAMBLING

§ 9.28.010. Restricted.

No person shall deal, play, carry on, open or cause to be opened, conduct or bet at or against any game prohibited by laws of the State, with cards, dice or any device, for money, checks, credit or other representative of value, except draw poker played in a cardroom licensed under Chapter 5.48 of this code.

(Prior code § 3500)

CHAPTER 9.30
BINGO GAMES FOR CHARITY

§ 9.30.010. Enabling act.

Pursuant to the initiative entitled Proposition 9 approved by the State electorate on June 8, 1976, at the State primary election, provision has been made for the operation of bingo games pursuant to Section 19 of Article IV of the State Constitution which authorizes the enactment of an ordinance to allow bingo games only for the benefit of organizations exempted from the payment of Bank and Corporation Tax by Section 23701(d) of the Revenue and Taxation Code and a contribution of a gift to which would be a charitable contribution under Section 170(c)(2) of the Internal Revenue Code of 1952.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.020. Penalty.

It is a misdemeanor for any person to receive a profit, wage or salary from any bingo game authorized under this chapter pursuant to Section 19 of Article IV of the State Constitution.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.030. Minors.

It is unlawful for any minor to participate in any bingo game.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.040. Location of bingo games.

Any nonprofit, charitable organization qualified to operate a bingo game under this chapter shall conduct such bingo game only on property owned or leased by it and if property is used by such organization for an office or for performance of purposes to which the organization is organized.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.050. Open to public.

All bingo games shall be open to the public not just to members of the nonprofit charitable organization.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.060. Staffing.

A bingo game shall be operated and staffed only by members of the nonprofit charitable organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.070. Financial interest.

It is unlawful for any individual corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game to hold a financial interest in the conduct of such bingo game.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.080. Special fund.

All profits derived from a bingo game shall be kept by the nonprofit charitable organization in a special fund or account and shall not be commingled with any other fund or account.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.090. Personally present.

It is unlawful for any person to participate in a bingo game unless such person is physically present at the time and place in which the bingo game is being conducted.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.100. Prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed \$250 in cash or kind, for each separate game which is held.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.110. Public notice for games.

Any organization conducting a bingo game pursuant to this chapter shall post a copy of the ordinance codified in this chapter in a conspicuous place at the location of any and all games conducted pursuant to this Chapter.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.120. Definition.

"Bingo," as used in this Chapter, means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

(Ord. 839 C.S. § 1, 1976)

§ 9.30.130. License fees.

The City may impose a license fee, not to exceed the actual cost of issuing such license, on each nonprofit, charitable organization which it authorizes to conduct bingo games.

(Ord. 839 C.S. § 1, 1976)

CHAPTER 9.32
PUBLIC BILLIARD ROOMS

§ 9.32.010. Defined.

For the purpose of this Chapter, a "public billiard room" is defined to be any place open to the public where billiards, bagatelle or pool is played, or in which any billiard or pool table is kept and persons are permitted to play or do play thereon, whether any compensation or reward is charged for the use of such table or not; provided, however, that a public billiard room as used herein shall not include any place operated and maintained on the same premises with and strictly incidental to another lawful principal use of the premises and only during the hours that such principal use is open to the public.

(Prior code § 350l)

§ 9.32.020. Hours.

- A. No owner, manager or proprietor or other person having charge of any public billiard room shall keep the same open or allow or permit the same to be kept open or allow or permit any game to be played therein from 2 A.M. until 6 A.M., or allow or permit any person except such owner, manager, proprietor or persons in charge thereof or the servants regularly employed in and about the same, to be or remain therein between the hours aforesaid.
- B. This Section shall not apply to any public billiard room operated and maintained as a family-style billiard parlor having carpeted floor and a brightly lighted interior completely visible from the outside of the premises through large adequate windows.

(Prior code § 3.502)

§ 9.32.030. Minors—Restrictions.

No person under the age of 18 years, shall be in, remain in, enter and visit any public billiard room unless such minor is accompanied by one of his parents or by his legal guardian. No person under the age of 21 years shall be in, enter or visit any public billiard room in which any alcoholic beverages are sold, dispensed or offered for sale, nor in any public billiard room which adjoins a room wherein alcoholic beverages are sold, dispensed or offered for sale, and in which there is an opening connecting the billiard room with the premises wherein alcoholic beverages are sold, dispensed or offered for sale.

(Prior code § 3502.1)

§ 9.32.040. Minors—Responsibility of proprietor to prohibit on premises—Exceptions.

No owner, manager, proprietor or other person in charge of any public billiard room shall allow or permit any person under the age of 18 years to be in, remain in, enter or visit such place unless such minor person is accompanied by one of his parents or by his legal guardian. Every owner, manager, proprietor or other person in charge of a public billiard room, in which any alcoholic beverages are sold, dispensed or offered for sale, or such billiard room adjoining a building wherein alcoholic beverages are sold, dispensed or offered for sale, and in which there is an opening connecting such public billiard room with the room, in which alcoholic beverages are sold, dispensed or offered for sale, shall prohibit and prevent every person under the age of 21 years from being in, remaining in, entering or visiting such public billiard room.

(Prior code § 3502.2)

§ 9.32.050. Minors—Exceptions from provisions.

Notwithstanding the provisions of Sections 9.32.030 and 9.32.040, any person of the age of 16 years or over may be in, enter, visit or play in any family-style billiard parlor as described in section 9.32.020 after the hour of 8:00 A.M. and prior to the hour of 10:00 P.M. of any day, and may be permitted to do so without being accompanied by parent or guardian providing no alcoholic beverages are sold, dispensed or offered for sale on the premises or in any adjoining room, connected by a door or opening to the premises.

(Prior code § 3502.3)

CHAPTER 9.34
ADULT ENTERTAINMENT ESTABLISHMENTS

Article 1
General Provisions

§ 9.34.010. Intent and purpose.

It is the intent of this Chapter to provide special design guidelines, standards and development regulations to regulate the time, place and manner of the operation of adult-oriented businesses in order to minimize the negative secondary effects associated with such uses including, but not limited to, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as schools, parks, playgrounds, churches, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this Chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas. Additionally, it is the purpose of this Chapter to regulate adult-oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.020. Definitions.

- A. Adult arcade. The term "adult arcade," as used in this Chapter, means any business establishment or concern containing 1 or more coin or slug-operated or manually or electronically controlled still or motion picture projectors, video machines, projector or similar image-producing devices, that are maintained to display images to an individual or group of individuals when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- B. Adult bookstore. The term "adult bookstore," as used in this Chapter, means any establishment which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, sexually oriented material, books, periodicals, magazines, or other printed materials, or photographs, drawings, sculptures, films, motion pictures, videos, discs, cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities and/or specified anatomical areas (See "adult-oriented business" for definition of regular and substantial course of conduct.)
- C. Adult cabaret. The term "adult cabaret," as used in this Chapter, means a nightclub, bar, lounge, restaurant, or similar business establishment or concern which features as a regular

and substantial course of conduct, any type of live entertainment, films, motion pictures, computer-generated images, videos, discs, slides, or other photographic reproductions, or other oral, written or visual representations which are distinguished or characterized by an emphasis upon matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

- D. Adult dance studio. The term "adult dance studio," as used in this Chapter, means any business establishment or concern which provides for members of the public a partner for dance where the partner, or the dance is distinguished or characterized by an emphasis upon matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- E. Adult hotel/motel. The term "adult hotel/motel," as used in this Chapter, means a hotel, motel or other similar business establishment or concern offering public accommodations for any form of consideration which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television, films, computer-generated images, motion pictures, videos, discs, slides, other photographic reproductions, or other medium, material which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and which rents, leases, or lets any room for less than a 12-hour period, or rents, leases, or lets any single room more than once in a 24-hour period.
- F. Adult modeling studio. The term "adult modeling studio," as used in this Chapter, means any business or premises where there is furnished, provided or procured, a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas where such model(s) is being observed or viewed by any person for the purpose of being sketched, photographed, painted, drawn, sculpted, filmed or videotaped or otherwise depicted for a fee, compensation, gratuity or other thing of value as consideration for the right or opportunity to so observe the model or to remain on the premises. "Adult modeling studio" does not include any live art class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree pursuant to standards set by the State Board of Education.
- G. Adult-oriented business. The term "adult-oriented business" means any business establishment or concern which as a regular and substantial course of conduct operates as an adult arcade, adult bookstore, adult cabaret, adult dance studio, adult hotel/motel, adult modeling studio, adult theater; any business establishment or concern which as a regular and substantial course of conduct sells or distributes or offers for sale or distribution sexually oriented merchandise or sexually oriented material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult-oriented business" does not include those uses or activities, the regulation of which is preempted by state law. For the purposes of this Section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as a regular and substantial course of conduct when 1 or more of the following conditions exist:
 - 1. The area devoted to adult merchandise and/or sexually oriented material exceeds

more than 20% of the total display or floor space area open to the public; and

2. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on specified sexual activity or specified anatomical areas at least 4 times in any month; and
 3. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- H. Adult theater. The term "adult theater," as used in this Chapter, means a business establishment or concern which, as a regular and substantial course of conduct, presents live entertainment performances, motion pictures, videos, computer images, slide photographs, or other pictures or visual representations or reproductions which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- I. Adult-oriented business operator. The term "adult-oriented business operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult-oriented business or the conduct or activities occurring on the premises thereof.
- J. Applicant. The term "applicant" means a person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an adult-oriented business.
- K. Bar. For the purposes of this Chapter, a "bar" means any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages on the premises.
- L. Church. The term "church" as used in this Chapter, means a structure which is used primarily for religious worship and related religious activities.
- M. Distinguished or characterized by an emphasis upon. As used in this Chapter, the term "distinguished or characterized by an emphasis upon" means and refers to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; the films so described are those whose dominant or predominant character or theme are the depiction of the enumerated sexual activities or anatomical areas. See "Pringle v. City of Covina (1981) 115 Cal.App.3d 151."
- N. Entertainer. As used herein, "entertainer" means any person who dances, models, entertains, and/or performs specified sexual activities or displays specified anatomical areas in an adult-oriented business.
- O. Establishment of an adult-oriented business. As used herein, to "establish an adult-oriented business" means and includes any of the following:
1. The opening or commencement of any adult-oriented business as a new business; and

2. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business defined herein; and
 3. The addition of any of the adult-oriented businesses defined herein to any other existing adult-oriented business; or
 4. The relocation of any such adult-oriented business.
- P. Figure model. The term "figure model," as used in this Chapter, means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.
- Q. Live art class. The term "live art class" as used in this Chapter, means any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing, or sculpting of live models exposing specified anatomical areas; instruction is offered in a series of at least 2 classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and preregistration is required at least 24 hours in advance of participation in the class.
- R. Nudity or a state of nudity. "Nudity" or "state of nudity," as used in this Chapter, means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola.
- S. Operate an adult-oriented business. As used in this Chapter, "operate an adult-oriented business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-oriented business or activities within an adult-oriented business.
- T. Permittee. The term "permittee," as used in this Chapter, means the person to whom an adult-oriented business permit is issued.
- U. Person. The term "person," as used in this Chapter, means any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.
- V. School. The term "school," as used in this Chapter, means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education or an institution of higher education, including a community or junior college, college, or university, but it does not include a vocational institution.
- W. Semi-nude. The term "semi-nude," as used in this Chapter, means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- X. Sexual encounter center. "Sexual encounter center," as used in this Chapter, means any business, agency or person who, for any form of consideration or gratuity, provides a place where 3 or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

- Y. Sexually oriented material. The term "sexually oriented material," as used in this Chapter, means any element of sexually oriented merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video, disc, computer-generated image, or other written, oral or visual representation which, for purposes of sexual arousal, provides depictions which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- Z. Sexually oriented merchandise. The term "sexually oriented merchandise," as used in this Chapter, means sexually oriented implements and paraphernalia, including, but not limited to, dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery or electrically operated vaginas or penises, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- AA. Specified anatomical areas. As used in this Chapter, "specified anatomical areas" means and includes any of the following:
1. Less than completely and opaquely covered human (a) genitals or pubic region, (b) buttocks, and/or (c) female breast below a point immediately above the top of the areola; or
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 3. Any device, costume or covering that simulates any of the body parts included in subsection (AA)(1) or (2) above.
- BB. Specified sexual activities. As used herein, "specified sexual activities" means and includes any of the following, whether performed directly or indirectly through clothing or other covering:
1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
 2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
 3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
 4. Fondling, or touching of nude human genitals, pubic region, buttocks, or female breast; or
 5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
 6. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or human excretion, urination, menstruation, vaginal or anal

irrigation; or

7. The presence of any person who performs, or appears in a state of nudity or semi-nudity.
(Ord. 1339 C.S. § 3, 2007)

Article 2
Limitations on Location

§ 9.34.040. Prohibited areas and minimum proximity requirements.

- A. Subject to the limitations set forth in this Chapter, adult-oriented businesses may be established in the service commercial (SC) or light industrial (LI) zoning districts of the City.
 - B. Notwithstanding the above, no adult-oriented business shall be established or located within certain distances of certain specified land uses or zones as set forth below:
 - 1. No such business shall be established or located within a 300-foot radius from any existing residential zone or use. The distance between a proposed adult-oriented business use and a residential zone or use shall be measured from the nearest exterior wall of the facility housing the adult-oriented business use or proposed adult-oriented business use to the nearest property line included within a residential zoning district or property in current residential use, along a straight line extended between the 2 points.
 - 2. No such business shall be established or located within 1,000 feet of any other adult-oriented business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Martinez. The distance between the 2 adult-oriented business uses shall be measured between the nearest exterior wall of the facility housing the adult-oriented business use and proposed adult-oriented business use along a straight line extended between the 2 uses.
 - 3. No such businesses shall be established or located within 1,000 feet from any existing park, playground, church or school uses or property zoned recreational facilities (RF). The distance between a proposed adult-oriented business use and park, playground, church or school uses or property zoned recreational facilities (RF), shall be measured from the nearest exterior wall of the facility housing the adult-oriented business use or proposed adult-oriented business use to the nearest property line where the park, playground, church or school use is located, or property zoned recreational facilities (RF) is located, along a straight line extended between the 2 points.
 - C. The above distance limitations shall also apply to residential districts or uses and parks, playgrounds, schools, and church uses or property designated as such in the general plan land use element of an adjacent jurisdiction.
- (Ord. 1339 C.S. § 3, 2007)

Article 3
Application and Permits

§ 9.34.060. Adult-oriented business permit required.

It shall be unlawful for any person to engage in, conduct, establish, carry on, or to permit to be engaged in, conducted, established or carried on, in or upon any premises in the City of Martinez, the operation of an adult-oriented business unless the person first obtains and continues to maintain in full force and effect both an adult-oriented business permit and a business license from the City of Martinez.

No adult-oriented business may be established within the City of Martinez by right. All persons wishing to establish an adult-oriented business within the City must first apply for and receive an adult-oriented business permit pursuant to this Chapter.

It is the burden of the applicant for an adult-oriented business permit to supply sufficient evidence to justify the grant of an adult-oriented business permit.
(Ord. 1339 C.S. § 3, 2007)

§ 9.34.080. Application requirements.

- A. Application submittal. Any person desiring to operate or establish an adult-oriented business within the City of Martinez shall file with the Community Development Department an adult-oriented business permit application on a standard application form supplied by the Community Development Department.
- B. All applications shall include the following information:
 - 1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age;
 - 2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names and current addresses of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any;
 - 3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names, addresses and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process;
 - 4. The notarized signature of the property owner and proof of ownership;
 - 5. A nonrefundable deposit or fee as set forth by ordinance or resolution of the City Council;
 - 6. Signed statement by the applicant verifying that applicant intends to and will comply with all adult-oriented business development standards of this Chapter;
 - 7. A description of the adult-oriented business for which the permit is requested and the proposed address where the adult-oriented business will operate, plus the names and

addresses of all the owners and lessors of the adult-oriented business site;

8. The address to which notice of action on the application is to be mailed;
 9. The names of all employees, independent contractors, and other persons who will perform at the adult-oriented business;
 10. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the adult-oriented business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches;
 11. A straight-line drawing prepared within 30 calendar days prior to application depicting the building and the portion thereof to be occupied by the adult-oriented business, and: (a) the property line of any residential zone or use within 300 feet of the primary entrance of the adult-oriented business, (b) the property line of any other adult-oriented business within 1,000 feet of the primary entrance of the adult-oriented business for which a business permit is requested, and (c) the property lines of any church, school, park or playground within 1,000 feet of the primary entrance of the adult-oriented business;
 12. A diagram of the off-street parking areas and premises entries of the adult-oriented business showing the location of the lighting system required by this Chapter.
- C. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10% or greater interest in the business entity shall sign the application.
- D. If the applicant intends to operate the adult-oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult-oriented business and show proof of registration of the fictitious name.
- E. All applicants for an adult-oriented business permit must also fill out the City's environmental information form for purposes of complying with the California Environmental Quality Act ("CEQA").
- F. The Community Development Director or his or her designee shall determine whether the application contains all the information required by the provisions of this Chapter. If it is determined that the application is not complete, the applicant shall be notified, in writing, within 30 days of the date of receipt of the application that the application is not complete and the reasons therefor, including any additional information necessary to render the application complete. The applicant shall have 30 calendar days to submit additional information to render the application complete. Failure to do so within the 30-day period shall render the application automatically void. Within 30 days following the receipt of an amended application or supplemental information, the Community Development Director or his or her designee shall again determine whether the application is complete in accordance with the procedures set forth in this subsection. Evaluation and notification shall occur as provided above until such time as the application is found to be complete. The applicant shall be notified within 10 days of the date the application is found to be complete. All notices required by this Chapter shall be deemed given upon the date that they are either deposited in the United States mail or the date upon which personal service

of such notice is provided.

- G. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining an adult-oriented business permit. (Ord. 1339 C.S. § 3, 2007)

§ 9.34.100. Investigation and action on application.

- A. The Planning Commission ("the Commission") shall grant, conditionally grant or deny an application for an adult-oriented business permit ("permit"). Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.
- B. Upon the filing of a completed application, the Commission shall cause to be made by its own members, or members of its staff, an appropriate investigation, including consultation with the Building, Police, Fire and Health Departments and inspection of the premises as needed. Consultation is not grounds for the City to unilaterally delay in reviewing a completed application.
- C. Within 45 days of receipt of the completed application, the Commission shall hold a public hearing on the application for an adult-oriented business permit. Notice of the public hearing shall be given in accordance with California Government Code Section 65091, as the same may be amended from time to time.
- D. In reaching a decision on an application for an adult-oriented business permit, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
- E. The Planning Commission shall render a written decision on the application for an adult-oriented business permit within 60 days of receiving a completed application. The failure of the Commission to render such a decision within this time frame shall be deemed to constitute a denial of the application.
- F. The Commission's decision shall be hand-delivered or mailed to the applicant. (Ord. 1339 C.S. § 3, 2007)

§ 9.34.110. Permit—Appeal.

- A. Any interested person may appeal the decision of the Commission to the City Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the City Council shall have the authority to direct that the City Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the City Council.
- B. Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the City Council.
- C. The City Council action on the appeal of the Commission's decision shall be by a majority

vote of the quorum, and upon the conclusion of the public hearing, the City Council shall grant, conditionally grant or deny the application. The City Council's decision shall be final and conclusive.

- D. In reaching its decision, the City Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
(Ord. 1339 C.S. § 3, 2007)

§ 9.34.120. Permit—Judicial review of decision to grant, deny or revoke.

- A. The time for court to challenge a decision by the City Council to grant, deny or revoke an adult-oriented business permit is governed by California Code of Civil Procedure Section 1094.6.
- B. Notice of the City Council's decision and its findings shall be mailed to the applicant and shall include citation to California Code of Civil Procedure Section 1094.6.
- C. The petitioner may seek prompt judicial review of the City Council's action pursuant to California Code of Civil Procedure Section 1094.8.
(Ord. 1339 C.S. § 3, 2007)

§ 9.34.140. Permit—Expiration.

Any adult-oriented business permit approved pursuant to this Chapter shall become null and void unless the proposed use is established within 6 months from the date of approval. As to facilities that are a reuse of existing facilities, the adult-oriented business permit shall become null and void unless the proposed use is established within 6 months from the date of approval, unless prior to said expiration date the permittee demonstrates to the satisfaction of the Planning Commission that the applicant has a good faith intent to presently commence the proposed use. Such extensions shall not exceed a total of 2 6-month extensions.
(Ord. 1339 C.S. § 3, 2007)

§ 9.34.160. Permit—Approval criteria.

- A. The Commission or City Council shall approve or conditionally approve an application for an adult-oriented business permit where the information submitted by the applicant substantiates all of the following findings:
1. That the applicant is over the age of 18 years; and
 2. That the required application fee has been paid; and
 3. That the proposed use complies with the development and design requirements of the underlying zoning district in which it is located and with the applicable development standards of this Chapter; and
 4. That the proposed site is not located within a 300-foot radius from any existing residential zone or use. The distance between a proposed adult-oriented business use and a residential zone or use shall be measured from the nearest exterior wall of the facility housing the adult-oriented business use or proposed adult-oriented business use to the nearest property line included within a residential zoning district or property

in current residential use, along a straight line extended between the 2 points; and

5. That the proposed site is not located within 1,000 feet of any other adult-oriented business as defined in this Chapter which is located either inside or outside the jurisdiction of the City of Martinez. The distance between the 2 adult-oriented business uses shall be measured between the nearest exterior wall of the facility housing the adult-oriented business use and proposed adult-oriented business use along a straight line extended between the 2 uses; and
 6. That the proposed site is not located within 1,000 feet from any existing park, playground, church or school uses or property zoned recreational facilities (RF). The distance between a proposed adult-oriented business use and park, playground, church or school uses or property zoned recreational facilities (RF), shall be measured from the nearest exterior wall of the facility housing the adult-oriented business use or proposed adult-oriented business use to the nearest property line where the park, playground, church or school use or property zoned recreational facilities (RF) is located, along a straight line extended between the 2 points; and
 7. That the proposed site is not located within 300 feet of a residential zoning district or use or within 1,000 feet of a park, playground, church or school use located in or property designated for such use in the general plan land use element of an adjacent jurisdiction; and
 8. That neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded nolo contendere within the past 4 years of a misdemeanor or a felony classified by the state as a sex or sex-related offense.
- B. Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.
- (Ord. 1339 C.S. § 3, 2007)

§ 9.34.180. Registration of new employees.

- A. As a further condition of approval of every adult-oriented business permit issued pursuant to this Chapter, every owner or operator of an adult-oriented business shall register every employee with the Police Department within 5 business days of the commencement of the employee's period of employment at the adult-oriented business.
- B. Each employee shall be required to provide 2 recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification. In addition, each new employee shall provide the following information in a form provided by the Police Department:
 1. Name, current resident address, telephone number; and
 2. Date of birth; and
 3. Social Security number; and
 4. Height, weight, color of eyes and hair; and

5. Stage name, if applicable, and other aliases used within the previous 2 years.
- C. Each owner or operator of an adult-oriented business shall maintain a current register of the names of all employees currently employed by the adult-oriented business, and shall disclose such registration for inspection by any Police Officer for the purposes of determining compliance with the requirements of this Section.
- D. Failure to register each new employee within 5 days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the adult-oriented business permit and may be considered grounds for suspension or revocation of the permit.
- (Ord. 1339 C.S. § 3, 2007)

§ 9.34.200. Adult-oriented business development standards.

- A. It shall be unlawful for any operator or employee of an adult-oriented business to allow such adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of any day.
- B. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Martinez.
- C. No adult-oriented business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- D. All off-street parking areas and other exterior areas of the adult-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of 1 footcandle of light evenly distributed at ground level. The required lighting level is established in order to provide sufficient illumination of the parking areas, walkways and outdoor areas serving the adult-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- E. The operator of an adult-oriented business shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.
- F. The adult-oriented business shall post in plain view inside the front portion of the business, a sign, in 2-inch print which shall reference California Penal Code Section 314 which shall read as follows:

Every person who willfully and lewdly either: (1) exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or (2) procures, counsels, or assists any person so as to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

Upon the second and each subsequent conviction under subsection (1) above, or upon a first conviction under subsection (1) above after a previous conviction under (California Penal Code) Section 288, every person so convicted is guilty of a felony, and is punishable by imprisonment in state prison. California Penal Code Section 314.

- G. All indoor areas of the adult-oriented business within which patrons are permitted, except rest rooms and customer changing rooms, if any, shall be open to view by the management at all times.
- H. Any adult-oriented business which is also an "adult arcade," shall comply with the following additional provisions:
 - 1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms and customer changing rooms. Rest rooms and customer changing rooms may not contain video reproduction equipment. If the premises has 2 or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least 1 of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.
 - 2. The view area specified in subsection (H)(1) shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - 3. No viewing room or changing room may be occupied by more than 1 person at any 1 time.
 - 4. The walls or partitions between viewing rooms or booths, changing rooms, rest rooms and stalls or spaces contained therein shall be maintained in good repair at all times, with no holes between any 2 such rooms such as would allow viewing from 1 booth or room into another or such as to allow physical contact of any kind between the occupants of any 2 such booths or rooms.
 - 5. Customers, patrons or visitors who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing, shall not be allowed to stand idly by in the vicinity of any such video booths, or to remain in the common area of such business, other than the rest rooms. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.
 - 6. The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human

excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; instances of such conditions may justify suspension or revocation of the adult-oriented business permit.

- I. All interior areas of the adult-oriented business shall be illuminated at a minimum of the following footcandles, adequately maintained and evenly distributed at ground level:

Area	Footcandles
Bookstores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 footcandles)
Adult arcades	10
Motels/hotels	20 (in public areas)
Modeling studios	20

- J. The adult-oriented business shall provide and maintain separate rest room facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from any adult-oriented material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this Section shall not apply to an adult-oriented business which deals exclusively with sale or rental of sexually oriented material or merchandise which is not used or consumed on the premises and which does not provide rest room facilities to its patrons or the general public.
- K. The following additional requirements shall pertain to adult-oriented businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities, except for businesses regulated by the Alcoholic Beverage Control Commission:
1. No employee, owner, operator, responsible managing employee, manager or permittee of adult-oriented businesses providing live entertainment shall allow any person below the age of 18 years upon the premises or within the confines of the business if no alcoholic beverage is served, or under the age of 21 if alcoholic beverages are served.
 2. No entertainer shall dance with or otherwise be within 4 feet of a patron while performing for compensation or while on the adult-oriented businesses premises. This 4-foot separation shall be marked by a railing or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).
 3. No owner, operator, responsible managing employee, manager or permittee shall permit or allow at licensed premises any patron to approach within 4 feet of an entertainer, or permit or allow an entertainer to approach within 4 feet of a patron.
 4. All employees, other than entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.

5. The adult-oriented business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
 6. The adult-oriented business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.
 7. The adult-oriented business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the adult-oriented business shall provide a minimum 3-foot-wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
 8. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either or before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the adult-oriented business.
 9. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.
- L. Adult-oriented businesses shall employ security guards in order to maintain the public peace and safety, consistent with the following standards:
1. Adult-oriented businesses featuring live entertainment shall provide at least 1 security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.
 2. All adult-oriented businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. The individual designated as the on-site manager shall be registered with the City's Community Development Director by the owner to receive all complaints and be responsible for all violations taking place on the premises.
 3. All adult-oriented businesses shall provide a security system that visually records and monitors the exterior premises of the property including all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the exterior premises of the property, including the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed 2 by 3 feet and shall at a minimum be 1 foot by 1 ½ feet.
 4. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.
- M. X-rated movies or videos shall be restricted to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to persons under 18 years of age sells, rents, or displays videos or other motion picture media that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have

not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, said videos shall be located in a specific section of the establishment where persons under the age of 18 shall be prohibited. All access to sexually oriented material or merchandise shall be restricted to persons over 18 years of age.

- N. Any and all sexually oriented materials or sexually oriented merchandise discarded by an adult-oriented business shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to sexually oriented materials or sexually oriented merchandise.

The foregoing applicable requirements of this Section shall be deemed conditions of adult-oriented business permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the business permit issued pursuant to these regulations.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.210. Display of business permit.

Every adult-oriented business shall display at all times during business hours the business permit issued pursuant to the provisions of this Chapter for such adult-oriented business in a conspicuous place so that the same may be readily seen by all persons entering the adult-oriented business.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.220. Employment of and services rendered to persons under the age of 18 years prohibited.

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

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.240. Transfer of adult-Oriented business regulatory permits.

- A. A permittee shall not operate an adult-oriented business under the authority of an adult-oriented business permit at any place other than the address of the adult-oriented business stated in the application for the adult-oriented permit.
- B. A permittee shall not transfer ownership or control of an adult-oriented business or transfer an adult-oriented business permit to another person unless and until the transferee obtains an amendment to the permit from the Planning Commission stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Planning Commission in accordance with Sections 9.34.060 and 9.34.080, accompanies the application with a transfer fee as set forth in the schedule of fees established by resolution from time to time by the City Council, and the Planning Commission determines in accordance with Sections 9.34.100 through 160 that the transferee would be entitled to the issuance of an original adult-oriented business permit. Said transfer fee shall be paid in lieu of the filing fee set forth in Section 9.34.080(B)(5).
- C. No adult-oriented business permit may be transferred when the permittee has been notified

that the business permit has been or may be suspended or revoked.

- D. Any attempt to transfer an adult-oriented business permit either directly or indirectly in violation of this Section is hereby declared void, and the adult-oriented business permit shall be deemed revoked.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.260. Permit—Revocation.

- A. Any adult-oriented business permit issued pursuant to the provisions of this Chapter may be revoked by the City on the basis of any of the following:

1. That the business or activity has been conducted in a manner which violates 1 or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits for the building in which the use is located set by the Fire Marshal; and
2. That the permittee has misrepresented a material fact in the application for permit or in any report required to be filed with the City or has not answered each question in the application truthfully; and
3. That the permittee has failed to obtain or maintain all required City, County, and state licenses and permits; and
4. That the permit is being used to conduct an activity different from that for which it was issued; and
5. That the building or structure in which the adult-oriented business is conducted is hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing or Uniform Fire Code; and
6. That the permitted business creates sound levels which violate the noise ordinance of the City; and
7. That the permittee, if an individual, or any of the officers or general partners, if a corporation or partnership is found guilty or pleaded nolo contendere to a misdemeanor or felony classified by the state as a sex or sex-related offense during the period of the adult-oriented business's operation; and
8. That the permittee, employee, agent, partner, director, stockholder or manager of an adult-oriented business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult-oriented business:
 - a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation, and
 - b. Use of the adult-oriented business site as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation or masturbation openly occur, and

- c. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code, and
 - d. The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of Sections 315, 316, or 318 or subdivision b of Section 647 of the California Penal Code, and
 - e. Any act constituting a violation of provisions of the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4, and
 - f. Any conduct prohibited by this Chapter;
- 9. Failure to abide by any action previously imposed by an appropriate City official;
 - 10. That the use for which the approval was granted has ceased to exist or has been suspended for 6 months or more.
- B. Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee shall be personally delivered or sent by certified mail to the permittee at least 10 days prior to the hearing.
 - C. The Planning Commission shall hold a public hearing on the proposed revocation of the permit. Notice of the public hearing shall be given in accordance with California Government Code Section 65091, as the same may be amended from time to time. In reaching a decision on the proposed revocation, the Planning Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
 - D. The Commission shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's adult-oriented business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located.
 - E. The Commission's decision shall be in writing, and shall be hand-delivered or mailed to the applicant and mailed to all property owners within 300 feet of the use.
 - F. The Commission shall make its final decision within 30 days of the public hearing.
 - G. Any interested person may appeal the decision of the Commission to the City Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the City Council shall have the authority to direct that the City Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the City Council.
 - H. Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the City Council. In reaching its decision, the City Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

- I. The City Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the City Council shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's adult-oriented business permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zoning district in which the property is located. The City Council's decision shall be final and conclusive.
- J. In the event a permit is revoked pursuant to this Chapter, another adult use development permit to operate an adult business shall not be granted to the permittee within 12 months after the date of such revocation.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.300. Violations.

Any person who violates any section of this Chapter shall be guilty of a misdemeanor and is subject to a fine and/or imprisonment in accordance with the limits set forth in California Government Code Section 36901, as it may be amended from time to time, or any other legal remedy available to the City.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.320. Applicability to other regulations.

The provisions of this Chapter are not intended to provide exclusive regulation of the adult-oriented business uses. Such uses must comply with any and all applicable regulations imposed in other articles of the zoning ordinance, other City ordinances and state and federal law.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.340. Conduct constituting a public nuisance.

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

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.360. Amortization of legal nonconforming uses.

- A. Any adult-oriented business or establishment regulated under the provisions of this Chapter which is a nonconforming use on the effective date of the ordinance codified in this Chapter shall be subject to an amortization period expiring 1 year from the effective date of the ordinance codified in this Chapter.
- B. An adult-oriented business or establishment operating as a conforming use with an approved adult-oriented business permit from the City shall not be rendered a nonconforming use by the location of a religious institution or school, within the locational limitations of this Section.

- C. The Community Development Department shall provide written notice to the owner (and lessee/operator, if known by reference to City's business license records) at least 120 days prior to the expiration of this amortization period. This notice is not mandatory and lack of notice shall not be deemed to prevent the City from initiating an action seeking declaratory or injunctive relief against the owner and/or operator of such business. However, if notice of expiration of amortization period is not given, any application by the owner or lessee/operator of the business for an extension of the amortization period shall not be denied on the grounds that it is untimely.
- D. Amortization-Application for extension.
1. The owner may file an application with the Community Development Department for an extension of the amortization period. The applicant must state:
 - a. Whether a previous extension has been requested and granted, as well as the date of the previous request; and
 - b. The efforts that will be made to conform by the conclusion of the extended period.
 2. The owner's application shall be made in writing and shall be accompanied by the required fee as established by resolution of the City Council.
 3. Any application for an extension of the amortization period shall be made prior to the expiration of the amortization period unless the Commission determines that good cause exists for the late filing of the application.
- E. Amortization-Decision to grant or deny.
1. The Commission shall hold a public hearing at which time it shall consider the evidence and testimony regarding the request for an extension of the amortization period. Notice of the public hearing shall be given in accordance with California Government Code Section 65091 as the same may be amended from time to time. In reaching its decision, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The Commission shall grant or deny an application for extension of the amortization period. The Commission shall make its decision within 30 days of the filing of the request.
 2. In rendering its decision, the Commission shall determine whether the adult-oriented business has been provided with a reasonable amortization period commensurate with the investment involved. If the Commission determines that the amortization period is not reasonable, it shall prescribe an amortization period that is commensurate with the investment involved. The burden shall be on the applicant to establish that the extension should be granted.
 3. The Commission shall consider the following factors in making its determination:
 - a. The adult-oriented business owner's financial investment in the business; and
 - b. The present actual and depreciated value of business improvements; and

- c. The applicable Internal Revenue Service depreciation schedules; and
 - d. The remaining useful life of the business improvements; and
 - e. The remaining lease term; and
 - f. The cost of relocating the business to a site conforming with the provisions of this Section; and
 - g. The ability of the business and/or land owner to change the use to a conforming use; and
 - h. The secondary effects of the adult-oriented business on the health, safety and welfare of surrounding businesses and uses if the adult-oriented business is permitted to extend the amortization period.
4. The commission's decision shall be in writing, and shall be hand-delivered or sent by certified mail to the applicant.

F. Amortization-Appeal.

1. Any interested person may appeal the decision of the Commission to the City Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the City Council shall have the authority to direct that the City Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the City Council.
2. Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the City Council.
3. The City Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum. The City Council's decision shall be final and conclusive.
4. In reaching its decision, the City Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

G. Amortization-Public nuisance. The City Council declares to be a public nuisance any parcel where an adult-oriented business is operating and where the amortization period as a legal nonconforming use has expired and (1) no application for an extension is on file or has been granted, or (2) no application for an adult-oriented business permit is on file or has been granted.

(Ord. 1339 C.S. § 3, 2007)

§ 9.34.380. Inspection.

An applicant or permittee shall permit representatives of the Police Department, Health Department, Community Development Department, or other City departments or agencies to inspect the premises of an adult-oriented business for the purpose of ensuring compliance with

the law and the development standards applicable to adult-oriented businesses, at any time it is occupied or opened for business. A person who operates an adult-oriented business or his or her agent or employee is in violation of the provisions of this Section if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 1339 C.S. § 3, 2007)

Division IV
Offenses Against Public Peace

CHAPTER 9.40
PUBLIC MEETINGS

§ 9.40.010. Permission required.

It is unlawful for any person to conduct or take part in any public meeting held on any public street, or in any square, park, lane, alley, court or other public place, or at, or in front of the entrance to any public building in the City unless permission to hold such public meeting shall first have been obtained in writing, signed by the City Manager or his designee and the Chief of Police. Such permission in writing shall designate the time and place when and where such meeting shall be held.

(Prior code § 3505; Ord. 1052 C.S. § VIII, 1985)

CHAPTER 9.44
PARADES

§ 9.44.010. Permit required.

It is unlawful for any person or organization to conduct or participate in any parade on the public streets without first obtaining therefor a permit from the Chief of Police.
(Prior code § 3506)

CHAPTER 9.48
POSTERS AND HANDBILLS

§ 9.48.010. Posting of bills.

No person shall post, stick, stamp, paint or otherwise affix, or cause to be posted, stuck, stamped, painted or otherwise affixed, any bill, poster, placard, notice or advertisement to or upon any house or part thereof, wall, fence, gate, post, sidewalk, trees or boxes around trees, curbs, or curbstone, lamppost, hydrant or any post supporting electric wires in any part of the City, without first obtaining permission of the owner, agent or occupant of the premises to do so.

(Prior code § 3510)

§ 9.48.020. Distribution of handbills.

It is unlawful for any person to distribute or throw upon any private yard, lawn or driveway, or upon any sidewalk, or upon any porch or steps of any residence, or upon or in any part of any structure, or in any automobile, or in any public place, or in any receptacle, or upon any vacant property, in the City any notice of commercial advertising or any handbill, dodger, circular or booklet, provided that nothing herein shall prohibit the distribution and delivery of any newspaper which has been entered as second class matter in the United States Post Office.

(Prior code § 3511)

CHAPTER 9.50
TRESPASSING ON PRIVATE PROPERTY

§ 9.50.010. Refusal to leave private commercial establishment.

It shall be unlawful for any person to remain or refuse to leave any private commercial establishment after concluding any lawful business with the commercial establishment and after having been requested to leave by (1) a peace officer at the request of the owner, the owner's agent or the person in lawful possession of the commercial establishment, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent or the person in lawful possession of the commercial establishment, or (2) the owner, the owner's agent, or the person in lawful possession of the commercial establishment. As used herein, "commercial establishment" shall include any property for the parking of motor vehicles by the customers of such commercial establishment. The owner, the owner's agent, or the person in lawful possession of the commercial establishment shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with the trespass is required.

(Ord. 1155 C.S. § I, 1990)

§ 9.50.020. Trespass upon private property.

- A. No person shall remain upon any private property or business premises after being notified by the owner, or lessee, or other person in charge thereof, to remove therefrom.
- B. No person, without permission, express or implied, of the owner, or lessee, or other person in charge of private property or business premises shall enter upon such private property or business premises after having been notified by the owner, or lessee, or other person in charge thereof, to keep off or keep away therefrom.
- C. This section shall not apply in any of the following instances:
 - 1. Where its application results in, or is coupled with, an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of color, race, religion, creed, ancestry, or national origin;
 - 2. Where its application results in, or is coupled with, an act prohibited by Penal Code § 365 or any other provision of law relating to duties of innkeepers and common carriers;
 - 3. Where its application would result in an interference with, or inhibition of, peaceful labor picketing or other lawful labor activities;
 - 4. Where its application would result in an interference with, or inhibition of, any other exercise of a constitutionally protected right of freedom of speech, such as (but not limited to) peaceful expressions of political or religious opinions not involving offensive personal conduct;
 - 5. Where the person who is upon another's private property or business premises is there under claim or color of legal right. This exception is applicable to (but not limited to) the following types of situations involving disputes wherein the participants have available to them practical and effective civil remedies; marital and post-marital

disputes; child custody or visitation disputes; disputes regarding title to or rights in real property; landlord-tenant disputes; disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute; employer-employee disputes; business-type disputes such as those between partners; debtor-creditor disputes; and instances wherein the person claims rights to be present pursuant to order, decree, or process of a court.

- D. In addition to all other remedies or penalties available under this Code or any other laws, a violation of this section shall be a misdemeanor, provided that in the discretion of the enforcing authority a violation may be charged and/or prosecuted as an infraction. In either case, violations shall be punishable as set forth by Section 1.12.010 of this Code.
(Ord. No. 1390 C.S., § III, 12/2/2015)

CHAPTER 9.52
CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES

§ 9.52.010. Prohibitions designated.

- A. Consumption alcoholic beverages. Except as provided by Section 9.52.020, it shall be unlawful for any person to consume, drink or imbibe any alcoholic beverage in any quantity in any of the following places:
1. On any property that is owned by the City and open to public use, including but not limited to, any public park, parking lot or area designated for recreational use of the public, or on any public street, sidewalk, way or alley;
 2. On the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee;
 3. On other private property open to the public, including but not limited to, parking lots and shopping centers where the sale of alcoholic beverages has not been licensed; or
 4. On private property open to public view without the express permission of the owner, his agent, or the person in lawful possession thereof.
- B. Possession of an open container. Except as provided by Section 9.52.020, it shall be unlawful for any person to possess, handle, display, or exhibit any can, bottle or other receptacle containing any alcoholic beverage in any quantity, that has been opened or the seal broken or the contents of which have been partially removed, in any of the following places:
1. On any property that is owned by the City or open to public use, including but not limited to, any public park, parking lot, or area designated for recreational use of the public, or any public street, sidewalk, way, or alley; or
 2. On the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee.
 3. On other private property open to the public, including but not limited to, parking lots and shopping centers where the sale of alcoholic beverages has not been licensed; or
 4. On private property open to public view without the express permission of the owner, his agent, or the person in lawful possession thereof.
- C. The provisions in subsection B above are enacted pursuant to Business and Professions Code Section 25620 and Penal Code Section 647e and do not make unlawful any act that is expressly made inapplicable under either of these sections.
- D. Nothing in this Section shall make unlawful any act which may be not regulated by a general law city under state law.
- E. Any violation of this Section shall constitute an infraction and shall be punishable as provided by Section 1.12.030 of this Code.
- F. For the purposes of this Section, "alcoholic beverage" shall refer to any liquid substance that is intended for consumption and contains more than one-half of one percent of alcohol by volume.

(Prior code § 3507; Ord. 1109 C.S. § I, 1988; Ord. 1346 C.S. § 1, 2008; Ord. No. 1462, § 3, 9/18/2024)

§ 9.52.020. Exceptions to prohibitions.

The following are exceptions to the provisions of Section 9.52.010:

- A. Beer and wine may be possessed and consumed in public parks and recreation areas where permitted by a resolution adopted by the City Council.
- B. Possession of any liquid substance that contains more than ½ of 1% of alcohol by volume is allowed in a public park or recreational area only after a person(s) has applied, at least 24 hours before using the park or recreational area for a permit for such use, and a written permit to possess alcoholic or intoxicating beverages in a specific park or recreation area has been obtained from the City, and the fee established by the resolution establishing fees and charges for various municipal services of the City of Martinez for said permit have been paid.
- C. Possession of any liquid substance that contains more than ½ of 1% of alcohol by volume is allowed in any area approved in writing by the City Manager as long as said possession is incidental to a specified use or event.
- D. Possession of any liquid substance that contains more than ½ of 1% of alcohol by volume is allowed in any establishment in accordance with a lawfully obtained permit issued by the California Department of Alcoholic Beverage Control.

(Prior code § 3507.1; Ord. 1109 C.S. § II, 1988; Ord. 1346 C.S. § 2, 2008)

CHAPTER 9.53
URINATING OR DEFECATING IN PUBLIC

§ 9.53.010. Urinating or defecating in public.

It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, plaza, park, public building or publicly maintained facility, or any place open to the public or exposed to public view. This section shall not be construed as to prohibit the use for urination or defecation of lawfully constructed restroom facilities designed for sanitary disposal of human waste. This section shall not be construed to permit activity which is otherwise deemed unlawful pursuant to relevant provisions of the Penal Code or other State law.

In addition to all other remedies or penalties available under this Code or any other laws, a violation of this section shall be a misdemeanor, provided that in the discretion of the enforcing authority a violation may be charged and/or prosecuted as an infraction. In either case, violations shall be punishable as set forth by Section 1.12.010 of this Code.

(Ord. No. 1390 C.S., § IV, 12/2/2015)

CHAPTER 9.54
LOITERING FOR DRUG ACTIVITIES

§ 9.54.010. Acts prohibited.

It is unlawful for any person to loiter in, on or near any thoroughfare or place open to the public or near any public or private place in a manner and under circumstances manifesting the purpose of engaging in drug-related activity defined as offenses in Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code.

(Ord. 1199 C.S. § I, 1993)

§ 9.54.020. Circumstances.

Among such circumstances that may be considered in determining whether such purpose is manifested are that the person:

- A. Is a known unlawful drug user, possessor, or seller. For purposes of this Chapter, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code, or such person has been convicted of any violation of any of the provisions of said Sections or substantially similar laws of any political subdivision of this state or of any other state; or a person who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who possesses drug paraphernalia.
- B. Is currently subject to a court order prohibiting his or her presence in a high drug activity geographic area;
- C. Behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including by way of example only, acting as a "lookout."
- D. Is physically identified by the officer as a member of a "gang" or association which has as its purpose illegal drug activity;
- E. Transfers small objects or packages for currency in a furtive fashion;
- F. Takes flight upon the appearance of a police officer;
- G. Tries to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;
- H. Is in an area that is known for unlawful drug use and trafficking;
- I. Is on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity; and/or
- J. Is in or within six feet of any vehicle registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

(Ord. 1199 C.S. § I, 1993)

CHAPTER 9.58
AGGRESSIVE SOLICITATION

§ 9.58.010. Findings.

- A. The City Council finds that there has been a recent rise in instances in which persons have been the victims of begging or soliciting through harassing, threatening, or intimidating tactics calculated to deprive the person of property against his/her will and out of fear for his/her personal safety or physical property.
- B. The City Council finds that some of these instances have resulted in discouragement of residents and visitors to frequent certain areas of the City and the loss of business to those businesses where such harassing solicitation tactics are being employed.
- C. The City Council finds that harassing forms of begging and soliciting should be prohibited to safeguard the health and welfare of residents, visitors and the business community.
- D. The City Council finds that direct personal solicitation of drivers at intersections is distracting and threatens the safe and orderly flow of traffic along City streets.

(Ord. No. 1367 C.S., § I, 12/5/2012)

§ 9.58.020. Definitions.

For the purposes of this Chapter the following terms shall have the following meanings:

- A. Aggressive solicitation. An aggressive solicitation occurs whenever a solicitor (as defined by subsection (B) of this section) commits any act which places a person who is the object of the solicitation in reasonable fear for his/her personal safety or property. An aggressive solicitation may occur under the following circumstances, provided that the object of the solicitation is in reasonable fear for his/her personal safety or property:
 - 1. The solicitor intentionally blocks the path of the person who is the object of the solicitation; or
 - 2. The solicitor persists in following closely the person who is the object of the solicitation, while the solicitor continues to demand money or other thing of value, after the person has informed the solicitor by words or conduct that the person does not want to give money or other thing of value to the solicitor.
- B. "Solicit" means to ask for the immediate donation or payment of money or other thing of value in a coercive, threatening, or harassing manner, whether by words, bodily gestures, signs or other means.
- C. "Solicitor" is one who solicits as defined in subsection (B) of this section.
- D. "Fear for his/her personal safety." The following facts, among others, may be considered in deciding whether a reasonable person would be caused to fear for his or her safety or property:
 - 1. The occurrence of threatening gestures or other threatening conduct of the solicitor, including physically following the object of the solicitation.
 - 2. The proximity of the solicitor to the object of the solicitation and the duration of the

solicitation.

3. The solicitor's making of physical contact with the object of the solicitation.

E. "Intentionally block" means to walk, stand, sit, lie or place an object in such a manner as to block passage by another person or to require another person to take evasive action to avoid physical contact.

(Ord. No. 1367 C.S., § I, 12/5/2012)

§ 9.58.030. Prohibition of aggressive solicitation.

It shall be unlawful for any person on the streets, sidewalks, or other places open to the public, whether publicly or privately owned, to engage in any act of aggressive solicitation as defined by this Chapter.

(Ord. No. 1367 C.S., § I, 12/5/2012)

§ 9.58.040. Prohibition of solicitation in intersections.

A. In order to promote the safe and orderly flow of traffic and to prevent disruptions of traffic occurring while vehicles are operating at intersections within the City, no person may request, ask, demand, or beg for any money, goods or services, including offering any services in exchange for money, goods or services, from any driver or passenger of any vehicle that is in operation within 10 feet of any intersection of city highways, including intersections of city streets and state highways or state highway on-or off-ramps.

B. As used in this Section, "highway" shall be defined by Vehicle Code Section 360.

C. As used in this Section, "intersection" shall be defined by Vehicle Code Section 365.

(Ord. No. 1367 C.S., § I, 12/5/2012)

§ 9.58.050. Violation—Penalty.

Any person who violates any provision of this Chapter is guilty of an infraction and is subject to punishment as provided for in Chapter 1.12 of this Code.

(Ord. No. 1367 C.S., § I, 12/5/2012)

Division V
Offenses Against Property

CHAPTER 9.60
PARTIES ON PRIVATE PROPERTY

§ 9.60.010. Definitions.

- A. Party, gathering or event. A group of persons who have assembled, or are assembling, for a social occasion or for a social activity.
- B. Police services. Police services include the salaries of the police officers for the amount of time actually spent in responding to, or in remaining at the party, gathering, or event at a rate established by Resolution of the City Council; the actual cost of any medical treatment to injured officers; and the cost of repairing any damaged City equipment or property.
- C. Person responsible for the event. The person who owns, rents, leases or otherwise has control of the premises where the party, gathering, or event takes place, the person in charge of the premises and/or the person who organized the event. If the person responsible for the event is a minor, then the parents or guardians of that minor will be jointly and severally liable for the costs incurred for police services pursuant to this Chapter.

(Ord. 1167 C.S. § I, 1991)

§ 9.60.020. Police services at parties, gatherings or events requiring a second response.

When a party, gathering or event occurs on private property and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person(s) responsible for the event will be held liable for the cost of providing police services during a second response by the police, after a first warning to the person(s) responsible for the event to control the threat to the public peace, health, safety or general welfare. The return of second response may also result in the arrest and/or citation of violators of the State Penal Code, or other provisions of the Municipal Code.

(Ord. 1167 C.S. § I, 1991)

§ 9.60.030. Police services fee.

The police services fee shall include the cost of personnel and equipment but shall not exceed \$500.00 for a single incident, provided however that the City does not hereby waive its right to seek reimbursement for actual costs exceeding \$500.00 through other legal remedies. The amount of such fee shall be deemed a debt to the City of the person responsible for the event and, if minors, their parents or guardians. Any person owing such fees shall be liable in an action brought in the name of the City for recovery of such fees, including reasonable attorney fees.

(Ord. 1167 C.S. § I, 1991)

**Division VI
Consumer Protection**

**CHAPTER 9.70
ALARM SYSTEMS**

§ 9.70.010. Purpose and scope.

The purpose of this Chapter is to set forth regulations governing alarm systems both commercial and residential within the City, require licenses therefor, and provide for enforcement of violations of provisions of this Chapter.

This Chapter is not enacted pursuant to the power to license or tax business for revenue purposes. Any fee or charge authorized by this Chapter is for the sole purpose of defraying the cost and expense of investigation of applicants for licensing or registration, processing of applications, issuance of licenses or registrations, and regulation of the activities of the above mentioned alarm systems.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.020. Definitions.

The following definitions shall apply to this chapter:

- A. "Alarm agent" means any person employed as an agent or employee by an alarm business or the owner of such business and whose duties include altering, installing, maintenance, moving, repairing, replacing or servicing an alarm system, responding to an alarm system or the sale or leasing of an alarm system to the subscriber.
- B. "Alarm business" means any business operated by a person or corporation for a profit which engages in the activity of altering, installing, responding to, leasing, maintaining, repairing, replacing, selling, or servicing an alarm system.
- C. "Alarm systems" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention.
- D. "Applicant" means a person who files an application for a new or renewal license or registration as provided in this chapter.
- E. "Audible alarm" means any alarm system which generates a sound which is designed to be perceptible outside the building wherein such device is installed.
- F. "Automatic dialing system" means a device which is connected to a telephone line and upon activation of an alarm system, automatically dials a pre-determined telephone number assigned, and transmits a message or signal to Martinez Police Department indicating a need for emergency response.
- G. "Commercial alarm" means an alarm installed on premises which are primarily used for one or more of the following:
 - 1. Business providing sales, service or both;
 - 2. Public agency or non-profit entity or organization providing service to the general public. The term "Commercial Alarm" does not include any alarm installed on

premises primarily used for residential purposes.

- H. "Panic alarm" is a manually activated switch (possibly portable and battery operated) which signals an alarm to the main alarm system and is activated by persons when a crime or personal harm is eminent.
- I. "False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation or maintenance, or the negligence of the owner, lessee, or his employees or agents. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes, or other violent uncontrollable acts of nature.
- J. "Police alarm board" means the alarm receiving center located in the police department communication Section. It receives by direct connection, alarm and trouble signals from those locations that contract with the City for this service. The "Police Alarm Board" is restricted to commercial and business structures only.
- K. "Subscriber" means any person, business or other entity which owns or is entitled to possession of any premises on which an alarm system has been installed.
- L. "Telephone number" includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect with the subscriber to the primary number(s) when the number(s) are in use.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.040. Alarm systems/requirements.

It is unlawful for any person to use, install, or cause to be installed, an alarm system on any premises without registering that alarm system with the Police Department at least twenty-four (24) hours before the system is activated.

Alarm systems installed in emergency situations for temporary use not to exceed thirty (30) days may be registered at any time prior to activation. Alarm systems installed prior to the enactment of this ordinance shall have fifteen (15) days in which to register their alarm system after notification of the registration requirement by the Police Department.

Failure to register any alarm system as set forth in these requirements can be grounds for violation and penalty as described in this chapter.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.050. Alarm systems/registration.

The subscriber or alarm business acting on behalf of the subscriber shall provide in writing, on a form prescribed by the Police Department, the following information required for compliance of the alarm system requirements:

- A. The name, address and telephone number of the alarm subscriber.
 - B. Name, address and telephone number of the alarm business installing the alarm (if known).
- (Ord. 1000 C.S. § 1, 1983)

§ 9.70.060. Certain types of sound prohibited.

No alarm system shall be installed or used which emits a sound which is similar to that of an emergency vehicle siren or civil defense warning system. The Chief of Police or his representative shall make final determination in regard to any question about the sound emitted from an audible alarm.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.070. Back-up power supply.

Any new alarm system installed in a commercial business shall be supplied with an uninterruptible power supply in such a manner that the failure or interruption of the normal utility electric service will not activate the alarm system. The power supply must be capable of at least four (4) hours of operation.

Alarm systems installed in commercial businesses prior to the enactment of this ordinance shall have six (6) months to comply with this requirement.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.080. Automatic dialing system.

No person shall use or operate, cause to be used or operated, arrange, adjust, program, or otherwise provide or install any device or combination of devices, including alarm systems that will, upon activation, either mechanically, electrically, automatically, or by any other means initiate the intrastate calling, dialing, or connection to any telephone number, line, or instrument assigned to the City or Police Department, without prior written consent from the City or the Chief of Police.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.090. Consent withdrawn (automatic dialing system).

The Police Department may withdraw its consent by written notice to the person to whom consent was given and such person shall have the service(s) disconnected within seven (7) days of receipt of the notice to withdraw.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.100. Assigned telephone number/fee.

The Chief of Police may assign a specific number(s) for connection from the automatic dialing device to the Police Department. Only the specific number(s) assigned shall be allowed; any other telephone number receiving an alarm shall be considered a violation of this Chapter. An annual fee shall be required of subscribers using automatic dialing systems.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.110. Police alarm board.

All alarms terminating at the Martinez Police alarm board will be subject to the approval of the Chief of Police.

The Chief may designate a specific alarm system business to regulate the alarms terminating at the Communication Center to insure consistency of equipment and procedures.

(Ord. 1000 C.S. § 1, 1983)

§ 9.70.120. False alarms/service assessment.

Any subscriber or person who maintains or has an alarm connected to the Police Alarm Board or who has an alarm system which requires police response created by any signal, message or alarm and transmitted to emergency units and which proves to be a false alarm, shall pay a false alarm service assessment fee to the City as follows:

The maximum number of allowable false alarms reported shall be no more than two (2) in any thirty (30) day period with a maximum allowable of no more than eight (8) in a twelve (12) month period.

Any number of false alarms in a twenty-four (24) hour period shall be deemed as one (1) false alarm for purposes of this Section.

The Chief of Police shall notify in writing any subscriber that has exceeded the number of allowable false alarms in a thirty (30) day period. False alarms shall result in a service assessment fee, in accordance with the current City fee schedule.

A new alarm system or owner may be given a thirty (30) day grace period for the purposes of training of parties responsible for the alarm and testing of their new equipment.
(Ord. 1000 C.S. § 1, 1983)

§ 9.70.130. Non-response.

The Chief of Police may designate that a subscriber's alarm is an alarm warranting a "non-response" by emergency units.

The Chief of Police may establish a non-response status in lieu of the service assessment fee. This non-response status will be based on any of the following:

- A. Improper training of personnel at the location of the alarm system, improper maintenance of the alarm system resulting in an excess number of false alarms as set forth in this Chapter;
 - B. Failure to pay prescribed fees;
 - C. Failure of responsible individuals to respond to the location of an errant alarm for maintenance repair;
 - D. The alarm system has been activated for reasons or offenses other than probable burglaries or robberies;
 - E. Failure to comply with any other provisions of this Chapter.
- (Ord. 1000 C.S. § 1, 1983)

§ 9.70.140. Non-response notification.

The Chief of Police shall notify in writing to any subscriber who is deemed subject to the non-response status that five (5) days after receipt of notification, emergency units will no longer respond to the alarm system.
(Ord. 1000 C.S. § 1, 1983)

§ 9.70.150. Delays in transmission or response/liability limitation.

The City shall be under no duty or obligation to subscribers or any other person by reason of any provision of this Chapter or privileges of a subscriber hereunder, including, but not limited to, any defects in the Police Alarm Board or any delays in transmission or response to any alarm. (Ord. 1000 C.S. § 1, 1983)

§ 9.70.160. Denial/revocation/appeal.

Any subscriber, alarm agent, or alarm business, aggrieved by the action of the Chief of Police in denial, revocation, change of response, or service assessment fees, may file a written appeal to the City Manager within thirty (30) days of notification of denial, revocation, or change of status of emergency unit response as notified by the Chief of Police.

The City Manager shall either deny or concur with the appeal within thirty (30) days and shall so advise the applicant in writing within that time period. The City Manager may authorize the continuance of police response during the appeal process.

A subscriber, alarm agent or alarm business, filing an appeal with the City Manager and receiving authorization for continued response during the appeal time period, shall agree to pay the service assessment fee for each false alarm during the appeal period.

The City Council shall have the final decision on all appeals providing the aggrieved party has filed a notice of appeal after denial by the City Manager, within 10 days. (Ord. 1000 C.S. § 1, 1983)

§ 9.70.170. Preventative assessment/collection process.

The City may withhold the annual business license of any business until the complete payment of any false alarm service assessments are made in full.

The City is authorized to collect and sue any parties who have failed to pay any false alarm service assessments or comply with the provisions of this Chapter. (Ord. 1000 C.S. § 1, 1983)

§ 9.70.180. Severability.

If any Section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Article or any part thereof is, for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The City Council hereby declares that it would have passed each Section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more of these Sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. (Ord. 1000 C.S. § 1, 1983)

§ 9.70.190. Punishment/public nuisance.

- A. Any violation of this Chapter shall be considered an infraction.
- B. Violations of this Chapter are misdemeanors if a defendant has been convicted of 3 or more violations of this Chapter within a 12 month period immediately preceding the commission

of the offense, and such prior convictions are admitted by the defendant or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed a conviction of the offense charged.

- C. Any violation of this Chapter shall constitute a public nuisance. In addition to any other remedies provided in this Chapter, the City may summarily abate and bring civil suit to enjoin or abate the violation.
- D. Each day that a violation of this Chapter is committed or continues, is a separate offense and is punishable as a distinct and separate offense.

(Ord. 1000 C.S. § 1, 1983)

Division VII
Offenses By Or Against Minors

CHAPTER 9.80
CURFEW

§ 9.80.010. Offenses.

- A. A minor commits a misdemeanor and is subject to the provisions of Chapter 2, Division 2, of the Welfare and Institutions Code of the State of California if he or she remains in any public place or on the premises of any establishment within the City of Martinez during curfew hours.
- B. Any person assisting, aiding, abetting, permitting or encouraging a minor to violate any of the provisions of this Chapter commits a misdemeanor, which violation shall be punishable as provided in Section 1.12.010 of this Code.
- C. The owner, operator or any employee of an establishment commits a misdemeanor, which violation shall be punishable as provided in Section 1.12.010 of this Code, if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(Ord. 1263 C.S. § 2, 1999)

§ 9.80.020. Definitions.

- A. "Curfew hours" is defined as 11:00 p.m. on any day of the week until 6:00 a.m. of the following day.
- B. "Emergency" means a sudden, unexpected occurrence that poses clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health or property. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident.
- C. "Establishment" means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment, or any cafe, restaurant, eating place, tavern or bar.
- D. "Guardian" means:
 - 1. A person who, under court order, is the guardian of the person of a minor; or
 - 2. A public or private agency with whom a minor has been placed by a court.
- E. "Minor" means any person under 18 years of age.
- F. "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the member or partners of an association or partnership and the officers of a corporation.
- G. "Parent" means:
 - 1. A natural parent, adoptive parent, or stepparent of another person; or

2. A person at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
 - H. "Permitting" is not limited to its affirmative meaning, but includes passivity, abstaining from preventive action or allowing by insufficient control.
 - I. "Public place" is defined as any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public squares, parks, and the common areas of schools, apartment houses, office buildings, transport facilities and shops.
 - J. "Remain" means to:
 1. Linger or stay; or
 2. Fail to leave the public place or the premises of the subject establishment when requested to do so by a police officer or the owner, operator, or other person in control of the public place or the premises of the subject establishment.
- (Ord. 1263 C.S. § 2, 1999)

§ 9.80.030. Defenses.

- A. It is a defense to prosecution under Section 9.80.010(a) that the minor was:
 1. Accompanied by the minor's parent or guardian;
 2. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 3. In a motor vehicle involved in interstate travel;
 4. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 5. Involved in an emergency;
 6. Attending a school, religious, sports, cultural, amusement or recreational activity sponsored by adults, or traveling directly to or returning directly home, without a detour or stop, from a school, religious, sports, cultural, amusement or recreational activity supervised by adults;
 7. Within 100 feet of the minor's residence;
 8. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and/or the right of assembly; or
 9. Emancipated as provided under state law.
- B. It is a defense to prosecution under Section 9.80.010(C) of this Chapter that:
 1. Subsection A of this Section provides the minor one or more defense(s) to prosecution under Section 9.80.010(A) of this Chapter, regardless of whether the minor has been or will be prosecuted;
 2. That the owner, operator, or employee of an establishment promptly notified the

police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
(Ord. 1263 C.S. § 2, 1999)

§ 9.80.040. Enforcement.

Before taking any enforcement action under Section 9.80.010(A) of this Chapter, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 9.80.030(A) of this Chapter is present.
(Ord. 1263 C.S. § 2, 1999)

CHAPTER 9.82
PARTIES INVOLVING JUVENILES

§ 9.82.010. Definitions.

- A. Party, gathering or event. A group of persons who have assembled, or are assembling, for a social occasion or for a social activity.
- B. Police services. Police services include the salaries of the police officers for the amount of time actually spent in responding to, or in remaining at the party, gathering, or event at a rate established by Resolution of the City Council; the actual cost of any medical treatment to injured officers; and the cost of repairing any damaged City equipment or property.
- C. Person responsible for the event. The person who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place, the person in charge of the premises and/or the person who organized the event. If the person responsible for the event is a minor, then the parents or guardians of that minor will be jointly and severally liable for the costs incurred for police services pursuant to this Chapter.

(Ord. 1168 C.S. § I, 1991)

§ 9.82.020. Unlawful juvenile gatherings on private property.

No person shall suffer, permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where 5 or more persons under the age 21 are present and alcoholic beverages are in the possession of, or are being consumed by any person under the age of 21 years. A violation of this Section shall constitute a misdemeanor punishable by a fine of not more than \$1,000.00 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.

(Ord. 1168 C.S. § I, 1991)

CHAPTER 9.84
PURCHASES FROM MINORS

§ 9.84.010. Permission from a parent or guardian required.

It is unlawful for any junk dealer or secondhand dealer to buy, purchase or receive any article from any minor under the age of 18 years without a written authorization from the parent of such minor authorizing the minor to sell or dispose of such article.

(Prior code § 3503)

**Division VIII
Weapons**

**CHAPTER 9.92
FIREARMS**

§ 9.92.010. Minors prohibited from possession.

No person under the age of 18 years shall have in his possession on any public street, or public place in the City, any B.B. gun or air-operated pistol or rifle or firearm.
(Prior code § 3513a)

§ 9.92.020. Discharges in city limits—Prohibited.

No person shall discharge any B.B. gun, air-operated pistol or rifle or firearm within the City limits.
(Prior code § 3513b)

§ 9.92.030. Discharges in city limits—Exemptions.

The provisions of Section 9.92.020 herein shall not apply to police officers operating such a device in the line of duty or at a target range established or licensed by the City.
(Prior code § 3513c)

§ 9.92.040. Shooting clubs and target ranges exempt generally.

The provisions of Sections 9.92.010 and 9.92.020 herein shall not apply to any person lawfully enrolled in or who is a member of a lawfully established target, pistol, revolver or rifle range, nor shall Sections 9.92.010 and 9.92.020 apply to or include any person shooting at any revolver, pistol or rifle range approved by the City Council.
(Prior code 5.3513d; Ord. 824 C.S. § I, 1975)

§ 9.92.050. Minor to carry written authorization when.

Whenever a person under the age of 18 years possesses, has custody and control of any B.B. gun, air-operated pistol or rifle or firearms, while going to or from such target range and while discharging or shooting at such target range, shall have in his immediate possession a signed, dated, written authorization from a parent or guardian to do so.
(Prior code § 3513e)

CHAPTER 9.96
SLINGSHOTS

§ 9.96.010. Use prohibited.

No person shall discharge upon any public street, or in or upon any place or premises within the City, any gun by means of which any missile is projected by a spring, bow or compressed air, or use any implement whereby stones, beans, shot, pebbles or other substances are projected, and no person in the street or place shall hurl or throw any stone or other missile by means of any sling, or any mechanical or other device.

(Prior code § 3512)

MARTINEZ CODE

VEHICLES AND TRAFFIC

Title 10

VEHICLES AND TRAFFIC

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**§ 10.88.010. Purposes, goals and
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CHAPTER 10.04 DEFINITIONS

§ 10.04.010. Generally.

The following words and phrases when used in this title shall for the purpose of this title have the meanings respectively ascribed to them in this chapter. Whenever any words or phrases used herein are not defined, but are defined in the Vehicle Code of the State and amendments thereto, such definitions shall apply.

(Prior code § 3200)

§ 10.04.020. Coach.

"Coach" means any motor bus, motor coach, trackless trolley or passenger stage used as a common carrier of passengers.

(Prior code § 3200(a))

§ 10.04.030. Curb.

"Curb" means the lateral boundary of the roadway whether such curb is marked by curbing construction, or not so marked; the word "curb" as herein used shall not include the line dividing the roadway of a street from parking strips in the center of a street, nor from tracks or rights-of-way of public utility companies.

(Prior code § 3200(c))

§ 10.04.040. Divisional island.

"Divisional island" means a raised island located in the roadway and separating opposing or conflicting streams of traffic.

(Prior code § 3200(d))

§ 10.04.050. Holidays.

"Holidays" within the meaning of this title, are the 1st day of January, the 12th day of February, the 22nd day of February, the 30th day of May, the 4th day of July, the 1st Monday in September, the 9th day of September, the 12th day of October, the 11th day of November, Thanksgiving Day and the 25th day of December, and holidays proclaimed by the President or Governor.

If a holiday falls on a weekend, i.e., Saturday or Sunday, the holiday will be observed on the nearest working day, i.e., Friday or Monday respectively.

(Prior code § 3200(e))

§ 10.04.060. Loading zone.

"Loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

(Prior code § 3200(f))

§ 10.04.070. Official time standard.

Official time standard. Whenever certain hours are named herein, they mean standard time or daylight savings time as may be in current use in this City.

(Prior code § 3200(g))

§ 10.04.080. Parking meter.

"Parking meter" means a mechanical device installed within or upon the curb or sidewalk area, immediately adjacent to a parking space, for the purpose of controlling the period of time occupancy of such parking meter space by any vehicle.

(Prior code § 3200(i))

§ 10.04.090. Parkway.

"Parkway" means that portion of a public right-of-way between the curb and sidewalk.

(Prior code § 3200(h))

§ 10.04.100. Passenger loading zone.

"Passenger loading zone" means the space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(Prior code § 3200(j))

§ 10.04.110. Pedestrian.

"Pedestrian" means any person afoot.

(Prior code § 3200(k))

§ 10.04.120. Police officer.

"Police officer" means every officer of the Police Department of this City or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(Prior code § 3200(l))

§ 10.04.130. Stop.

"Stop," when required, means complete cessation of movement.

(Prior code § 3200(m))

§ 10.04.140. Vehicle code.

"Vehicle code" means the latest edition of the Vehicle Code of the State of California.

(Prior code § 3200(n))

CHAPTER 10.08
ENFORCEMENT AND OBEDIENCE

§ 10.08.010. Authority of police and fire department officials.

Officers of the Police Department and such other officers as are assigned by the Chief of Police are authorized to direct all traffic by voice, hand, audible or other signal in conformance with traffic laws, except that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department or members of a fire department may direct traffic as conditions may require, notwithstanding the provisions to the contrary contained in this title or the Vehicle Code.

(Prior code § 3202)

§ 10.08.020. Persons other than officials shall not direct traffic.

No person other than an officer of the Police Department or member of the Fire Department, or a person authorized by the Chief of Police or the City Traffic Engineer, shall direct or attempt to direct traffic by voice, hand or other signal.

(Prior code § 3202.1)

§ 10.08.030. Obedience to police or authorized officers.

No person shall fail or refuse to comply with or perform any act forbidden by any lawful order, signal or direction of a traffic or police officer, or a member of the Fire Department, or a person authorized by the Chief of Police or by law.

(Prior code § 3202.2)

§ 10.08.040. Regulations apply to persons riding bicycles or animals.

Every person riding a bicycle or driving an animal upon a highway has all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions which by their very nature can have no application.

(Prior code § 3202.3)

§ 10.08.050. Obstruction or interference with authorized officers prohibited.

No person shall interfere with or obstruct in any way any police officer or other officer or employee of this City in their enforcement of the provisions of this title. The removal, obliteration or concealment of any chalk mark or other distinguishing mark used by any police officer or other employee or officer of this City in connection with the enforcement of the parking regulations of this title shall, if done for the purpose of evading the provisions of this title, constitute such interference or obstruction.

(Prior code § 3202.4)

§ 10.08.060. Authority of police in crowds.

At places where large numbers of people and vehicles are to gather or have gathered, nothing in this title shall be construed to prevent any police officer from prohibiting any person from parking any vehicle upon or using any street or sidewalk, or from prohibiting any pedestrian from using any street or sidewalk, and the police officer shall have authority to direct the parking of vehicles in any reasonable manner, way or direction, and it is unlawful for any person to fail

to promptly obey the police officer' order, signal or command, regardless of any other provision of this title.

(Prior code § 3202.5)

§ 10.08.070. Public employee to obey regulations.

The provisions of this title shall apply to the operator of any vehicle owned by or used in the service of the United States Government, this State, any county or city, and it is unlawful for any operator to violate any of the provisions of this title except as otherwise permitted in this title or by the Vehicle Code.

(Prior code § 3202.8)

§ 10.08.090. Report of damage to certain property.

- A. The operator of a vehicle or the person in charge of any animal involved in any accident resulting in damage to any property publicly owned or owned by a public utility, including but not limited to any fire hydrant, parking meter, lighting post, telephone pole, electric light or power pole, or resulting in damage to any tree, traffic-control device or other property of a like nature located in or along any street, shall within 24 hours after such accident make a written report of such accident to the Police Department of this city.
- B. Every such report shall state the time when and the place where the accident took place, the name and address of the persons operating or in charge of such vehicle or animal, the license number of every such vehicle, and shall briefly describe the property damage in such accident.
- C. The operator of any vehicle involved in an accident shall not be subject to the requirements or penalties of this section if and during the time he is physically incapable of making a report, but in such event he shall make a report as required in Subsection A within 24 hours after regaining ability to make such report.

(Prior code § 3202.10)

§ 10.08.100. Police towing authority.

Officers of the Police Department and such other persons assigned by the Chief of Police are authorized to tow any vehicle parked in violation of any parking section within Title 10 of the Martinez Municipal Code provided the space or parking area is posted for restricted parking and as a tow away zone.

(Ord. 1171 C.S. § 1, 1991)

CHAPTER 10.12 POLICE TOWING SERVICE

§ 10.12.010. Definitions.

- A. "Operator" means any person, firm, corporation or association engaged in the business of towing motor vehicles.
- B. "Tow car" or "tow truck" is a motor vehicle which has been altered or designed and equipped for and exclusively used in the business of towing vehicles by means of a crane, tow bar, tow line or dolly, or is otherwise exclusively used to render assistance to other vehicles.

(Prior code § 3216)

§ 10.12.020. Selection and designation of towing service by council.

The City Council shall establish by resolution the designation of towing service operators to provide service at the request of the Police Department throughout the City.

(Prior code § 3216)

§ 10.12.030. Minimum equipment standards for tow trucks.

Minimum equipment standards for tow trucks shall be as follows:

- A. Truck chassis. A truck chassis shall have at least one-ton capacity with rear dual wheels or equivalent.
 - B. Company name. Company name, address and telephone number shall be on both sides of the tow car.
 - C. Lights. Trucks must, at all times, be equipped with such headlights, tail lights, red reflectors, stop lights, warning lights, etc., as required by California law, plus one white utility light (adjustable or portable) and may be equipped with such other lights as the operator may desire which are not forbidden by law.
 - D. Winch. Each vehicle shall have one power-driven winch operated from a transmission equipped with safety dogs or equivalent braking devices.
 - E. Additional equipment. Trucks must be equipped with red flares, lanterns or reflectors, portable warning signs, hand tools, crowbar, rope, broom, shovel, dustpan, fire extinguisher (dry chemical type), portable red tail light and stop light for towed vehicles, equipment for opening locked vehicles and a safety snubber chain. The operator shall have at least one set of dollies readily available at all times.
 - F. Attendants. Attendants of the operator must display a reasonable knowledge of their work.
- (Prior code § 3316.2)

§ 10.12.040. Storage lots and space.

The storage lot must be within the Martinez city limits or not more than 7 miles from the city limits border. In addition, the storage lot must be located in Contra Costa County. The storage lot must have adequate space to accommodate not less than 15 vehicles in a secure, covered storage area. Such storage area and any fences surrounding the same must be approved, in writing, by

the Chief of Police. It is the intent of this chapter that such buildings and fences must reasonably screen the stored vehicles from public view. Stored vehicles and the contents must be safe from pilfering and/or tampering.
(Ord. 1293 C.S. § II, 2002)

§ 10.12.050. Hours for attendant on call.

- A. There shall be an attendant on call, capable of responding to police request for towing 24 hours a day, 7 days a week.
- B. There shall be an attendant on call capable of responding for the release of vehicles 7 days a week from 8 a.m. to 5 p.m.
(Prior code § 3216.3(b))

§ 10.12.060. Insurance—Filing.

Adequate public liability, property damage, fire and theft insurance must be maintained by the operator. A copy of the certificate of insurance shall be kept on file in the office of the City Clerk.
(Prior code § 3216.3(c))

§ 10.12.070. Records.

The operator shall keep a record of the vehicles and license numbers; date and time each was towed and location from which it was towed; name of the officers ordering the towing and whether the vehicle was impounded or towed at the owner's request.
(Prior code § 3216.3(d))

§ 10.12.080. Communications.

The operator shall maintain two-way radio communications capability between the tow truck and operator's dispatcher.
(Prior code § 3216.3(e))

§ 10.12.090. Removal of hazards.

After being dispatched by the Police Department to the scene, the operator shall cooperate with the police officers in removing hazards and illegally parked vehicles, as requested.
(Prior code § 3216.4)

§ 10.12.100. Only tow vehicles with markings to be dispatched—Exception.

Only tow cars bearing the name of operator's firm, corporation or association name shall be dispatched to the scene of need, unless the police officer at the scene approves the use of a tow car or truck which is unmarked or showing a different name than the contracting operator's marking.
(Prior code § 32165)

§ 10.12.110. Collecting fees—Lien sale.

Pursuant to State law, the operator shall be responsible for collecting all fees and charges and

he shall handle and process all lien sales involving vehicles towed and stored by the operator under this chapter; provided, however, that the Police Department shall handle and process the disposition of low valued vehicles as set forth in Section 22705 of the Vehicle code.

(Prior code § 3216.6)

§ 10.12.120. Vehicle release—Removal of vehicle contents on hold.

Vehicles impounded by the police for special investigations, i.e., fingerprints, etc. shall be held in a place of maximum security by the operator until released in writing by the Police Department. Written release by the Police Department shall be made within 24 hours after first having been impounded, unless there are specific reasons the Police Department cannot provide for a release within 24 hours. Contents of vehicles with a police "hold" shall not be removed without the prior written approval of the Police Department.

(Prior code § 3216.7)

§ 10.12.130. Responsibility.

The operator shall be responsible for the acts of its employees or agents while on duty. The operator shall assume and be responsible for damage or loss to vehicles while in its possession.

(Prior code § 3216.8)

§ 10.12.140. Supervision checks.

The records, equipment and storage facilities of the operator shall be subject to periodic checks by the Police Department and Fire Department.

(Prior code § 3216.9)

§ 10.12.150. Damage appraisals—Generally.

All vehicles, except vehicles with a Police "hold," stored or impounded as a result of a tow ordered by the Police Department, shall be made available for the purpose of estimating or appraising damages, by the owner of the vehicle or his representative, any insurance agent, insurance adjuster, or any body shop or car dealer.

(Prior code § 3216.10)

§ 10.12.160. Damage appraisals—Access to vehicles.

Vehicles to be appraised shall be accessible to Police Department personnel. An employee of the operator may be required to assist upon request of the Police Department.

(Prior code § 3216.11)

§ 10.12.170. Unauthorized towing prohibited.

It is unlawful for any person, not one of the designated tow operators, as herein provided, to remove from the public streets and tow away any vehicle as described herein; provided, however, that the owner or driver of the vehicle so described is excepted and may designate any towing service to be used for the removal and towing away of his vehicle.

(Prior code § 3216.12)

§ 10.12.180. Performance failure by operator—Service cancellation—Appeal.

The failure of the operator to conform to the standards and quality of service to be performed hereunder shall be deemed sufficient cause for cancellation and termination of services by the City Manager; provided however, that the operator may exercise his right to appeal such cancellation and termination to the City Council as hereafter set forth:

The appeal shall be by written notice of appeal delivered to the City Clerk within five days of the operator being notified of the action from which the appeal is taken. The City Clerk shall deliver a copy of the notice of appeal to the City Manager and set a hearing on the appeal within fifteen days, and at least five days prior to the hearing, mail notice of hearing as convenience and justice dictate, and may affirm, modify or rescind the action of the City Manager.

(Prior code § 3216.13)

§ 10.12.190. Removal of city-owned vehicles.

Any operator providing for the service herein shall remove with reasonable cost or expense to the City any disabled emergency vehicle or vehicle involved in an accident, which is owned or leased by the City and which is located within or in close proximity to the City, to the City corporation yard, or other designated storage area.

(Prior code § 3216.14)

§ 10.12.200. Unlawful solicitation.

It is unlawful for any tow operator, his agent or employee, to solicit any tow job under this chapter at the scene of an accident without having first been called by the owner or operator of the disabled vehicle, or by the Martinez Police Department. Any violation of this section will be considered to be a misdemeanor.

(Prior code § 3216.15)

§ 10.12.210. Nonliability of police department.

In the event that a towing service is contracted by the Police Department to perform services in a manner not in accordance with the provisions contained in this chapter, the Police Department is held harmless from any and all liability or damage arising therefrom and shall not be accountable for nor investigate complaints or negligence and deviations, unless the deviations are shown to be of a repeated and frequently recurring nature, and any complaints received from the tow car or tow truck services selected and designated to carry out such police towing operations and any complaints received concerning the quality and standards of service performed by the operators shall be deemed sufficient cause for cancellation and termination of any contract or operating agreement entered into for the performance of such service.

(Prior code § 3216.16)

§ 10.12.220. Abandoned vehicles.

In the event a towing service does not desire to process abandoned vehicles, the Chief of Police is authorized to enter into an agreement with any tow operator to tow and/or sell vehicles abandoned upon the streets or private property within the City. Abandoned vehicles need not be required to be stored within the City.

(Prior code § 3216.17)

CHAPTER 10.20
SPECIAL SPEED ZONES

§ 10.20.010. Special speed limits.

It is determined upon the basis of an Engineering and Traffic Survey that the speed permitted by State law upon the following streets is not reasonable and safe to facilitate the orderly movement of traffic, and it is declared that the prima facie speed limit shall be as hereinafter set forth on the streets or parts of streets herein designated:

Declared Prima Facie	
Name of Street and Portion Affected	Speed Limit (MPH)
A. ALHAMBRA AVENUE	
Franklin Canyon Rd. to "D" St.	35
"D" Street to Berrellesa Street	30
Berrellesa Street to Escobar Street	30
South City Limits to Roanoke Drive	35
Roanoke Drive to Franklin Canyon Road	45
B. ALHAMBRA VALLEY ROAD	
Alhambra Avenue to South City Limits (Sheridan Ln.)	25
West City Limits (Deer Creek Dr.) to East City Limits (approx. 300' west of Vaca Creek Rd.)	25
C. ALHAMBRA WAY	
Muir Station Rd. to Alhambra Ave. (North of SR 4)	25
Muir Station Rd. to Alhambra Ave. (South of SR 4)	20
D. ARNOLD DRIVE	
Howe Road to Morello Avenue	35
Morello Avenue to Milano Drive	35
Milano Drive to Pacheco Boulevard	40
E. BERRELLESA STREET	
Marina Vista to Alhambra Avenue	30
F. CENTER AVENUE	
Howe Road to Veterans Drive	30
Veterans Drive to City Limits	25
G. CHILPANCINGO PARKWAY	
Morello Avenue to Lake Ridge Dr./Quiet Lakes Pl.	35
Lake Ridge Dr./Quiet Lakes Pl. to Easterly City Limits	30
H. COURT STREET	

Declared Prima Facie	
Name of Street and Portion Affected	Speed Limit (MPH)
Thompson Street to Marina Vista	25
I. ESCOBAR STREET	
Court Street to Marina Vista	25
J. FRANKLIN CANYON ROAD	
West City Limits to Alhambra Avenue	35
K. GLACIER DRIVE	
Center Avenue to Olympic Drive	25
Olympic Drive to Arnold Drive	30
L. HOWE ROAD	
Pine Street to easterly City Limits	35
M. MARINA VISTA	
East City Limits to Pine Street	35
N. MIDHILL ROAD within City Limits	25
O. MILANO WAY within City Limits	25
P. MORELLO AVENUE	
North City Limits to Ashford Pl.	25
Ashford Pl. to Rolling Hill Way	30
Rolling Hill Way to South City Limits	35
Q. MUIR ROAD	
East City Limits to Glacier Drive	35
Glacier Drive to Roman Way	40
Roman Way to Veterans Dr.	25
Veterans Dr. to Center Avenue	30
R. MUIR STATION ROAD	
Center Avenue to Alhambra Way	25
S. NORTH COURT STREET	
The Marina to Marina Vista	25
T. PACHECO BOULEVARD	
Jones Street to City Limits at Potter Street	25
Sunrise Drive to Arnold Drive	40
U. PINE STREET	
Thompson Street to Jones Street	25

Declared Prima Facie	
Name of Street and Portion Affected	Speed Limit (MPH)
Jones Street to Howe Road	25
V. PLEASANT HILL ROAD EAST	
Muir Station Road to John Muir Road	25
W. RELIEZ VALLEY ROAD	
North City Limits to Sage Drive	40
Sage Drive to South City Limits	35

All streets not listed are local streets with a speed limit of 25 mph.

The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised except upon the basis of an Engineering and Traffic Survey. The provisions of this section shall not apply in respect to any 25 miles per hour prima facie limit which is applicable when passing a school building or the grounds thereof.

(Prior code § 3215; Ord. 758 C.S. § 1, 1973; Ord. 778 C.S. § 1, 1973; Ord. 911 C.S. § 1, 1979; Ord. 940 C.S. § 1, 1981; Ord. 969 C.S. § 1, 1982; Ord. 1021 C.S. § 1, 1984; Ord. 1028 C.S.; Ord. 1044 C.S. § I, 1985; Ord. 1054 C.S. § I, 1985; Ord. 1072 C.S. § I, 1986; Ord. 1123 C.S. § 1, 1989; Ord. 1176 C.S. § 1, 1991; Ord. 1184 C.S. § 1, 1992; Ord. 1298 C.S. § II, 2002; Ord. 1337 C.S. § I, 2007; Ord. No. 1391 C.S. § I, 12/2/2015; Ord. No. 1449, § 1, 10/4/2023)

CHAPTER 10.24
TRAFFIC-CONTROL DEVICES

§ 10.24.020. Required for enforcement purposes.

No provision of the Vehicle Code or of this title for which signs are required shall be enforced against an alleged violator unless appropriate legible signs are in place giving notice of such provisions of the traffic laws.

(Prior code § 3203.1)

§ 10.24.030. Obedience required.

The operator of any vehicle or train shall obey the instructions of any official traffic-control device placed in accordance with this title unless otherwise directed by a police officer or other authorized person subject to the exceptions granted the operator or an authorized emergency vehicle when responding to emergency calls.

(Prior code § 3203.2)

§ 10.24.040. Installation.

- A. The City Traffic Engineer is directed to install and maintain official traffic signals at those intersections and other places where traffic conditions are such as to require that the flow of traffic be alternately interrupted and released in order to prevent or relieve traffic congestion or to protect life or property from exceptional hazard.
- B. The city Traffic Engineer shall ascertain and determine the locations where such signals are required by field investigation, traffic counts and other traffic information as may be pertinent, and his determinations therefrom shall be made in accordance with those traffic engineering and safety standards and instructions set forth in the California Maintenance Manual issued by the Division of Highways of the State Department of Public Works.
- C. Whenever the city Traffic Engineer installs and maintains an official traffic signal at any intersection, he shall likewise erect and maintain at such intersection, street name signs clearly visible to traffic approaching from all directions unless such street name signs have previously been placed and are maintained at any said intersection.

(Prior code § 3203.3)

§ 10.24.050. Lane markings.

The city Traffic Engineer is authorized to mark center lines and lane lines upon the surface of the roadway to indicate the course to be traveled by vehicles, and may place signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway.

(Prior code § 3203.4)

§ 10.24.060. Distinctive roadway markings.

The city Traffic Engineer is authorized to place and maintain distinctive roadway markings as described in the Vehicle code on those streets or parts of streets where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. Such marking or signs and markings shall have the same effect

as similar markings placed by the State Department of Public Works pursuant to provisions of the Vehicle code.

(Prior code § 32035)

§ 10.24.070. Authority to remove, relocate and discontinue.

The City Traffic Engineer is authorized to remove, relocate or discontinue the operation of any traffic-control device not specifically required by the Vehicle Code or this title, whenever he determines in any particular case that the conditions which warranted or required the installation no longer exist or pertain.

(Prior code § 3203.6)

§ 10.24.080. Hours of operation.

The City Traffic Engineer shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, except in those cases where such hours or days are specified in this title.

(Prior code § 3203.7)

§ 10.24.090. Unauthorized painting of curbs.

No person, unless authorized by the Director of Public Services, shall paint any street or curb surface, provided, however, that this section shall not apply to the painting of numbers on a curb surface by any person who has complied with the provisions of any resolution or ordinance of this City pertaining thereto.

(Prior code § 3203.8; Ord. 1069 C.S. § 1, 1986)

CHAPTER 10.28
TURNING MOVEMENTS

§ 10.28.010. Markings at intersections and multiple-laned roadways.

The City Traffic Engineer is authorized to place official traffic-control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and the City Traffic Engineer is authorized to locate and indicate more than one lane of traffic from which drivers of vehicles may make right or left-hand turns, and the course to be traveled as so indicated may conform to or be other than as prescribed by law or chapter.

(Prior code § 3204)

§ 10.28.020. Authority to place restricted turn signs.

The City Traffic Engineer is authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(Prior code § 3204.1)

§ 10.28.030. Signal-controlled intersections—Right turns.

- A. No driver of a vehicle shall make a right turn against a red or stop signal at any intersection which is signposted giving notice of such restriction as hereinafter provided in this section.
- B. The City Traffic Engineer shall post appropriate signs giving effect to this section where he determines that the making of right turns against the traffic signal "stop" indication would seriously interfere with the safe and orderly flow of traffic.

(Prior code § 3204.2)

CHAPTER 10.32
ONE-WAY STREETS AND ALLEYS

§ 10.32.010. Sign placement and maintenance.

Whenever any ordinance or resolution of this city designates any one-way street or alley, the City Traffic Engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Prior code § 3205)

CHAPTER 10.36
PARKING METERS

§ 10.36.010. Parking meter zones—Defined.

The streets, portions of streets or parking lots hereinafter described in Section 10.36.020 of this Chapter are defined and established as parking meter zones within which the parking of vehicles shall be controlled, regulated and inspected with the aid of parking meters, coin boxes or permit parking.

(Prior code § 3213; Ord. No. 1124 C.S. § 1, 1989; Ord. 1264 C.S. § 2, 1999)

§ 10.36.020. Parking meter zones—Established.

A. Parking meter zones are established as follows:

1. On both sides of Alhambra Avenue from Marina Vista to Ward Street;
2. On both sides of Castro Street from Marina Vista to Green Street;
3. On both sides of Estudillo Street from U.P.R.R. to Main Street;
4. On both sides of Estudillo Street from Ward Street to Green Street;
5. On both sides of Ferry Street between U.P.R.R. and Green Street;
6. On both sides of Las Juntas Street from Escobar Street to Mellus Street;
7. On the easterly side of Court Street from Marina Vista to a point 100 feet south of Green Street;
8. On the westerly side of Court Street from Escobar Street to Ward Street;
9. On both sides of Court Street from Thompson Street to Henrietta Street;
10. On the west side of Pine Street from Marina Vista to Escobar Street;
11. On both sides of Pine Street from Escobar Street to Ward Street;
12. On the east side of Pine Street from a point 250 feet north of Mellus Street to Henrietta Street;
13. On the west side of Pine street from Mellus Street to Henerietta Street;
14. On the west side of Willow Street from Ward Street to Mellus Street;
15. On the north side of Marina Vista from Alhambra Avenue to a point located 600 feet east of Pine Street;
16. On the south side of Marina Vista from Alhambra Avenue to Court Street;
17. On both sides of Escobar Street from Alhambra Avenue to Pine Street;
18. On both sides of Escobar Street from Pine Street to a point located 500 feet east of Pine Street;
19. On both sides of Main Street from Alhambra Avenue to Grandview Avenue;

20. On both sides of Ward Street from Alhambra Avenue to Willow Street;
21. On both sides of Green Street from Alhambra Avenue to Court Street;
22. On both sides of Thompson Street from Las Juntas Street to Court Street;
23. On both sides of Mellus Street from Las Juntas Street to Willow Street;
24. On the north side of Henrietta Street from the creek to Court Street.

B. Parking meter zones are established on the following parking lots:

1. Parking Lot No. 1, adjacent to Alhambra Creek between Main Street and Ward Street;
2. Parking Lot No. 2, at the southeast corner of Escobar Street and Castro Street;
3. Parking Lot No. 3, at the southwest corner of Ward Street and Las Juntas Street;
4. Parking Lot No. 4, at the southeast corner of Marina Vista and Ferry Street;
5. Parking Lot No. 5, at the southwest corner of Green Street and Las Juntas Street;
6. Parking Lot No. 6, along the U.P.R.R. between Estudillo Street and Ferry street;
7. Parking Lt No. 7, at the northwest corner of Marina Vista and Court Street;
8. Parking Lot No. 8 (Museum Lot), at the southwest corner of Marina Vista and Pine Street;
9. Amtrak Parking Lot, on the east side of Ferry Street at the Amtrak Station.

(Ord. 866 C.S. § 2, 1977; Ord. 936 C.S. § 1, 1981; Ord. 1124 C.S. § 1, 1989; Ord. 1264 C.S. § 3, 1999)

§ 10.36.030. Manner of installation.

- A. The City Traffic Engineer shall have the power and duty to cause parking meters to be installed and maintained in all parking meter zones as required to make effective the provisions of this Chapter.
- B. Each parking meter shall be set to display, after the operational procedure has been completed, a sign or signal indicating legal parkings for that period of time conforming to the limit of parking time as indicated on the meter. Each parking meter shall indicate the limit of parking time in the parking space adjacent to the parking meter, and shall continue to operate from the time of the completion of the operational procedure until the expiration of the time fixed as the parking limit or a portion thereof for the part of the street upon which the meter is placed. Each meter shall also be so arranged that upon the expiration of the legal parking time it will indicate by a mechanical operation and by proper signal that the lawful parking period is expired.

(Prior code § 3213.2; Ord. No. 1124 C.S. § 1, 1989)

§ 10.36.040. Hours of operation.

The provisions of this Chapter relating to the operation of parking meters shall be effective between the hours of 9:00 a.m. and 6:00 p.m. on every day except Saturdays, Sundays and

holidays.

(Prior code § 3213.3)

§ 10.36.050. Operational procedure to be followed.

Immediately after occupancy of a parking meter space, the operator of a vehicle shall deposit a coin of the United States in the parking meter and if necessary turn a crank, knob or handle in accordance with the instructions posted on the face of the parking meter.

(Prior code § 3213.4)

§ 10.36.060. Fees.

Parking meter fees within the established parking meter zones (Section 10.36.020) shall be no greater than \$1.00 per hour for all meters. All meters, with the exception of loading/unloading zones, shall have a maximum time limit of 10 hours. Meters for loading/unloading zones shall have a maximum time limit of 30 minutes. The exact meter rates and durations shall be set by ordinance.

(Ord. 1264 C.S. § 4, 1999; Ord. 1372, § 1, 9/18/2013)

§ 10.36.070. Unlawful to park after meter time has expired.

No operator of any vehicle shall permit the vehicle to remain parked in any parking space during any time that the meter is showing a signal indicating that such space is illegally in use other than such time immediately after the original occupancy as is necessary to operate the meter to show legal parking.

(Prior code § 3213.6)

§ 10.36.080. Unlawful to extend time limit.

No person shall follow the operational procedure or any part of the operational procedure for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time which has been established for the parking space adjacent to which the parking meter is placed.

(Prior code § 3213.7)

§ 10.36.090. Unlawful acts.

No person shall deposit or cause to be deposited in any parking meter any defaced or bent coin, or any slug, device or metallic substitute for a coin of the United States, or deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter.

(Prior code § 3213.8)

§ 10.36.100. Deposit of coins by unauthorized person.

No person, other than the owner or operator of a vehicle, shall deposit any coin in any parking meter without the knowledge or consent of the owner or operator of the vehicle using the parking space immediately adjacent to the meter.

(Prior code § 3213.9)

§ 10.36.110. Meters and meter standards not to be used for certain purposes.

No person shall attach anything to or allow a bicycle, newsrack or any other article or thing to

lean against a parking meter or parking meter standard.
(Prior code § 3213.10)

§ 10.36.120. Prima facie evidence.

The parking or standing of any motor vehicle in a parking space, at which space the parking meter displays the sign or signal indicating illegal parking, shall constitute a prima facie presumption that the vehicle has been parked or allowed to stand in such space for a period longer than permitted by this chapter.
(Prior code § 3213.11)

§ 10.36.130. Application of other provisions.

No section of this chapter shall be construed as permitting any parking in violation of any other provision of this title.
(Prior code § 3213.12)

CHAPTER 10.38
ELECTRIC VEHICLE PARKING STALLS AND SPACES

§ 10.38.010. Findings.

The City Council makes all of the following findings in establishing this chapter:

- A. The City Council finds that there is a need for parking stalls and spaces to be located within the City which are made available to the public for charging of electric vehicles over short-term or long-term periods in order to promote greater fuel conservation and enhance fuel and energy efficiency.
- B. The City Council finds that the City has previously invested in electric vehicle charging infrastructure through grants obtained by 511 Contra Costa, the transportation demand management program for all jurisdictions within Contra Costa County, with funding supplied through Measure C and Measure J half-cent sales tax for Transportation Improvement Projects along with Transportation for Clean Air funding from the Bay Area Air Quality Management District. Through such funding sources, the City has constructed and installed various electric vehicle charging stations for the use of owners of electric vehicles to connect their electric vehicles to charging stations and charge their vehicle power sources.
- C. The City Council finds that the public use of the City-owned electric vehicle charging stations has resulted in significant costs being incurred by the City including energy usage, software program costs, equipment depreciation, personnel costs, maintenance, and repair and replacement costs; none of which may the City recover while it continues to provide such service without charging the vehicle owners' fees for the benefits being received by them. Unreimbursed expenditures of money from the General Fund and other resources shall continue to be incurred by the City each time a vehicle owner uses a City-owned vehicle charging station without payment of a fee to the City.
- D. The City Council finds that it is beneficial to the public and the environment that the City's electric vehicle charging stations continue to be used and available to owners of electric vehicles and that the establishment of certain regulations, including fees for the reimbursement of the City for its costs incurred in providing such service and hourly limits for parking in short-term parking spaces, will enable the City to continue to make available the electric vehicle charging service to the public on both short-term and long-term charging basis.
- E. The City Council finds that the fees being established in the amounts set forth by this Ordinance are reasonably proportionate to each user's portion of costs incurred by the City in providing the service, and further finds that based upon the anticipated level of usage such fees as a whole are reasonable and necessary for the City to recover even a portion of its costs of providing electric vehicle charging parking spaces or stalls for public use.

(Ord. No. 1378 C.S., § I, 2/5/2014)

§ 10.38.020. Fees.

The following fees shall be charged for utilizing City-owned electric vehicle charging station spaces or stalls:

- A. Short-term rates shall consist of \$1.00 per hour. No vehicle shall be parked, left standing,

or connected to a charging station for more than 4 consecutive hours in any electric vehicle charging station space or stall having short-term rates. Short-term rates shall be charged for all electric vehicle charging stations spaces or stalls located within the City Hall parking lot and for electric vehicle charging stations parking stalls or spaces located on or along Court and Main Streets.

- B. Long-term rates shall consist of \$1.00 per hour, with a maximum of \$12.00 being charged per each electric vehicle charging session, no matter how long such session may continue. Notwithstanding the fees established by this subsection, no vehicle shall be parked, left standing, or connected to a charging station for more than 24 consecutive hours in any electric vehicle charging station space or stall having long-term rates. Long-term rates shall be charged for all electric vehicle charging stations stalls or spaces within the parking lots for the Amtrak and Pacheco Transit Hub stations.

(Ord. No. 1378 C.S., § I, 2/5/2014)

§ 10.38.030. Designation and posting.

The City hereby designates each of the parking stalls and spaces described by this chapter to be exclusively for the purpose of charging and parking a vehicle that is connected for electric charging purposes. Each of the parking stalls and spaces so designated shall be posted in accordance with subdivision (d) of Section 22511 of the California Vehicle Code.

(Ord. No. 1378 C.S., § I, 2/5/2014)

**CHAPTER 10.40
SPECIAL STOPS**

§ 10.40.010. City traffic engineer to erect stop signs.

Whenever any ordinance or resolution of this city designates and describes any street or portion thereof as a through street, or any intersection at which vehicles are required to stop at one or more entrances thereto, or any railroad grade crossing at which vehicles are required to stop, the city Traffic Engineer shall erect and maintain stop signs as follows:

A stop sign shall be erected on each and every street intersecting such through street or portion thereof so designated and at those entrances to other intersections where a stop is required, and at any railroad grade crossing so designated; provided, however, stop signals shall not be erected or maintained at any entrance to an intersection when such entrance is controlled by an official traffic-control signal. Every such sign shall conform with and shall be placed as provided in the Vehicle code.

(Prior code § 3206)

§ 10.40.020. Stop at through street or stop sign.

- A. Those streets and parts of streets established by resolution of the Council are declared to be through streets for the purposes of this chapter.
- B. The provisions of this chapter shall also apply at one or more entrances to the intersections as such entrances and intersections are established by resolution of the Council.
- C. The provisions of this chapter shall apply at those highway railway grade crossings as established by resolution of the Council.

(Prior code § 3206.1)

§ 10.40.030. Emerging from alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across an alleyway or driveway.

(Prior code § 3206.2)

CHAPTER 10.44
STOPPING, STANDING AND PARKING

§ 10.44.010. Application of regulations.

- A. The provisions of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.
- B. The provisions of this chapter imposing a time limit on standing or parking, shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or the ordinances of this city prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

(Prior code § 3209)

§ 10.44.020. In parkways prohibited.

No person shall stop, stand or park a vehicle within any parkway.

(Prior code § 3209.1)

§ 10.44.030. Traffic engineer to maintain stopping zones and no parking areas.

- A. The City Traffic Engineer is authorized to maintain, by appropriate signs or by paint upon the curb surface, all no-stopping zones, no-parking areas and restricted parking areas, as defined and described in this chapter and title.
- B. When the curb markings or signs are in place, no operator of any vehicle shall stop, stand or park such vehicle adjacent to any such legible curb marking or sign in violation of any of the provisions of this title.

(Prior code § 3209.2)

§ 10.44.040. No parking areas.

No operator of any vehicle shall stop, stand, park or leave standing such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or other authorized officer, traffic sign or signal:

- A. Within any divisional island unless authorized and clearly indicated with appropriate signs or markings;
- B. On either side of any street between the projected property lines of any public walk, public steps, street or thoroughfare terminating at such street, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- C. In any area where the City Traffic Engineer determines that the parking or stopping of a vehicle would constitute a traffic hazard or endanger life or property when such area is indicated by appropriate signs or by red paint upon the curb surface;
- D. In any area established by resolution of the Council as a no parking area, when such area is indicated by appropriate signs or by red paint upon the curb surface;
- E. Upon, along or across any railway track in such manner as to hinder, delay or obstruct the

movement of any car traveling upon such track;

- F. In any area where the parking or stopping of any vehicle would constitute a traffic hazard or would endanger life or property;.
- G. On any street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway, or the installation of underground utilities, or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic, or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement provided that signs giving notice of such no parking are erected or placed at least 24 hours prior to the effective time of such no parking;
- H. At any place within 20 feet of a point on the curb immediately opposite the midblock end of a safety zone, when such place is indicated by appropriate signs or by red paint upon the curb surface;
- I. At any place within 20 feet of a crosswalk at an intersection in any business district when such place is indicated by appropriate signs or by red paint upon the curb surface except that a bus may stop at a designated bus stop;
- J. Within 20 feet of the approach to any traffic signal, boulevard stop sign or official electric flashing device.

(Prior code § 3209.3)

§ 10.44.050. Use of streets for vehicle storage prohibited.

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of 72 hours.

(Prior code § 3209.4)

§ 10.44.060. Parking for advertisement or display.

No operator of any vehicle shall park the vehicle upon any street in this city for the principal purpose of advertising or displaying it for sale, unless authorized by resolution of the Council.

(Prior code § 3209.5)

§ 10.44.070. Repairing or greasing vehicles on public streets.

No person shall construct or cause to be constructed, repair or cause to be repaired, grease or cause to be greased, dismantle or cause to be dismantled any vehicle or any part thereof upon any public street in this city. Temporary emergency repairs may be made upon a public street.

(Prior code § 3209.6)

§ 10.44.080. Washing or polishing vehicles.

No person shall wash or cause to be washed, polish or cause to be polished any vehicle or any part thereof upon any public street in this city, when a charge is made for such service.

(Prior code § 3209.7)

§ 10.44.090. Parking adjacent to schools.

- A. The City Traffic Engineer is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.
- B. When official signs are erected prohibiting parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.
(Prior code § 3209.8)

§ 10.44.095. Parking—Commercial vehicles.

Refer to chapter 10.60 Commercial Vehicles.

(Ord. 950 C.S. § 1, 1981; Ord. 1105 C.S. § 1, 1987)

§ 10.44.100. Parking prohibited on narrow streets.

- A. The City Traffic Engineer is authorized to place signs or markings indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs or markings when the width of the roadway does not exceed 30 feet.
- B. When official signs or markings prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign or marking.
(Prior code § 3209.9)

§ 10.44.110. Parking on grades.

No person shall park or leave standing any vehicle unattended on a highway when upon any grade exceeding three percent (3%) without blocking the wheels of the vehicle by turning them against the curb or by other means.

(Prior code § 3209.10)

§ 10.44.120. Peddler and vendor parking—Permit.

- A. Except as otherwise provided in this section, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street within this City except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.
- B. No person shall park or stand on any street any lunch wagon, eating cart or vehicle, or pushcart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the City Traffic Engineer which shall designate the specific location in which such cart shall stand.
- C. No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the City Traffic Engineer which shall designate the specific location where such vehicle may stand.

- D. Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon or pushcart on any location other than as designated in such permit. In the event that the holder of such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the City Traffic Engineer upon the filing of the record of such conviction with such officer, and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation.

(Prior code § 3209.11)

§ 10.44.130. Emergency parking signs.

- A. Whenever the City Traffic Engineer determines that an emergency traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, or for other reasons, the City Traffic Engineer shall have power and authority to order temporary signs to be erected or posted indicating that the operation, parking or standing of vehicles is prohibited on such streets and alleys as the City Traffic Engineer shall direct during the time such temporary signs are in place. Such signs shall remain in place only during the existence of such emergency and the City Traffic Engineer shall cause such signs to be removed promptly thereafter.

- B. When signs authorized by the provisions of this section are in place giving notice thereof, no person shall operate, park or stand any vehicle contrary to the directions of such signs.

(Prior code § 3209.12)

§ 10.44.155. Vision safety parking zones.

- A. The city Traffic Engineer may create vision safety parking zones on any street, driveway or other area that requires unobstructed visibility to facilitate safe pedestrian or vehicle entry into or across a street.

- B. Vision safety parking zones may be implemented which limit the size of vehicles in parking spaces or by use of other accepted engineering methods to provide visibility for safe entry onto or across any street.

- C. When the signs are in place, it shall be unlawful and shall constitute an infraction for any operator of a vehicle to park a vehicle in violation of the sign or in violation of any provision of the Martinez Municipal code.

(Ord. 888 C.S. § 1, 1978)

§ 10.44.160. Parking on city property.

- A. Whenever the city Traffic Engineer determines that the orderly, efficient conduct of the city's business requires that parking or standing of vehicles on city property be prohibited, limited or restricted, the city Traffic Engineer shall have the power and authority to order signs to be erected or posted indicating that the parking of vehicles is thus prohibited, limited or restricted.

- B. When signs authorized by the provisions of this section are in place, giving notice thereof, no person shall park or stand any vehicle contrary to the directions or provisions of such signs.

(Prior code § 3209.15)

§ 10.44.170. Parking on prints property—Notice.

- A. No person shall drive, park or operate a motor vehicle upon land or premises where the owner or person occupying or having possession of, or agents thereof, have posted on such property or premises a notice in substantially the following form, and where the permission therein referred to shall not have been granted:

NOTICE

"NOTICE IS HEREBY GIVEN that this property is privately owned. Parking or operating a motor vehicle hereon without written permission of the owner or his agent shall constitute a violation of Ordinance No. 705 C.S. of the City of Martinez."

- B. The notice shall appear on a sign which shall have dimensions of at least 30 inches by 24 inches. The words of the notice shall fully occupy the signboard herein described.
- C. The owner of the property so posted shall report to the Police Department of the City violations of the Ordinance codified herein.
- D. It is unlawful for any person without permission of the owner or person entitled to the possession thereof to park any motor vehicle in or upon any private property so as to interfere with the use thereof.

(Prior code § 3209.16)

§ 10.44.180. Fifteen-minute parking.

When authorized signs, parking meters or curb markings have been determined by the City Traffic Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle between the hours of 9:00 a.m. and 6:00 p.m. on any day except Sundays and holidays, for a period of time longer than fifteen minutes.

(Prior code § 3210.1; Ord. 1125 C.S. § 1, 1989)

§ 10.44.190. Twenty-minute parking.

- A. Green curb marking means no standing or parking for a period of time longer than twenty minutes at any time between 9:00 a.m. and 6:00 p.m. on any day except Sundays and holidays, or as determined by the City Engineer.
- B. When authorized signs, parking meters or curb markings have been determined by the City Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle adjacent to any such legible curb marking or sign or parking meter in violation thereof.

(Prior code § 3210; Ord. 1179 C.S., 1992)

§ 10.44.200. Thirty-minute parking.

When authorized signs, parking meters or curb markings have been determined by the City Traffic Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle between the hours of 9:00 a.m. and 6:00 p.m. of any day except Sundays and holidays for a period of time no longer than thirty minutes.

(Prior code § 3210.4.1; Ord. 759 C.S. § 1, 1973)

§ 10.44.210. One-hour parking.

When authorized signs, parking meters or curb markings have been determined by the City Traffic Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle between the hours of 9:00 a.m. and 6:00 p.m. of any day except Sunday and holidays for a period of time longer than one hour.

(Prior code § 3210.2)

§ 10.44.220. Two-hour parking.

When authorized signs, parking meters or curb markings have been determined by the City Traffic Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle between the hours of 9:00 a.m. and 6:00 p.m. of any day except Sundays and holidays for a period of time longer than two hours.

(Prior code § 3210.3)

§ 10.44.230. Ten-hour parking.

When authorized signs, parking meters or curb markings have been determined by the City Traffic Engineer to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, stand or park the vehicle between the hours of 9:00 a.m. and 6:00 p.m. of any day except Sundays and holidays for a period of time longer than ten hours.

(Prior code § 3210.4)

§ 10.44.240. Parallel parking on one-way streets.

- A. Subject to other and more restrictive limitations, a vehicle may be stopped or parked within 18 inches of the left-hand curb facing in the direction of traffic movement upon any one-way street unless signs are in place prohibiting such stopping or standing.
- B. In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are in place permitting such standing or parking.
- C. The city Traffic Engineer is authorized to determine when standing or parking shall be prohibited upon the left-hand side of any one-way street, or when standing or parking may be permitted upon the left-hand side of any one-way roadway or a highway having two or more separate roadways, and shall erect signs giving notice thereof.
- D. The requirement of parallel parking imposed by this section shall not apply in the event any commercial vehicle is actually engaged in the process of loading or unloading freight or goods, in which case such vehicle may be backed up to the curb, provided that such vehicle does not extend beyond the centerline of the street and does not block traffic thereby.

(Prior code § 3210.5)

§ 10.44.250. Diagonal parking.

- A. On any of the streets or portions of streets established by resolution of the council as diagonal parking zones, when signs or pavement markings are in place indicating such diagonal parking, it is unlawful for the operator of any vehicle to park the vehicle except:

1. At the angle to curb indicated by signs or pavement markings allotting space to parked vehicles and entirely within the limits of the allotted space;
 2. With the front wheel nearest the curb within 6 inches of the curb.
- B. The provisions of this section shall not apply when such vehicle is actually engaged in the process of loading or unloading passengers, freight or goods, in which event the provisions applicable in Section 10.44.240 of this chapter shall be complied with.
- (Prior code § 3210.6)

§ 10.44.260. Parking space markings.

- A. The City Traffic Engineer is authorized to install and maintain parking space markings to indicate parking spaces adjacent to curbing where authorized parking is permitted.
- B. When such parking space markings are placed on the highway, subject to other limitations, no vehicle shall be stopped, left standing or parked other than within a designated single space as marked, unless the size or shape of such vehicle makes compliance impossible.
- (Prior code § 3210.7; Ord. 951 C.S. § 1, 1981)

§ 10.44.270. No-stopping zones.

- A. The City Traffic Engineer shall designate established no-stopping zones by placing and maintaining appropriate signs indicating that the stopping of vehicles is prohibited and indicating the hours and day when stopping is prohibited.
- B. During the hours and on the days designated on the signs, it is unlawful for the operator of any vehicle to stop the vehicle on any of the streets or parts of streets established by resolution of the Council as no-stopping zones.
- (Prior code § 3210.8)

§ 10.44.280. All-night parking prohibited.

- A. No person shall stop, stand or park a vehicle on any street between the hours of 3:00 A.M. and 6:00 A.M. of any day when appropriate signs are in place, provided that this section shall not apply to any vehicle of any regularly licensed physician when actually engaged in making professional calls.
- B. For commercial vehicles refer to Section 15.60.030.
- (Prior code § 3210.9; Ord. 925 C.S. 1980; Ord. 1105 C.S. § 2, 1987)

§ 10.44.290. Taxicab stands.

- A. The City Traffic Engineer shall establish taxicab stands and determine the location thereof.
- B. The curb surface within each taxicab stand shall be painted white and marked "Taxicab Stand" in red lettering, or shall be designated by signs of a type and size approved by the City Traffic Engineer.
- C. No operator of any vehicle, other than a taxicab or automobile for hire, shall park the vehicle in such taxicab stand.
- D. The owner or operator of a taxicab shall pay a fee to be established by resolution, from time

to time, for each taxicab stand assigned to his taxicab.
(Prior code § 3210.10; Ord. 855 C.S. § 1, 1977)

§ 10.44.300. Authority to establish reserved parking within parking district.

- A. The City Traffic Engineer is authorized to establish in any City parking district, with the approval of the Parking Place Commission, reserved parking spaces within City parking lots.
- B. No persons who do not possess and display a valid City parking card, decal or tag shall be allowed to park in the reserved parking spaces.
- C. The City Traffic Engineer shall clearly define, by appropriate signs and markings, the reserved parking spaces in each parking lot.
(Prior code § 3210.11)

§ 10.44.310. Parking for physically handicapped.

- A. Blue indicates parking limited exclusively to vehicles of physically handicapped persons.
- B. The City Traffic Engineer is authorized to designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or a placard issued pursuant to Section 22511.5 of the Vehicle Code, or disabled veterans as specified in Section 9105 of the Vehicle Code, and in addition, may designate stalls or spaces in an off-street parking facility owned or operated by the City or private person for the exclusive use of vehicles which display distinguishing license plates or placard issued pursuant to Section 22511.5 of the Vehicle Code or to disabled veterans as specified in Section 9105 of the Vehicle Code.

In the case of on-street parking spaces, the parking space shall be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. In addition to the blue paint, the space may also be indicated by signs or other suitable means.

In the case of off-street parking facilities, these stalls or spaces shall be designated by posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background, and by painting a white "Handicap Symbol" in each stall. Design of parking space widths, signs, and paint markings shall be in accordance with standards approved by the City Traffic Engineer.

Any vehicle parked in violation of an off-street parking facility physically handicapped stall or space may be towed from said stall or space pursuant to the provisions of Vehicle Code Section 22511.8.

- C. It is unlawful and punishable as an infraction for the operator of any vehicle to stop, stand or park a vehicle adjacent to any legible curb marking described in Section 10.44.310B, or for the operator of any vehicle not displaying a distinguishing license plate issued to disabled persons pursuant to Vehicle Code Section 9105 to stop, stand, park or leave standing such vehicle in any parking space property designated for the exclusive use of physically handicapped persons pursuant to Section 10.44.310B.
(Ord. 921 C.S., 1980)

CHAPTER 10.46
PERMIT PARKING AREAS

§ 10.46.010. Purpose.

The City Council may establish permit parking areas within the City of Martinez in order to alleviate, in certain areas and neighborhoods, motor vehicle congestion caused by long-term parking by nonresidents of those areas and neighborhoods; to protect the health, safety, and welfare of residents of these certain areas; and to promote the integrity of these areas.
(Ord. 988 C.S. § 1, 1983)

§ 10.46.020. Designation of permit parking areas.

Areas meeting and satisfying the objective criteria established in these procedures will be considered by the City Council for designation as a permit parking area. Permit parking areas may be designated by a City Council resolution in which motor vehicles displaying a valid parking permit may stand or be parked without limitation as to the parking time restrictions established by the resolution. Said resolution shall also state the applicable time limitation and the period of the day and days of the week for its application.
(Ord. 988 C.S. § 1, 1983)

§ 10.46.030. Designation criteria.

- A. An area shall be deemed eligible for consideration as a permit parking area if data from surveys and studies prepared at the direction of the City Traffic Engineer satisfy the objective criteria that the area is impacted by vehicles belonging to nonresidents for any extended period during the day or night, on weekends, or during holidays.
- B. The eligibility criteria shall include the following:
 - 1. The extent of the desire and need of the residents for permit parking;
 - 2. The extent to which legal on-street parking spaces are occupied by motor vehicles during the period proposed for parking restriction;
 - 3. The extent to which vehicles parking in the area during the period proposed for parking restriction are vehicles belonging to nonresidents rather than vehicles of residents;
 - 4. The extent to which motor vehicles registered to persons residing in the area cannot be accommodated by the number of available off-street parking spaces;
 - 5. Determination and identification of possible alternative parking locations for vehicles of nonresidents which are to be displaced in the proposed permit parking area; and
 - 6. Determination that sufficient on-street parking may be made available for area residents with the proposed permit parking program.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.040. Designation process and recommendations.

- A. Upon receipt of a verified petition signed by at least fifty (50) per cent of the residents in the area proposed for designation, and which represents at least fifty (50) per cent of the

residential units in the area proposed for designation, the City Traffic Engineer shall undertake such surveys or studies as are deemed necessary to determine whether an area is eligible for permit parking.

- B. At the completion of surveys and studies a determination shall be made by the City Traffic Engineer as to the eligibility of the area under consideration for permit parking, the boundaries for the proposed permit parking area, the appropriate time limitation on parking, the period of the day, and days of the week for its application.
- C. A written report shall be submitted by the City Traffic Engineer to the City Council, including recommendations.
- D. The Parking Place Commission shall hold a public hearing on the recommendation of the City Traffic Engineer.
- E. Public hearing notices shall be posted in the proposed area ten days prior to the hearing on the proposed designation of an area as residential permit parking area.
- F. A written notice shall be mailed to the owners and/or tenants of the use or facility, if any, creating the need for permit parking identified in City Traffic Engineer's report ten days prior to the hearing Notice shall also be mailed to all owners of property fronting on the street(s) proposed for permit parking.
- G. After the public hearing, the City Council may adopt with conditions or reject the resolution approving the designation of a certain area as a residential permit parking area based on the Parking Place Commission's recommendations.
- H. The designation process and designation criteria shall also be utilized by the City Traffic Engineer and the City Council in determining whether to remove the designation of an area as a permit parking area.

(Ord. 988 C.S. § 1, 1983; Ord. 1206 C.S. § 1, 1993)

§ 10.46.050. Resident parking permits.

- A. The Finance Director shall be responsible for the issuance of parking permits to persons residing or maintaining a business in a permit parking area. A permit shall be issued by the Director only upon receipt of a valid application.
- B. The Director may not issue more than four (4) permits to any one address for residents at that address, unless the Director finds more than four (4) licensed drivers residing at or operating a business from that one address with more than four (4) vehicles registered to that address.
- C. The Director shall either grant or deny a resident parking permit within ten (10) working days from the receipt of a valid application. If the Director denies a permit, the written reasons for the denial shall be provided to the applicant, in person or by mail, within the time period specified herein.
- D. The permit shall be clearly displayed on the vehicle for which it has been issued as instructed.
- E. The Director shall maintain a record of the number of parking permits issued to each address, the names of permit holders, the license numbers of vehicles for which a permit

has been issued, documents checked to establish residency and vehicle ownership, and any other information as required.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.060. Revocation of parking permit.

The Finance Director may revoke the parking permit(s) of any person known to the Director to no longer be eligible for a permit(s). The Director shall give written notice to the permit holder of said revocation and the reasons therefor. The owner shall not display the revoked or expired permit from the individual vehicle.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.070. Guest parking permits.

- A. The Finance Director may issue guest parking permits upon receipt of completed applications for guest permits.
- B. The guest permit shall be of a different color than resident parking permits(s) and shall be valid for a period not exceeding fourteen (14) consecutive days.
- C. The guest parking permit shall be displayed in the valid guest vehicle as required by the Finance Director.
- D. The Director shall maintain, or cause to be maintained, a record of the number of guest parking permits issued to each address within a designated permit parking area.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.080. Appeal.

Any person who has been denied a permit(s) or had a permit(s) revoked by the Director may appeal that decision to the city council within ten (10) days after the decision of the Director has been given or sent to the appellant. An appeal shall be set forth on a form provided by the city clerk.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.090. Exemptions.

- A. Any emergency vehicle, including but not limited to an ambulance, fire engine, or police vehicle, which is under the control of an individual providing service to a property located in the permit parking area shall be permitted to stand or be parked on a street in the area without being limited by the time restrictions.
- B. Any vehicle, including but not limited to a delivery, utility, or service vehicle, which is under the control of an individual providing service to property located on a street in the permit parking area shall be permitted to stand or be parked on a street in the area without being limited by the time restrictions. Identification of such vehicle as commercial, utility, or service vehicles shall be the responsibility of the driver of such vehicle.
- C. Any vehicle which is identified as used by disabled or handicapped individuals meeting the requirements of Section 22511.5 of the California Vehicle Code, and displaying the handicap plates, shall be permitted to stand or be parked on a street in the area without being limited by the time restrictions.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.100. Posting of permit parking area.

Upon the designation of an area as a permit parking area, the City Traffic Engineer shall cause appropriate signs to be erected in the area.

(Ord. 988 C.S. § 1, 1983)

§ 10.46.110. Violations.

It shall be unlawful and constitute a violation of this chapter for any person to do, or cause to be done, any of the following:

- A. To stand or park a motor vehicle, without a current permit properly displayed, on a street within the permit parking area for a period of time exceeding the specified limit during effective times and days of the permit parking as indicated on the traffic signs;
- B. To falsely represent himself or herself as eligible for a parking permit or to furnish false information in an application for a permit;
- C. To permit the use or display of, or to use or display, a valid parking permit issued under this chapter on a motor vehicle or in a manner other than that for which the permit was issued;
- D. To copy, reproduce, or otherwise bring into existence a facsimile or counterfeit resident or guest parking permit;
- E. To knowingly use or display a facsimile or counterfeit resident or guest parking permit in order to evade time limitations on parking applicable in the permit parking area;
- F. To knowingly commit any act which is prohibited by the terms of this chapter.

(Ord. 988 C.S. § 1, 1983)

CHAPTER 10.48
LOADING AND UNLOADING

§ 10.48.010. Authority to establish loading zones.

- A. The City Traffic Engineer is authorized to determine and to mark loading zones as follows:
 - 1. At any place in any business district;
 - 2. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.
- B. In no event shall more than one-half of the total curb length in any block be reserved for loading zone purposes.
- C. Loading zones shall be indicated by yellow paint upon the top of all curbs within such zones.
- D. Passenger loading zones shall be indicated by white paint upon the top of all curbs in the zones.

(Prior code § 3211)

§ 10.48.020. Curb markings to indicate no-stopping and parking regulations.

- A. The City Traffic Engineer is authorized, subject to the provisions and limitations of this chapter and Chapters 10.52 and 10.56, to place, and when required herein shall place, the following curb markings to indicate parking or standing regulations, and the curb markings shall have the meanings as herein set forth.
 - 1. Red means no stopping, standing or parking at any time except as permitted by the Vehicle Code, and except that a bus may stop in a red zone marked or signed as a bus zone.
 - 2. Yellow means no stopping, standing or parking at any time between 7:00 a.m. and 6:00 p.m. on any day except Sundays and holidays for any purpose other than the loading or unloading of passengers or materials, provided that the loading or unloading of passengers shall not consume more than three minutes nor the loading or unloading of materials more than twenty minutes.
 - 3. White means no stopping, standing or parking for any purpose other than loading or unloading of passengers, or for the purpose of depositing mail in an adjacent mailbox, which shall not exceed three minutes, and such restrictions shall apply between 7:00 a.m. and 6:00 p.m. on any day except Sundays and holidays and except as follows:
 - a. When such zone is in front of a hotel or in front of a mailbox, the restrictions shall apply at all times;
 - b. When such zone is in front of a theater, the restrictions shall apply at all times except when such theater is closed.
- B. When the City Traffic Engineer, as authorized under this title, has caused curb markings to be placed, no person shall stop, stand or park a vehicle adjacent to any such legible curb marking in violation of any of the provisions of this section.

(Prior code § 3211.1)

§ 10.48.030. Effect of permission to load or unload.

- A. Permission herein granted to stop or stand a vehicle for purposes of loading or unloading of materials shall apply only to commercial vehicles and shall not extend beyond the time necessary therefor, and in no event for more than twenty minutes.
- B. The loading or unloading of materials shall apply only to commercial deliveries, also the delivery or pickup of express and parcel post packages and United States mail.
- C. Permission herein granted to stop or park for purposes of loading or unloading passengers shall include the loading or unloading of personal baggage but shall not extend beyond the time necessary therefor and in no event for more than three minutes.
- D. Within the total time limits above specified, the provisions of this section shall be enforced so as to accommodate necessary and reasonable loading or unloading but without permitting abuse of the privileges hereby granted.

(Prior code § 3211.2)

§ 10.48.040. Standing for loading or unloading only.

No person shall stop, stand or park a vehicle in any yellow loading zone for any purpose other than loading or unloading passengers or material for such time as is permitted in Section 10.48.020.

(Prior code § 3211.3)

§ 10.48.050. Standing in passenger loading zone.

No person shall stop, stand or park a vehicle in any passenger loading zone for any purpose other than the loading or unloading of passengers for such time as is specified in Section 10.48.020.

(Prior code § 3211.4)

§ 10.48.060. Standing in alleys.

No person shall stop, stand or park a vehicle for any purpose other than the loading or unloading of persons or materials in any alley.

(Prior code § 3211.5)

CHAPTER 10.52
BUS ZONES

§ 10.52.010. Establishing—Authority.

- A. The City Traffic Engineer is authorized to establish bus zones opposite curb space for the loading and unloading of buses or common carriers of passengers and to determine the location thereof.
- B. Bus zones shall normally be established on the far side of an intersection.
(Prior code § 3211.6)

CHAPTER 10.56
TRUCK ROUTES

§ 10.56.010. Designation authority.

Whenever any ordinance of this city designates and describes any street or portion thereof as a street, the use of which is permitted by any commercial vehicle exceeding a maximum gross weight limit of three tons, the City Traffic Engineer is authorized to designate such street or streets by appropriate signs as "Truck Routes" for the movement of vehicles exceeding a maximum gross weight limit of three tons.

(Prior code § 3211.7(a); Ord. 1105 C.S. § 4, 1987)

§ 10.56.020. Three-ton trucks to be driven on truck routes—Only.

When any such truck route or routes are established and designated by appropriate signs, the operator of any commercial vehicle exceeding a maximum gross weight limit of three tons shall drive on such route or routes and none other, except that nothing in this chapter shall prohibit the operator of any commercial vehicle exceeding a maximum gross weight of three tons coming from a truck route having ingress and egress by direct route to and from restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted streets for which a building permit has previously been obtained therefor.

(Prior code § 3211.7(b); Ord. 1105 C.S. § 4, 1987)

§ 10.56.030. Exceptions from provisions.

The provisions of this chapter shall not apply to:

- A. Passenger buses under the jurisdiction of the Public Utilities commission; or.
- B. Any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility.

(Prior code § 3211.7(c); Ord. 1105 C.S. § 4, 1987)

§ 10.56.040. Designated.

Those streets and parts of streets established by ordinance of the council and listed herein are declared to be truck routes for the movement of vehicles exceeding a maximum gross weight of three tons:

- A. Alhambra Avenue—Marina Vista to Hwy. 4;
- B. Berrellesa Street—Marina Vista to Alhambra Avenue (at Bertola);
- C. Center/Pine Street—Howe Road to Hwy. 4;
- D. Escobar Street—Berrellesa Street to Marina Vista (at Miller);
- E. Howe Road—Pacheco Boulevard to Center/Pine Street;
- F. Marina Vista—Berrellesa Street to east city limits;

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G. Pacheco Boulevard—Shell Avenue to east city limits;

H. Shell Avenue—Marina Vista to Pacheco Boulevard.
(Prior code § 3211.7(d); Ord. 1105 C.S. § 4, 1987)

CHAPTER 10.60
COMMERCIAL VEHICLES

§ 10.60.010. Using private driveways—Commercial vehicle defined.

No person shall operate or drive a commercial vehicle having a rated capacity of ½ ton or more in or across any private driveway approach or the driveway itself without the consent of the owner or occupant of the property, if a sign or markings are in place indicating that the use of such driveway is prohibited.

(Prior code § 3207.2; Ord. 1105 C.S. § 5, 1987)

§ 10.60.020. Parking—Commercial vehicles in residential district prohibited.

No person shall stop, stand, or park a commercial vehicle having a gross vehicle weight rating of five tons or more on any street in a residential district, except when the commercial vehicle is making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on the restricted street, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon the restricted street for which a building permit has previously been obtained.

(Ord. 1105 C.S. § 5, 1987)

§ 10.60.030. Parking—Commercial vehicles, all night parking prohibited except in service commercial zones.

No person shall stop, stand, or park, or permit to be stopped, left standing, or parked, any commercially registered bus, semi-truck, trailer, tractor, or motor truck with a rated carrying capacity in excess of three tons on any street between the hours of 3:00 A.M. and 6:00 A.M.; except in service commercial zones, parking may be allowed overnight in the street by permit only on weekends (Friday and Saturday overnights). Permit Fee shall be established by a City Council resolution.

(Ord. 1105 C.S. § 5, 1987; Ord. 1177 C.S., 1992; Ord. 1238 C.S., 1997)

§ 10.60.035. Overnight parking permits on weekends in service commercial zones.

- A. The community Development Director shall be responsible for the issuance of overnight parking permits to addresses in the service commercial zones. A permit shall be issued by the Director only upon receipt of a valid application.
- B. The Director may not issue more than two annual permits to any one address.
- C. The Director shall either grant or deny an overnight parking permit within ten working days from the receipt of a valid application. If the application involves parking in front of or near residentially zoned property, or property owned by someone other than the applicant, the Director shall contact such person(s) and may impose conditions on the permit to mitigate any adverse impacts. If the Director denies a permit, the written reasons for the denial shall be provided to the applicant, in person or by mail, within the time period specified herein.
- D. The permit shall be clearly displayed on the vehicle for which it has been issued as instructed.
- E. The Director shall maintain a record of the number of parking permits issued to each address, the names of permit holders, the license numbers of vehicles for which a permit

has been issued, documents checked to establish address and vehicle ownership, and any other information as required.

- F. The Director may revoke the parking permit(s) for any address known to the Director to no longer be eligible for a permit(s) for failure to meet permit conditions, or for causing adverse impact to adjacent property owners or residents. The Director shall give written notice to the permit holder of said revocation and the reasons therefor. The owner shall not display the revoked or expired permit from the individual vehicle.

(Ord. No. 1177 C.S., 1992)

§ 10.60.040. Parking—Commercial vehicles on private property.

- A. No person shall park a "heavy-duty" commercial vehicle for more than three hours on private property visible from public right-of-way, in any land use district zoned other than commercial and industrial, except:

1. While loading or unloading materials and goods and the time required to complete the work exceeds the three-hour period; or
2. When the vehicle is parked in connection with and in aid of providing a service to or on a property in the block in which the vehicle is parked and time in addition to the three-hour period is necessary to complete such service; or
3. When the vehicle is parked in connection with and is owned or leased by an approved business in a non-residential zoning district, or when the vehicle is loading or unloading goods in connection with such a business and is parked adjacent to a loading dock or loading area for a period of time not to exceed forty-eight hours.

- B. For the purpose of this section "heavy-duty" commercial vehicle means a single vehicle or combination of vehicles having more than two axles, a single vehicle or combination of vehicles twenty feet or more in length on a single vehicle or combination of vehicles having a manufacturer's gross vehicle weight rating of 10,000 pounds or more. It includes, but is not limited to a dump truck, moving van, tractor, pole or pipe dolly.

(Ord. 1105 C.S. § 5, 1987)

§ 10.60.050. Display of warning devices when commercial vehicle disabled.

Every motor truck having unladen weight of 4,000 pounds or more, and every truck tractor irrespective of weight when operated upon any street or highway during darkness shall be equipped with and carry at least two flares or two red lanterns or two warning lights or reflectors, which reflectors shall be of a type approved by the Department of California Highway Patrol. When any vehicle above-mentioned or any trailer or semitrailer is disabled upon streets or highways outside of any business or residence district within this City and upon which street or highway there is insufficient street lighting to reveal a vehicle at a distance of 200 feet during darkness, a warning signal of the character indicated herein shall be immediately placed at a distance of approximately 100 feet in advance of, and 100 feet to the rear of, such disabled vehicle by the driver thereof. The continuous flashing of at least four approved Class A-type 1 turn signal lamps, at least two toward the front and at least two toward the rear of the vehicle, shall be considered to meet the requirements of this section until the devices mentioned herein can be placed in the required locations. The warning signals herein mentioned shall be displayed continuously during darkness while such vehicle remains disabled upon such street or highway.

§ 10.60.050

VEHICLES AND TRAFFIC

§ 10.60.050

(Prior code § 3209.13; Ord. 1105 C.S. § 5, 1987)

CHAPTER 10.64
HEAVY VEHICLES AND EQUIPMENT

§ 10.64.010. Permit required—Conditions if load or size in excess allowed by vehicle code.

- A. No person shall move or operate upon any of the City streets any vehicle with a load or size in excess of those permitted by the Vehicle Code without a written permit from the City Traffic Engineer.
- B. The City Traffic Engineer may, by written permit, authorize a load or size in excess of those allowed for in the Vehicle Code, if, in his judgment, the streets upon which such vehicle is to be operated can safely accommodate the additional size or weight, or if the applicant will guarantee to the City that all costs of any alterations or repair to the streets or to the public property of the City caused by the movement of such load or loads will be paid in full. Such permit shall be granted upon such conditions and upon depositing such bond as the City Traffic Engineer in his discretion may require.
- C. The applicant for such permit shall pay a nonrefundable application fee in the amount sufficient to pay the costs of the review of the route and application as determined by the City Traffic Engineer.
- D. Any person requesting terminal access for interstate trucks as defined in Section 35401.5 of the California Vehicle Code from the Federally-designated highway system, shall submit an application with information as may be required by the City Traffic Engineer and in accordance with this section and the California Vehicle Code.

(Prior code § 3212; Ord. 1105 C.S. § 6, 1987)

§ 10.64.020. Flange wheel machinery.

No person shall operate over the City streets any vehicle, piece of equipment or machinery which has lugs, cleats, flanges or other projections on the wheels or tracks. If the tread of the track has projections or corrugations, a filler block may be placed on each section so that a flat bearing surface will be in contact with the pavement at all times.

(Prior code § 3212.1)

CHAPTER 10.68
MISCELLANEOUS DRIVING RULES

§ 10.68.010. Driving through funeral procession or parade.

No operator of any vehicle shall drive between the vehicles comprising a funeral procession or a parade, provided that such vehicles are conspicuously so designated. The directing of all vehicles and traffic on any street over which such funeral procession or parade wishes to pass shall be subject to the orders of the Police Department.

(Prior code § 3207)

§ 10.68.020. Clinging to moving vehicle.

No person shall attach himself with his hands, or catch on, or hold onto with his hands or by other means, to any moving vehicle or train for the purpose of receiving motive power therefrom.

(Prior code § 3207.1)

§ 10.68.030. Riding or driving on sidewalk.

No person shall ride, drive, propel or cause to be propelled any vehicle or animal across or upon any sidewalk, or any bicycle across or upon any sidewalk within any business district as defined by the California Vehicle Code, except over permanently constructed driveways and except when it is necessary for any temporary purpose to drive a loaded vehicle across a sidewalk, provided further, that the sidewalk area is substantially protected by wooden planks two inches thick, and written permission is previously obtained from the City Traffic Engineer. Such wooden planks shall not be permitted to remain upon such sidewalk area during the hours from 6:00 p.m. to 6:00 a.m.

(Prior code § 3207.3; Ord. 734 C.S. § 1, 1971)

§ 10.68.040. Riding or driving over new pavement or markings.

No person shall ride or drive any animal or any vehicle over or across any newly made pavement or freshly painted markings in any street when a barrier sign, cone marker or other warning device is in place warning persons not to drive over or across such pavement or marking, or when any such device is in place indicating that the street or any portion thereof is closed.

(Prior code § 3207.4)

§ 10.68.050. Obedience to barriers and signs.

No person, public utility or department in the City shall erect or place any barrier or sign on any street unless of a type approved by the City Traffic Engineer or disobey the instructions, remove, tamper with or destroy any barrier or sign lawfully placed on any street by any person, public utility or by any department of this city.

(Prior code § 3207.5)

§ 10.68.060. Vehicular traffic on municipal wharf.

No vehicle, other than those necessary for repair purposes, as authorized by the City Traffic Engineer shall be driven, moved or be on the municipal wharf.

(Prior code § 3207.6)

§ 10.68.070. Obstructing intersections or crosswalks prohibited.

No operator of any vehicle shall enter any intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Prior code § 3207.7)

§ 10.68.080. Limited-access roadways.

No person shall drive a vehicle onto or from any limited-access roadway except at such entrances and exits as are lawfully established.

(Prior code § 3207.8)

§ 10.68.090. Restrictions on freeway use.

No person shall drive or operate any bicycle, motor-driven cycle or any vehicle which is not drawn by a motor vehicle upon any street established as a freeway, as defined by State law, nor shall any pedestrian walk across or along any such street so designated and described except in a space set aside for the use of pedestrians, provided official signs are in place giving notice of such restrictions.

(Prior code § 3207.9)

CHAPTER 10.72
CROSSWALKS

§ 10.72.010. Designation and establishment where—Authority.

- A. The city Traffic Engineer shall establish, designate and maintain crosswalks at intersections and other places by appropriate devices, marks or lines upon the surface of the roadway as follows: Crosswalks shall be established and maintained at all intersections and places where the city Traffic Engineer determines that there is a particular hazard to pedestrians crossing the roadway subject to the limitation contained in subsection B of this section.
- B. Other than crosswalks at intersections, no crosswalk shall be established on any block which is less than 400 feet in length and such crosswalk shall be located as nearly as practicable at mid-block.
- C. The City Traffic Engineer may place signs at or adjacent to an intersection in respect to any crosswalk directing that pedestrians shall not cross the crosswalk so indicated.
(Prior code § 3208)

§ 10.72.020. Pedestrians required to use in Business Districts.

No pedestrian shall cross a roadway other than by a crosswalk in any business district.
(Prior code § 3208.1)

CHAPTER 10.76
TRAINS

§ 10.76.010. Driving vehicles through railway gates.

No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed.

(Prior code § 3214)

§ 10.76.020. Blocking streets prohibited.

No person shall cause or permit any railway train, railway cars or similar vehicles on rails, to stop or stand or to be operated in such a manner as to prevent the use of any street for the purpose of travel for a period of time longer than ten minutes, except that this provision shall not apply to railway trains, cars or similar vehicles on rails while blocking or obstructing a crossing because of an accident which requires the operator of the train, car or similar vehicle on rails to stop at or near the scene of the accident.

(Prior code § 3214.1)

§ 10.76.030. Speed limit in city.

No person owning, operating or controlling any railroad train, or part thereof, in or through the City shall cause, permit, or allow the railroad train or part thereof to pass over, along or upon any of the public streets or highways of the City at a speed greater than 30 miles per hour.

(Prior code § 3214.2)

§ 10.76.040. Railroad train tunnel signals in city.

Any railroad train tunnel opening within the City of Martinez shall have appropriate safety signage at both entry and exit points. Said signage shall indicate both the hazards associated with unauthorized entry into the tunnel, and the illegal nature of unauthorized use of a railroad right-of-way. Signs shall be such sizes as to be easily visible to the public, and should be permanently affixed to the tunnel.

(Ord. 1139 C.S. § I, 1989)

CHAPTER 10.80
PARKING ON PUBLIC AND PRIVATE PROPERTY

§ 10.80.010. Private off-street parking facilities.

The City Council hereby finds and declares that there are privately owned and maintained off-street parking facilities throughout the City which are generally held open for use of the public for vehicle parking, which creates a need for parking regulations, including City's ability to remove illegally parked vehicles by tow.

(Ord. 944 C.S. § 1, 1981)

§ 10.80.020. Public facilities.

The City Council hereby finds and declares that there are publicly owned and maintained off-street parking facilities throughout the City which are held open for use for the public and for the purposes of vehicle parking, necessitating a need for parking regulations including City's ability to remove illegally parked vehicles by tow.

(Ord. 944 C.S. § 1, 1981)

§ 10.80.030. Public and private parking signing.

No person shall drive or park a motor vehicle upon any public or private off-street parking facility or upon land or premises where the owner or the person occupying or having possession, or the agents thereof have posted on such public or private off-street parking facility or other land or premises a notice in substantially the following form, to the effect that such off-street parking facility is subject to public traffic regulations and control, and where the permission therein referred to shall not have been granted:

- A. A statement that parking is restricted, and to whom it applies:

EXAMPLES:

"Parking for XXX customers only";

"This space reserved for XXX";

"Parking for tenants only";

"No parking in this area";

"Parking by permit holders only".

- B. A statement that violators may or will be cited:

EXAMPLES:

"Violators will be cited by Martinez Police";

"Unauthorized vehicles will be cited or towed at owner's expense".

- C. A reference to this Municipal Code Section:

"MMC 10.80.030"

Lettering shall be on a contrasting twenty-four inch (24") by twenty-four inch (24") background.

Nothing in this section shall be construed as placing a requirement upon the Police Department to patrol such private property for violations, and no enforcement action shall be taken except upon specific request by an authorized agent, owner or person in lawful possession or control thereof.

(Ord. 944 C.S. § 1, 1981)

§ 10.80.040. Interference with use of property.

No person, without permission of the owner or person entitled to the possession thereof, shall park any motor vehicle in or upon any private property so as to interfere with the use thereof.

(Ord. 944 C.S. § 1, 1981)

§ 10.80.050. Unlawful parking.

It is unlawful for any person to operate, drive, or leave any vehicle in, over or upon any private property without the express or implied permission of the owner thereof, the person entitled to the possession thereof for the time being, or the authorized agent of either.

(Ord. 944 C.S. § 1, 1981)

§ 10.80.060. Removal of vehicles.

Any regularly employed or salaried officer of the Police Department, the owner of any private property, the person entitled to the possession thereof for the time being, or the authorized agent of either may remove or cause to be removed any vehicle parked or left standing on any private property in violation of the provisions of Section 10.80.030 and 10.80.050 of this chapter, pursuant to California Vehicle Code Sections 21107.8, 22507.8 and 22651(h).

(Ord. 944 C.S. § 1, 1981)

§ 10.80.070. Liability for wrongful removal of vehicles.

If a vehicle removed from such private property was rightfully there, the person who complained of the presence of such vehicle and/or the person (other than the employees of the Police Department) who caused such vehicle to be removed shall be liable for any and all charges for towing and for caring for and keeping safe such vehicle.

(Ord. 944 C.S. § 1, 1981)

CHAPTER 10.84
USE OF NON-MOTORIZED VEHICLES

§ 10.84.010. Use of non-motorized vehicles.

- A. It is unlawful for any person upon roller skates, roller blades, in-line skates, skateboards, or riding in or by any means of any coaster, toy vehicle or similar device to go upon:
1. Any public sidewalk or street within the downtown central business district Monday through Saturday, during the hours of 8:00 A.M. to 6:00 P.M. The boundaries of which are defined as the south sidewalk of Ward Street, the west sidewalk of Alhambra Avenue, the north sidewalk of Marina Vista, and the east sidewalk of Pine Street; also, the sidewalk and street areas in the 600 block of Ferry Street.
 2. Any public sidewalk or street in the 500 block of Henrietta Street; the portions of the sidewalk and street directly in front of the following designated locations: 1000 and 1100 block of Ferry Street, 90 F Street, the 2200 block of Alhambra Avenue, the 2200 block of Berrellesa Street, the 400 block of Soto Street upon completion of the Senior Citizen Center), the 800 block of Green Street (upon completion of the Senior Citizen Center).
 3. Any public sidewalk adjacent to property on which a school is located, during the hours the school is open for educational instruction.
 4. And/or any private sidewalk or private driving surface in front of or around any stores or buildings used for business purposes during business hours.
 5. Any property located within the City of Martinez that is owned and/or operated by a school district including high school, junior high school, elementary school, adult education center and the district office, where signs are posted on School District grounds prohibiting the activity. Such signs shall:(1)be placed in a conspicuous area(s); (2) have a dimension of not less than 17 by 22 inches, with lettering of not less than one inch high; (3) state that such activities are prohibited on the property; and (4) cite this subsection number or Municipal Code section. The School District property affected will include the respective parking lots, corridors, hallways, fields, ramps, benches, tables, patios, portable buildings, equipment and the area between structures.

(Ord. 1098 C.S. § 1, 1987; Ord. 1251 C.S. § 1, 1998)

CHAPTER 10.88
TRANSPORTATION SYSTEMS MANAGEMENT

§ 10.88.010. Purposes, goals and objectives.

In light of elimination of mandatory employer-based trip reduction requirements, the following purposes, goals and objectives are adopted in order to assist City staff in continuing the implementation of the Transportation Systems Management (TSM) Ordinance and programs:

A. The purposes of this chapter are as set forth below:

1. To promote maximum efficiency in the existing transportation system and to further the transportation goals of the Measure C Growth Management Program, Contra Costa's Congestion Management Program and the Bay Area Clean Air Plan by:
 - a. Promoting and encouraging the use of transit, ride-sharing, bicycling, walking, flexible work hours and telecommuting as alternatives to solo driving;
 - b. Incorporating these goals and objectives into the land use review and planning process;
 - c. Developing proactive programs and/or projects either alone or in conjunction with other jurisdictions, or with "TRANSPAC" (Central Contra Costa County Transportation Partnership and Cooperation) aimed at achieving these goals;
 - d. Considering the incorporation of appropriate technology designed to facilitate traffic flow, provide transit and highway information, provide trip generation alternatives, and related technology into the transportation system;
 - e. Educating Central Contra Costa County employees, employers, residents and students regarding the benefits and availability of commute alternatives;
 - f. Working with the transit authorities to better serve Central Contra Costa County;
 - g. Encouraging the most cost effective, broad-based and wide range of transportation improvement projects aimed at achieving congestion relief;
 - h. Cooperating with other jurisdictions, the private sector, and transit operators in planning and implementing transportation programs.
2. To reflect an ongoing commitment to expand "TSM" efforts beyond employer-based trip reduction programs, in order to achieve traffic congestion management and air quality goals.
3. To comply with applicable state and federal laws as well as with Measure C Growth Management Program requirements pertaining to "TSM".

B. The goal of this chapter is to ensure the continuation of a proactive "TSM" program effort aimed at reducing vehicle trips, vehicle emissions and traffic congestion in the most efficient and cost effective manner.

C. The objective of this chapter is to establish the following policies:

1. To participate, in conjunction with other jurisdictions and "TRANSPAC", in a

proactive effort to support and develop projects which will achieve the Measure C "TSN"/"TDM" (Travel Demand Management) goals as described in the "TRANSPAC" Action Plan, the Countywide Comprehensive Transportation Plan, the Measure C Strategic Plan, the Congestion Management Plan and/or the Bay Area Clean Air Plan. Such participation may include, but need not be limited to:

- a. Promotion and encouragement of the use of transit, ride sharing, bicycling, walking, flexible work hours, telecommuting or other alternatives to solo driving;
 - b. Projects incorporating appropriate technology designed to facilitate traffic flow, provide transit and highway information and related technology.
2. To incorporate these goals, as appropriate, into its land use review and planning process.
- D. The City Council of the City of Martinez hereby delegates to "TRANSPAC" its participation in the "TSM" Program in order to achieve the goals and objectives as described in the County wide Comprehensive Transportation Plan, the Measure C Strategic Plan, the Congestion Management Plan and/or the Bay Area Clean Air Plan.
- (Ord. 1212 C.S. § II, 1994; Ord. 1253 C.S. § III, 1998)

MARTINEZ CODE

CITY REAL PROPERTY

Title 12

CITY REAL PROPERTY

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**Division I
Encroachments**

**CHAPTER 12.04
GENERAL PROVISIONS**

§ 12.04.010. Construction.

Unless the context otherwise requires, the definitions in Chapter 12.08 and general provisions set forth in Sections 12.04.020 through 12.04.070 shall govern the construction of this chapter and Chapters 12.08 through 12.20.

(Prior code § 4200)

§ 12.04.020. Right of lawful use.

Any permit granted under this chapter and Chapters 12.08 through 12.20 shall not annul the right of the City, or any person, firm, corporation, district or association entitled to use that part of the public right-of-way for any purpose, for which it may be lawfully used, and no part of the public street shall be unduly obstructed at any time.

(Prior code § 4207)

§ 12.04.030. City officers exempt from provisions.

This chapter and Chapters 12.08 through 12.20 shall not apply to any officer or employee of the City in the discharge of his official duties.

(Prior code § 4208)

§ 12.04.040. Exceptions to fee and bond requirements.

Work which requires a permit and is being performed by any person, firm or corporation, under contract with the City, will be exempt from the fee and bond requirements of this chapter and Chapters 12.08 through 12.20. Public utilities entitled to occupy and maintain facilities in public rights-of-way shall be exempt from the requirements of Chapter 12.16 of this title.

(Prior code § 4209)

§ 12.04.050. Acts requiring permit.

It is unlawful for any person, firm, corporation or association, without first obtaining a written permit, to encroach or to make or cause to be made any encroachment of any nature whatever within, upon, over or under the limits of any right-of-way in the City, or to make or cause to be made any alteration of any nature, within, upon, over or under such right-of-way; or to construct, put upon, maintain or leave thereon, or to cause to be constructed, put upon, maintained or left thereon, any obstruction or impediment of any nature, whatever; or to remove, cut or trim trees thereon; or to set a fire thereon; or to place on, over or under such right-of-way any pipeline, conduit or other fixture; or to move or cause to be moved over the surface of any right-of-way or over any bridge, viaduct or other structure maintained by the City any vehicle or combination of vehicles or other object of dimension or weight prohibited by law or having other characteristics capable of damaging the right-of-way; or to place any structure, wall, culvert or similar encroachment; or to make any excavation or embankment in such a way as to endanger the normal usage or the right-of-way.

(Prior code § 4210)

§ 12.04.060. Nonacceptable permit applications.

No application will be accepted nor a permit issued for constructing or maintaining a loading platform upon a right-of-way, or for erecting, using or maintaining therein or thereon a post, pole, column or structure for support for advertising signs, and any such installation is an illegal encroachment.

(Prior code § 4211)

§ 12.04.070. Emergency work.

This chapter and Chapters 12.08 through 12.20 shall not prevent any person, association, firm or corporation from performing emergency maintenance of any pipe or conduit lawfully on or under any public street, or from making an emergency use, or encroachment as may be necessary for the preservation of life or property when an urgent necessity therefor arises, except that the person, firm, association or corporation making an emergency use or encroachment of a public street shall apply for a written permit therefor within ten calendar days, commencing with the first business day the City offices open. Any person, firm, association or corporation, requiring an emergency use, or encroachment, shall first notify the engineer's office. During the hours the City offices are closed, notification shall be given the Police Department.

(Prior code § 4212)

§ 12.04.080. Appeal from permit denial.

Any person aggrieved by the refusal of a permit required by this chapter and Chapters 12.08 through 12.20 may appeal to the City Council.

(Prior code § 4252)

§ 12.04.090. Findings on appeal.

If the City Council finds all of the following to be true, the permit shall be granted:

- A. That the applicant will be substantially damaged by the refusal to grant the permit as requested;
- B. That no other reasonable method of obtaining the desired results is available except as proposed by applicant;
- C. That the granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to other property.

(Prior code § 4253)

CHAPTER 12.08 DEFINITIONS

§ 12.08.010. Encroach.

"Encroach" includes, going upon, over, under or using any right-of-way in such a manner as to prevent, obstruct or interfere with the normal use of that way, including the performance thereon of any of the following acts:

- A. Excavating or disturbing the right-of-way;
- B. Erecting or maintaining any post, sign, pole, fence, guardrail, wall, loading platform or other structure on or over or under the right-of-way;
- C. Planting any tree, shrub, grass or other growing thing within the right-of-way;
- D. Placing or leaving on the right-of-way any rubbish, brush, earth or other material of any nature whatever;
- E. Constructing, placing or maintaining on, over, under or within the right-of-way any pathway, sidewalk, driveway or other surfacing, any culvert or other surface drainage or subsurface drainage facilities, any pipe, conduit or cable;
- F. Traveling on the right-of-way by any vehicle or combination of vehicles or object of dimension, weight or other characteristic prohibited by law without a permit;
- G. Lighting or building a fire;
- H. Construction, placing, planting or maintaining any structure, embankment, excavation, tree or other object adjacent to the right-of-way which causes or will cause an encroachment.

(Prior code § 4203)

§ 12.08.020. Engineer.

"Engineer," as used in Chapters 12.04 through 12.20 means the City Engineer of the City of Martinez, or his authorized representative.

(Prior code § 4205)

§ 12.08.030. Permittee.

"Permittee" means any person, firm, company, corporation, association, public agency or organization that proposes to do work or encroach upon a public street as herein defined and has been issued a permit for the encroachment by the director. All obligations, responsibilities and other requirements of the permittee as herein described, shall be binding on subsequent owners of the encroachment.

(Prior code § 4206)

§ 12.08.040. Public street.

"Public street" means the full width of the surface or traveled portion, including shoulders, or any road, street, path, lane or alley dedicated to, reserved for, used by or for the general public, with those roads, streets, paths, lanes and alleys which have been accepted as and declared to be part of the City system of public streets, except streets forming a part of the State Highway System or highways forming a part of the County System of Public Highways.

(Prior code § 4201)

§ 12.08.050. Right-of-way.

"Right-of-way" means all land or interest therein which by deed, conveyance, agreement, easement, dedications, usage or process of law is reserved for or dedicated to the use of the general public.

(Prior code § 4202)

CHAPTER 12.12
PERMITS AND FEES

§ 12.12.010. Permits—Issuance.

The written permits required by Chapters 12.04 through 12.20 shall be issued by the engineer for any lawful use, subject to conditions set forth in Chapters 12.04 through 12.20 and required by law. The engineer shall prescribe and provide a regular form of application for a permit required by Chapters 12.04 through 12.20. The application form shall contain space for the applicant's name, address, and contractor's name, license number, and primary place of business, if applicant proposes to employ a contractor, together with such detail as in the judgment of the engineer is necessary to establish the purpose and use, the location, dimensions, estimated date of commencement and completion of encroachment. The application form shall be completed and signed by the applicant and filed with the engineer.

(Prior code § 4213)

§ 12.12.020. Permits—Application—Exhibits.

The applicant shall enclose with, attach or add to the application for a permit, a map, plat, sketch, diagram or similar exhibit, when required by the engineer, of a size and in such quantity as he may prescribe, on which shall be plainly shown any and all information necessary to locate, delineate, illustrate or identify the proposed use or encroachment, and the right and necessity of applicant to cause an encroachment. If necessary, changes, corrections and notes will be made on such map, plat, sketch, diagram or similar exhibit and these items will become an integral part of the permits.

(Prior code § 4214)

§ 12.12.030. Permits—Application—Consent of public bodies.

The applicant shall also enclose with, attach to, or add to the application, copies of the written order or consent to any work thereunder, required by law, of the Public Utilities Commission, sanitary district, water district or any other public body having jurisdiction. A permit shall not be issued until and unless such order, or consent, if required, is first obtained and evidence thereof filed with the engineer. The permittee shall keep himself adequately informed of all State and Federal laws and local ordinances and regulations which in any manner affect the permit. The applicant shall at all times comply with all such laws, ordinances, regulations, decisions, court and similar authoritative orders; and shall protect and indemnify the City and all of its officers, agents and employees against any claims or liability proximately caused by the violations of any such law, ordinance, regulation or order issued under police power and in accordance with law, whether by himself or his agents or employees.

(Prior code § 4215)

§ 12.12.040. Permits—Required for moving certain vehicles or objects.

Before a vehicle or combination of vehicles or objects of weight or dimension or characteristic prohibited by law without a permit is moved on any public right-of-way, a permit to do so must first be granted by the engineer as set forth in specifications adopted by resolution of the City Council.

(Prior code § 4216)

§ 12.12.050. Permits—Term—Commencement and validity.

The permittee shall begin the work or use authorized by a permit issued pursuant to Chapters 12.04 through 12.20 within ninety (90) days from date of issuance, unless a different period is stated in the permit. If the work or use is not commenced within ninety (90) days or within the time stated in the permit, then the permit shall become void, unless prior to its expiration, the time for commencement has been extended in writing by the engineer. A permit for temporary encroachment, as determined by the engineer, for continuing a use or maintaining a temporary encroachment previously authorized, shall be valid for a term of one year from date of issuance, unless the permit specifies otherwise, or unless sooner termination by discontinuance of the use, removal of the encroachment, or termination of the permit by written order of the engineer is mailed thirty days prior to the date of termination. A permit valid for one year from date of issuance, unless specified otherwise, may be issued to public utilities for the replacement and repair of existing utility poles and anchors, installation of additional facilities on existing utility poles, placement of not more than four consecutive additional poles at any one location, and the installation of minor underground facilities.

(Prior code § 4217)

§ 12.12.051. Permits—Insurance requirements.

Prior to the issuance of any encroachment permit, the applicant therefor shall file a certificate and/or endorsement(s) of insurance evidencing coverage for bodily injury and/or property damage liability in an amount and in a form satisfactory to the City Attorney.

(Ord. 1085 C.S. § II, 1987)

§ 12.12.060. Permits—Term—Completion within specified time—Failure—Cancellation.

The permittee shall complete the work or use authorized by a permit within the time specified in the permit. If, at any time, the engineer finds that delay in the commencing, prosecuting or completing the work or use authorized is due to lack of diligence on the part of the permittee, he may cancel the permit and restore the right-of-way to its former condition. The permittee shall reimburse the City for all expenses incurred by the engineer in restoring the right-of-way, plus fifteen percent as administrative costs.

(Prior code § 4218)

§ 12.12.070. Permits—Nontransferable.

No permit issued pursuant to Chapters 12.04 through 12.20 is transferable. The person or persons, public agency, firm or corporation actually making and/or maintaining the encroachment shall obtain the permit and furnish the bond.

(Prior code § 4219)

§ 12.12.080. Permits—Display.

A. The permittee shall keep any permit or copy thereof issued pursuant to Chapters 12.04 through 12.20 at the site of work, or in the cab of a vehicle when movements thereof in a public street are involved, and the permit must be shown to any authorized representative of the engineer or law enforcement officer on demand.

B. A permit issued for continuing use or maintenance of an encroachment may be kept at the place of business of the permittee or otherwise safeguarded during the term of validity, but

shall be made available to an authorized representative of the engineer or law enforcement officer within a reasonable time after demand therefor is made.

(Prior code § 4220)

§ 12.12.090. Permits—Changes—Approval required.

No changes may be made in the location, dimension, character or duration of the encroachment or use as granted by the permit except on written authorization by the engineer, except that no permit shall be required for the continuing use or maintenance of encroachments installed by public utilities, or for changes therein or thereto where such changes or additions require no excavation of the right-of-way.

(Prior code § 4221)

§ 12.12.100. Fees.

- A. The schedule of fees will be those recommended by the engineer and established and adopted by the City Council from time to time by resolution. Before a permit is issued, the applicant shall deposit with the engineer for payment to the treasurer of the City, cash or check, in a sufficient sum to cover the fee for issuance of the permit, charges for field investigation and the fee for necessary inspection, all in accordance with schedules established and adopted by the City Council.
- B. Public utilities and political subdivisions may, at the engineer's option, make payment of the charges herein as billed by the City instead of advance deposit as required.

(Prior code § 4222)

CHAPTER 12.16
BONDS AND CASH DEPOSITS

§ 12.16.010. Cash deposit.

Unless this chapter is waived in the permit and before a permit is effective, an applicant shall deposit with the engineer, or agent authorized by resolution of the City Council, cash or a certificate or cashier's check, in a sum to be fixed by the engineer as sufficient to reimburse the City for costs of restoring the right-of-way to its former condition, based on the schedules, if any, adopted by resolution of the City Council, provided, however, that an applicant may file a cash deposit on an annual basis in the sum estimated by the engineer as sufficient to cover his activities during any twelve-month period.

(Prior code § 4223)

§ 12.16.020. Bond in lieu of cash deposit.

In lieu of the cash deposit prescribed by Section 12.16.010, the applicant may, upon approval by the engineer, file a cash deposit in the minimum sum established by the schedules, if any, adopted for that purpose by the City Council and in effect at the time of application for a permit, and the balance of the sum fixed by the engineer as sufficient to reimburse the City expenses incurred in restoring the right-of-way to its former condition, may be filed in the form of an approved surety bond issued by a company authorized to do a general surety business in the State.

(Prior code § 4224)

§ 12.16.030. Annual bond.

In lieu of a cash deposit, the applicant may, upon approval by the engineer, annually file with the engineer an approved surety bond issued by a company authorized to do a general surety business in the State in a sum fixed by the engineer as sufficient to reimburse the City for expenses to be incurred in restoring the right-of-way to its former condition, subject to the schedules, if any, adopted by resolution of the City Council.

(Prior code § 4225)

§ 12.16.040. Additional bond or cash deposit.

The engineer may require an additional bond or cash deposit at any time that evidence indicates that the amount of the bond or cash deposit previously made is insufficient to cover the cost of restoring the right-of-way to its former condition, subject to the schedules, if any, adopted by resolution of the City Council.

(Prior code § 4226)

§ 12.16.050. Conditions.

The condition of any bond or cash deposit made pursuant to this chapter shall be that the permittee will diligently and in good faith comply with all the terms of Chapters 12.04 through 12.20 and the terms and conditions of the permit.

(Prior code § 4227)

§ 12.16.060. Payable to city—Release.

Any bond or cash deposit required by the engineer pursuant to this chapter shall be payable to the City and shall be filed with the engineer. Upon satisfactory completion of all work authorized in the permit, and fulfillment of all conditions of the permit, the City Council will release the bond or cash deposit, upon the expiration of ninety (90) days.

(Prior code § 4228)

CHAPTER 12.20
RULES AND REGULATIONS

§ 12.20.010. Erection and maintenance of safety devices.

- A. The permittee in the conduct of the work, use or maintenance of an encroachment authorized by a permit issued pursuant to this chapter and Chapters 12.04 through 12.16, shall provide, erect and/or maintain such light barriers, waning signs, patrols, watchmen and other safeguards as are necessary to protect the traveling public. Any omission on the part of the engineer to specify in the permit what lights, barriers or other protective measures or devices shall be provided, erected or maintained by the permittee, or the fact that the engineer may not specify sufficient lights, barriers or other protective measures or devices shall not excuse the permittee from complying with all requirements of law and appropriate regulations and ordinances for adequately protecting the safety of those using public streets. If, at any time, the engineer finds that suitable safeguards are not being provided, the City may, after first notifying the permittee, provide, erect, maintain, relocate or remove such safeguards as are deemed necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.
- B. A permittee making any excavation or erecting or leaving any obstruction within, under or upon the right-of-way, or causing the same to be made, erected or left, shall place and maintain lights at each end of the excavation or obstruction, at not more than 50-foot intervals along the excavation or obstruction, from one-half hour before sunset of each day to one-half hour after sunrise of the next day, until the excavation is entirely refilled or the obstruction removed and the right-of-way made safe for use. In addition, reflectorized or illuminated warning signs conforming to the requirements of the California Director of Highways shall be placed approximately 200 and 400 feet from each excavation or obstruction, in such a position as to adequately warn public traffic.
- C. The warning signs, lights and other safety devices shall conform to the requirements of Section 21406 of the Vehicle Code and of "The Manual of Warning Signs, Lights, and Devices for Use in Performance of Work Upon Highways" issued by the Department of Public Works of the State.

(Prior code § 4229)

§ 12.20.020. Start of work.

Before beginning any work which includes excavation, construction of concrete sidewalks, curbs, gutters or driveway approaches, planting, trimming or removing trees, making, placing or causing an obstruction in the right-of-way, the permittee shall notify the engineer of the time of beginning work, unless otherwise exempt in the permit.

(Prior code § 4230)

§ 12.20.030. Completion of work.

Unless this section is waived in the permit, the permittee, upon completion of all work, shall notify the engineer. No work shall be deemed to be completed until notice of completion is given pursuant to this section.

(Prior code § 4231)

§ 12.20.040. Care of drainage.

If the work, use or encroachment authorized in a permit issued pursuant to this chapter and Chapters 12.04 through 12.16 interferes with the established drainage, the permittee shall provide for proper drainage as approved by the engineer.

(Prior code § 4232)

§ 12.20.050. Interference with use.

All work or use shall be planned and executed in a manner that will cause least interference with the safe and convenient travel of the general public at the place where the work or use is authorized; and at no time shall a public street be closed, or the use thereof denied the general public without written permission of the engineer, nor shall use of private property be interfered with unreasonably without the consent of the owner.

(Prior code § 4233)

§ 12.20.060. Restoring of street and maintenance of encroachment.

- A. Upon completion of the work, acts or things for which a maintenance or encroachment permit was issued, or when required by the engineer, the permittee shall replace, repair or restore the right-of-way as provided by this chapter and Chapters 12.04 through 12.16 and adopted specifications, or as directed by the engineer, within the limits of the specifications. The permittee shall remove all obstructions, impediments, materials or rubbish caused or placed upon the right-of-way, and shall do any work or perform any act necessary to restore the right-of-way to a safe and usable condition, as directed by the engineer.
- B. After completion of all work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. The permittee shall, upon notice from the engineer, immediately repair any injury, damage or nuisance, in any portion of the right-of-way, resulting from the work done under the permit. In the event that the permittee fails to act promptly, or should the exigencies of the injury or damage require repairs or replacement to be made before the permittee can be notified or can respond to notification, the City may, at its option, make the necessary repairs or replacements or perform the necessary work and the permittee shall be charged with actual costs of labor and materials, plus fifteen percent, as administrative costs. By acceptance of the permit, the permittee agrees to comply with the above.

(Prior code § 4234)

§ 12.20.070. Relocation or removal of encroachments.

- A. If any future construction, reconstruction or maintenance work on a public right-of-way requires the relocation or removal of installations or encroachments in, on or under the public right-of-way, the permittee, owning, controlling or maintaining such installations or encroachments shall relocate or remove the same at his sole expense provided, however, that this provision shall apply to and remain in force and effect only so long as the right-of-way upon which the installations or structures are located shall be used for usual street purposes and not as a highway, and this provision shall cease to apply when such street shall become a highway. When removal or relocation is required, the engineer shall give the permittee a written demand specifying the place of relocation, or that the installation or encroachment must be removed from the right-of-way, and specifying in the demand a

reasonable time within which the encroachment must be removed or relocated. If the permittee fails to comply with the instructions, the City may cause the removal or relocation of the encroachment at the expense of the permittee.

- B. The provisions of this section shall not apply to public utility corporations subject to other laws and contractual benefits relating to the costs of relocation and which are in conflict with the provisions contained herein.
(Prior code § 4235)

§ 12.20.080. Standards on supervision and inspection.

- A. All encroachment repair work done under a permit issued pursuant to this chapter and Chapters 12.04 through 12.16 shall conform to specifications established by the engineer in the absence of established specifications, to recognized standards of construction and approved practices in connection with such work. All encroachment repair work shall be done subject to approval of the engineer.
- B. Unless otherwise noted on the permit, all encroachment repair work performed on any public street or right-of-way under the jurisdiction of the City shall conform to City construction specifications.
(Prior code § 4236)

§ 12.20.090. Storage of material.

No materials shall normally be stored within 5 feet of a public street, except that sections of pipe or other materials may be strung out or laid in a public street as may be required provided that reasonable safety precautions are exercised as otherwise provided for in this chapter and Chapters 12.04 through 12.16. Excess earth materials from trenching or other operations shall be removed from the pavement, traveled way or shoulder as the trench is backfilled or other work carried forward unless otherwise approved by the engineer.
(Prior code § 4237)

§ 12.20.100. Small pipes or rigid conduits.

Utility, service and other small diameter pipes or rigid conduits shall be jacked, bored, driven or otherwise forced underneath a paved surface. The paved surface of a road shall not be cut, trenched or otherwise disturbed unless installation of the pipe or conduit in the manner described herein is not practical in which case the damaged surface shall be reasonably restored to its preexisting condition.
(Prior code § 4238)

§ 12.20.110. Minimum cover.

The minimum cover over any and all pipes or conduits larger than 2 1/2 inches installed within the right-of-way shall be 3 feet of each of imported materials, unless otherwise specified in the permit. Within the public street, the minimum cover of 3 feet shall be measured from the surface, existing or planned. The engineer is authorized to permit installation of pipes or conduits where 3 feet of cover cannot be provided because of topography, structure or other engineering necessity.
(Prior code § 4239)

§ 12.20.120. Backfilling.

Backfilling and compaction of an excavation shall be in accordance with specifications established by the engineer and adopted by resolution of the City Council, both as to materials and method.

(Prior code § 4240)

§ 12.20.130. Poles and transmission line carriers.

- A. Clearances and types in the construction of poles and transmission line carriers shall be in accordance with rules, regulations and orders of the Public Utilities Commission and other public agencies having jurisdiction.
- B. No guy wires are to be attached to trees without specific authorization to do so in the permit, and in no event shall guy wires be so attached as to girdle the tree or interfere with its growth. Guy wires shall not be below the minimum elevation above the ground, prescribed in the rules, orders and regulations of the Public Utilities Commission.
- C. The permittee shall remove and keep clear all vegetation on the right-of-way within a radius of at least 5 feet of poles when ordered by the engineer.
- D. When a pole, guy, stub or similar timber is removed and not replaced, the entire length thereof shall be removed from the ground and the hole backfilled and compacted.

(Prior code § 4241)

§ 12.20.140. Aids to visibility.

When the location or position of a pole or other obstruction makes accentuation of its visibility to vehicular traffic necessary, the engineer may require that the pole or other obstruction be painted or equipped with the reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission or the Department of Public Works of the State at the expense of the permittee.

(Prior code § 4242)

§ 12.20.150. Poles prohibited in specific locations.

It is unlawful for any person to erect or maintain any pole for the purpose of carrying or supporting wires for the transmission of electricity or lighting, power, telephone or other purposes, upon Main Street between Pine Street and Alhambra Avenue, or upon Ferry Street between the Southern Pacific right-of-way and Green Street, all being within the City.

(Prior code § 4243)

§ 12.20.160. Overhead wires prohibited in specific locations.

It is unlawful for any person owning real property, or a tenant thereof, on or along Main Street between Pine Street and Alhambra Avenue, or upon Ferry Street between the Southern Pacific right-of-way and Green Street, to permit or to compel any person, firm or corporation supplying electricity, to suspend or to continue to suspend from his premises any overhead distribution line along the above-described portions of Main and Ferry Streets for the purpose of supplying such premises with electricity.

(Prior code § 4244)

§ 12.20.170. Movement of vehicles.

When authorized by a permit issued pursuant to Section 12.20.040 of this chapter to move a vehicle or combination of vehicles or load of dimension or weight or other characteristic as generally prohibited by law, the permittee shall comply with the general law regulating travel over a public street, including posted signs or notices which limit speed or direction of travels, or weight which may be placed upon a structure, or the width or height that may be moved thereon or thereover, or which otherwise restrict or control travel on a public street, unless otherwise exempt by special permit. The permittee at all times shall conform to and abide by the practice and procedure, necessary to make safe and convenient the travel of the general public, and to keep safe and preserve the public street over and on which movement is being made. Any violation of this section shall automatically cancel the permit issued to the permittee.

(Prior code § 4245)

§ 12.20.180. Mailboxes.

All mailboxes must be placed in accordance with the rules and regulations of the United States Post Office Department, but no box shall be so placed within the road right-of-way as to endanger the life or safety of the traveling public. A permit is not required for the placing of mailboxes.

(Prior code § 4246)

§ 12.20.190. Hedges, plantings and fences—Generally.

- A. No hedge, shrub or other planting whatever, fence or similar structure, except as provided in Section 12.20.210, shall be planted, erected or maintained in the right-of-way without a permit.
- B. No hedge, shrub or other planting whatever, fence or similar structure, shall be maintained across any existing walkway in a sidewalk area or shoulder. The intent of this restriction is to keep free a walkway for pedestrian or other lawful public travel without interference by or with vehicular travel. No encroachment of any nature will be permitted or maintained which impedes, obstructs or denies such pedestrian or other lawful travel within the limits of the right-of-way of a public street, or which impairs adequate sight distance for safe pedestrian or vehicular traffic.

(Prior code § 4247)

§ 12.20.200. Hedges, planting and fences—Maintenance.

The permittee or property owner, shall maintain the hedges, shrubs or other plantings, fence or similar structure, used for landscaping purposes in a neat and orderly condition at all times. If the encroachment is not maintained as specified in this section, or is located in violation of Section 12.20.190, the engineer may direct the permittee or property owner to remove the encroachment and restore the right-of-way to its former condition, at the expense of the permittee or property owner.

(Prior code § 4248)

§ 12.20.210. Lawns.

- A. Other provisions of this chapter and Chapters 12.04 through 12.16 notwithstanding, it is lawful for a person, firm, corporation or other body of persons to plant and maintain a lawn

or similar ground cover of any grass or type not otherwise prohibited by law within the right-of-way of a public street without a written permit. However, the lawn or similar ground cover shall not extend into the traveled way of the public street nor into the drainage ditches, gutter or other drainage facilities.

- B. The general public may not be denied the use of the planted area for pedestrian travel or other lawful use. The City may use the planted area for any purpose whatever and may issue a permit to any applicant to go thereon to perform work or otherwise encroach pursuant to this chapter and Chapters 12.04 through 12.16. If the lawn or similar ground cover is damaged or disturbed in the course of an authorized encroachment, the permittee will be held responsible for the replacement unless the permit specifically states otherwise.
(Prior code § 4249)

§ 12.20.220. Marking of streets, curbs and sidewalks—Permit required when.

It is unlawful for any person, without first obtaining a permit, to solicit, on a commercial or donation basis, to place or maintain any number, figure, letter, carving, drawing, design or other marking upon any street, sidewalk or curb; except that temporary markings for the purpose of identifying survey or construction locations shall not be subject to this section.
(Prior code § 4250)

§ 12.20.240. Monuments.

Any monument of granite, concrete, iron or other lasting material set for the purpose of locating or preserving the lines and/or elevation of any public street or right-of-way, property subdivision, or a precise survey point or reference point, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission from the engineer to do so, the permission to be granted in conformance with requirements as set forth in specifications adopted by resolution of the City Council. Replacement of removed or disturbed monuments will be at the expense of the permittee.
(Prior code § 4251)

**Division II
Generally**

**CHAPTER 12.28
OBSTRUCTION OF SIDEWALKS**

§ 12.28.010. Restrictions.

No person shall place or cause to be placed anywhere upon any public street, way or sidewalk, and no person owning, occupying or having the control of any premises shall suffer to remain in front thereof upon the sidewalk, or portion of the street or way next to such premises, any boxes, bales, barrels, wood, lumber, goods, wares and merchandise, sign bulletin board, signboard or any other thing obstructing the free use or passage of such street, way or sidewalk; provided, however, that goods, wares and merchandise in transit may be allowed on the outer 3 feet of the sidewalk for a period not exceeding one-half hour.

(Prior code § 3514)

CHAPTER 12.30
STREET FRONTAGE IMPROVEMENTS

§ 12.30.010. Declaration of policy.

It is declared to be the policy of the City that curbs, gutters, driveways, sidewalks, and street pavement be installed along the street line or lines as a condition to building permit approval.
(Ord. 1117 C.S. § 1, 1988)

§ 12.30.020. Higher standards prevail.

The provisions of this chapter are minimum requirements and wherever any ordinance or resolution or determination of the City requires additional improvements of a higher degree or grade, that ordinance or determination shall control.
(Ord. 1117 C.S. § 1, 1988)

§ 12.30.030. Definitions.

As used in this chapter, the following words and phrases shall have the indicated meanings:

- A. "Person" means any person, individual, firm, partnership, association, corporation, company or organization of any kind.
- B. "Sidewalks and curbs" shall include concrete sidewalks, parkways, concrete curb and gutter, concrete driveways, and structural pavement section to the centerline of the street all in accordance with adopted City standards and constructed in accordance with applicable standard specifications of the City of Martinez.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.040. Administration.

This chapter shall be administered by the City Engineer.
(Ord. 1117 C.S. § 1, 1988)

§ 12.30.050. Sidewalks and curbs required.

- A. Any person who applies for a building permit to construct or cause to be constructed any building or dwelling in the City, and any person who applies for a building permit for the purpose of making improvements to an existing building or dwelling where such improvements have a value in excess of twenty-five thousand dollars (\$25,000.00), shall construct sidewalks and curbs in accordance with the City specifications, along all street frontage adjoining the property upon which such building or dwelling is proposed to be constructed or improved, unless adequate sidewalks and curbs already exist.
- B. Whether or not adequate sidewalks and curbs already exist shall be determined in each instance by the City Engineer, and an endorsement to that effect shall be made upon each building permit at the time it is issued.
- C. In determining whether or not an improvement to an existing building or dwelling has a value in excess of \$25,000.00, the value of all improvements made to the subject property within the three years immediately preceding the date of the application for the relevant building permit shall be aggregated, and is said aggregation, plus the value of the work for

which the relevant permit is sought, exceeds \$25,000.00, the provisions of this chapter shall apply.

- D. Only to the extent that at the time application is made for the relevant permit there already exist adequate sidewalks or curbs shall the person applying for the permit be relieved of the requirements specified in Section 12.30.050(A). That is, if only adequate sidewalks exist, the applicant shall nevertheless be required to install, at his/her cost, curbs, gutters, parkways, driveways, and street pavement (unless said requirements are otherwise waived under the provisions of this chapter).
- E. In such cases where curbs and gutters, sidewalks, etc., exist along the street frontage of such property and such curbs and gutters, sidewalks, etc., are in a deteriorated or hazardous condition, the City Engineer may require the repair, replacement or reconstruction of such facilities as a condition of issuance of a building permit without utilizing procedures as specified in Section 5610, et seq., Streets and Highways Code.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.060. Plans and specifications.

All work or improvements shall conform to the construction standards adopted by the City and on file in the office of the City Engineer. Any and all specifications for the improvements referred to above shall be prepared and signed by a civil engineer or other such person licensed by the state to design such works, and the plans and specifications shall be submitted to the City Engineer for review and approval prior to any commencement of said work within the public right-of-way.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.070. Encroachment permit required.

An encroachment permit shall be required for all improvements performed on the public rights-of-way in conformance with the provisions of Chapter 12.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.080. Exceptions for certain single-family residences.

- A. The City Engineer shall have the power to waive the requirement for the installation of either sidewalks, curbs, driveways, parkways, pavement or any combination of the above required improvements along the frontage of a single-family residence if the City Engineer determines and finds upon application for exception by an applicant in such form as the City Engineer may reasonably require, that:

1. Such improvement is not presently in existence at the subject property; and
2. No adjoining lot or parcel contains such improvement; and
3. Substantially all of the built-up lots and parcels within five hundred feet (500 ft) of the subject property, and abutting upon the same street, do not have such improvements; and
4. The character of the neighborhood is such that, based on present neighborhood conditions, and conditions which can be expected to exist within five years from the date of the application for the building permit, that it would be unreasonable to require

the applicant to construct such improvement.

- B. In order for the City Engineer to waive any of the required improvements, the City Engineer must determine that the conditions specified above are satisfied as to each required improvement waived. Any required improvement not waived by the City Engineer must be constructed by the applicant. Therefore, pursuant to the conditions specified above, the applicant may for example, obtain a waiver from the sidewalk, curb, and gutter requirements. This shall not, however, relieve the applicant of his/her responsibility to construct parkways, driveways, and pavement to the centerline of the street as required by this chapter.
- C. The waiver granted by the City Engineer pursuant to this section may be granted conditionally to include any reasonable conditions imposed by the City Engineer. Such conditions may include, but are not limited to, the condition that any required improvement which may be waived be installed upon the occurrence of some future event, condition, or happening.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.090. Appeal to Council.

Any decision by the City Engineer made under this chapter shall be subject to review by the Council of the City. Any person dissatisfied with the decision of the City Engineer may appeal therefrom by filing a written notice to the City Council within ten days after notice of determination by the City Engineer. Thereafter, the Council shall set such appeal for hearing before it and hear the appeal at the next regular Council meeting. The decision of the City Council shall be final and shall be binding upon all parties. In deciding whether an exception to this Chapter's requirement should be allowed, the Council shall be governed by the criteria specified in Section 12.20.080.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.100. Guarantee of installation.

Unless an exception has been granted pursuant to the provisions of Sections 12.17.080, or 12.17.090, the City shall deny final building permit approval and acceptance, and shall refuse to allow final public utility connections, to any building or dwelling unless such sidewalks and curbs are completed in accordance with the approved plans and specifications, or unless money or a bond to guarantee the required construction is deposited with the City in a sum equal to the estimated cost of construction of such improvements as determined by the City Engineer of the City.

(Ord. 1117 C.S. § 1, 1988)

§ 12.30.110. Installation by City.

If the improvements required by this chapter are not performed by the applicant within ninety days after the completion of construction of the building, dwelling and/or improvement thereto, the City Engineer is authorized to install such sidewalks and curbs, or cause the same to be constructed by a call for bids to do the work. Following the call for bids, the applicant shall not undertake or cause to be undertaken any work specified in the call for bids. All permits previously issued for the work shall become null and void. The cost of labor, materials, equipment rental, and overhead as necessary to perform the work shall be charged against the owner of the property and such charges shall become a lien upon the property and shall be

collected in the same manner as sidewalk repair costs are collected under California Streets and Highways Code §§ 5616—5630.
(Ord. 1117 C.S. § 1, 1988; Ord. No. 1121 C.S. § 1, 1988)

CHAPTER 12.31
SIDEWALK MAINTENANCE AND REPAIR

§ 12.31.010. Purpose and findings.

The purpose of this Section is to impose upon property owners the affirmative duty to repair and maintain the sidewalk area adjoining their property in a safe and non-dangerous condition. This duty runs to and in favor of members of the public using the sidewalk area.
(Ord. No. 1384 C.S., § 1, 3/4/2015)

§ 12.31.020. Duty to maintain sidewalk.

- A. Owner's responsibility. Except as provided in subsection B of this Section, the owner of property which fronts on sidewalk area shall maintain and repair the sidewalk area in a reasonably safe condition, at the owner's expense. If the owner makes an alteration to the sidewalk, the owner must obtain an encroachment permit from the City prior to the work and use ordinary care in making the alteration and in keeping the altered portion of the sidewalk in a reasonably safe condition.

The provisions of Chapter 22 of Part 3 of Division 7 of the California Streets and Highways Code (Sections 5600 through 5630 inclusive), as they now exist or may hereafter be amended, are adopted as the procedure governing the maintenance and repair of sidewalks, driveways, and driveway approaches in the City. For the purposes of this Chapter, "sidewalk" shall have the same meaning as defined in Section 5600 of the California Streets and Highways Code, and shall also include a "driveway" and a "driveway approach."

It is unlawful for any person, firm or corporation owning any building, lot or premises in the City, fronting on any portion of an improved street or way where a sidewalk is laid to allow any portion of such sidewalk in front of such building, lot, or premises to be out of repair, or to become, be or remain defective, or to become, be or remain dangerous to the users thereof for any reason. Such person, firm or corporation must at all times keep each such sidewalk in such condition that it will not endanger persons or property passing thereon, will not interfere with public convenience in the use thereof, or be or remain an obstruction or impediment to normal, customary and usual pedestrian or vehicular traffic. Such property owner shall be responsible for all maintenance and repairs, including that required to repair damage caused by tree roots, needed to keep the sidewalk improvements in a safe condition.

The owner has the primary and exclusive duty to perform such maintenance and repair, whether or not notified by the City and whether or not the City has performed similar maintenance in the past. The City may notify the owner when the sidewalk is out of repair, in conformance with California Streets and Highways Code sections 5610 and following.

The owner shall comply with City of Martinez Resolution 062-14 requiring the preservation of sidewalk stamps commemorating the government work plan date or other significant information related to the time of the original construction to the maximum extent practicable.

- B. Exceptions. An adjacent property owner is not responsible for sidewalk damage and repair if:
1. The damage is caused by a utility structure, such as a PG&E structure, telephone pole

or structure, storm drain, cable television structure, fire hydrant, or similar utility structure, and the property owner has notified both the City and the appropriate utility company of any obvious damage or defects in the sidewalk.

2. Another entity or individual, such as a homeowner's association, commercial property association, or other individual or entity, has entered into a written agreement or covenant with the property owner and the City pursuant to which such other individual or entity assumes responsibility for sidewalk damage and repair.

(Ord. No. 1384 C.S., § 1, 3/4/2015)

§ 12.31.030. Liability of owner.

The owner required by Section 12.31.020 to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area free from sidewalk defects and in a safe and non-dangerous condition. If, as a result of the failure of any owner to maintain the sidewalk area in a non-dangerous condition as required by Section 12.31.020, any person suffers injury or damage to person or property, the owner shall be liable to such person for the resulting damages or injury.

(Ord. No. 1384 C.S., § 1, 3/4/2015)

§ 12.31.040. Persons in possession.

If the owner is not the person in possession of the property, then the responsibilities, duties and liabilities imposed by this Chapter are also imposed on the person in possession of the property.

(Ord. No. 1384 C.S., § 1, 3/4/2015)

§ 12.31.050. Joint owners.

If more than one party is an owner, then the responsibilities, duties and liabilities established by this Chapter are joint and several as to each party.

(Ord. No. 1384 C.S., § 1, 3/4/2015)

§ 12.31.060. Assessments on property.

If the owner fails to maintain or make repairs to the sidewalk area after notice is provided pursuant to Chapter 22 of Part 3 of Division 7 of the California Streets and Highways Code (Sections 5600 through 5630 inclusive), then the City may undertake such maintenance and repairs and confirm and collect assessments for the costs and expenses of such maintenance and repair as set forth in California Streets and Highways Code Sections 5616 through 5630 including but not limited to placing a lien on owner's property, having the assessment placed on the property tax rolls or any other method of collection legally available to the City.

(Ord. No. 1384 C.S., § 1, 3/4/2015)

CHAPTER 12.32
STREET DEDICATION

§ 12.32.010. Dedication—Defined.

- A. All streets, lanes, places, avenues and portions thereof, including extensions in length and width, within the City limits which on or before February 10, 1932 have been dedicated by the owners thereof to public use, or which on or before February 10, 1932 have been opened or offered by the owners for the use of the public, are accepted and declared to be open public streets of the City.
 - B. All streets represented on all maps of the City which, on or before February 10, 1932 were filed and of record in the office of the County Recorder are declared to be such streets.
- (Prior code § 4100; Ord. 1250 C.S. § 1, 1998)

CHAPTER 12.36
MARINA REGULATIONS¹³

§ 12.36.010. Definitions.

For the purpose of this chapter, the following definitions shall apply:

- A. "City" shall mean the City of Martinez.
 - B. "Harbor" means that portion of the ocean, inland waters, and shoreline within the jurisdiction of the City protected by jetties, breakwater, or seawall, so as to be a place of safety for vessels, including the structures and facilities provided within the enclosed body of water and upon the public shore for the mooring and servicing of vessels and the servicing of their owners, crews and passengers.
 - C. "Marina" means that portion of the land and water under the jurisdiction of the City which is bounded on the south, east, and west by the East Bay Regional Martinez Shoreline Park, located north of the Southern Pacific railroad tracks adjacent to North Court Street, including the Harbor.
 - D. "Harbor master" or "operator" means the person in day-to-day charge of the actual operations of the Martinez Marina or the City Manager or designee(s).
 - E. "Channel" means any waterway now navigable by vessels including the structure and facilities created to facilitate navigation.
 - F. "Berth" means securing to any dock, pier, or other object by rope, anchor, or other device.
 - G. "Moor" means the same as "Berth".
 - H. "Vessel" means any boat or watercraft used or capable of being used as a means of transportation on water.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.015. Authority.

To the extent permitted by law and as may otherwise be provided in any agreement with the City, the Operator shall interpret and enforce the rules, regulations, and ordinances pertaining to the Harbor and Marina. All orders given in the performance of the Operator's duties shall be obeyed. Every vessel entering the Harbor and Marina shall immediately become subject to the authority and direction of the Operator. Each vessel shall be berthed in the space assigned by the Operator. The Operator may assess service fees for any services rendered therefor.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.020. Mooring.

- A. There are two classes of mooring licenses in the Harbor, long-term and short-term.
 - 1. Long-term mooring licenses are granted, as available, to owners desiring to moor their vessels for a period of one month or longer.

13. Editor's note: Prior history: Prior code §§ 11100—11103, 11105—11115; Ord 982 C.S., 1982; Ord. 781 C.S., 1974; Ord. 1226 C.S., 1995; and Ord. 1257 C.S., 1998.

2. Short-term and/or "Guest" mooring licenses are granted, as available, to owners desiring to moor their vessels for less than one month.
- B. Applications for berths in the Harbor shall be made to the Operator on the form furnished by the Operator. Berth assignments will be made in the chronological order of receipt of applications based on the availability of berths for size of the vessel to be accommodated, unless the application is rejected by the Operator. The Operator may reject applications based on the applicant's credit, tenant or employment history, references, or condition of vessel. The Operator may charge a credit check fee.
- C. Each vessel shall be berthed in the space assigned by the Operator. No exchange of berths between vessel owners will be permitted without the prior approval of the Operator.
- D. The holder of a long-term mooring license may, upon a bona fide sale of the vessel berthed therein and the approval of the Operator: (i) relinquish the berth to the buyer of the vessel; or (ii) retain the aforesaid berth assignment for another vessel owned by the long-term mooring license holder, provided the other vessel is within the classification of the berthing space assigned and the berthing space is occupied within 30 days.
- E. Any sale, purchase, or exchange of vessels occupying permanent mooring space in the Harbor must be immediately reported to the Operator. Should the new vessel owner wish to continue mooring the vessel at the Marina, they would need to receive approval of the Operator and if permitted, obtain a mooring license from the Operator.
- F. The holder of a long-term mooring license for a berth of a specific size has no preemptive right to a larger berth in the event they purchase a larger vessel.
- G. Mooring of a vessel the size of which is greater than that of the berth assigned to the license holder is not permitted unless authorized by the Operator.
- H. The Operator shall have the authority to move or relocate in the Harbor, any vessel berthed therein, if such change is required for the safety and protection of persons or property, for repair and maintenance of Harbor or Marina facilities or for obtaining optimum utilization of facilities available.
- I. Unauthorized berth occupancy is prohibited and the Operator is authorized to move or secure any unauthorized vessel until any outstanding mooring fees and charges, plus any penalty, has been paid.
- J. Vessels illegally moored or stored in the Harbor or Marina may be towed to another location or hauled out to dry storage by the Operator. Towing, mooring, and/or storage fees will be charged to the vessel's owner. A 15-day grace period may be allowed before hauling out, except in emergency or in the interest of safety.
- K. No berth shall be assigned by a mooring license holder. Any such activity may result in cancellation or revocation of the mooring license and berthing assignment and subsequent removal of vessel in berth at time of cancellation unless other arrangements are authorized by the Operator.
- L. A security deposit shall be required for all new long-term mooring licenses in an amount set by the Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.025. Mooring charges.

- A. Charges for all berths shall be made in accordance with the schedule adopted by the Operator and/or City Council.
 - B. When a berth is assigned and a long-term mooring license granted, regardless of whether the assignment or license is effective the first day of the month, the full month's mooring fee is charged.
 - C. All mooring fees are due and payable monthly in advance on the first day of each month, and become delinquent if not paid by the tenth day of the same month.
 - D. All mooring fees not paid by the tenth day of the month shall be subject to and assessed a late charge set by the Operator and/or City Council.
 - E. Short-term "guest" mooring for longer than seven days will be subject to a full month's mooring fee unless other arrangements are authorized by the Operator.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.030. Non-payment of charges.

- A. Any berth assignment, the fees for which are 50 days delinquent, may be cancelled, and the berth shall be vacated, at the sole cost of the vessel owner.
- B. No person shall remove or cause to be removed from the Harbor any vessel upon which charges for mooring or any other proper charges are delinquent without paying all such delinquent charges.
- C. It shall be unlawful for any person to willfully give false information to the Operator or other City employees to secure the removal of a vessel.
- D. The City and the Operator are authorized to do all things necessary to prevent the unauthorized removal of a vessel to avoid payment of mooring fees or other charges, including the moving, securing, or otherwise fastening the vessel.
- E. In accordance with the provisions of the California Harbors and Navigation Code, the charges for berthing fees or charges for service are liens upon a vessel, and when these are delinquent 50 days or more, an action shall be brought against the registered owner and/or berth holder to enforce payment of the lien by the City, and the vessel with all its appurtenances and furnishings may be attached as security for the satisfaction of any judgment that may be recovered in the action. If the attachment is not discharged, and judgment is recovered and an execution is issued thereon, then the vessel and all its appurtenances and furnishings shall be sold at public auction and the proceeds applied in accordance with the above provisions of the California Harbors and Navigation Code.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.035. Release of assigned facilities.

The Operator shall be notified in writing of the exact date of relinquishment of an assigned berth. This notice must be given at least 15 days in advance of the effective date of release. There shall be no prorating of applicable monthly fees for the final month.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.040. Disposing of refuse.

- A. No person shall throw, discharge, or deposit from any vessel, the shore or float any refuse matter of any kind whatsoever into or upon the waters of the Harbor or Marina, or in, on or upon the banks, walls, sidewalks, or branches of any navigable body of water within the City.
- B. No person shall dump or discharge oil, spirits, inflammable liquids, or contaminated bilge water in the Harbor or Marina.
- C. All garbage must be deposited in receptacles furnished by the City and/or Operator for that purpose, or removed from the Marina area. Receptacles/trash bins provided by the City and/or Operator shall be used only for refuse generated at the Marina. No garbage, trash, tree trimmings, grass clippings, discarded furniture, appliances, junk, or other material generated from outside the Marina area shall be placed in trash receptacles.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.045. Hazardous obstructions prohibited, boarding platforms.

- A. Floats, gangways, tops of lockers, and docks shall be kept clear at all times of skiffs, tenders, miscellaneous gear, debris, or other hazardous obstructions.
- B. Any condition aboard or around any vessel, float, or gang plank caused by the berth holder which, in the opinion of the Operator, constitutes a fire hazard, health menace, or danger to public safety, shall be corrected or removed immediately to the satisfaction of the Operator. In the event of the refusal or neglect of the owner or licensee to remedy forthwith the aforesaid condition when reported to the Operator or the City shall remove the cause of the complaint and cancel the berth assignment of such owner or licensee.
- C. Boarding platforms or ladders on floats shall be permitted, subject to the approval of the Operator, provided that any platform used for boarding shall not be over 18 inches in width and three feet high, and shall be of lightweight construction. The platform shall not be used as a storage locker.
- D. No person shall build or place in or about the Harbor, any structures, such as walkways, gangplanks, finger floats, rubbing piles, or dock boxes, without prior approval of the Operator.
- E. Dock boxes (gear lockers) will be provided by the Operator at a cost. Only one box per berth is permitted. Any dock boxes that do not conform to the foregoing specifications shall be removed from the Harbor. Location of dock boxes shall be subject to the approval of the Operator.
- F. All vessels must be secured so that no part, including bowsprit, boom, boomkin, or equipment will block any portion of the walkway.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.050. Use of water and electricity.

- A. Charges for water and electricity shall be in an amount set by the Operator and/or City Council.
- B. Continuous use of water for siphoning is prohibited except in the case of emergency. The

existence and nature of the emergency shall be reported immediately to the Operator.

- C. Excessive use of water, electricity for heating, cooling, and other purposes is prohibited. If the City or Operator is of the opinion that there is excessive use of water or electricity by a berth holder, then the City or Operator may attach a meter to the outlet for measuring actual consumption and the licensee shall be liable for the cost of the electricity in excess of that which is normally provided to the berth or vessel in question.
 - D. At the City's or Operator's sole discretion, the City and/or Operator may elect to attach a meter and charge an licensee for their actual water and electricity use.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.055. Maintenance of facilities.

- A. Repairs to and maintenance of a vessel may be made or accomplished while such vessel is at its berth provided all such work is done within the confines of the vessel itself and is not carried on in any manner whatsoever upon floats, gangways, or docks. All materials used in such repair or maintenance work must also be kept within the confines of the vessel and may not be kept upon floats, gangways, or docks. Spray painting is not permitted in the Harbor.
 - B. No vessel shall be materially or structurally altered, repaired, rebuilt, or engine(s) removed/installed except in such authorized spaces as set forth by the Operator.
 - C. No paint shall be removed by any means from any vessel in its berth other than for minimum maintenance. All sand residual, paint and dust must be controlled and kept out of the Harbor and Marina waters and off other vessels.
 - D. Fueling and defueling of vessels at other than the fuel pier is prohibited.
 - E. Vessels are required to be maintained in an operable condition. The Operator shall have the authority to enter upon any vessel in the Harbor to verify whether the vessel is operable with the vessel owner's consent. Notwithstanding the foregoing, no prior consent is required for the Operator to enter upon any vessel to verify whether the vessel is operable in emergency circumstances.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.060. Unnecessary disturbance.

- A. Outboard motors attached to any vessels must be equipped with mufflers approved by the Operator.
 - B. The vessel owner is responsible for the conduct and action of their crew and guests and any unnecessary noise, including loud talking. Playing of musical equipment, including but not limited to instruments, amplifiers, radios, or speakers, is prohibited from 10:00 p.m. to 7:00 a.m. Violation of this rule shall be cause for removal of the vessel from the Harbor and cancellation of the berth assigned by the Operator.
 - C. It is unlawful to sound, operate, or cause to be sounded, any siren on a vessel in the Harbor except on vessels owned or operated by a government agency.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.065. Vessel traffic within the harbor.

- A. All vessels approaching or within the Harbor must be operated in a safe and prudent manner and in no event shall the entrance to the Harbor be blocked by general boating activities or fishing.
- B. The speed of any vessel within the Harbor shall not cause a wake, except under emergency conditions.
- C. The Harbor shall not be used for the movement of any vessels except for the purpose of entering or leaving a berth or launch ramp area and necessary maneuvering in connection therewith.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.070. Swimming or diving in harbor.

- A. It shall be unlawful for any person to swim, bathe, wade, water-ski, or surf, in any portion of the Harbor.
- B. It is unlawful for any person to engage in skin diving or underwater breathing or to engage in any other underwater activity requiring such breathing apparatus within the Harbor except that diving for salvage, repair, bottom cleaning or recovery purposes may occur if authorized by the Operator upon written application to the Operator.
- C. When persons are engaged in an underwater diving activity as authorized by the Operator, there shall be present an attendant not less than 16 years of age who shall be on the surface of the water close over the person or persons engaged in the underwater activity, and such attendant shall conspicuously display the diver's flag during the activities.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.075. Lodgings.

Any person who occupies or uses a vessel in the Harbor for eating and sleeping purposes for a period exceeding two days in any seven-day period shall be required to pay "liveaboard fees" in an amount set by the Operator. No more than ten percent of the Harbor's berths can be used for live-aboard purposes. Any availability and/or payment of "liveaboard fees" shall not be construed as converting the Marina or Harbor into a "floating home marina" as that term is defined by Civil Code Section 800.4 or creating any "tenancy" as that term is defined by Civil Code Section 800.9.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.080. Solid and liquid waste disposal.

- A. It shall be unlawful for any person to discharge, spill, or otherwise release solid or liquid waste in the waters of the Harbor, Marina, Alhambra Creek, or any navigable body of water within the City limits.
- B. No person shall operate or berth in the Harbor any vessel equipped with a marine sanitation device unless such device is sealed or otherwise rendered inoperable or designed and installed in accordance with current regulations so that no raw human excreta can be discharged into the waters of the Harbor, Marina, Alhambra Creek, or any navigable body of water within the City limits.

- C. The Operator shall have the authority to board any vessel berthed in the Harbor to inspect such installations for compliance with this section with the vessel owner's consent. Notwithstanding the foregoing, no prior consent is required for the Operator to enter upon any vessel to inspect such installations in emergency circumstances.
 - D. The vessel owner shall be liable for the costs of cleanup of any contamination caused by the owner to Marina, Harbor, or any navigable body of water within City limits, and any security deposit paid by the vessel owner may be applied against the same.
- (Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.085. Minors in harbor.

It shall be unlawful for any person under the age of 16 years to go, remain, or be upon any of the gangways, floats or vessels in the Harbor, unless such person is accompanied by an adult, or unless such person has the written permission of the vessel owner located at the Harbor to go upon such vessel.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.090. Fishing in harbor prohibited.

- A. Fishing, crabbing, and cleaning of fish on gangplanks, boats, and floats is strictly prohibited in the Harbor.
- B. All fish caught outside the Harbor must be removed, properly stored or disposed of within 24 hours from the time of catching. No person shall throw fish or cleaning residuals overboard at the dock or from a vessel.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.095. Damage to property.

The vessel owner must assume all liability for loss and damage to their property of any kind while it is within the limits of the boundary of the Harbor, Marina, or any navigable body of water within City limits. The City assumes no risk or liability on account of fire, theft, act of God, or damages of any nature to vessels or their contents.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.100. Solicitation, advertising, and signs.

- A. Solicitation of patronage in the Harbor or Marina, without a permit, is prohibited.
- B. No person shall row, propel, navigate, or maintain any vessel or float in the Harbor, Marina, or any navigable body of water within City limits for the purpose of advertising, without first having received a permit for such purposes.
- C. No signs of any kind or description shall be posted on pilings, gangplanks, or floats without receiving prior approval from the Operator.
- D. No vessel shall display a "FOR SALE" sign with or without telephone numbers listed and/or price which are visible to the public. All such transactions must be handled by the vessel's owner, without any request for showing vessel or allowing access to piers by Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.105. Maintenance and care in berthing, anchoring, and mooring vessels.

- A. All vessels shall be berthed and secured with proper care and equipment, and such berthing or equipment shall be maintained at all times in such condition as to meet with the approval of the Operator.
- B. If vessels are not maintained, then the Operator may supply lines and fittings, or replace inadequate lines and fittings, or may care for the vessel in such a manner as to prevent damage to the vessel, floats, or other vessels. A charge for this service and for any lines, fittings, and materials supplied shall be made, and payment shall be made at the end of each month. Any lines, fittings and materials used and supplied by the Operator to protect vessels are not returnable.
- C. No person shall bring into, moor, or berth within the Harbor or Marina any vessel of any kind whatsoever which is so unseaworthy or in such badly deteriorated condition that it may cause damage to docks, floats, or other vessels, or which may become a menace to navigation, except in cases of extreme emergency in which case the owner will be liable for any damage caused by such vessel.
- D. The Operator shall be the sole judge as to the condition of the vessel, for the purposes of this section.
- E. If a vessel or other craft is wrecked or sunk within the Harbor or Marina, then it shall be the owner's responsibility to mark its position and provide for the raising and disposition of such vessel or craft and assume all liability for damage to City property or other vessels in the Harbor or Marina.
- F. Small tenders and row boats are permitted to be moored, if kept for the use of the berthholder and berthed within the limits of the berth assigned. They shall not be placed on the docks, piers or fingers.
- G. Abandoned vessels.
 - 1. It is unlawful for any owner or other person in control of any vessel, watercraft, or other object to abandon any such vessel, watercraft or other object in the Harbor, Marina, or on the tidelands or submerged lands.
 - 2. Any such vessel, watercraft, or other object may be removed and disposed of by the Operator as provided by the California Harbors and Navigation Code, the Civil Code, and/or other applicable laws. The cost of such removal and disposition incurred shall be paid by the owner or person in control of such vessel, watercraft, or other object, and the security deposit of the owner or person in control of such vessel may be applied to such removal or disposition, and if said deposit is so used, it shall be replenished by the owner or controlling person.
- H. Mooring in entrances—Vessel removal.
 - 1. If any unattended vessel, watercraft, or other object shall be found to be anchored or moored within the entrance to the Harbor, Marina, or channel, secured to any jetty, breakwater, buoy or other thing without authorization, then the Operator may assume custody of such vessel, watercraft, or other object and cause it to be removed or held or placed in storage. Such costs incidental to this action shall be the liability of the owner or owners.

2. The City and/or the Operator shall not be held liable for any damage to such vessel, watercraft, or other thing whether such damage occurs before or after they assume custody.
3. If such vessel, watercraft, or object is not claimed by the owner thereof, then the Operator may dispose of such vessel, watercraft, or object in the manner provided in the California Harbors and Navigation Code, the Civil Code, and/or any other applicable law.

I. Sunken vessels.

1. Any owner or operator of a vessel, watercraft, or object which sinks accidentally or otherwise within the Harbor, Marina, or entrance thereto, shall immediately mark it with a buoy or beacon by day, and by a lantern or light by night, and maintain such markings until the sunken vessel, watercraft, or obstruction is removed.
2. The owner or operator of such sunken vessel, watercraft, or object shall immediately advise the Operator of the sinking, and immediately commence removal of such vessel, watercraft, or object, and prosecute the removal diligently to completion and dispose of it as provided by the California Harbors and Navigation Code, the Civil Code, and/or any other applicable law.
3. If the owner or operator of such sunken vessel, watercraft, or other object fails, neglects, or refuses to remove such sunken vessel, watercraft, or other object in a reasonable time, then the Operator may cause the removal diligently to completion.
4. The owner or owners of such vessel, watercraft, or object shall be liable to the City for costs incidental to the removal and disposition of such vessel, and the security deposit of the owner or owners may be applied to such removal or disposition and if said deposit is so used, it shall be replenished by the owner pro tanto.
5. Neither the Operator nor the City shall be liable to any person, firm, or corporation for damage as a proximate cause of the sunken vessel, watercraft, or object, or damage caused by removal of such vessel, watercraft, or object.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.110. Compliance with federal, state, and local rules and regulations.

All persons using the Harbor or Marina shall comply with all the rules and regulations adopted by the United States of America, State of California, and local agencies with regard to water safety requirements, and operation and maintenance of vessels. The Operator is authorized to enforce all said rules and regulations, and to deny use of the facilities at the Harbor and/or Marina for violation of said rules and regulations.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.115. Violation of rules and regulations.

- A. An applicant for a berth assignment agrees by their signature on the application form to comply with these rules and regulations.
- B. The Operator shall have the right to deny the use of the Harbor and to cancel the berth assignment and require removal of any vessel of any owner at the vessel owner's sole cost,

who in the opinion of the Operator, fails to comply with the rules and regulations for the operation of the Harbor or Marina.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.120. Registration and numbering: furnishing information to the harbor master.

- A. All moored vessels shall have visible registration lettering on their vessel along with current registration stickers.
- B. Every undocumented vessel entering the Harbor or Marina must be registered and numbered as provided by the laws of the State of California.
- C. The owners of vessels entering the Harbor or Marina shall furnish all information relating to the vessel and the ownership thereof as may reasonably be required by the Operator, including, but not limited to, proof of current, adequate insurance in a form and amount satisfactory to the Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.125. Accident reports.

A duplicate copy of any report of any accident occurring in the Harbor or Marina involving any one or more vessels shall immediately be filed with the Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.130. Security gates.

No person shall be permitted to be present beyond the security gates on any pier to which access is restricted by such gate, unless such person is a permittee whose vessel is berthed at such pier or is an authorized guest of such permittee, or unless such is on official business of the City, the State of California, or the United States of America, or unless such person has been specifically authorized to enter such pier by the Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.135. Vehicle parking and towing.

- A. Vehicles shall be parked only in those areas designated and marked for such parking and in compliance with posted signs. The Traffic Engineer may cause the placement of signage to restrict the stopping, standing or parking of vehicles on the Marina grounds.
- B. No vehicle or trailer shall be parked on the Marina grounds for a period exceeding 72 hours without the permission of the Operator.
- C. Recreational vehicles, travel trailers, or campers shall not be parked on Marina grounds without the permission of the Operator.
- D. Any vehicle, trailer, or boat/trailer combination parked in violation of a posted sign, in restricted areas, in limited parking areas beyond the allowed time, or in driveways, walks, or breezeways, may be cited and removed from the Marina at the owner's expense.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.140. Pets and wildlife.

Animals running at large are prohibited. No owner or keeper of an animal shall allow or permit such animal, whether licensed or unlicensed, to run at large within the Marina or Harbor area. Such animal shall be securely restrained by a substantial leash not to exceed six feet in length and be in the charge and control of a person competent to keep such animal under effective charge and control.

- A. Presence of Pets. Pets may be allowed on vessels as vessels arrive and depart from the Harbor. The presence of pets on moored vessels is permitted provided that such pets do not pose a nuisance or safety risk and remain under the direct supervision of the owner or keeper at all times.
- B. Authority to Remove Pets. The Operator reserves the right to require the removal of any pet or animal that is deemed disruptive, dangerous, or in violation of Marina or Harbor regulations.
- C. Wildlife Protection. Pets must not chase, harass, or otherwise disturb wildlife within the Marina or Harbor area. Any behavior that threatens wildlife, including birds and marine species, is strictly prohibited.
- D. Prohibition on Feeding or Disturbing Wildlife. Feeding or disturbing wildlife, including birds and marine animals, within the Marina or Harbor and adjacent Waterfront Park is strictly prohibited to protect the natural ecosystem and ensure the safety of both wildlife and patrons.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.145. Boat launching facilities.

- A. Fees for the use of the ramp shall be collected as set forth by the Operator or by City Council resolution and shall be collected at all times when the Marina Harbormaster's Office is open, either when the vessel is launched or when the vessel is removed from the water.
- B. The Operator shall control the parking of cars and trailers in the vicinity of the ramp, maintain general order in the area, and assist as may be necessary in the launching and recovery of the vessels. Assistance will not be rendered as a convenience, but may be offered under adverse circumstances such as adverse weather conditions or a vessel user's inexperience.
- C. The docks at the ramp area are not to be used as a tie-up for convenience of Marina or Harbor users other than the launching or recovery of vessels.
- D. It is unlawful to launch, recover, or berth any vessel or other object in the Harbor or Marina without the authorization of the Operator.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.150. Boat races, regattas, or exhibitions.

It is unlawful to conduct, participate in, or cause to be conducted any regatta, motorboat, or other vessel race, tournament, or exhibition within the Harbor without written permission of the Operator and subject to such regulations as may be imposed.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.155. Penalty.

Every person violating any provision of these rules and regulations shall be deemed guilty of a misdemeanor as set forth in the Martinez Municipal Code, Section 1.12.010.

(Ord. No. 1465, § 3, 11/6/2024)

§ 12.36.160. Enforcement.

The Police Department and, if lawful and delegated the authority by the City, the Operator, shall enforce the provisions of this chapter, the provisions of the California Harbors and Navigation Code and all other laws pertaining to the Harbor and Marina.

(Ord. No. 1465, § 3, 11/6/2024)

CHAPTER 12.40
DISPOSITION OF CITY REAL PROPERTY

§ 12.40.010. General.

- A. The real property of the City of Martinez is held in trust for the common benefit of all its citizens. It is the intent of this Chapter to assure that no disposal of City real property governed by this Chapter takes place unless the disposition is for the common benefit of all the citizens of Martinez and is required by the public interest and convenience.
- B. Subject to the exceptions set forth in Section 12.40.020, this Chapter shall only apply to proposed dispositions and dispositions of City real property for the exclusive use or benefit of specified parties (and shall apply to such exclusive use or benefit dispositions even where the City retains an easement or other interest in the real property in question).

Disposition of City real property governed by this Chapter shall require, among other things, a Council resolution finding that the disposition is for the common benefit of all the citizens of Martinez and is required by the public interest and convenience, coupled with a statement of the facts supporting such finding; provided, however, that should any state law apply to any such disposition, and should such state law require that certain findings be made in order to dispose of such real property, in the event that the City Council makes the findings required by such state law and, based thereon, finds that the proposed disposition is for the common benefit of all the citizens of Martinez, no further factual or other findings need be made and it shall be deemed that the disposition is for the common benefit of all the citizens of Martinez and is required by the public interest and convenience.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.020. Exceptions.

This Chapter shall not apply to the following dispositions of City real property:

- A. The encroachments by public entities (or by private entities providing a public utility type service) into City rights-of-way that are governed by other chapters of Martinez Municipal Code Title 12;
- B. Dispositions concerning City real property of 250 square feet or less;
- C. Vacations of City real property to which California Streets and Highways Code Section 8300 et seq. applies; provided that prior to the City Council approving any such vacation, Sections 12.40.040(B) and (C) of this Chapter shall be complied with. The City Manager shall adopt procedures and policies to regulate vacations described in this subsection;
- D. The leasing and licensing of City real property;
- E. Any disposition of City real property which is not for the exclusive use or benefit of specified parties.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.030. Inventory of city real property.

To comply with California Government Code Section 50569, on or before October 31 of each year, the City Manager shall cause to be prepared an annual inventory of real property

owned by the City. That inventory shall also identify which City-owned real property, if any, is deemed to be in excess of the City's foreseeable needs. Such inventory and identification shall be submitted to the City Council for review and approval. The City Council's hearing on the proposed inventory and identification (collectively "inventory") shall be noticed in accordance with California Government Code Sections 65091 and 65092, except that:

- A. The notice described in California Government Code Section 65091(a)(3) shall be mailed to all owners of real property as shown on the latest equalized assessment roll within 300 feet of each of the properties identified in the inventory;
- B. The notice shall be published pursuant to California Government Code Section 65091(a)(4)(A); and
- C. As to those properties identified as being in excess of the City's foreseeable needs, the notice shall specify an address (if one exists) and assessor's parcel number (if one exists) and include a locator map showing the subject property; and
- D. The notice shall specify the date, time and location of the public hearing.

Notwithstanding the foregoing, in the event the proposed inventory or proposed amended inventory identifies at least 5 separate parcels, the City may forego mailing the notice pursuant to subsection A above; provided that, in all cases, the notice specified in subsection A above shall be mailed to all owners of real property as shown on the latest equalized assessment roll within 300 feet of each of the properties identified in the inventory as being in excess of the City's foreseeable needs. The materials described above shall be made available for inspection and copying by the public at least 10 days prior to the Council's noticed hearing on the inventory. The inventory described above may be amended at any time by the City Council provided that the notice and hearing requirements specified above are first complied with. If the inventory proposed to be submitted by the City Manager to the City Council for approval pursuant to this Section does not identify any pieces of real property or does not add any real property to the previously approved inventory, or does not change the designation as to whether or not any property on the previously approved inventory is surplus, then no notice need be given prior to the submission of the inventory to the Council for approval other than is otherwise required by the Ralph M. Brown Act.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.040. Council action to consider proceeding to dispose of real property.

- A. The Council shall not dispose of any real property unless it is identified as surplus in the inventory of City property described in Section 12.40.030 above, and has therefore been determined by the Council to be in excess of foreseeable City needs.
- B. Prior to any action to dispose of City real property, the City Manager shall prepare a report ("Council Report") to the City Council requesting authorization to initiate the process for disposition of the property; provided, however, that the City Manager shall not require authorization from the City Council prior and as a condition to preparing the Council Report.
- C. The Council Report shall include up-to-date, general information on the real property, the reasons for requesting its disposition, an identification of the person(s) or entity(ies), if any, to whom the real property is proposed to be disposed, a recommendation on whether it should be disposed of, and, if by sale, whether the City should dispose of the property by

(1) negotiation or (2) public bid.

- D. In reviewing and taking action on the Council Report, the City Council shall: (1) determine whether or not the real property proposed for disposition is listed as surplus in the inventory required under Section 12.40.030 above; (2) determine whether the real property is required to be so listed; (3) if the real property is not so listed, determine whether as part of any other direction given to the City Manager, the City Manager should be instructed to initiate those steps necessary to determine whether the property should be designated as surplus; (4) irrespective of whether the real property is so listed, subject to and consistent with the last sentence of Section 12.40.010(B) of this Chapter, preliminarily determine whether its disposition is for the common benefit of the citizens of Martinez, is required by public interest and convenience and is in compliance with applicable law (the preliminary findings described in this subsection shall not be binding upon the City); (5) preliminarily determine whether (a) any limitations should be imposed on the specified parties' use of the real property and/or (b) the real property should be merged or subjected to a lot line adjustment with adjacent properties; and (6) determine whether the Council is interested in pursuing or is opposed to the disposition of the real property. If after making these determinations, the Council is willing to permit the disposition of the real property to be examined and/or pursued further, the Council shall give instructions to the City Manager to coordinate the proceedings for disposition under the process outlined in this Chapter, as specified by the City Council and as otherwise required by state law. In giving such instructions to the City Manager, the Council may designate the method of disposition, including, but not limited to, public bid, negotiated sale or exchange.
- E. The City Manager may designate a City staff member to serve as the City's property manager to perform the functions and duties specified in this Chapter.
(Ord. 1321 C.S. § 2, 2005)

§ 12.40.050. Review by other agencies.

Dispositions of real property governed by this Chapter (1) must be referred to the Planning Commission for a General Plan consistency determination pursuant to California Government Code Section 65402(2), may be referred to other City commissions or committees for a report containing information specified by the City Council, and (3) must be referred to other agencies if required under California Government Code Section 54220 et seq.
(Ord. 1321 C.S. § 2, 2005)

§ 12.40.060. Review by the public.

- A. Except with respect to the Council's approval of the annual inventory as provided in Section 12.40.030 above, prior to Council action on any disposal or proposal to dispose of real property, the Council shall provide notice in a newspaper of general circulation and post the notice at City Hall, with a prominent display "NOTICE OF POTENTIAL DISPOSAL OF PUBLIC PROPERTY."
- B. The notice shall remain posted at the City Hall beginning no later than one month prior to the date on which the Council will consider the property disposal. The notice shall also be published and mailed pursuant to Section 12.40.030 of this Chapter. In the event that Council consideration of the inventory described in Section 12.40.030 of this Chapter, the Council report and/or disposition of real property are scheduled for the same Council meeting, 1 notice may be utilized to describe 2 or more of such events, but the notice shall

contain all of the information and comply with all the requirements required hereunder pertinent to each event so scheduled. At the same meeting, the Council may not consider and/or take action on (1) a Council report (pursuant to Section 12.40.040(D) of this Chapter) and (2) the final disposition documents which pertain to the same real property.

- C. The notice shall contain a description of the real property proposed to be disposed of, the proposed use for the property and its general plan designation. The posted notice shall, in addition, contain a map showing the location of the property and all parcels within 300 feet of that property.
- D. The Council shall allow public testimony on the proposed disposal on the date of Council action.
- E. Copies of all documents prepared under Sections 12.40.070 and/or 12.40.080 of this Chapter shall be made available for public inspection at least 10 days prior to the date the Council takes final action on the proposed disposition.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.070. Disposition of property by negotiation, public bid, exchange or other method.

After the Council makes its preliminary and nonbinding determination specified in Section 12.40.040(D) of this Chapter and direction is given to proceed with a real property's disposition, the City Manager shall determine whether the real property shall be disposed of by public bid, negotiation, exchange or some other method as long as in making its determinations pursuant to Section 12.40.040(D) of this Chapter, the Council did not specify the manner in which the real property's disposition was to be effected. The City Manager's manner of disposition determination shall be consistent with the rules and regulations promulgated under Section 12.40.100 of this Chapter and shall be subject to the Council's approval. All fees and costs incurred by the City in disposing of real property under this Chapter shall be paid for by the person or entity desiring to acquire the real property; provided, however, that where necessary and appropriate, such fees and costs may be waived by the City Council.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.080. Final disposition of property.

Only the City Council may approve or disapprove the disposition of the City's real property and shall do so under the terms and conditions of disposition approved by a majority vote of the entire Council.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.090. Definitions.

As used in this Chapter:

- A. "Disposal," "dispose" or "disposition" means any sale, encroachment, franchise, grant of easement, conveyance and lot line adjustments.
- B. "Real property" shall be defined as specified in California Civil Code Section 658.
- C. "Exclusive use" or "benefit" or words of similar import means that the person or entity entitled to or granted such exclusive use or benefit with respect to real property shall have the right to exclude any or all persons and entities from that real property (except the City,

if the City retains an interest in the real property) and/or prevent any or all persons from benefitting from that real property (except the City, if the City retains an interest in the real property).

D. "Specified parties" means the person or persons (including entities) to whom real property is disposed under this Chapter.

(Ord. 1321 C.S. § 2, 2005)

§ 12.40.100. City manager to adopt implementing regulations.

The City Manager shall promulgate rules and regulations specifying the procedures and steps to be followed in implementing this Chapter.

(Ord. 1321 C.S. § 2, 2005)

CHAPTER 12.45
ORDER TO VACATE CITY PROPERTY

§ 12.45.010. Definitions.

As used in this Chapter: "City property" shall mean that portion of any public area or public areas within the City of Martinez that are owned, managed, controlled, or maintained by the city, excluding streets, as that term is defined in Section 1.04.010, and sidewalks adjacent to streets, but including parks, and publicly owned parking lots.

(Ord. No. 1462, § 5, 9/18/2024)

§ 12.45.015. Order to vacate.

Any person who receives a citation or is arrested on City property for a violation of the City Municipal Code or State law, excluding a parking violation or traffic infraction, may be ordered by the citing/arresting police officer at the time of the citation/arrest to vacate that property and not to re-enter said property again for the period of time specified in Section 12.45.020. Any such order shall apply to the property at which the citation/arrest occurs. It shall be unlawful for any person to violate such order.

(Ord. No. 1462, § 5, 9/18/2024)

§ 12.45.020. Exclusion periods.

- A. First Offense. Violator must vacate City property for 24 hours from the time of the officer's order.
- B. Second Offense within One Week of the First Offense. Violator must vacate City property for one week from the date of the officer's order in response to the second offense.
- C. Third Offense within 30 Days of the Second Offense. Violator must vacate City property for 30 days from the date of the officer's order in response to the third offense.
- D. Fourth Offense within Six Months of the Third Offense. Violator must vacate City property for six months from the date of the officer's order in response to the fourth offense.

(Ord. No. 1462, § 5, 9/18/2024)

§ 12.45.025. Appeal of order.

- A. Any person who receives an order to vacate pursuant to this section and who desires to appeal that order shall, within five business days of the order, file a written notice of appeal with the City Manager. The City Manager or their designee shall hear the appeal within 14 business days from the date the written appeal is received by the City Manager's office. The appeal shall list the appellant's full contact information including a phone number, if any.
- B. The timely filing of an appeal shall stay the exclusion order pending the outcome of the hearing.
- C. The appellant shall be notified of the date, time and location of the appeal hearing. The appeal board shall consist of the City Manager, or their designee, and the Chief of Police, or their designee, and the Public Works Director, or their designee. The appellant must personally appear at the appeal hearing, may call witnesses, may provide any evidence and may hear and examine the City officer who issued the order. Alternatively, the appellant

may set forth the basis for the appeal and the arguments in support of the appeal in the written appeal notice and waive the appeal hearing.

1. The appeal hearing shall not be governed by the rules of evidence.
2. If the appellant fails to attend the scheduled hearing, he or she shall be deemed to have waived his or her right to the hearing and the order to vacate shall be upheld.
3. If the appeal board determines by a preponderance of the evidence that the appellant did not engage in the conduct for which the order to vacate was issued, the order to vacate shall be immediately withdrawn and of no further force or effect.
4. The appeal board shall issue a decision on the appeal no later than 24 hours after the appeal hearing has been completed or the appeal notice waiving the hearing has been submitted. The decision of the appeal board shall be final.

(Ord. No. 1462, § 5, 9/18/2024)

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UTILITIES

Title 13

UTILITIES

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CHAPTER 13.04
WATER RATES AND REGULATIONS

§ 13.04.010. Established.

- A. The rates of the Martinez Water System shall be such as adopted by resolution approved by a majority vote of the City Council.
- B. The regulations of the Martinez Water System shall be fixed from time to time by resolution of the City Council.
- C. Any increase in rates for water service provided by the Martinez Water System shall comply with all existing applicable laws of the State.
(Prior code § 7100; Ord. 1126 C.S. § I, 1989; Ord. 1336 C.S. § 1, 2007)

§ 13.04.020. Fluoridation of water supply.

Fluoride compounds shall be added to the public water supply of the City in such a manner and to such an extent as may be approved by the State Department of Public Health.
(Prior code § 7101; Ord. 1336 C.S. § 1, 2007)

§ 13.04.030. Approved water supply systems.

Chapter 414-4 (Approved Water Supply Systems) as set forth in the Ordinance Code of Contra Costa County is hereby adopted by reference with those changes, additions and deletions made from time to time by the Contra Costa Board of Supervisors.
(Ord. 972 C.S. § 2, 1982; Ord. 1336 C.S. § 1, 2007)

§ 13.04.040. Unauthorized use of water.

Water shall not be used or taken from the City of Martinez Water System without a water meter and authorization from the City of Martinez.
(Ord. 1186 C.S. § I, 1992; Ord. 1336 C.S. § 1, 2007)

CHAPTER 13.07
WATER SUPPLY AND INTERRUPTION OF SERVICE

§ 13.07.010. General.

The City will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water under proper pressure. However, the City will not be liable for any loss or damage occasioned by interruption, shortage, or insufficiency of supply.
(Ord. No. 1387 C.S. § 2, 8/19/2015)

§ 13.07.020. Suspending service.

For purposes of making repairs or installing improvements to the system, the City has the right to temporarily suspend the delivery of water. Insofar as practicable, repairs or improvements will be performed rapidly, and at times will cause minimal inconvenience to the customers concerned. The City will not be liable for any loss or damage occasioned by suspensions of service.
(Ord. No. 1387 C.S. § 2, 8/19/2015)

§ 13.07.030. Maintenance of pressures.

The City does not guarantee to maintain any specific water pressure or range of pressures for any service, and no damages relating to pressure will give any right of claim against the City.
(Ord. No. 1387 C.S. § 2, 8/19/2015)

§ 13.07.040. Service outside corporate limits.

The City Council reserves the right to discontinue water service to any or all premises outside the corporate limits, at any time the City may cease to have an adequate supply of water.

A. Localized improvements.

1. It has been determined improvements to the system are required in certain localized areas to provide the desired level of service for existing and future developments. Applicants for water service in these localized areas shall pay the water connection fees and install the additional improvements required to serve these localized areas, or deposit a proportionate cost share of the improvements or enter into a deferred improvement agreement as required by the City.
2. These localized areas and the requirement for service are listed in Appendix A at the end of Section 14.¹⁴

(Ord. No. 1387 C.S. § 2, 8/19/2015)

§ 13.07.050. Water shortages.

The City reserves the right to fix the time and rate of flow of all deliveries of water to each customer and, in the event of shortage, to allocate between its customers the water supply from time to time available to the City and to establish such priorities to the available supply the City shall consider necessary and in the public interest.
(Ord. No. 1387 C.S. § 2, 8/19/2015)

14. Editor's note: Appendix A is on file in the city offices.

§ 13.07.060. Prevention of waste.

If the City finds a customer is wasting water by failing to repair a leak in the customer's water system, by permitting water to run off the customer's premises, or by failing to put water received from the City to reasonable and beneficial use, the City shall notify the customer to cease the waste. If the customer fails to take prompt, reasonable action to stop the waste, the City may, in its sole discretion, suspend delivery of water to the customer or install a device to restrict the flow of water to the customer until the City determines there will be no further waste of water by the customer.

In addition, and at the sole discretion of the City, the City may levy Administrative Citations, as provided for in Chapter 1.15 of the Martinez Municipal Code, of up to \$250.00 for a first offense, and up to \$500.00 for a second offence for the wasting of water.

(Ord. No. 1387 C.S. § 2, 8/19/2015)

§ 13.07.070. Water conservation encouraged.

The City encourages the installation of water conserving landscaping and water-saving devices in plumbing and water conserving appliances.

(Ord. No. 1387 C.S. § 2, 8/19/2015)

CHAPTER 13.08
SEWAGE DISPOSAL — GENERAL REGULATIONS

§ 13.08.010. Person defined.

As used in this chapter, the following words and phrases have the meanings set forth:

"Person" includes, in addition to the definition contained in Section 5.08.090 of this code, a public or governmental agency.
(Ord. 837 C.S. § 5, 1976)

§ 13.08.020. Permit—Required when.

No person shall collect, discharge or deposit, or cause or suffer to be collected, discharged or deposited, any sewage, sewage effluent or garbage from more than one building in or upon incorporated territory of this County, or into streams or bodies of water where the same is or may be carried through or upon unincorporated territory of this County, or make use of County roads or highways therefor, without first securing in the manner provided for in this chapter a permit from the City Council to do so, and at all times having an unrevoked permit therefor. No person shall collect, discharge or deposit any such sewage which creates a public nuisance in the unincorporated portions of this County.
(Ord. 837 C.S. § 5, 1976)

§ 13.08.030. Permit—Application procedure.

Every person seeking a permit to do any of the acts described in Section 13.08.020 shall file with the City Council a petition for permission to do so, together with a complete and detailed plan, description and history of the existing or proposed lines, works, system or purification plant through which such waste matter is proposed to be collected and discharged. Whenever directed by the City Council, it shall be the duty of the Health Officer and the Public Works Director to investigate the existing or proposed system or plant and to make a report of their investigation to the City Council. If the City Council determines as a fact that the waste matter being or to be so collected, discharged or deposited does not or will not constitute a public nuisance, and does not or will not emit disagreeable odors or fumes offensive to the public in the vicinity of such place of collection or deposit, or passing over and along public highways adjacent thereto, and that under all circumstances and conditions it is necessary so to dispose of such waste matter, it shall grant a permit authorizing the petitioner to collect or discharge or to continue to collect, deposit or discharge such substance; provided, however, that all permits issued under this chapter shall be revocable by the City Council at any time, or shall be subject to suspension if it is found as a fact by the Council that the substance collected, discharged or deposited by virtue thereof, constitutes a public nuisance or emits disagreeable odors or smells offensive to the public in the vicinity thereof or passing over and along public highways adjacent thereto.
(Ord. 837 C.S. § 5, 1976)

§ 13.08.040. Official inspections.

Every person engaged in, or applying for a permit to engage in, any activity regulated by this chapter shall allow the Health Officer and/or Public Works Director and/or any of their therefor-designated subordinates, to enter and inspect the place, facilities, and activities, for compliance with this chapter during reasonable hours, upon demand identifying the official and his purpose under this chapter.

§ 13.08.040

UTILITIES

§ 13.08.040

(Ord. 837 C.S. § 5, 1976)

CHAPTER 13.12 LINES AND PLANTS

§ 13.12.010. Persons subject—Actions required.

All persons, firms, corporations and political subdivisions organized under the laws of the State and empowered to install sewer lines or to construct or erect sewage processing plants, prior to doing any work of sewer line installation or erection of sewage processing plants in the City, shall file with the City Engineer plans and specifications of the proposed work.
(Ord. 837 C.S. § 5, 1976)

§ 13.12.020. Approval by city engineer.

Within 15 days after plans and specifications are filed with him, the City Engineer may approve the plans and specify the amount of cash deposit required by him to cover the estimated cost of inspecting the work during its progress to insure compliance with the submitted plans and specifications. If additional time is required by the City Engineer to review the plans and specifications in order to determine that the proposed work meets accepted sanitary engineering standards, he shall notify the applicant of the amount of additional time required.
(Ord. 837 C.S. § 5, 1976)

§ 13.12.040. Work commencement—Fee deposit.

On approval of plans and specifications and deposit of the required fee, work may begin. The applicant shall carry forward the work without unreasonable delays and shall keep the Director of Public Works advised of times when work is to be performed so that inspection may be scheduled.
(Ord. 837 C.S. § 5, 1976)

§ 13.12.060. Work suspension—Additional fees.

If inspection fees deposited are expended before the work is completed, the Director of Public Works may order the work suspended until sufficient additional fees are deposited with him to cover the cost of inspection.
(Ord. 837 C.S. § 5, 1976)

§ 13.12.080. Appeals.

Any applicant whose plans and specifications are disapproved, who complains of delay in the review of submitted plans and specifications, who asserts that inspection fees are excessive, or who contends that inspection by the City Engineer is unreasonable, may appeal in writing to the City Council. The appeal shall set forth in reasonable detail the ruling or action complained of. At its first regular meeting which follows by more than five days the filing of the appeal, the City Council shall hear and decide the appeal. The Council may continue the hearing from time to time, but no one extension shall be longer than two weeks. The decision of the Council shall be final.
(Ord. 837 C.S. § 5, 1976)

CHAPTER 13.16
INDIVIDUAL SYSTEMS

§ 13.16.010. County ordinance adopted.

Chapter 420-6 (Sewage Collection and Disposal) as set forth in the Ordinance Code of Contra Costa County is hereby adopted by reference with those changes, additions and deletions made from time to time by the Contra Costa County Board of Supervisors. The regulations set forth in this chapter are additions and/or amendments to Chapter 420-6 of the Ordinance Code of Contra Costa County and where any provisions are in conflict therewith, it is the intent of the ordinances codified in this chapter to amend or delete such conflicting rules or regulations so that provisions codified in this chapter shall control.

(Ord. 837 C.S. § 5, 1976; Ord. 972 C.S. § 3, 1982; Ord. No. 1476, 9/3/2025)

§ 13.16.020. Unauthorized discharge of sewage.

- A. No person shall discharge or deposit sewage or sewage effluent in or on the area of the City without an unrevoked permit from the City Council.
- B. No person shall maintain an improperly functioning individual sewage disposal system.
(Ord. 837 C.S. § 5, 1976)

§ 13.16.030. Definitions.

- A. "City Engineer" means the City Engineer or designee thereof.
- B. "Community sewer" means a sewer system that receives wastewater from two or more private dwellings, properties, or parcels, that does not discharge to a treatment facility with an existing NPDES permit issued by the San Francisco Bay Regional Water Quality Control Board for discharges to the waters of the United States.
- C. "Individual sewage disposal system," "individual sewage system," "individual disposal system," or "individual system" means an independent sewage disposal system not connected with a "public sewer," as defined herein, and which accommodates one or more residential dwellings.
- D. "Public sewer" means a sewer system owned and operated by Central Contra Costa Sanitary District, Mt. View Sanitary District, or a wastewater collection facility maintained by a public sanitary district with an existing NPDES permit issued by the San Francisco Bay Regional Water Quality Control Board for discharges to the waters of the United States.
- E. "Qualified contractor" means a contractor duly licensed by the California State Contractor's Board to install, construct, maintain, or inspect an independent sewage disposal system who possesses a Class C-42 Contractors license and has at least five years' experience installing, constructing, pumping, maintaining, and inspecting individual sewage disposal systems and/or septic tanks.
- F. "Septic tank" means a tank or receptacle which receives discharge of sewage to digest, liquify, separate, filter, clarify, hold, and/or store wastes, and any facilities appurtenant thereto, including but not limited to pumps, controls piping, valves, fittings, weirs, and debris screens.

(Ord. No. 1476, 9/3/2025)

§ 13.16.040. Tentative map filing required.

Subdividers of realty subdivisions shall submit tentative maps to the Health Officer for investigation to prevent creation of a health nuisance. The tentative map shall show the proposed provisions for adequate drainage as may be required by the Public Works Department to prevent inundation of any lots, and shall state the source of domestic water supply, the method of sewage disposal, the number of lots and the size of each lot.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.060. (Reserved)¹⁵

§ 13.16.080. Approval by health officer.

The Health Officer may approve, may conditionally approve subject to special conditions essential to prevention of a health nuisance and for full compliance to regulations, or may disapprove the tentative map of the subdivision. No permit to utilize any premises requiring the disposal of sewage shall be issued by any County agency in any subdivision, the final map of which has not been approved by the Health Officer.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.100. Filing of final map.

The final recorded maps or tentative maps required to be filed under Title 21 shall be filed with the Health Officer.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.102. When required.

Individual sewage disposal systems approved by the Health Officer shall be provided for premises requiring the disposal of sewage where no sanitary sewer system is available.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.104. Permit—Requirement.

- A. Permits for installation of new individual disposal systems or for reconstruction or relocation of all or part of any existing system are required.
- B. Applications for permits shall be made to the Health Officer. Such application shall expire one year after date of issuance.
- C. The Health Officer shall approve, conditionally approve, or deny the issuance of the permit on the basis of compliance with this chapter and the regulations of the Health Officer. Permits shall expire one year after date of issuance if installation of the approved systems is not commenced.
- D. No change shall be made in approved plans without the approval of the Health Officer.

15. Editor's note: Former § 13.16.060, Lot area—Variances, which derived from Ord. 837 C.S. § 5, 1976, was repealed by Ord. No. 1476, 9/3/2025.

E. The Health Officer or his sanitarians may enter and inspect any premises for the purpose of this chapter at reasonable times with notice to owner or occupant.
(Ord. 837 C.S. § 5, 1976)

§ 13.16.106. Permit—Building permit prerequisite.

No permit to build on premises requiring disposal of sewage shall be granted if:

- A. A public sewer is not available; or
- B. A permit for the installation of an individual sewage system as required by this chapter has not been obtained.

(Ord. 837 C.S. § 5, 1976; Ord. No. 1476, 9/3/2025)

§ 13.16.108. Approval required for certificate of occupancy issuance.

No certificate of occupancy shall be issued for a structure utilizing an individual sewage disposal system until the system has been installed and approved in accordance with this chapter and the regulations of the Health Officer.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.110. Publication of regulations.

The Health Officer, with the approval of the City Council, is authorized to make and publish regulations necessary to effect the purposes of this chapter. These regulations shall become effective when published in a newspaper of general circulation and posted in the County Health Department. The Health Officer shall be responsible for the execution of this chapter.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.112. Septic tank inspections and maintenance.

- A. On or before March 1st of each year, owners of property utilizing an individual sewage disposal system containing one or more septic tank(s) that is connected to a community sewer shall annually submit to the City Engineer a self-certification report confirming that the septic tank(s) has been inspected by a qualified contractor to verify the operating condition and capacity of the septic tank(s).

- 1. The self-certification report shall, at a minimum, include:

- a. Identification of the qualified contractor(s) who performed the inspection(s) and any necessary pumping, maintenance, or other service or repair work to bring the septic tank(s) into compliance with applicable standards and good working order;
- b. The date(s) of inspection and any necessary pumping, maintenance, repair or service work;
- c. The results of the inspection(s);
- d. The quantity of waste pumped and removed from the septic tank(s), if any;
- e. The disposal site for any waste removed from the septic tank(s);

- f. Verification that the septic tank(s) and any appurtenant facilities (including, but not limited to, sewer laterals, weirs, debris screens, pumps, manhole covers, ball check valve assemblies, etc.) were properly inspected, pumped, cleaned, serviced, and found to be in good working order and/or repaired if necessary; and
 - g. A description of any repairs made to bring the septic tank(s) and appurtenant facilities into compliance with applicable standards and good working order.
 - 2. With the consent of a property owner or occupant, or pursuant to a search or inspection warrant, the City Engineer may conduct inspections and/or tests of the individual system and septic tank(s) to confirm the information filed in the self-certification report. It shall be unlawful to make any false statement or representation in a self-certification report submitted to the City Engineer.
 - 3. Should the owner(s) of an individual sewage disposal system containing one or more septic tank(s) that is connected to a community sewer fail to submit the required self-certification report, the City Engineer may conduct inspections and/or tests of the individual system septic tank(s) to verify operating condition and capacity at the owner's expense pursuant to Section 13.16.120.
 - 4. For owner(s) of property located within and maintained by a homeowners association, a self-certification report may be submitted by the homeowners association on behalf of the property owner(s).
- B. Owner(s) of property utilizing an individual sewage disposal system containing one or more septic tank(s) that is connected to a community sewer shall cause the septic tank(s) to be fully pumped out and cleaned as well as any debris screens to be removed and cleaned no less than once per calendar year, unless the owner(s) can produce a report from a qualified contractor demonstrating to the satisfaction of the City Engineer that:
 - 1. The combined thickness of sludge and scum within the septic tank does not exceed one-third of the tank depth of the first compartment;
 - 2. The scum layer is not within three inches of the outlet device; and
 - 3. The sludge layer is not within eight inches of the outlet device.

In no event shall a septic tank be pumped fewer than once every three calendar years. Nor shall an owner of a septic tank permit the contents of a septic tank to exceed 33% of the total designed depth of the septic tank at any time. An owner(s) of multiple family units, mobilehome park, commercial establishments, motels, hotels, major and minor subdivision(s), and other buildings or places creating a large flow of sewage or waste may be required by the City Engineer to fully pump and clean the property's septic tank(s) more than once per calendar year. Pumping and disposal of waste shall be performed by a qualified contractor.
- C. If the City Engineer determines, in his or her sole discretion, that an individual system or septic tank is not in good working order or that the contents of the septic tank exceed the limits set forth in subsection B of this section, above, the City Engineer may issue a repair notice pursuant to Section 13.16.120 setting forth a schedule for compliance.
- D. Owner(s) of property utilizing an individual sewage disposal system containing one or

more septic tank(s) that is connected to a community sewer shall cause such individual systems to be smoke tested in accordance with industry standards and as specified by the City Engineer to ensure that stormwater inlets, downspouts, and any other sources of flow or material which are not domestic wastewater are not connected to the wastewater system. In the event that smoke testing reveals such connections exist, the owner(s) shall cause such connections to be disconnected, sealed, and/or removed to the satisfaction of the City Engineer within 30 days following the date such connections were discovered. The owner(s) shall cause the individual system to be smoke tested within 180 days of the effective date of the ordinance codified in this section and thereafter whenever a permit for additional connections or repairs to the system is requested. Smoke testing shall be performed by a Contractor licensed in the State of California to perform such services.

- E. The City Engineer may, in his or her sole discretion, require owner(s) of property utilizing an individual sewage disposal system containing one or more septic tank(s) that is connected to a community sewer to submit a financial assurance plan establishing the owner's ability to fully fund the system's ongoing operation and maintenance in perpetuity to the satisfaction of the City Engineer. For owner(s) of property located within and maintained by a homeowners association, a financial assurance plan may be submitted by the homeowners association on behalf of the property owner(s).
- F. The City Engineer may, in his or her sole discretion, require owner(s) of property utilizing an individual sewage disposal system to submit a groundwater monitoring plan establishing the owner's ability to adequately detect contamination caused by the system and assess the effectiveness of groundwater pollution prevention measures in perpetuity to the satisfaction of the City Engineer. For owner(s) of property located within and maintained by a homeowners association, a groundwater monitoring plan may be submitted by the homeowners association on behalf of the property owner(s).

(Ord. No. 1476, 9/3/2025)

§ 13.16.114. Nuisance—Abatement.

Each violation of this chapter is declared to be a public nuisance. The City Attorney, when directed by the City Council, shall initiate and maintain actions for the abatement of these nuisances.

(Ord. 837 C.S. § 5, 1976)

§ 13.16.116. Mandatory sewer connection.

- A. Every building or structure in which plumbing fixtures are to be initially installed and every premises having existing piping installed thereon which conveys sewage or other liquid waste to an individual sewage disposal system shall be connected to an available public sewer at the expense of the property owner or developer. Premises with existing individual sewage disposal systems shall be connected to the public sewer within three years of receipt of written notice from the City that the public sewer has become available, provided that the City Engineer may require connection within a shorter time period if the City Engineer determines the continued use of the private system poses a threat to health or safety.
- B. For purposes of this section, a public sewer shall be “available” if any portion of the property on or subdivision in which the building or structure sits is located within 300 feet of the public sewer or any building or exterior drainage facility connected thereto. The measurement of the 300 feet shall start at a point where the public sewer authority’s

jurisdiction terminates and continue to the nearest point of the property or subdivision.

- C. If the City Engineer determines, in his or her sole discretion, that an individual system or septic tank is improperly functioning or at imminent risk of failure, the City Engineer may require connection to a public sewer from a distance of up to 1,000 feet.
- D. No person shall cause, suffer, or permit the disposal of sewage or other wastes into any drainage system on any property which is not connected to a public sewer when such connection is required by this section.
- E. The City Engineer may approve exceptions to this mandatory sewer connection requirement where a building or structure is located more than 1,000 feet from the nearest point of the public sewer authority's jurisdiction or where grades or other physical features of a property make it unreasonable to comply with this section. A request for an exception shall be made in writing within 15 days of receipt of written notice from the City that the public sewer has become available. The decision of the City Engineer shall be final.
- F. Within 30 days from the time of connecting with the public sewer, every decommissioned septic tank must be excavated, removed and disposed of at a permitted solid waste facility or abandoned in place. Every abandoned septic tank shall have the contents removed therefrom and hauled away by a registered septic tank-chemical toilet cleaner. If a septic tank will be abandoned in place, a sufficient number of holes must be made in the bottom of the septic tank to prevent accumulation of surface water in or above the septic tank, and the septic tank shall be completely filled with compacted native soil, sand, pea gravel, drain rock, concrete or other material approved by the Health Officer within 30 days from the time of connecting with the public sewer. The cover of the abandoned septic tank shall be removed before filling and either recycled or disposed of at a permitted solid waste facility. The filling of the abandoned septic tank shall not extend above the top of the vertical portions of the sidewalls or above the level of any outlet pipe until an inspection has been completed by the Health Officer. After inspection and approval by the Health Officer, the abandoned septic tank shall be filled to the level of the top of the ground.

(Ord. No. 1476, 9/3/2025)

§ 13.16.120. Repair notice and action.¹⁶

In the event of a violative or improperly functioning individual sewage disposal system, and in addition to other penalties provided in this title, the City may send a written notice to the owner of the property on which the violation is occurring at the address of the owner as it appears on the assessment roll of last equalized assessment roll of Contra Costa County. The notice shall state the nature of the violation, that the owner is required to abate the condition constituting the violation within 30 days after the notice is received, and that if the owner fails to abate the condition within that period, the condition may be abated by the City and the owner shall be liable for the cost thereof. If the condition is not abated by the owner in accordance with the notice, the City may abate the condition and shall charge the owner for the cost thereof. If this charge is not paid within 60 days, the amount of the charge plus accrued interest at the rate of 6% per year from the date of the charge shall be added to the next regular tax bill sent to the owner by the County and shall be collected in the manner fixed by law for the collection of taxes, or in the alternative, recovery therefor may be had through civil action.

16. Editor's note: Former § 13.16.120, Repair notice and city action, which derived from Ord. 837 C.S. § 5, 1976, was repealed by Ord. No. 1476, 9/3/2025.

§ 13.16.120

UTILITIES

§ 13.16.120

(Ord. No. 1476, 9/3/2025)

CHAPTER 13.20
SEWER USE

§ 13.20.070. Preliminary treatment facilities—Required when.

The admission into the public sanitary sewers of any waters or wastes having characteristics exceeding the following limits shall be subject to the review and approval of the City Engineer and where necessary, in the opinion of the City Engineer, the owner shall provide, at his own expense, such preliminary treatment as may be necessary to reduce the objectionable characteristics to within the allowable limits:

- A. Five-day B.O.D. of 300 parts per million by weight;
 - B. Suspended solids content of 350 parts per million by weight;
 - C. Any quantity of substances having the characteristics described in this chapter;
 - D. An average daily flow of two (2) percent of the average daily flow of the City.
- (Prior code § 5303)

§ 13.20.080. Preliminary treatment facilities—Approval required.

Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the City Engineer, and no construction of such facilities shall be commenced until the approval is obtained in writing.

(Prior code § 5303)

§ 13.20.090. Preliminary treatment facilities—Necessity determination.

Upon determination by the City Engineer that waste of unusual strength or character can safely, efficiently and without damage to the system, be handled by the sewage system, an agreement or arrangement between the City and the person causing such waste may be entered into.

(Prior code § 5303)

§ 13.20.100. Preliminary treatment facilities—Maintenance.

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Prior code § 5303)

CHAPTER 13.24
SEWER FEES

§ 13.24.010. Establishment and collection.

Rates and compensation to be charged and collected by the City for services rendered, connections made to system, fees for additional construction and plant enlargement, shall from time to time hereafter be established by resolution of the City Council. The fees and charges so established by such resolution may be abolished or modified by a resolution to that effect of the City Council.

(Prior code § 5306)

CHAPTER 13.28
UNDERGROUND UTILITY INSTALLATION

§ 13.28.010. Definitions.

Whenever in this chapter the following words or phrases are used, they shall have the respective meanings assigned to them in the following definitions:

- A. "Commission" means the Public Utilities Commission of the State of California;
- B. "Development" consists of any residential or commercial subdivision, any new multiple residential development containing three or more dwelling units or two or more main dwelling structures, or any commercial development requiring 200 amp service or larger.
- C. "Person" means and includes individuals, firms, corporation, partnerships and their agents and employees;
- D. "Overhead utility distribution facilities" means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances, located aboveground within a district and used or useful in supplying electric, communications cable TV, telephone or similar or associated service including but not limited to any above ground utilities; i.e., pad mounted transformers and electric equipment.
- E. "Underground utility district" or "district" means that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 13.28.070 of this chapter;
- F. "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices.

(Prior code § 10,304; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.020. New or existing development—Conditions for underground placement.

All new overhead utility distribution facilities installed in and if for the purpose of supplying or maintaining service to any new or existing development shall be placed underground.

(Prior code § 10,300; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.030. New development—Developer responsible for compliance.

- A. The developer is responsible for complying with the requirements of Section 13.28.030. In all new development, the developer will perform or cause to be performed all trenching necessary for the underground installation of service, including furnishing of any imported backfill material required and the furnishing and installation of any necessary substructures, including conduit and pedestals required in accordance with the plans and specifications provided by the company. The developer shall bear all costs associated with these undergrounding requirements. The developer shall pay for all extensions of service to new developments from existing trunk lines.
- B. Cable Television Service-The cable television company franchised to provide service to the area of the new development shall provide, install and pay for all other of its plant in such trench. The cable television company shall provide plans and specifications to the

developer and shall inspect the facilities and certify to the City prior to final approval of the development that the cable television facilities are properly installed.
(Ord. 879 C.S. § 1, 1978; Ord. 1208 C.S. § I, 1993)

§ 13.28.040. Conditions for underground placement—Exceptions.

- A. New Development-The Planning Commission may waive the requirements of Section 13.28.020, if topographical soil, or any other conditions make underground installation of the facilities unreasonable or impractical and they make the finding that the equipment can be effectively screened from public view.
- B. Replacement of Existing Overhead Utility Distribution Facilities-The undergrounding requirements may be waived by the Community Development Director if the existing service connections or other existing conditions make the requirement unreasonable and utmost efforts are made to screen the facility from public view. The Community Development Director shall adopt guidelines defining what is reasonable and unreasonable.
- C. Metal poles supporting street lights and traffic controller boxes shall be exempted from undergrounding requirements.

(Prior code § 10,302; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.050. (Reserved)

(Ord. 1208 C.S. § I, 1993)

§ 13.28.060. Underground district—Determination of necessity—Hearing—Notice.

The Council may, from time to time, call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires, and associated overhead structures within designated areas of the City, and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The City Clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned, by mail, of the time and place of such hearings at least ten days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.

(Prior code § 10,305; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.070. Underground district—Districts designated by council resolution.

If, after any such public hearing, the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an "underground utility district" and order such removal and underground installation. Such resolution shall include a description of the area comprising such district, and shall fix the time within which such removal and underground installation shall be accomplished, and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

(Prior code § 10,306; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.080. Underground district—Maintenance of overhead facilities—Unlawful acts.

Whenever the Council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 13.28.070 hereof, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when the overhead facilities are required to be removed by such resolution; except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Sections 13.28.130 through 13.28.190 hereof, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter.

(Prior code § 10,307; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.090. Maintenance of overhead facilities—Exceptions—Emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed 10 days, with authorization of the City Engineer in order to provide emergency service.

(Prior code § 10,308; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.100. Maintenance of overhead facilities—Exceptions—Additional designated.

This chapter and any resolution adopted pursuant to Section 13.28.070 thereof shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;
- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building, or to an adjacent building without crossing any public street;
- F. Antennas, associated equipment and supporting structures, used by a utility or person for furnishing or receiving communication services;
- G. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.

(Prior code § 10,309; Ord. 822 § 2, 1975; Ord. 1208 C.S. § I, 1993)

§ 13.28.110. Notice to affected property owners and utility companies.

- A. Within ten days after the effective date of a resolution adopted pursuant to Section 13.28.070 hereof, the City Clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission.
- B. Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 13.28.070 together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities. (Prior code § 10,310; Ord. 822 § 2, 1975)

§ 13.28.120. Utility company's responsibilities.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 13.28.070 hereof, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the Commission. (Prior code § 10,311; Ord. 822 § 2, 1975)

§ 13.28.130. Property owner's responsibility—Notice to install.

- A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 13.28.120, and the termination facility on or within the building or structure being served, all in accordance with the applicable rules and regulations, and tariffs of the respective utility or utilities on file with the Commission.
- B. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 13.28.070 hereof, the City Engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten days after receipt of such notice. (Prior code § 10,312(a); Ord. 822 § 2, 1975)

§ 13.28.140. Notice to install—Mailing procedure.

The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, City of Martinez. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within 48 hours after the mailing thereof. If notice is given by mail, either the owner or occupant of such premises, the City Engineer shall, within 48 hours after the mailing thereof, cause a copy thereof, printed on a card

not less than 8 inches by 10 inches in size, to be posted in a conspicuous place on the premises.
(Prior code § 10,312(b); Ord. 822 § 2, 1975)

§ 13.28.150. Notice to install—Contents.

The notice given by the City Engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within thirty days after receipt of such notice, the City Engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.
(Prior code § 10,312(c); Ord. 822 § 2, 1975)

§ 13.28.160. Work done by city—Unoccupied premises—City engineer's authority—Assessment costs—Hearing.

If upon the expiration of the thirty-day period, the required underground facilities have not been provided, the City Engineer shall forthwith proceed to do the work, provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall, in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the City Engineer, he shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than ten days thereafter.
(Prior code § 10,312(d); Ord. 822 § 2, 1975)

§ 13.28.170. Assessment—Hearing—Notices—Contents.

The City Engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner provided in Sections 13.28.110 through 13.28.150 for the giving of the notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.
(Prior code § 10,312(e); Ord. 822 § 2, 1975)

§ 13.28.180. Assessment—Hearing—Determination.

Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.
(Prior code § 10,312(f); Ord. 822 § 2, 1975)

§ 13.28.190. Assessment—Nonpayment—Lien.

If any assessment is not paid within five days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the City Engineer, and the City Engineer is directed to turn over to the County Assessor and Tax Collector a notice of lien on each of the properties on which the assessment has not been paid,

and the County Assessor and Tax Collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year.

(Prior code § 10,312(g); Ord. 822 § 2, 1975)

§ 13.28.200. City's responsibility.

The City shall remove at its own expense all City-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 13.28.070 hereof.

(Prior code § 10,313; Ord. 822 § 2, 1975)

§ 13.28.210. Time extension.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 13.28.070 hereof cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.

(Prior code § 10,314; Ord. 822 § 2, 1975)

CHAPTER 13.29
LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT

§ 13.29.010. Landscaping and Lighting Assessment District.

The City Council may set up Landscaping and Lighting Assessment District(s) in accordance with the applicable provisions of the "Landscaping and Lighting Act of 1972" of the State of California Streets and Highways Code, Division 15, Section 22500 et seq. and any amendment thereto. Each such Assessment District shall be formed after conducting a public hearing and as provided for in the said Landscaping and Lighting Act of 1972. All future developments shall participate if such Assessment District is formed by the City.

(Ord. 941 C.S. § 2, 1981)

CHAPTER 13.30
BENEFIT DISTRICTS

§ 13.30.010. Authority.

Whenever the City Council desires to establish a benefit district to pay for the costs of construction or acquisition of public improvements, the City Council may form a district by proceeding in accordance with this chapter.
(Ord. 1165 § 1, 1991)

§ 13.30.040. Alternative procedure.

The provisions of this chapter are alternative to any other provisions of this municipal code or of the laws of the State of California for accomplishing the purpose of this chapter.
(Ord. 1165 § 1, 1991)

§ 13.30.070. Purpose.

The purpose of this chapter is to provide for the establishment of a special development assessment on land that benefits from public improvements which have been constructed by, for or at the behest of the City but which lands have not been assessed for such improvements.
(Ord. 1165 § 1, 1991)

§ 13.30.100. Definitions.

As used in this chapter, the following words and phrases shall have the following meanings unless the context otherwise requires:

- A. "Benefit district" means one or more parcels of land for which Development Approvals will be granted only after payment of Special Development Assessments.
- B. "Development" means the subdivision of a parcel of land into two or more parcels, the construction thereon of improvements and any of the acts, events or conditions described in Government Code Section 65927, and as it may be amended from time to time. "Development" shall not include improvements that by rules and regulations promulgated hereunder the City Council finds to be of a minor or insubstantial nature.
- C. "Development approval" means an approval by the City precedent to Development, or to the sale or occupancy of a parcel on which Development has occurred. A Development Approval may include, without limitation, rezoning of land, approval of a tentative or final subdivision map or parcel map, approval of a development agreement, approval of connection to the City's water distribution facilities, or issuance of a building or occupancy permit. The Development Approval that applies to a Benefit District will be determined by the City Council when the Benefit District is formed.
- D. "Special development assessment" or "assessment" means an assessment payable to the City as a precondition to a Development Approval within a Benefit District. The amount of the assessment will be determined by the City Council when the Benefit District is formed.
(Ord. 1165 § 1, 1991)

§ 13.30.110. Initiation of proceedings.

Whenever the City Council desires to form a Benefit District hereunder it must initiate said formation by adopting its resolution of intention to form a Benefit District. The resolution of intention shall:

- A. Identify the general boundaries of the proposed Benefit District and provide a general description of the improvements which have or will be constructed.
- B. State, with reasons therefor, that certain parcels of land generally described and shown on a preliminary Benefit District diagram benefit from the district improvements but are not assessed at the time of formation of the benefit district.
- C. State the intention of the City Council to form a Benefit District and to establish a Special Development Assessment for the land therein.
- D. Designate a Benefit District Engineer and direct the Engineer to prepare a Benefit District report.

(Ord. 1165 § 1, 1991)

§ 13.30.140. Contents of report.

The Benefit District report shall contain:

- A. A description of each parcel of land proposed to be included in the Benefit District. Any parcel may be described by its county assessor's parcel number as listed on the last equalized tax assessment roll or on current records of the County Assessor.
- B. The amount of the proposed Special Development Assessment for each parcel. The amount of the Assessment shall include all costs incurred in forming the District and in complying with this chapter. The Special Development Assessment shall be proportional to the estimated benefit to each parcel from the district improvements.
- C. The Development Approval for which payment of the Special Development Assessment is preconditioned.
- D. The time period within which the Special Development Assessment will be collected shall not exceed fifteen (15) years from the establishment of the fee as set by the Benefit District report, unless a longer period is specified in the report.
- E. The formula or method by which benefits within the Benefit District are estimated. The method shall be based in proportion to estimated benefit to be received by each of the parcels in the Benefit District from the district improvements.
- F. The terms which the Special Development Assessment will be escalated over time, if escalation of the Assessment is proposed. The Assessment may be escalated in one of the following ways:
 - 1. An annual increment of interest may be added to the Assessment, at an uncompounded rate not exceeding the net effective rate earned by the City on the cash it invests for the same year.
 - 2. The Assessment may be increased annually in proportion to a published index of construction costs applicable to improvements such as those in the district.

G. The manner in which the Special Development Assessment will be disbursed when collected. The Assessment may be disbursed in one or more of the following ways, and may change over time:

1. Disbursement to the general fund or a designated special fund of the City.
2. Disbursement to the district improvement fund, for use or distribution as provided by law.
3. Disbursement to owners within the assessment district in accordance with reimbursement or development agreements.

(Ord. 1165 § 1, 1991)

§ 13.30.170. Filing of report; setting of hearing.

The Benefit District report shall be presented to the City Council. The City Council may accept the report, return the report for modification, or modify the report itself and accept it as modified. The Council shall call a public hearing on the report, to be held no sooner than twenty (20) days after its acceptance, at a regular, adjourned or special meeting of the Council. Any Council decision to accept the report under this Section shall be preliminary and subject to final decision of the Council taken in accordance with Section 13.30.270.

(Ord. 1165 § 1, 1991)

§ 13.30.200. Mailing notice of hearing.

Not later than fifteen (15) days before the public hearing, the City Clerk shall give notice of the hearing by first-class U.S. Mail, postage prepaid (or if directed by the City Council, by certified or registered mail) to each owner of land within the proposed Benefit District as the owner's name and address appear on the last equalized county tax assessment roll or on current records of the County Assessor. Failure of any owner to receive the notice shall not affect the validity of proceedings under this chapter.

(Ord. 1165 § 1, 1991)

§ 13.30.210. Contents of notice of hearing.

The notice of hearing shall state:

- A. That the City Council has received a report proposing a Special Development Assessment for the land of the owner.
- B. A general description of the assessment district improvements from which the owner's land benefits.
- C. The total amount and the amount applicable to each owner's land of the proposed Special Development Assessment, and the conditions under which the Assessment will be payable.
- D. The time and place of the hearing.
- E. That any owner or owner's representative may appear at the hearing to protest or comment on the report orally or in writing or both.
- F. That the report is on file with the City Clerk and is open for public inspection.

G. The name and telephone number of the Benefit District Engineer to whom the owner may address questions.

(Ord. 1165 § 1, 1991)

§ 13.30.240. Hearing.

At the hearing, the City Council shall consider all protests and comments, oral and written, by any interested person. The hearing may be continued from time to time. After the hearing, the City Council may continue its consideration of the report from time to time.

(Ord. 1165 § 1, 1991)

§ 13.30.270. Decision; establishment of assessment.

A. After the hearing, the City Council may reject the report and abandon proceedings to form the Benefit District, may approve the report as filed, or may modify and approve the report. If the City Council approves the report, it shall adopt a resolution forming the Benefit District and establishing the Special Development Assessment in the amounts and under the terms set forth in the report.

B. After adoption of said resolution, and except for escalations approved in the report, the City Council shall not increase the initial Special Development Assessment in the report on file without the written consent of the affected owner unless it first holds a hearing on the increase after 10-day notice by mail to the affected owner.

(Ord. 1165 § 1, 1991)

§ 13.30.300. Notice of benefit district formation.

After establishment of the Special Development Assessment, the City Clerk shall record a notice in the office of the County Recorder of the County of Contra Costa in substantially the following form:

NOTICE OF SPECIAL DEVELOPMENT FEE

NOTICE IS HEREBY GIVEN that the City Council of the City of Martinez, Contra Costa County, California, has established a Special Development Assessment to be paid to the City, in addition to all other fees, charges, taxes and assessments, as a condition to

 [here state Director of Development Approval] .

The Special Development Assessment affects the following described land lying within Benefit District No. _____ of the City.

[Here describe the land within the Benefit District by metes and bounds, by deed reference or by reference to a recorded map]

The Special Development Assessment represents benefit to the described land from public improvements as set forth in the report for Benefit District No. _____, which report is on file in the office of the City Clerk of the City of Martinez and is hereby referred to for the amounts of the Special Development Assessment and for all other details of the Benefit District. The Special Development Assessment shall not be imposed after

 [here insert termination date] .

DATED: _____

City Clerk

The City Clerk shall mail a copy of the notice to each owner of land within the Benefit District.
(Ord. 1165 § 1, 1991)

§ 13.30.310. Modification of fees.

On its own motion or on the application of any owner of land within the Benefit District, the City Council may eliminate or reduce the special development assessment for any parcel, on the ground that the assessment was incorrectly calculated, that changed conditions have reduced or eliminated the benefit on which the assessment was based, or that the parcel has come under the ownership of a public agency. The City Council may increase the amount of the assessment for a parcel only by proceeding as for the formation of a Benefit District, except that the amount of the assessment may be escalated over time as described in the approved Benefit District report.
(Ord. 1165 § 1, 1991)

§ 13.30.340. Collection; accounting.

No development approval shall be granted by the appropriate City officer or department until the City Finance Officer has certified that the special development assessment has been paid for the affected parcel. The Finance Officer shall maintain a separate account for each Benefit District and shall collect and disburse the special development assessments in accordance with the approved Benefit District report. The Finance Officer may include in the collection an administrative charge, not to exceed 1% of the Assessment, to reimburse the City for its reasonable expenses in the administration of the Benefit District.
(Ord. 1165 § 1, 1991)

§ 13.30.370. Prepayment.

The special development assessment may be paid at any time before it is due, in the amount that would apply if the assessment were due on the date of payment.
(Ord. 1165 § 1, 1991)

§ 13.30.400. Development before district formed.

In the event a land owner within the district's boundaries seeks and obtains development approval before the Benefit District is formed, and at the time of said approval paid to the City an estimated amount to be applied toward the applicable special development assessment, the amount paid shall operate to reduce the affected land's assessment pro tanto. If the amount so paid exceeds the special development assessment applicable to the affected parcel, the difference shall be refunded to the person who paid the estimate within 120 days after the formation of the district, or as otherwise provided by agreement. If the amount paid is less than the special development assessment, then the person who paid the estimate and/or the owner of the land at the time of the formation of the district shall pay the difference to the City within 120 days after the district's formation, or under such terms as may be agreed upon by the persons liable therefor and the City. If no such agreement has been or can be reached, the unpaid amount shall operate as a lien against the affected parcel, which may be foreclosed in accordance with the law.
(Ord. 1165 § 1, 1991)

§ 13.30.410. Division of assessment.

If less than an entire parcel of land in the Benefit District is proposed for Development, the owner of the parcel may apply to the office of the Public Services Director for a division of the special

development assessment. The Public Services Director shall thereupon divide the assessment into parts corresponding to the assessments which would have been levied if the parcel had been divided at the time the Benefit District was formed. The owner may appeal the decision of the Public Services Director to the City Council and shall be afforded a hearing before the City Council for this purpose.

(Ord. 1165 § 1, 1991)

CHAPTER 13.34
CABLE TELEVISION — GENERAL PROVISIONS

§ 13.34.010. Purpose.

The purpose of this Title is to promote competition in the cable industry, facilitate the development of cable infrastructure, minimize aesthetic impacts and damage to public property, provide for the payment of reasonable compensation for the commercial use of public property, and establish customer service standards.

(Ord. 1330 C.S. § 1, 2006)

§ 13.34.020. Definitions.

All of the following definitions shall be construed liberally for the purpose of maximizing the scope of this Title.

- A. "Affiliate" means any subsidiary of the operator, any parent of the operator, any person in which the operator has a financial interest, and any person who is directly or indirectly under common control with the operator.
- B. "Basic cable service" means the basic tier of service offered by the operator in accordance with 47 U.S.C. 543(b)(7).
- C. "Cable operator" or "operator" means any person or group of persons (A) who provides cable service over a cable system and directly or through 1 or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system. Cable operator includes, but is not limited to, affiliates of a cable operator who perform cable services through the operation of the cable system within the franchise area.
- D. "Cable service" means (A) the 1-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- E. "Cable system" or "system" means the facility proposed to be built, rebuilt, upgraded and/or operated by an operator, which shall consist of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming, and which is provided to multiple subscribers within the City, but such term does not include: (A) a facility that serves only to retransmit the television signals of 1 or more television broadcast stations; (B) a facility that serves subscribers without using any public rights-of-way within the City; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. Sections 201, et seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. Section 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interaction or on-demand services; (D) an open video system that complies with 47 U.S.C. Section 573(E); or any facilities of any electric utility used solely for operating its electric utility system.
- F. "FCC" means the Federal Communications Commission, its designee, or any successor governmental entity thereto.

- G. "Franchise" means a nonexclusive authorization granted pursuant to this Title and applicable law to construct, operate, and maintain a cable system within the public rights-of-way to provide cable service within all or a specified area of the City. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the City as required by State or City laws, ordinances or regulations, or for attaching devices to poles or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along public rights-of-way, public property or private property.
- H. "Franchise agreement" means a contract entered into pursuant to this Title between the City and a cable operator that sets forth, subject to this Chapter, the terms and conditions under which a franchise will be granted and exercised.
- I. "Franchisee" means a person that has been granted a franchise by the City in accordance with the provisions of applicable law.
- J. "Gross revenues" means all revenues derived directly or indirectly by the franchisee or any affiliate of the franchisee from the operation of the cable system to provide cable services in the City. Gross revenues shall include, without limitation, the following: (i) fees charged to subscribers for basic service, cable programming service, premium service, pay-per-view programming, video-on-demand programming, a la carte programming, or other cable service; (ii) installation, disconnection, reconnection and change-in-service fees; (iii) franchise or license fees; (iv) late fees; (v) administrative fees, including FCC regulatory fees; (vi) charges for the rental or sales of converters and other equipment to subscribers; (vii) advertising revenues (excluding commissions paid to or retained by advertising agencies), provided, however, that revenues generated from advertising sales extending beyond the franchise area shall be prorated on a per subscriber basis, so that no revenues are double-counted, or attributed to more than 1 local governmental entity for purposes of calculating franchise fees; (viii) leased access channel fees; (ix) revenues for program guides; (x) studio and production equipment rental fees; and (xi) revenues from home shopping channels. Gross revenues shall be calculated in accordance with generally accepted accounting principles. Gross revenues do not include (i) actual bad debt, provided, however, that all or a part of any actual bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; (ii) the value of free cable services provided to employees of the franchisee; (iii) the value of advertising time on the cable system provided as consideration in barter transactions; (iv) PEG access capital support collected by the franchisee on behalf of the City; (v) any taxes on services furnished by the franchisee which are imposed directly by the State of California, the City, or other governmental unit, and which are collected by the franchisee on behalf of said governmental unit; or (vi) amounts received from programmers as reimbursement of marketing expenses and launch fees.
- K. "Normal operating conditions" means those conditions that are within the control of the cable operator. Conditions that are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions that are within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- L. "Person" means an individual, partnership, association, joint stock company, limited

liability company, trust, corporation, or government entity.

- M. "PEG" means public, educational and governmental.
- N. "Public rights-of-way" means the surface of and the space above and below each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the City limits: streets, roadways, highways, avenues, paths, lanes, alleys, sidewalks, boulevards, easements, rights-of-way, and similar public property and areas that the City shall permit to be included within this definition from time to time. No reference herein to a "public right-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit use of the property for the purpose of installing, operating, and maintaining a cable system. A cable operator shall be deemed to gain only those rights to use the property as are properly in the City, in its sole determination, and as the City may have the undisputed right and power to give.
- O. "Subscriber" means any person who or which lawfully elects to become a recipient of cable service in a manner consistent with the operator's applicable terms of service.
- P. "Transfer" means any transaction in which (i) the franchise or the rights and obligations held by the operator under the franchise are transferred or assigned to another person or group of persons; or (ii) there is a change in the direct or indirect control of the system, the franchise or the operator. The term "control," as used herein, means working control, in whatever manner exercised. By way of illustration, and not limitation, the addition, deletion or other change of any general partner of the operator, or a cable operator of the cable system is such a change of control.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.38
CABLE TELEVISION — FRANCHISING PROCEDURES

§ 13.38.010. Franchise required.

No person shall establish, construct, operate, or maintain within this City a cable system unless a franchise has been obtained pursuant to the provisions of this Chapter, and unless such franchise is in full force and effect.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.020. Granting.

The City Council may grant 1 or more nonexclusive revocable franchises to establish, construct, operate and maintain cable systems within the City. A franchise shall be effective only upon execution of a franchise agreement between the City and a cable operator and compliance with all requirements of this Code. In the event of any conflict between the express terms of this Title and a franchise agreement, including any amendments to this Title, the terms of such an agreement shall prevail, except with respect to matters falling within the scope of the City's police powers.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.030. Term of franchise.

A franchise shall be granted a term as specified in the franchise agreement, but in any event not greater than 15 years.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.040. Franchise characteristics.

- A. A franchise authorizes use of public rights-of-way for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of a cable system to provide cable service within a franchise area, but does not expressly or implicitly authorize a cable operator to provide service to, or install a cable system on, private property without the owner's consent or to use publicly or privately owned conduits or any public property other than the public rights-of-way without a separate agreement with the owners thereof.
- B. A franchise shall constitute both a right and an obligation to provide the cable services regulated by the provisions of this Title and a franchise agreement.
- C. A franchise is nonexclusive and shall not: explicitly or implicitly preclude the issuance of other franchises to operate cable systems within the City; affect the City's right to authorize use of public rights-of-way or City-owned property by other persons to operate cable systems or for other purposes as the City deems appropriate; or affect the City's right to itself construct, operate, or maintain a cable system.
- D. All privileges prescribed by a franchise shall be subordinate to (without limitation) the City's use and prior lawful occupancy of the public rights-of-way or public property.
- E. The City reserves the right to reasonably designate, in accordance with its generally applicable procedures, where a cable operator's facilities are to be placed within the public rights-of-way or on any City-owned property the cable operator is otherwise authorized to

use, and to resolve any disputes among users of the public rights-of-way or such City-owned property.

- F. A franchise authorizes use of the public rights-of-way for the installation and operation of a cable system to provide cable service within a franchise area. The City reserves its rights with respect to the regulation of telecommunications services and facilities, and to the extent allowed by applicable law, reserves the right to adopt a telecommunications ordinance.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.050. Franchise applications.

All applicants for a new franchise shall submit a written application to the City. All applicants shall be expected to offer to subscribers a modern, efficient, cost-effective system that will facilitate high-quality maintenance, deliver a variety of programming and services, and provide the flexibility needed to adjust to changing technology and new developments in the industry. Applicants are encouraged to formulate their proposals in an innovative fashion, so as to meet the informational requirements of the City and the service needs of subscribers. Proposals shall contain sufficient material to enable the City Council to make fully informed judgments concerning the adequacy of the proposal and the applicant's qualifications to construct, operate and maintain a cable system in the City. All applicants shall, at a minimum, provide the following information unless waived by the City Manager:

- A. The name, address and form of business of the applicant, and an identification of the ownership and control of the applicant, including: the names and addresses of the 10 largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons with 5% or more ownership interest in the applicant and its affiliates; the persons who exercise working control over the applicant and its affiliates, and the persons who control those persons, to the ultimate parent; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person.
- B. A description of the cable services that are or will be offered or provided by the applicant over its existing or proposed facilities.
- C. A description of the transmission facilities that will be used by the cable operator to offer or provide such cable services.
- D. Preliminary engineering plans, specifications and a network map of the facilities to be located within the City, all in sufficient detail to identify:
1. The location and route requested for applicant's proposed cable facilities, including a description of the miles of plant to be installed, and a description of the size of equipment cabinets, shielding and electronics that will be installed along the plant route, the power sources that will be used, and a description of the noise, exhaust and pollutants, if any, that will be generated by the operation of the same.
 2. The location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public rights-of-way along the proposed route.
 3. The location(s), if any, for interconnection with the facilities of other cable operators.

4. The specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.
 - E. If applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its cable facilities on existing utility poles along the proposed route.
 - F. If applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:
 1. The excess capacity currently available in such ducts or conduits before installation of applicant's cable facilities; and
 2. The excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's cable facilities.
 - G. A preliminary construction schedule and completion dates.
 - H. Financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant or other accountant satisfactory to the City demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities. If in the normal course of its business, the applicant does not prepare a separate financial statement for the cable system, the applicant may submit a combined financial statement for the local region, which statement shall include the cable system.
 - I. Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the facilities and services described in the application, including identification of key personnel.
 - J. Information to establish the applicant's legal qualifications, including evidence that it has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide cable service.
 - K. A detailed description of all other services that the applicant intends to provide and sufficient information to determine whether such services are subject to franchising.
 - L. An accurate map showing the location of any existing facilities in the City that applicant intends to use or lease.
 - M. A description of the services or facilities that the applicant will offer or make available to the City and other public, educational and governmental institutions.
 - N. A description of applicant's access and line extension policies.
 - O. A written description and detailed map of the exact area or areas of the City the applicant desires to serve and a schedule for build-out to the entire franchise area.
 - P. The number of activated, programmed channels that the applicant intends to provide together with the programming that the applicant intends to provide.
 - Q. All fees, deposits or charges required pursuant to Section 13.38.060 [Application Fee] of this Chapter.
 - R. Such other and further information as may be requested by the City Manager.
- If a franchise is granted to a person who is acting on behalf of another or presenting its

qualifications for the benefit of another and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.060. Application fee.

An application fee for a new or renewal franchise or for transfer of a franchise may be required in the amount established from time to time by resolution of the City Council, to the extent consistent with applicable law.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.070. New franchise procedure.

Upon receipt of an application for a new franchise, the City Council may, by resolution, approve or conditionally approve a franchise agreement with the applicant or deny the application. In making any determination hereunder as to any application, the City Council shall give due consideration to: the quality of the service proposed; rates to subscribers; experience, character, background and financial responsibility of the applicant, its management and owners; system design; technical and performance quality of equipment; willingness and ability to meet construction requirements and to abide by franchise limitations and requirements; and other considerations deemed pertinent by the City Council for safeguarding the interests of the City and the public.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.080. Franchise renewal procedure.

A. The procedure for franchise renewal shall be in accordance with applicable Federal and State statutes.

B. In the absence of any Federal or State statute specifically governing franchise renewal procedures, the following procedure shall apply, to the extent consistent with applicable law.

1. At any time between 24 months and 12 months prior to the expiration of a franchise, a cable operator may apply for renewal of its franchise. Such application shall be made under the provisions of Sections 13.38.050 [Franchise Applications] through 13.38.060 [Application Fee].
2. Within 12 months of receipt of a completed application for renewal, the City Council shall hold a public hearing having afforded the operator reasonable notice of such hearing. After this public hearing, the City Council shall grant or deny the application, basing its decision on the following factors:
 - a. The operator's substantial compliance with the material terms of the existing franchise and applicable law;
 - b. The quality of the operator's services to its subscribers, including signal quality, response to consumer complaints and billing practices, but without regard to the mix or quality of cable services provided over the cable system, has been reasonable in light of community needs;
 - c. Present and future cable-related community needs and interests of the operator's

current and potential subscribers, taking into account the cost of meeting such needs and interests;

- d. The operator's financial, legal and technical qualifications to provide the services, facilities and equipment as set forth in the operator's proposal; and
 - e. Such additional factors as the City Council considers relevant to the renewal of the franchise.
- 3. In any renewal proceeding, the operator shall be afforded adequate notice and shall be afforded fair opportunity for full participation. The operator at its election and expense may have a transcript made of any such proceeding.
 - 4. The City Council, after a public hearing, may grant or deny a renewal application based on the criteria set forth in this Section. The Council shall grant or deny such application by resolution and, where the application is denied, the Council shall state the reasons therefor.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.090. Assignment and transfer.

The City shall select persons to whom it issues a franchise based upon the unique technical skills and talents of such persons to operate a cable communications system as well as upon such persons relevant experience and financial condition. As such, a franchise is personal to the franchisee and the identity of a franchisee is a material part of the City's decision to issue a franchise. The granting of approval for a transfer in 1 instance shall not render unnecessary approval of any subsequent transfer.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.100. Transfer of ownership.

- A. City council approval required. No transfer shall occur unless prior application is made by the operator to the City and the City Council's prior written consent is obtained, pursuant to the operator's franchise agreement and this cable ordinance. Any such transfer without the prior written consent of the City Council shall be considered to impair the City's assurance of due performance, and shall be invalid. The granting of approval for a transfer in 1 instance shall not render unnecessary approval of any subsequent transfer.
- 1. Application. An operator shall promptly notify the City Manager of any proposed transfer. If any transfer should take place without prior notice to the City Manager, the operator shall promptly notify the City that such a transfer has occurred. At least 120 calendar days prior to the contemplated effective date of a transfer, the operator shall submit to the City Manager an application for approval of the transfer. Such an application shall provide complete information on the proposed transaction, including details of the legal, financial, technical, and other qualifications of the new controlling entity or transferee, and on the potential impact of the transfer on subscriber rates and service. At a minimum, the following information shall be included in the application, provided that, the operator is not required to duplicate information that it submits to the City Manager to comply with its obligations under Federal or State law:
 - a. All information and forms required under Federal law;

- b. All information required by this Title;
 - c. Any contracts or other agreements that relate to the proposed transaction, and all documents, schedules, exhibits, or the like referred to therein; and
 - d. Any shareholder reports or filings with the Securities and Exchange Commission that discuss the transaction.
2. Supplemental information. The City shall notify an operator of any insufficiency in the information provided in the application within 30 days after receipt thereof. The failure of the City to notify operator of such insufficiency shall result in the application being deemed complete. For the purposes of determining whether it shall consent to a transfer, the City or its agents may inquire into the qualifications of the prospective controlling entity or transferee and such other matters as the City may deem necessary to determine whether the transfer is in the public interest and should be approved, denied, or conditioned as provided under this Chapter.

Notwithstanding whether the application has been deemed complete, the City may request additional information related to the proposed transaction to the extent permitted by applicable law.

- B. Determination by city. In making a determination as to whether to grant, deny, or grant subject to conditions, an application for a transfer, the City may consider, without limitation, the legal, financial, technical and other qualifications of the proposed controlling entity or transferee to operate the cable system; whether the operator is in compliance with its franchise agreement and this Title, and, if not, the proposed controlling entity transferee's commitment to cure such noncompliance; and whether operation by the proposed controlling entity or transferee or approval of the transfer would adversely affect the public health, safety, or welfare of subscribers or the public.
- C. Transferee's agreement. No application for a transfer of the franchise shall be granted unless the proposed controlling entity or transferee agrees in writing that it will abide by and accept all terms of its franchise agreement and this Title and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous operator under its franchise agreement and this Title, for all purposes, including renewal.
- D. Approval does not constitute waiver. Approval by the City Council of a transfer does not constitute a waiver or release of any of the rights of the City under a franchise agreement or this Title, whether arising before or after the date of the transfer.
- E. Exception for intra-company transfers. Notwithstanding the foregoing, a transfer to an affiliate of the franchisee shall be excepted from the requirements of this Section where (i) the affiliate is wholly owned and managed by the same ultimate parent as the transferor; and (ii) the transferee affiliate:
 1. Notifies the City within 30 days of the transfer and, at that time, provides the agreements and warranties required by this Section, describes the nature of the transfer, and submits complete information describing who will have direct and indirect ownership and control of the cable system after the transfer;
 2. Warrants that it has read, accepts and agrees to be bound by each and every term of the franchise agreement and related amendments, regulations, ordinances and

resolutions then in effect;

3. Agrees to assume all responsibility for all liabilities, acts and omissions, known and unknown, of its predecessor franchisee(s), for all purposes, including renewal;
 4. Agrees that the transfer shall not permit it to take any position or exercise any right which could not have been exercised by its predecessor franchisee(s);
 5. Warrants that the transfer will not substantially increase the financial burdens upon or substantially diminish the financial resources available to the franchisee (the warranty to be based on comparing the burdens upon and resources that will be available to the transferee compared to its predecessors), or otherwise adversely affect the ability of the franchisee to perform;
 6. Warrants that the transfer will not in any way adversely affect the City or subscribers;
 7. Notifies the City that the transfer is complete within 5 business days of the date the transfer is completed; and
 8. Agrees that the transfer in no way affects any evaluation of its legal, financial or technical qualifications that may occur under the franchise or applicable law after the transfer, and does not directly or indirectly authorize any additional transfers.
- F. The City's consent to a transfer shall be required upon foreclosure or other judicial sale of all or a substantial part of the system or upon the termination of a lease covering all or a substantial part of the system, and the cable operator shall notify the City. The notification shall be deemed notice of a change in control of the cable operator, which shall require the approval of the City Council.
- G. The City Council shall approve, conditionally approve or deny a transfer following receipt of all required materials within the period required under Federal law, if any, unless an extension is agreed to by the City and the cable operator. Conditions of approval by the City Council may include, but are not limited to, the following: (a) resolution of any outstanding franchise violations or performance deficiencies; (b) payment of any outstanding franchise fees; (c) filing of any appropriate bonds, insurance endorsements, letters of credit or guarantees; and (d) written assumption of all obligations of the transferor by the transferee.
- H. Within 30 days after the date of the resolution approving transfer of the franchise, or within such extended period of time as the City Council in its discretion may authorize, the transferee shall file with the clerk of the City Council its written acceptance of the franchise, in a form satisfactory to the City, together with all required bonds and insurance certificates, and its agreement to be bound by and to comply with and to do all things required of it by the provisions of this division and the franchise award resolution. Such acceptance and agreement shall be acknowledged by the transferee before a notary public and shall be in a form and content satisfactory to and approved by the City Attorney.
- I. Revocation following bankruptcy.
1. Notwithstanding any other provision of this Title, a franchise will automatically terminate by force of law 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding.

2. However, the franchise may be reinstated if, within the 120-day period:
 - a. The assignment, receivership or trusteeship is vacated; or
 - b. The assignee, receiver, or trustee has fully complied with the terms and conditions of this article and the franchise and has executed an agreement, approved by a court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the franchise agreement and this Code.
- J. Revocation upon foreclosure.
 1. Notwithstanding any other provision of this Chapter, in the event of foreclosure or other judicial sale of any of franchisee's facilities, equipment, or property, the City may revoke a franchise after a public hearing before the City Council, by serving notice upon the franchisee and the successful bidder at the sale.
 2. The franchise will be revoked and will terminate 30 calendar days after serving such notice, unless:
 - a. The City approves the transfer of the franchise to the successful bidder; and
 - b. The successful bidder agrees with the City to assume and be bound by the terms and conditions of the franchise and applicable law.
- K. Failure to comply with the requirements of this Section is a material breach of this Title, subject to the remedies provided for herein.
(Ord. 1330 C.S. § 1, 2006)

§ 13.38.110. Unauthorized operation of cable system.

Any person occupying the public rights-of-way of the City for the purpose of operating or constructing a cable system, which person does not hold a valid franchise from the City, shall be subject to all provisions of this Chapter, including, but not limited to, those provisions regarding construction, technical standards and franchise fees. The City at any time may require such person to obtain a franchise agreement within 30 days of receipt of a written notice from the City that a franchise agreement is required; require such person to remove its property from the public rights-of-way, and, at such person's sole expense, restore the area to a condition satisfactory to the City within a reasonable time period as the City shall determine; remove the property itself and restore the area to a satisfactory condition and charge the person the costs therefor; and/or take any other action permitted by law, including, but not limited to, filing for and seeking damages for trespass. In no event shall a franchise be created unless it is issued by action of the City Council and the franchise terms are set forth in a franchise agreement. If a cable operator operates a cable system without first obtaining a valid franchise from the City, the cable operator shall forfeit to the City all gross revenues from the system for so long as such unauthorized operation continues.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.120. Acts at cable operator's expense.

Any act that a cable operator is or may be required to perform under this Chapter, a franchise agreement, or applicable law shall be performed at the cable operator's expense, unless expressly provided to the contrary in this Title, a franchise agreement, or applicable law.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.130. Eminent domain.

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the City's rights of eminent domain to the extent to which such rights may apply to any cable system or franchise.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.140. Annexations.

Within 30 days after annexation of areas to the City which are served by a cable operator who does not have a franchise from the City, the cable operator shall apply for a new franchise. Pending consideration of such a franchise, the cable operator shall comply with each and every provision of this Chapter, including but not limited to the franchise fee requirement. If a newly annexed area is not actively served by a cable operator, the cable operator(s) serving the area within the City contiguous to the newly annexed area shall provide service to that area within a reasonable time, subject to the provisions of any applicable franchise agreement, provided that the cable operator may request relief from this requirement upon a showing that it would be economically infeasible to extend service to that area.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.150. Joint exercise of powers agreement.

Should a joint exercise of powers agreement (Gov. Code, Section 6500 et seq) or similar agreement be entered between the City and any other jurisdiction in accordance with law providing for the joint regulation of cable operators and cable services or other cooperative arrangements, involved cable operators shall be governed by, and subject to that agreement, pursuant to this Title's provisions, provided that no such joint powers agreement shall impair any right or obligation of the cable operator under a franchise agreement.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.160. Cable operator subject to other laws, police power.

- A. A cable operator at all times shall be subject to and shall comply with all applicable Federal, State, and local laws, subject to Section 13.38.020 [Granting]. A cable operator at all times shall be subject to all lawful exercise of the police power of the City, including but not limited to all rights the City may have under 47 U.S.C. Section 552. Nothing in a franchise agreement shall be deemed to waive the requirements of the various codes, ordinances, policies, rules, regulations, and practices of the City and the City Council, subject to the operator's lawful rights under its franchise agreement.
- B. No course of dealing between a cable operator and the City, or any delay on the part of the City in exercising any rights hereunder, or any acquiescence by the City in the actions of a cable operator that contravene any of the City's rights (except to the extent such rights are expressly waived by the City in writing), shall operate as a waiver of any such rights of the City.
- C. The City shall have the maximum authority to regulate cable systems, cable operators, and franchises as may now or hereafter be lawfully permissible; unless rights are expressly waived in a franchise agreement, they are hereby reserved, whether expressly enumerated

or not.

D. The City Manager and the City Council may, from time to time, issue such rules and regulations concerning cable systems as are consistent with, or authorized by, applicable law.

E. The City Manager and the City Council may do all things which are necessary and convenient in the exercise of their jurisdiction under this Title.

(Ord. 1330 C.S. § 1, 2006)

§ 13.38.170. Interpretation of franchise terms.

A. The provisions of this Title and any franchise agreement shall be liberally construed in order to effectuate the purposes and objectives of this Title and the franchise agreement and to promote the public interest.

B. Subject to Federal law or regulation, a franchise agreement shall be governed by and construed in accordance with the laws of the State of California.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.42
CABLE TELEVISION — CITY ADMINISTRATION OF FRANCHISE

§ 13.42.010. Administration.

The office of the City Manager is designated as having primary responsibility for the administration of every cable franchise and this Chapter. Whenever a right may be exercised under this Chapter by the City or the City Manager, such right may also be exercised by a designated employee. No such delegation shall be deemed to constitute a delegation of legislative authority.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.020. Basic service.

The lowest priced level of cable service shall be available to all subscribers. No subscriber shall be required to purchase any other service as a prerequisite to purchasing such level of service. Unless otherwise provided in a franchise agreement, the lowest priced level of service shall include all public, educational and government channels at no extra charge.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.030. Performance evaluation sessions.

The City and each cable operator shall hold scheduled performance evaluation sessions to the extent specified in the franchise agreement.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.040. Cable service to public buildings occupied by public agencies.

A franchise agreement may include provisions regarding installation of service outlets in buildings occupied by public agencies within the franchise area, and provision of service to such facilities, subject to negotiation between the parties and applicable law.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.050. PEG channels.

Subject to negotiation between the parties and applicable law, a franchise agreement may provide that a cable operator shall make available 1 or more dedicated channels on its cable system for purposes of public, educational and governmental access, as set forth in the franchise agreement. Such channels shall be available on the lowest tier of basic service, to the extent consistent with the applicable franchise agreement. Such channels shall not be used for any advertisements or commercial programming without the permission of the City.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.060. PEG facilities.

A franchise agreement may include provisions regarding facilities, services and equipment for use in relation to public, educational and governmental access.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.070. Institutional network.

A franchise agreement may include provisions regarding construction and use of institutional networks.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.080. Public access usage management.

Nothing in this Section shall prevent the City from delegating to an independent nonprofit entity such as a commission or nonprofit corporation the authority to manage all or any part of the City's PEG facilities, programming and/or funds. The commission or nonprofit corporation may be established jointly with neighboring jurisdictions at the City's sole option.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.090. Leased access.

A cable operator shall provide leased access channels as required by Federal law.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.100. Interconnection.

A franchise agreement shall contain provisions related to the interconnection of a cable operator's cable system with other cable systems.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.110. Emergency override.

To provide an emergency alert capability, each cable operator shall install and maintain an emergency alert system which allows the City to simultaneously override audio signals and broadcast emergency messages on all television channels, as provided by the terms of its franchise agreement.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.120. Tree trimming.

When trimming trees, a cable operator shall comply with all City regulations applicable to utilities.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.130. Removal and abandonment of cable system.

In the event that a franchise is terminated or expires without being renewed, or if all or a portion of a cable system is not used for a period of 90 days, the cable operator shall either remove the cable system or the abandoned portion thereof or shall obtain the permission of the Director of Community Development to abandon the cable system in place within 90 days. The cable operator shall obtain an encroachment permit prior to removing the cable system.

(Ord. 1330 C.S. § 1, 2006)

§ 13.42.140. Acquisition of cable system.

Notwithstanding the granting of a franchise, the City retains the right to acquire the cable system

at any time by negotiated sale or eminent domain, and retains the right to resell the cable system to any third party. If the City denies the renewal of a franchise, the City may acquire the cable system at a price not to exceed fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise. If the City revokes a franchise, the City may acquire the cable system at an equitable price.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.46
CABLE TELEVISION — CUSTOMER SERVICE

§ 13.46.010. Continuity of service.

- A. Subscribers have the right to receive, and a cable operator has the obligation to provide, efficient service, high-quality reception, prompt repairs and service interrupted only for good cause and for the shortest possible time. It shall be the right of all subscribers to continue receiving service insofar as they have met financial and other obligations to the cable operator. In the event that the cable operator elects to over build, rebuild, modify, or sell the system, or the City Council gives notice of intent to terminate or fails to renew this franchise, the cable operator shall act so as to ensure that all subscribers receive continuous, uninterrupted service.
- B. Upon the expiration, revocation or termination of the franchise, the operator shall, upon request of the City, continue to operate the cable system for a period of time not to exceed 6 months from the date of such expiration, revocation or termination under the terms and conditions of this Title and its franchise agreement and to provide the regular subscriber service and any and all of the services that may be provided at that time, and to retain all revenues received after payment of all costs and expenses arising in the ordinary course of business prior to the expiration, revocation, or termination.
- C. A cable operator shall forfeit its rights to notice and a hearing, and the City Council may, by resolution, declare its franchise immediately terminated, in addition to any other relief or remedies the City may have under this Title, a franchise agreement, or other applicable law, if:
 - 1. The cable operator fails to provide cable service in accordance with its franchise over a substantial portion of the franchise area for 96 consecutive hours, unless the City authorizes a longer interruption of service or the failure is due to force majeure, as characterized in a franchise agreement; or
 - 2. The cable operator, for any period, willfully, and without cause refuses to provide cable service in accordance with its franchise over a substantial portion of the franchise area.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.020. Nondiscriminatory services.

- A. A cable operator shall comply at all times with all applicable laws, rules, and regulations including the terms of its franchise relating to nondiscrimination.
- B. All of a cable operator's rates and charges shall be published and nondiscriminatory. Except as provided hereunder, a cable operator shall establish rates and charges for all subscribers without regard for race, color, religion, age, sex, marital or economic status, national origin, sexual orientation, political ideology, creed, ancestry; the presence of any sensory, mental or physical handicap; or geographic location within the cable operator's franchise area (except as permitted by any provision of a franchise agreement related to the length of subscriber drops or line extensions).

Nothing in this Section shall be construed to prohibit the temporary reduction or waiving of rates and charges in conjunction with promotional campaigns or discounted rates for

provision of cable services to multiple unit buildings. Notwithstanding the foregoing, the cable operator may offer service to senior citizens at discounted rates.

- C. A cable operator shall not deny cable service, or otherwise discriminate against subscribers, PEG access programmers or any other persons on the basis of type of dwelling unit, race, color, religion, age, sex, marital or economic status, national origin, sexual orientation, political ideology, creed, ancestry; the presence of any sensory, mental or physical handicap; or geographic location within the franchise area (except as permitted by any provision of a franchise agreement related to the length of subscriber drops or line extensions).
 - D. A cable operator shall not take any retaliatory action against a subscriber because of the subscriber's exercise of any right it may have under Federal, State, or local law, nor may the cable operator require a subscriber to waive such rights as a condition of service.
- (Ord. 1330 C.S. § 1, 2006)

§ 13.46.030. Local office.

A franchise agreement may require a cable operator to maintain a local business office in a location specified in the franchise agreement which shall be open during the hours specified in the franchise agreement.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.040. Line extensions.

- A. The operator shall design, construct and maintain the cable system to pass every dwelling unit in the franchise area, subject to any limitations specified in a franchise agreement.
- B. Standard line extension policy shall be 150 aerial feet, 125 feet underground. If the aerial or underground connection for service to a subscriber's location (sometimes known as a "drop") requires no more than a 150 foot aerial extension or 125 foot underground extension measured from the nearest street (unless the operator has obtained a waiver from the City), the operator shall provide the connection to its service at no charge for the initial 150 feet or 125 feet, as applicable, other than the operator's standard installation fee. This provision applies only to extensions from cable plant to a dwelling unit.
- C. In areas not meeting the requirements for mandatory extension of service, a cable operator shall provide, upon the request of a potential subscriber desiring service in an unserved area, an estimate of the reasonable costs required to extend service to said subscriber, including materials, labor, overhead and private easements, if necessary. A cable operator shall make reasonable efforts to extend service within 4 months upon request of said potential subscriber, who shall be responsible for all reasonable costs associated with the extension. A cable operator may require advance payment or assurance of payment satisfactory to the cable operator.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.050. New service requests.

- A. A cable operator shall provide service to all dwelling units within the City (subject to the limitations on line extensions in the previous section) pursuant to the following requirements.

- B. In any case in which either no new drop is required, or a new drop is required of no more than the standard underground or above-ground length prescribed by Section 13.46.040 [Line Extensions], as measured from the nearest active or required feeder line along a reasonably direct route, a cable operator shall make cable service available at the standard connection charge within 7 days of receipt of any service request. In any case in which a new drop is required which is longer than the standard underground or above-ground drop length, as applicable, a cable operator shall make cable service available at the standard connection charge within 14 days of receipt of any service request. Notwithstanding the foregoing, if the service request requires a drop in excess of the standard underground or above-ground drop length, as applicable, a cable operator may charge the business or resident requesting service an additional amount which shall not exceed the actual time and materials cost of the drop in excess of the applicable drop length.
 - C. Upon receiving a request for new service, a cable operator shall make reasonable efforts to promptly acquire all easements or rights of occupancy necessary for extension of service to such resident's home and not already secured by the cable operator.
- (Ord. 1330 C.S. § 1, 2006)

§ 13.46.060. System or individual outage complaints.

- A. Upon receipt of a request for service in the event of the following circumstances (each, a "service request"), the cable operator shall respond as follows: (1) to a system outage within 2 hours; (2) to a service interruption, within 24 hours; and (3) to all other reception problems, by the next working day or as agreed upon by the subscriber and a cable operator. The cable operator shall have available at all times a sufficient number of technicians capable of responding to the foregoing matters within the foregoing time frames. A service interruption is the loss of picture or sound on 1 or more channels. A system outage is a service interruption resulting from a common cause that affects more than 2 subscribers.
- B. When the nature of a service request described in subsection (A)(1) of this Section requires work at a service location, a cable operator will be deemed to have responded to such service request when a field service representative competent to fix the problem arrives at the service location (which may be some portion of the cable system and not a subscriber's residence) and begins work on the problem. In the case of a response which involves a request for service at a subscriber's residence, if the subscriber is not home when the field service representative arrives, response will be deemed to have taken place if the field service representative leaves notification of arrival and instructions for rescheduling on the subscriber's front door.
- C. Where a cable operator is unable to respond to a service request within the applicable time period specified in this Section, the cable operator shall make reasonable efforts, within such time period, to notify the complainant of the reason(s) and the estimated time frame for correction, and shall proceed to correct the service request at the earliest possible time.
- D. A cable operator shall complete repairs and maintenance for system outages and service interruptions within 24 hours, except in extenuating circumstances or as agreed to between the cable operator and the subscriber. Work on all other requests for service, other than installation, shall be completed within 3 days of the initial request.
- E. The time standards in Section 13.46.050 [New Service Requests] shall be met at least 95% of the time, measured on a quarterly basis.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.070. Scheduling appointments.

- A. All appointments for service, installations, or disconnection shall be specified by date. With the approval of the subscriber, weekday service calls shall be scheduled as morning or afternoon appointments during specified 4-hour blocks of time. For service calls responding to system or individual outages, holiday and weekend scheduling shall also be available. If the appointment cannot be kept, a cable operator shall make reasonable efforts to promptly notify the subscriber in advance and reschedule the appointment. Under normal operating conditions, a cable operator may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.
- B. Subscribers who have experienced a missed appointment due to the fault of a cable operator shall receive installation free of charge if the appointment was for installation. The subscriber shall receive a credit against the basic service charge of \$20.00, or such other remediation as may be agreed to between the subscriber and the cable operator, if the missed appointment is for a service call. Alternatively, subscribers may pursue their remedies pursuant to Civil Code Section 1722.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.080. Notification of service interruptions.

Where service interruptions are planned, a cable operator shall notify subscribers and the City at least 48 hours before the anticipated service interruption, provided that no notification shall be required for service interruptions that require less than 2 hours' interruption of service and that also occur between 1:00 a.m. and 6:00 a.m. Notification need not be repeated before each anticipated interruption as long as the initial notification advises of the possibility of repeated interruptions during a specified period not to exceed 1 month. To the extent feasible, the cable operator shall avoid interruptions between 5:00 p.m. and midnight.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.090. Notification of service or channel changes.

The cable operator shall provide 30 days' advance written notice to subscribers and the City of any change in channel assignment or in the video programming service provided over any channel, unless this requirement is waived by the City or by operation of Federal or State law, or due to events beyond the reasonable control of the operator.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.100. Telephone communication services.

- A. Each cable operator shall render efficient telephone communication service, sufficiently staffed by knowledgeable, courteous personnel.
- B. Customer service response. At a minimum, a cable operator shall have on duty a sufficient number of customer service representatives available to handle customer calls during normal business hours. During times not handled by customer service representatives, each system must have a capable answering service for repair requests or service complaints. Answering machines are not acceptable, except for automated response units that are used to process and route calls to on-duty personnel of the cable operator.

- C. Telephone system requirements. Each cable operator shall at all times provide a telephone system meeting the following requirements:
1. Each cable operator shall maintain a phone system for purposes of promptly responding to telephone calls. Telephone numbers for customer service shall be listed in a local telephone directory. All telephone lines for customer service shall be toll free to subscribers within the franchise area.
 2. Knowledgeable, qualified customer service representatives shall be available to respond to customer telephone inquiries during normal business hours.
 3. Under normal operating conditions, during normal business hours, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed 30 seconds. Those systems which utilize automated answering and distributing equipment shall limit the number of routine rings to 4 or fewer. Systems not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems. Under normal operating conditions, the customer shall receive a busy signal less than 3% of the total time that the telephone system is staffed by customer service representatives. These standards shall be met no less than 90% of the time measured quarterly.
 4. Each cable operator shall, by means of automatic monitoring equipment, track all customer service telephone calls and prepare quarterly summaries of all calls according to the criteria listed in subsection C of this Section. Such report shall be delivered to the City annually and, in addition, as agreed to in the franchise agreement.
 5. In cases of major system outages or major service interruption, a cable operator may provide a recorded message informing customers of the problem and a reasonable estimate under the circumstances of the correction time as long as customers are still able to reach a customer service representative.
 6. In cases where a cable operator's existing telephone system cannot demonstrate compliance with the standards set forth in subsection C or D of this Section, the franchise agreement may specify comparable criteria for the cable operator's telephone system and the time frame for compliance with the standards set forth in this Section.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.110. Complaint log.

The cable operator shall keep a computer log or written record of (1) service calls and complaints which require the dispatch of a service vehicle to respond to the service call or complaint, and (2) calls regarding outages, regardless of whether a service vehicle was dispatched, together with the disposition of all such calls. Records kept in the ordinary course of business shall be available for public inspection by the affected subscriber at the local office of the cable operator during regular office hours such that each subscriber may examine only his or her own records. The log or record shall be available for inspection by the City, in the presence of the affected subscriber, at any time at the local office of the cable operator during regular office hours. Before making a record available for inspection under this Section, the cable operator may require reasonable advance notice, which shall in no event exceed 1 working day.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.120. Subscriber test requests.

Upon reasonable request or complaint by a subscriber, a cable operator shall, at its sole expense, perform such signal level tests as necessary to establish if a signal of requisite quality is being delivered to the subscriber's premises. The test shall be conducted at the subscriber's receiver and at other such locations deemed necessary by the cable operator, and a copy of the written test results shall be made available to the subscriber upon request.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.130. Conditions of service-Subscriber information.

Each cable operator shall send or deliver to all new and reconnected subscribers in writing and to all subscribers at least once a year, information concerning the conditions of service, including but not limited to: rates, fees, charges, deposits, refunds of deposits, available levels of service (tiers), payment options, discounts (if any), service call policy, privacy protections and disconnection and reconnection policy. Each cable operator shall provide a copy of such information to the City concurrent with its distribution to the cable operator's subscribers.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.140. Complaints-subscriber information.

Upon connection or reconnection to the system and at least once a year, a cable operator shall, by appropriate means, such as a card or brochure, printed notice on billing statement, or billing insert, furnish to each subscriber information concerning the procedures for making inquiries or complaints to the cable operator or the City, including the name, address and local telephone number of the cable operator and the City. Each cable operator shall provide a copy of such information to the City concurrent with its distribution to the cable operator's subscribers.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.150. Investigation of complaints.

A. When there have been a significant number of complaints made, or where there exists other evidence which, in the judgment of the City, indicates a problem with the reliability or quality of cable service as required under this Title or in a franchise agreement, the City Council shall have the right and authority to require a cable operator to evaluate the performance, operation or administration of the cable system including without limitation matters relating to customer service. The cable operator shall fully cooperate with the City in performing such evaluation and shall prepare results and a report, if requested, within 30 days after notice. Such report shall include the following information:

1. The nature of the complaint or problem which precipitated the evaluation;
2. What system component, operation or service was evaluated;
3. The equipment used and procedures employed;
4. The method, if any, by which such complaint or problem could be or has been resolved;
5. Any other information pertinent to the evaluation which may be required; and

6. The City may require that evaluations be supervised, or conducted, by an engineer, accountant or other consultant selected by the City and not on the permanent staff of the cable operator or the City, at the City's cost. The engineer, accountant or other consultant shall sign all records of the evaluation and forward to the City such records with a report interpreting the results of the evaluation and recommending actions to be taken. The City's rights under this Section, shall be limited to evaluating specific subjects and characteristics based on complaints, circumstances or other evidence which cause the City to reasonably believe that evaluation is necessary to protect the public against substandard cable service.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.160. Noncompliance with standards.

In the event of repeated noncompliance with the customer service standards contained in this Chapter, the City may, in addition to pursuing any other civil or criminal remedy, direct the cable operator to take steps to ensure compliance with such standards.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.170. Billing, late fees, disconnection of service and notification of rate changes.

- A. Bills for service shall be on a regular cycle, on a monthly basis. Nothing in this Section shall prohibit voluntary prepayment of services by subscribers, provided that a cable operator shall not be required to offer or accept any discount or other reduction in the amount paid by any subscriber for a voluntary prepayment of services. Each bill shall include a listing of the cable operator's customer service telephone number in a manner that makes such number significantly more prominent than any other telephone numbers listed on the bill. Bills shall not list the City's telephone number in a manner that causes confusion to the public.
- B. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, level of service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- C. In case of a billing dispute, a cable operator must respond to a written complaint from a subscriber within 30 days.
- D. Before itemizing on subscriber bills any fees, taxes, assessments or other items payable to the City the itemization of which is not expressly authorized by State or Federal statute or regulation, a cable operator shall submit a sample bill to the City for review and comment.
- E. Charges on a bill shall not be deemed delinquent and a subscriber shall not be subject to a late fee, so long as payment is received from the subscriber in a manner consistent with applicable law.
- F. A cable operator shall only disconnect a subscriber's service for good cause. A cable operator shall not disconnect service for nonpayment until the cable operator has provided the subscriber with notice, provided on or after the due date of the subscriber's bill and separately from that bill or any other standard monthly bill, at least 10 days in advance of the disconnection. The notice shall specify the earliest date the disconnection will occur, the total payment required to avoid disconnection and the telephone number and office

hours to contact a customer service representative. In no event shall disconnection for nonpayment occur less than 14 days after the end of any billing period for which charges are delinquent.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.180. Credits for outages.

A. Except for loss of service beyond the reasonable control of a cable operator, after notification from a subscriber of a service interruption or system outage and following reasonable notice and opportunity to cure, the cable operator shall, upon request, credit the subscriber's account on a pro-rata basis 1/30 th of the subscriber's monthly rate for each day or portion of a day that the system outage service interruption continues. In addition, in cases where, within any 7-day period, there have been more than 6 system outages or service interruptions of 15 minutes or more, the cable operator shall, upon request, credit the subscriber's account for 1/4 of the subscriber's monthly rate. Should a system outage or service interruption affect a pay-per-view or other similarly priced per-event service, the subscriber shall, upon request, be credited the charges for such service.

B. Nothing in this Section shall prohibit a cable operator from giving other credits.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.190. Refund of deposits.

A cable operator shall refund all subscriber deposits within 30 days of termination of service. Any outstanding balance, including any equipment not returned by the subscriber, may be deducted from the deposit. The refund shall be mailed to the subscriber at no expense, or shall be handled as otherwise agreed to by the subscriber.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.200. Parental control lock.

Each cable operator shall make available to subscribers, upon request, a parental control locking device or digital code that permits inhibiting the video and audio portions of any channels offered by the operator.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.210. Privacy.

A cable operator shall comply with all Federal laws in relation to privacy issues.

(Ord. 1330 C.S. § 1, 2006)

§ 13.46.220. Unauthorized connections and tampering.

No person, firm or corporation shall make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable system for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound. Also no person, without the consent of the owner, shall tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.50
CABLE TELEVISION — CONSTRUCTION AND TECHNICAL STANDARDS

§ 13.50.010. Construction requirements.

All construction (including, but not limited to, the initial construction of the cable system and any major rebuild, expansion, replacement, repair or maintenance of the cable system) shall be performed in compliance with this Title and all other provisions of this Code. At least 90 days prior to initiating any major construction (other than routine maintenance or repair, installation of subscriber drops or minor line extensions), a cable operator shall submit a construction plan to the City. For purposes of this Section, "major construction" means a system upgrade, system rebuild, or any work in the public rights-of-way that can be reasonably expected to affect system plant served by 1 or more fiber optic nodes. The construction plan shall include a description of the work, equipment specifications, existing and proposed locations of all facilities, traffic control plans, resident and business notification plans, steps to be taken to ensure compliance with local regulations, and a detailed construction schedule. The City may approve, conditionally approve or deny the construction plan. The City may require the posting of construction bonds. Additional construction requirements may be specified in a franchise agreement.
(Ord. 1330 C.S. § 1, 2006)

§ 13.50.020. Standards.

- A. Any construction, rebuild, upgrade, operation, maintenance, and repair of the system shall be in accordance in all material respects with all applicable sections of the Occupational Safety and Health Act of 1970, as amended; the National Electrical Safety Code and National Electric Code; Obstruction Marking and Lighting, AC 70/7460 i.e., Federal Aviation Administration; Construction, Marking and Lighting of Antenna Structures, Federal Communications Commission Rules, 17; and other applicable Federal, State, or local laws and regulations, all as hereafter may be amended or adopted. In the event of a conflict among codes and standards, accepted cable industry practices shall control (except insofar as such practices, if followed, would result in a cable system that could not meet express requirements of Federal, State or local law, or in instances in which such practices are expressly preempted by other standards). Consistent with the foregoing, the City may ensure that work continues to be performed in an orderly and workmanlike manner, reflecting any changes that may occur over the franchise term.
- B. A cable operator shall construct, install and maintain its cable system in an orderly and professional manner, using due diligence and materials of good and durable quality. All such work shall be performed in close coordination with other public and private utilities following accepted construction procedures and practices and working through existing committees and organizations. All cable and wires shall be installed, where possible, parallel with and in the same manner as electric and telephone lines on the same poles. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- C. A cable operator's cable system within the City shall meet or exceed the technical standards set forth in 47 C.F.R. Section 76.601, et seq., and any other applicable technical standards.
- D. Upon reasonable request by the City, based on subscriber complaints or other evidence of noncompliance with a franchise agreement or applicable law, a cable operator shall perform, at its sole cost, all tests necessary to demonstrate compliance with the

requirements of a franchise agreement and other technical and performance standards established by applicable law. Unless a franchise agreement or applicable law provides otherwise, all tests shall be conducted in accordance with Federal rules and in accordance with the most recent edition of the National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or such other manual as may be directed under FCC regulations. A written report of any test results shall be filed with the City within 7 days of this test. If a location fails to meet technical or performance specifications, the cable operator, without requirement of additional notice or request from the City, shall promptly take corrective action, and retest the locations. Any deficiencies shall be corrected within 30 days of the original test.

- E. Should the cable operator fail to meet technical or performance tests, the cable operator shall bear all costs associated with the test. Should the cable operator advise the City that testing is not necessary or required to resolve the system performance issue at hand, and the City still insists on testing pursuant to this Section, then the City shall bear the operator's reasonable cost of testing in the event that the cable operator passes the technical or performance test.
- F. Every system, and all parts thereof, shall be subject to the right of periodic inspection and testing by the City to determine compliance with the provisions of this Title, a franchise agreement, and other applicable law. The City shall have the right, upon request, to be notified and to be present when a system is tested by a cable operator, provided that the cable operator need not delay or reschedule testing to accommodate such a request. Each cable operator shall respond to requests for information regarding its system and its plans for the system as the City may from time to time issue, including requests for information regarding its plans for construction, operation, and repair, and the purposes for which the plant is being constructed, operated or repaired.
- G. A cable operator shall comply with all of the same standards and codes, including but not limited to the payment of inspection fees, to construct and maintain its system within private rights-of-way as are required for construction in the public rights-of-way.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.030. Permits.

A cable operator shall obtain all necessary permits and pay all generally applicable related fees, including but not limited to permit processing and inspection fees, from the City before commencing any construction, repair, upgrade, rebuild or extension of the system, including the opening or disturbance of any public rights-of-way, on private or public property within the City. The operator shall adhere to all State and local laws and building and zoning codes currently or hereafter applicable to construction, operation, or maintenance of the system in the City and give due consideration at all times to the aesthetics of the property.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.040. Placement of facilities.

- A. Cable system operators shall follow City requirements for placement of facilities in public rights-of-way or City-owned property including the specific location of facilities in the public rights-of-way or City-owned property, and shall in any event install facilities in a manner that minimizes interference with the use of City-owned property and public rights-of-way by others, including others that may be installing cable systems, other

communications facilities, or utilities. The City shall have the right to inspect all facilities being placed underground before they are covered. It shall be a cable operator's responsibility to arrange for inspection of underground facilities by the appropriate City official, and the City shall have the right to require an operator to reopen a trench or other underground installation if any facilities are covered before the City has inspected them.

- B. Upon order of the City Manager, all work which does not comply with the permit, the approved plans or specifications for the work, or the requirements of this Title, the franchise, or other applicable law, shall be promptly removed by the cable operator at its expense.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.050. Marking of facilities.

Each cable operator that places facilities underground shall be a member of USA and shall field mark the locations of its underground facilities upon request. Throughout the term of a franchise, a cable operator shall locate its facilities for the City at no charge to the City.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.060. Existing poles and conduits.

To the extent possible, a cable operator shall use existing poles and conduits within the public rights-of-way in installing its cable system. If such poles and conduits are unavailable, then a cable operator shall construct its own wireholding structures within the public rights-of-way, and install its facilities in those structures, provided there is sufficient room for additional structures in the public rights-of-way. Where the public rights-of-way cannot be used, a cable operator shall, to the extent possible, use existing poles and conduits located outside the public rights-of-way, after obtaining any necessary authorizations. In no case may additional poles or other structures be installed in the public rights-of-way or on any public property without the prior permission of the City.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.070. Notice of work.

Work by or on behalf of a cable operator concerning installation, maintenance, replacement or removal of a cable system, or any part thereof, shall be publicized by the cable operator, at its cost, in the manner and at the times the City Manager periodically may direct.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.080. Use of public and private property.

- A. Should the grades or lines of the public rights-of-way, whether on City-owned or private property, that a cable operator is authorized to use and occupy be changed at any time during the term of a franchise, the cable operator shall, if necessary, as determined by the City, relocate or change its system, at its own cost and expense, so as to conform with the new grades or lines.
- B. Any alteration to any water and sewage mains or lines, to any drainage system or to any publicly-owned structures in the public rights-of-way, whether on City-owned property or on private property, which alteration is required on account of the presence of a cable operator's system in the public rights-of-way or on such City-owned property or private

property, shall be made at the sole cost and expense of the cable operator. During any work of constructing, operating or maintaining of a system, a cable operator shall, at its own expense, protect all existing structures belonging to the City and any other person. The City may prescribe the manner in which a cable operator shall perform any work performed within the public rights-of-way, whether on City-owned property or on private property.

- C. Unless otherwise specified in a franchise, all system facilities shall be constructed, installed, and located in accordance with all applicable laws, ordinances, regulations and policies, and in accordance with the following terms and conditions:
1. Poles, underground conduits, ducts or other wireholding structures shall not be installed in the public rights-of-way or on other City property without the written permission of the City, or on private property of any third party without the written permission of the owner.
 2. Whenever any existing telephone, electric utility, cable system, or other similar facilities are located underground within the public rights-of-way or on City-owned property, a person installing another cable system also shall place its cables and passive electronic facilities underground.
 3. Whenever any existing telephone, electric utility, or communications facilities are located or relocated underground within the public rights-of-way or on City-owned or private property, cable operators that then occupy the same public rights-of-way, City-owned property or private property shall concurrently relocate their respective cables and passive electronic facilities underground, at their own expense, or in accordance with applicable law or current joint-use practices.
- D. Any and all public rights-of-way, public property, or private property that is disturbed or damaged during the upgrade, rebuild, repair, replacement, relocation, operation, maintenance, or construction of a system shall be repaired, replaced and restored, in a good workmanlike, timely manner, to substantially the same condition as immediately prior to the disturbance (including appropriate landscape restoration). All repairs, replacements and restoration shall be undertaken within no more than 30 days after the damage is incurred, and shall be completed as soon as reasonably possible thereafter. The City may require that repairs, replacements and restoration take place in a shorter period of time in situations in which City determines that a dangerous condition exists. The operator shall warrant such repairs, replacements and restoration for at least 3 years against defective materials or workmanship, with the exception of plants installed in the course of restoration.

(Ord. 1330 C.S. § 1, 2006)

§ 13.50.090. Interference with public projects-Relocation of facilities.

- A. Nothing in this Chapter or any franchise agreement shall be in preference to, or in hindrance of, the right of the City, the City Council or any board, authority, commission or public service corporation to perform or carry on any construction, public works or public improvements of any description. Subject to applicable law, should a cable operator's system in any way interfere with the construction, maintenance or repair of any public works or public improvements, the cable operator shall, at its sole cost and expense, protect or relocate its system, or part thereof, as directed by the City, the City Council, the City Manager or any City official, board, authority, or commission.

- B. If any person that is authorized to place facilities in the public rights-of-way, or on City-owned or private property requests a cable operator to protect, support, temporarily disconnect, remove, or relocate its facilities to accommodate the construction, operation, or repair of the facilities of such other person, the cable operator shall, after 7 calendar days' advance written notice, take action to effect the necessary changes requested. If the requested action is necessary to address an emergency that, in the opinion of the City, might affect the public health, safety or welfare, then the cable operator shall take immediate action upon receipt of notice of the request to complete the requested action. Unless the matter is governed by a valid contract, a local ordinance, regulation or policy, or a State or Federal law or regulation, or in other cases where the system that is being requested to move was not properly installed, the reasonable cost of the same shall be borne by the party requesting the protection, support, temporary disconnection, removal, or relocation and performed at no charge to the City.
- C. A cable operator shall, at the request of any person holding a valid permit issued by a governmental authority, temporarily remove, raise or lower its wires to permit the temporary or permanent moving of buildings, structures, equipment of whatever nature, or other objects. The expense of such temporary removal or raising or lowering of wires shall be borne solely by the requesting party, unless otherwise agreed upon by the cable operator and the requesting party. A cable operator shall be given not less than 48 hours' advance notice to arrange for such temporary wire changes.
- (Ord. 1330 C.S. § 1, 2006)

§ 13.50.100. Other permits.

In addition to such permits as may be required by the City, a cable operator shall be required to obtain permits required by any other entity having jurisdiction.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.54
CABLE TELEVISION — ADMINISTRATION AND ENFORCEMENT

§ 13.54.010. Franchise fees.

- A. All cable operators shall pay a franchise fee to the City in an amount equal to 5% of the cable operator's gross revenues. The cable operator shall make franchise fee payments on the first day of each calendar quarter, or at such other times specified in the franchise agreement. Franchise fee payments shall be submitted together with documentation of the cable operator's gross revenues in such form as may be agreed to in the franchise agreement.
- B. Payment of the franchise fee shall not be considered in the nature of a tax or in lieu of other taxes or fees imposed by the City.
- C. The franchise fee is in addition to all other taxes, fees and payments that a cable operator may be required to pay under its franchise agreement or any Federal, State, or local law, and to any other tax, fee, or assessment imposed by utilities and cable operators for use of their services, facilities, or equipment, including any applicable amusement taxes and annual license taxes, except to the extent that such fees, taxes, or assessments shall be treated as a franchise fee under Section 622 of the Cable Act, 47 U.S.C. Section 542.
- D. A cable operator shall not designate the franchise fee as a tax in any communication to a subscriber.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.020. Fees on noncable operator revenues.

In consideration of the use of public property, any person other than a cable operator who provides cable service over a cable system for which charges are assessed to subscribers but which are not received by a cable operator shall pay a fee to the City in an amount equal to 5% of that person's revenues. The cable operator whose cable system is used by such person shall collect the foregoing fee from such person no later than the 10th day prior to the close of each calendar quarter and shall remit the fee to the City no later than the 1st day of the following calendar quarter. If the cable operator fails to collect or remit all or part of this fee, the cable operator shall be directly liable to the City for payment of the uncollected or unremitted fee.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.030. Audit.

The City, on an annual basis, shall be furnished a statement within 90 days of the close of the calendar year, certified by an officer of the operator reflecting the total amounts of gross revenues and all payments and computations of the franchise fee for the previous calendar year. The City shall have the right to conduct an audit of the operator's books and records reasonably related to the calculation of gross revenues and franchise fees for the audit period not more frequently than once every 3 years, upon 60 days' prior written notice to the operator, and shall provide the City or its designee copies of such books and records, subject to the terms of a mutually satisfactory confidentiality agreement, substantially identical to the form of an agreement to be appended to the operator's franchise agreement. If such audit indicates a franchise fee underpayment of at least 5%, and such finding is not contested, the operator shall assume all reasonable costs of such an audit. If there is any underpayment, the operator shall

remit to the City all applicable franchise fees.
(Ord. 1330 C.S. § 1, 2006)

§ 13.54.040. Late payments.

In the event that the cable operator does not make any payments required by this Code on or before the date due, a late payment penalty shall accrue at a rate of 1-½% per month on the unpaid amount until paid, or such other amount as may be set by applicable law.
(Ord. 1330 C.S. § 1, 2006)

§ 13.54.050. No accord or satisfaction.

No acceptance by or payment to the City of a franchise fee, or any portion thereof, shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums due or for the performance of any other obligation of a cable operator, or as an acknowledgment that the amount paid is the correct amount due.
(Ord. 1330 C.S. § 1, 2006)

§ 13.54.060. Records and reports.

A. Access to books and records.

1. The City or its designee shall have the right to review, upon reasonable and timely written notice, during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, at the operator's local office, all books, documents, and records reasonably necessary to ensure compliance with the franchise.
2. To the extent not inconsistent with applicable law, the operator shall have the right to designate confidential and proprietary any confidential, proprietary, trade secret and privileged information that may be provided to the City and the City shall thereupon treat such information as privileged from disclosure under the California Public Records Act. The City shall provide the operator with at least 10 business days' advance notice of any request by a third party for disclosure of information designated by the operator as confidential, proprietary, trade secret or privileged. To the extent that any information regarding the local cable system is maintained, either separately or cumulatively with information concerning other cable systems or operations, by the operator or an affiliate, the operator shall make copies of such records available for inspection and auditing at the local office within 7 days after receipt of a written request by the City.
3. If any documents, books and records are too voluminous, or for security reasons cannot be copied and moved, then a cable operator may request that the inspection take place at some other location mutually agreed to by the City and a cable operator, provided that the cable operator shall pay all travel and additional expenses incurred by the City (above those that would have been incurred had the documents, books and records been produced at the operator's local office) in inspecting those documents, books and records or having those documents, books and records inspected by its designee.
4. Without limiting the foregoing, a cable operator shall provide the City with the following within 10 days of receipt or (in the case of documents, books or records

created by the cable operator or its affiliate) filing:

- a. Notices of deficiency or forfeiture related to the operation of the system; and
 - b. Copies of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by a cable operator, or by any partnership or corporation that owns or controls the cable operator directly or indirectly.
 - c. Upon reasonable request and limited to matters directly affecting the cable system or the City's authority over the cable system, operator will provide copies of all petitions, applications, communications and reports submitted by the operator or on behalf of the operator to the Federal Communications Commission, Securities and Exchange Commission, or any other governmental authority having jurisdiction with respect to any matters affecting the cable system. Copies of responses from any such governmental authority to the operator shall likewise be furnished upon request to the City.
- B. Reports. A cable operator shall within 90 days of each calendar year end, submit a written end of the year report to the City with respect to the preceding calendar year containing the information required by such operator's franchise agreement.
- C. Records required. A cable operator shall at all times maintain:
1. Records of all complaints received with information sufficient to allow a cable operator to prepare the reports required in this Section, and the operator's franchise agreement.
 2. Records of outages known to a cable operator, with information sufficient to allow a cable operator to prepare the reports required in this Section and the operator's franchise agreement.
 3. Records of service calls for repairs and maintenance indicating the date and time service was requested, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved.
 4. Records of installation/reconnection and requests for service extension, indicating the date of request, the date of acknowledgment, and the date and time service was extended.
 5. System financial records prepared in accordance with generally accepted accounting principles.
- D. Additional records and reports. The City may require cable operators to maintain records and to prepare reports relevant to determining a cable operator's compliance with the terms and conditions of this Chapter and a franchise.
- E. Maps. The operator shall at all times maintain and upon request make available for review by the City: a full and complete set of plans, records and "as-built" maps showing the location of the cable system installed or in use in the City, exclusive of subscriber service drops and equipment provided in subscribers' homes. To the extent technically and economically feasible, the operator shall also make records and strand maps available to the City in electronic format compatible with the City's computer system.

F. Waiver of reporting requirements. The City may, at its discretion, waive in writing the requirement of any particular report specified in this Section.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.070. Location of cable operator's properties.

A. Each cable operator shall at all times make and keep on file in the office of the Community Development Director current, full and complete plans and records to a scale and form approved by the Community Development Director, showing the location of all cable system equipment installed or in use in streets, alleys and public places in the City.

B. Each cable operator shall file with the Community Development Director, on or before the last day of March of each year, a current map or set of maps drawn to a scale designated by the Community Development Director, showing all cable system equipment installed in streets, alleys and public places of the City during the previous year.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.080. Insurance.

A cable operator shall obtain, and by its acceptance of the franchise specifically agrees that it will maintain, throughout the entire term of the franchise, at its own cost and expense and keep in force and effect insurance policies in accordance with the requirements of its franchise agreement.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.090. Indemnification.

A. No franchise or other authorization to use the public rights-of-way, or any independent permission to use City-owned property granted to a cable operator shall be valid or effective until and unless the City obtains adequate indemnity from such cable operator.

B. Neither the provisions of this Section nor any damages recovered by the City shall be construed to limit the liability of a cable operator for damages to the City, its elected and appointed officers, officials, boards, commissions, employees, agents, and volunteers, and any other person or persons, under the franchise.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.100. Performance bond.

A franchise agreement may require the cable operator to post a performance bond in an amount acceptable to the City to secure the performance of the cable operator's obligations to repair and restore the public rights-of-way in accordance with this Code. A franchise agreement may also require a cable operator to post a separate performance bond in an amount specified in the franchise agreement to secure the cable operator's obligations under the franchise agreement and this Title.

(Ord. 1330 C.S. § 1, 2006)

§ 13.54.110. Possessory interest.

The granting of a franchise pursuant to this Title may create an interest subject to property taxation pursuant to California Revenue and Taxation Code Section 107 et seq. Each cable

operator shall be solely responsible for payment of any such taxes.
(Ord. 1330 C.S. § 1, 2006)

§ 13.54.120. Violations.

- A. Civil and criminal penalties. Any person who violates any provision of this Title may be guilty of a misdemeanor or an infraction, as otherwise provided by applicable law.
- B. Civil penalties. Any person who violates any provision of this Title, or who violates any condition of any license or permit issued hereunder, or who breaches any franchise agreement or other agreement with the City may be liable for a civil penalty, as otherwise provided by applicable law.
- C. Revocation, reduction of term, or forfeiture of franchise.
 - 1. The City shall have the right to revoke the franchise for any material violation of a franchise agreement.
 - 2. Notice of violation or default. In the event the City believes that a cable operator has not complied with a material term of the franchise, it shall notify the operator in writing with specific details regarding the exact nature of the alleged noncompliance or default. No opportunity to cure is required for fraud.
 - 3. Operator's right to cure or respond. The operator shall have 90 days from the receipt of the City's written notice: (A) to respond to the City, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the 90-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.
 - 4. Public hearings. In the event the operator fails to respond to the City's notice or in the event that the alleged default is not remedied within 90 days or the date projected by the operator, the City may give the operator written notice of its intent to revoke the franchise, stating its reasons. Prior to revoking the franchise, the City shall schedule a public hearing, on at least 30 calendar days' notice, at which time the operator and the public shall be given an opportunity to be heard. Following the public hearing, the City may determine whether to revoke the franchise based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to the operator to effect any cure. If the City determines to revoke the franchise, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to the operator.
 - 5. Notwithstanding the foregoing, the City Council may declare a franchise forfeited where the cable operator (i) fails to begin to exercise its rights under the franchise within a period specified in the franchise agreement; (ii) transfers the franchise in a manner inconsistent with the terms of this Title or the franchise agreement; (iii) fails to pay the fees owed hereunder; or (iv) defrauds or attempts to defraud the City or its customers.
 - 6. Upon revocation, final denial of renewal pursuant to Federal law, or forfeiture of a franchise, a cable operator shall be obligated to cease using its system for the purposes authorized by the franchise. The City may (i) purchase the cable operator's facilities

at a price established in accordance with 47 U.S.C. Section 547(ii), effect a transfer of the cable operator's facilities to another person at such a price; or (iii) require the cable operator or its surety to remove some or all of the cable operator's facilities from the public rights-of-way or City-owned property and to restore the public rights-of-way and City-owned property to their proper condition. Notwithstanding anything in this Title to the contrary, should a cable operator fail, refuse, or neglect to remove such facility, the City may remove the facility at the expense of the cable operator. Regardless of the existence or amount of any security fund or performance bond, the obligation of a cable operator to remove shall survive the termination of the franchise. This provision does not authorize the City to purchase, effect a transfer of, or require a cable operator to remove, any facilities that are used to provide another service for which the cable operator holds a valid franchise issued by the City Council.

- D. Cumulative remedies. The foregoing remedies shall be deemed nonexclusive, cumulative remedies and in addition to any other remedy the City may have at law or in equity. (Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.58
CABLE TELEVISION — RATE REGULATION

§ 13.58.010. Authority.

The City reserves all of its rights under applicable law regarding the regulation of the rates charged by cable operators.

(Ord. 1330 C.S. § 1, 2006)

§ 13.58.020. Notice of rate increases.

No later than 30 days prior to the effective date of any proposed increase in rates, the cable operator shall notify its subscribers of its proposed rates by mailing such notice to all subscribers, either separately or in conjunction with bills or other notices sent to subscribers.

(Ord. 1330 C.S. § 1, 2006)

CHAPTER 13.62
REGULATION OF STATE VIDEO FRANCHISE HOLDERS

§ 13.62.010. Purpose and authority.

This Chapter implements the Digital Infrastructure and Video Competition Act of 2006 (the "Act"; AB2987), as set forth at Public Utilities Code Section 5800 and following. The Act creates a process for the state, rather than local cities and counties, to grant video service franchises. It will be administered by the California Public Utilities Commission (CPUC). Under the Act, some authority is retained by local cities and counties, and the purpose of this Chapter is to implement that local authority in the City.

(Ord. 1347 C.S. § 1, 2008)

§ 13.62.020. Definitions.

- A. The terms "video service," "video franchise" and "holder" shall have the same meaning as those terms are defined in CPUC Section 5830.
- B. "Gross revenue" has the meaning set forth in CPUC Section 5860(d).
- C. Terms not defined here shall have the same meaning as established in (in order of priority): (1) the CPUC; (2) commission rules implementing the CPUC; and (3) Title 47 United States Code Title VI.

(Ord. 1347 C.S. § 1, 2008)

§ 13.62.030. State video franchise applications.

- A. Copy of application to City. An applicant for a state video franchise within the City must concurrently provide a complete copy to the City Manager of any application or amendments to an application filed with the CPUC (CPUC Section 5840(n)).
- B. City manager comments to CPUC. Within 30 days of receipt, the City Manager will provide any appropriate comments to the CPUC regarding an application or an amendment to an application for a state video franchise.

(Ord. 1347 C.S. § 1, 2008)

§ 13.62.040. State video franchise and PEG fees.

- A. Franchise fee. For any state video franchise holder operating within the boundaries of the City, there shall be a fee paid to the City equal to 5% of the gross revenues derived from the operation of its franchise within the City (CPUC Section 5840(q)). A state video franchise holder shall pay the franchise fee to the City quarterly, within 45 days after the end of each calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the fee.
- B. PEG fees.
 - 1. Current fees. Any state video franchise holder operating within the City shall pay a PEG fee to the City in an amount equal to the existing unsatisfied obligations of the incumbent operator's franchise.
 - 2. Fee to take effect upon expiration of incumbent operator's franchise. Any state video

franchise holder operating within the boundaries of the City shall, upon the expiration of the incumbent operator's franchise, pay a PEG fee to the City equal to 1% of the gross revenues derived from the operation of its franchise within the City. A state video franchise holder shall pay the PEG fee to the City quarterly, within 45 days after the end of each calendar quarter. The City will use the receipts of the PEG fee for purposes consistent with state and federal law (CPUC Section 5870(n)).

- C. Authority to examine records. The City Manager may examine the business records of a holder of a state video franchise to ensure compliance with this Section. The City may conduct such an examination not more than once each year (CPUC Section 5860(i)).
(Ord. 1347 C.S. § 1, 2008)

§ 13.62.045. Reauthorization of ordinance establishing PEG fees.

- A. In accordance with Public Utilities Code Section 5870(n), Ordinance Number 1347 establishing PEG fees is hereby reauthorized as to any state franchise which has expired as of the effective date of this ordinance, or will expire at any time thereafter.
- B. Nothing in this Section shall amend, alter, supersede, modify, or supplant any of the provisions of Section 13.62.040, nor shall it apply if the reauthorization procedure in Public Utilities Code Section 5870(n) is not applicable to Ordinance Number 1347.
(Ord. No. 1403 C.S., § 1, 3/15/2017)

§ 13.62.050. Customer service penalties.

- A. Compliance with customer service and protection standards. The holder of a state video franchise shall comply with all applicable state and federal customer service and protection standards pertaining to the provision of video service in the City (CPUC Section 5900(a) and (b)).
- B. City monitoring; notice of violation; penalties. The City Manager shall monitor the compliance of state video franchise holders with respect to state and federal customer service and protection standards. The City Manager will provide the state video franchise holder written notice of any material breaches of applicable customer service standards, and will allow the state video franchise holder 30 days from the receipt of the notice to remedy the specified material breach. A material breach not remedied within the 30-day time period will be subject to the following City penalties:
1. For the first occurrence of a violation, a fine of \$500.00 shall be imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.
 2. For a second violation of the same nature within 12 months, a fine of \$1,000.00 shall be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each violation.
 3. For a third or further violation of the same nature within 12 months, a fine of \$2,500.00 shall be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each violation (CPUC Section 5900(c) and (d)).
- C. Appeal. A state video franchise holder may appeal a penalty assessed by the City Manager to the City Council within 60 days of the initial assessment. The City Council shall set the matter for hearing, and hear all evidence and relevant testimony. The City Council may

uphold, modify or vacate the penalty. The City Council's decision on the imposition of a penalty is final.

(Ord. 1347 C.S. § 1, 2008)

§ 13.62.060. Public rights-of-way.

- A. A state video franchise holder is required to obtain an encroachment permit from the City in accordance with Title 12, Real Property, Section 1, Chapters 12.04—12.20 of the Martinez Municipal Code before constructing, operating, maintaining, or repairing its facilities within the public right-of-way.
- B. The City shall either approve or deny an encroachment permit application within 60 days of receiving a completed application. An application is considered complete when the applicant has complied with all statutory requirements, including the California Environmental Quality Act (Pub. Res. Code Section 21000 and following).
- C. If the City denies the encroachment permit, it shall provide the applicant with a detailed explanation of the reason for the denial. A determination regarding the encroachment permit by the Assistant City Manager—Community and Economic Development, may be appealed (CPUC Sections 5830(o), 5840(e) and 5885(c)).

(Ord. 1347 C.S. § 1, 2008)

MARTINEZ CODE

EMERGENCY ORGANIZATION AND FUNCTIONS

Title 14

EMERGENCY ORGANIZATION AND FUNCTIONS

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§ 14.04.010.	Purposes.	§ 14.04.060.	Powers and duties of the director and assistant director of emergency services.
§ 14.04.020.	Definition.	§ 14.04.070.	Emergency organization.
§ 14.04.030.	Disaster council membership.	§ 14.04.080.	Emergency plan.
§ 14.04.040.	Disaster council powers and duties.	§ 14.04.090.	Expenditures.
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CHAPTER 14.04
EMERGENCY ORGANIZATION AND FUNCTIONS

§ 14.04.010. Purposes.

The declared purposes of this ordinance are to provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons. (Ord. 1204 C.S. § II, 1993)

§ 14.04.020. Definition.

As used in this ordinance, "emergency" shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities for this City, requiring the combined forces of other political subdivisions to combat. (Ord. 1204 C.S. § II, 1993)

§ 14.04.030. Disaster council membership.

The Martinez Disaster Council is hereby created and shall consist of the following:

- A. The Mayor, who shall be Chairman.
- B. The Director of Emergency Services, who shall be Vice Chairman.
- C. The Assistant Director of Emergency Services.
- D. Such chiefs of emergency services as are provided for in a current Emergency Plan of this City, adopted pursuant to this ordinance.
- E. Such representatives of civic, business, labor veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the Director with the advice and consent of the City Council.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.040. Disaster council powers and duties.

It shall be the duty of the Martinez Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the Chairman or, in his absence from the City or inability to call such meeting, upon call of the Vice Chairman.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.050. Director and assistant director of emergency services.

- A. There is hereby created the Office of Director of Emergency Services. The City Manager

shall be the Director of Emergency Services.

- B. There is hereby created the Office of Assistant Director of Emergency Services, who shall be the Chief of Police.
(Ord. 1204 C.S. § II, 1993)

§ 14.04.060. Powers and duties of the director and assistant director of emergency services.

- A. The Director or Assistant Director is hereby empowered to:

1. Request the City Council to proclaim the existence or threatened existence of a "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.
2. Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency.
3. Control and direct the effort of the emergency organization of this City for the accomplishment of the purposes of this ordinance.
4. Direct cooperation between and coordination of services and staff of the emergency organization of this City; and resolve questions of authority and responsibility that may arise between them.
5. Represent this City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
6. In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the Director is hereby empowered:
 - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
 - b. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use;
 - c. To require emergency services of any City officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this City is located or the existence of a "state of war emergency," to command the aid of as many citizens of this community as he deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster services workers;
 - d. To requisition necessary personnel or material of any City department or

agency; and

- e. To execute all of his ordinary power as Chief of Police all of the special powers conferred upon him by this ordinance or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him by any statute, by any agreement approved by the City Council, and by any other lawful authority.
- B. The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the Director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be approved by the City Council.
- C. The Assistant Director shall, under the supervision of the Director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this City; and shall have such other powers and duties as may be assigned by the Director.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.070. Emergency organization.

All officers and employees of this City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 14.04.060 of this ordinance, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City of Martinez.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.080. Emergency plan.

The Martinez Disaster council shall be responsible for the development of the City of Martinez Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this City, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.090. Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of Martinez.

(Ord. 1204 C.S. § II, 1993)

§ 14.04.100. Punishment of violations.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars (\$500), or by imprisonment for not to exceed six months, or both, for any person, during an emergency, to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the

enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon him by virtue of this ordinance.

- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this City, or to prevent, hinder, or delay the defense or protection thereof.
 - C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State.
- (Ord. 1204 C.S. § II, 1993)

MARTINEZ CODE

BUILDINGS AND CONSTRUCTION

Title 15

BUILDINGS AND CONSTRUCTION

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		§ 15.55.040.	Impact fees.
		§ 15.55.050.	No penalization for applicants with unpermitted units.
		§ 15.55.060.	Pathways to legalize an unpermitted dwelling unit.
		§ 15.55.070.	Application and inspection requirements.
		§ 15.55.080.	Tenant habitability and relocation plan.
		§ 15.55.090.	Prohibition on short-term rentals.

CHAPTER 15.02
BUILDING OFFICIAL

§ 15.02.010. Building official designated.

The Public Works Director or his or her designee shall be designated as the Building Official for the purpose of enforcing all codes and regulations contained within or adopted by this Title. (Ord. 1091 C.S. § I, 1987; Ord. 1170 C.S. § 1, 1991; Ord. 1228 C.S. § I, 1995; Ord. 1341 C.S. § I, 2007)

§ 15.02.020. Design review and zoning.

No permit or approval shall be issued which does not conform to all applicable provisions of Chapter 8.50, this Title and Title 22, including Design Review.

The determination of conformance with Title 22 shall be made by the Community Development Director or designated staff member of the Community Development Department. (Ord. 1091 C.S. § I, 1987; Ord. 1170 C.S. § 1, 1991; Ord. No. 1353, § 2, 7/15/2009)

CHAPTER 15.04
BUILDING CODE¹⁷

§ 15.04.010. Adoption of the California Building Code.

The City hereby adopts by reference the 2025 Edition of the California Building Code, Volumes 1 and 2, also known as Part 2 of Title 24 of the California Code of Regulations, which incorporates a California version of the 2024 International Building Code published by the International Code Council.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022; Ord. No. 1479, 11/19/2025)

§ 15.04.020. Stop work orders.

Whenever any work is being done contrary to, respectively, the provisions of this Code or any provision of the Martinez Municipal Code, or any condition imposed by the City on a permit or approval issued or granted under the Martinez Municipal Code, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work. Such orders may also be served by the Chief of Police. Any person who shall continue any work after having been served with a stop work order except such work as that person has been directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by Title 1 of the Martinez Municipal Code or as otherwise provided by law.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.030. (Reserved)¹⁸

§ 15.04.035. (Reserved)¹⁹

§ 15.04.040. (Reserved)²⁰

§ 15.04.045. Permit fees.

Permit fees for work regulated by this Chapter shall be as adopted from time to time by resolution of the City Council of the City of Martinez.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.050. Appendix chapter J amended—Excavation and grading.

Appendix Chapter J—Excavation and Grading, shall be amended in the manner described below:

17. Editor's note: Prior history: Ord. No. 1399 C.S., adopted 11/16/2016.

18. Editor's note: Former § 15.04.030, Section 114 amended—Violations and penalties, which derived from Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019 and Ord. No. 1441, § 1(Exh. A), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

19. Editor's note: Former § 15.04.035, Section 105.2 amended—Exempted work, which derived from Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019, Ord. No. 1441, § 1(Exh. A), 12/21/2022 and Ord. No. 1460, § III, 7/31/2024, was repealed by Ord. No. 1479, 11/19/2025.

20. Editor's note: Former § 15.04.040, Section 105.3 amended—Application, which derived from Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019 and Ord. No. 1441, § 1(Exh. A), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

A. Section J103.2—Amend by adding a new paragraph 8 as follows:

8. Grading of streets in subdivisions for which improvement plans have been approved by the City Engineer when such grading is being inspected by the City Engineering Department.

B. Section J102—Amend by adding the following definition in proper sequence:

Building Official. For the purpose of this chapter this title shall be the Public Works Director or his or her designee.

C. Section J104.2—Amend by deleting entire section and substituting the following in place thereof:

Each application for a grading permit shall be accompanied by four sets of plans 24 inches × 36 inches in size prepared at a scale of 1 in. = 40 feet or greater. The plans shall be accompanied by specifications and supporting data consisting of a soils report and engineering geology report. The plans and specifications shall be prepared and signed by a civil engineer when required by the Building Official. Upon approval, three sets of the approved corrected plans shall be submitted to the City for use during the course of the work.

At the completion of work and prior to release of the permit by the City, one reproducible set and one set of prints shall be submitted to the Building Official. The plans shall be designated "As Built" and shall include any changes from the approved plan made during the course of work. The "As Built" plans shall be signed and dated by the Civil Engineer and Soils Engineer.

D. Section J102.1—Amend by deleting the entire section and substitute the following in place thereof:

- a) Plan review and permit fees for work regulated by this chapter shall be as adopted from time to time by resolution of the City Council of the City of Martinez.
- b) Separate plan review and permit fees shall apply to retaining walls or major drainage structures as required elsewhere in this code.

E. Section J105.2.1—Amend by adding a new Subsection J105.2.1 to the end of the section as follows:

Pad Certification.

Prior to the issuance of a building permit, as specified in this code, the Civil Engineer shall certify, in writing, that pad elevations are in conformance with the approved grading plans and the rough lot will drain according to drainage patterns specified on the plan.

The area of the pad within the foundation of the proposed structure shall be certified by the Civil Engineer to be within 0.1 feet ($\pm$) of the pad elevation specified on the approved grading plan.

The engineer's certification shall state that in his opinion finish lot grading may be done to provide positive drainage away from the foundation and to approved drainage facilities (curb underdrains, lined ditches, etc.) as specified on the approved grading plan.

(Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.055. Site development permit.

A site development permit shall be required for each single parcel residential and non-residential development for the plan checking and inspection of all non-building site improvements including grading, drainage, streets, driveways, parking lots, walkways, and other related improvements. The site development permit shall serve as a grading permit and permit for all other non-building on-site improvements. An encroachment permit for improvements within the public rights-of-way is still required.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.060. Erosion control.

- A. Title and purpose. This section shall be known as the "Erosion Control Ordinance." The purpose of this chapter is to provide minimum standards and procedures to protect the public interest by managing construction practice of land excavation, fill, storage and grading.
- B. Erosion control measures—Required. Erosion control measures are required prior to commencing work under any of the following conditions:
 - 1. The area of land disturbed exceeds one-half acre;
 - 2. Natural and finished slopes exceed ten percent and area of land disturbed exceeds 3,000 square feet.
 - 3. Volume of soil stored exceeds 200 cubic yards.
- C. Work not requiring erosion control measures. Erosion control measures will not be required for:
 - 1. Routine maintenance work;
 - 2. Work specifically determined by the City Engineer which meets the intent of this erosion control ordinance.
- D. Permit—Application. Erosion mitigation measures shall be a requirement of the grading permit. The plans submitted with the application for a grading permit shall include erosion mitigation measures and may include or be accompanied by all or part of the following items as required by the City Engineer:
 - 1. Site plan;
 - 2. Grading plan;
 - 3. Erosion control plan;
 - 4. Soil engineer's report on erosion potential due to wind or water runoff and mitigation measures;
 - 5. Contractor's name and emergency phone number;
 - 6. Checking and inspection fees;
 - 7. Security bonds or deposits;

8. Work schedule.

If erosion control plans prepared by a Registered Civil Engineer have not been submitted to the City for review by September 1, the City may have plans prepared and the cost shall be deducted from the deposit. The deposit, or any unexpended portions, shall remain with the City until release of the bond for the grading permit or acceptance of the improvements by the City, whichever occurs later.

- E. Security for erosion control measures. At the time of issuance of an encroachment permit, grading permit, site development permit, or other approval to commence work by the City, an additional cash deposit shall also be required to guarantee installation of erosion control measures, cleanup of siltation, dust, and debris from the project site onto public and private property, repair of public improvements damaged by activity, installation of emergency measures to protect public health and safety, and continuing maintenance of erosion control facilities during the period from October 15 through April 15. The required deposit may be used at the discretion of the City. The required amount of the deposit shall be set forth in the development agreement or permit. The applicant shall maintain the deposit at the required amount at all times as specified in the agreement or permit.

At acceptance of improvements or final approval of the work covered by the permit, whichever comes later, all unexpended funds of the applicant's cleanup deposit shall be refunded.

In the event it is necessary for the City to use any portion of the cleanup deposit, the applicant will be billed by the City for the costs of the required corrective work and administrative costs incurred for City staff time. The applicant shall deposit the required amount to bring the deposit to its specified level within ten days of notification by the City. Failure to comply with these provisions shall be cause for issuance of a stop work order on the project or not granting final approvals and additional permits.

This deposit shall be required for all grading permits, site development permits, subdivision improvement agreements or for other work as required by the City.

- F. Standards. The minimum erosion control standards shall be as approved by the City Engineer and shall include the following:

1. Wind related erosion.

- a. Temporary erosion control measures shall be part of the grading plan.
- b. Temporary erosion control measures shall be maintained pending the installation of permanent erosion control.
- c. Planting for permanent erosion control shall be established by October 1, or mitigation for water related erosion implemented as specified below.

2. Water related erosion.

- a. Period when erosion control measure is in effect is October 15 to April 15;
- b. Erosion control design shall be prepared by a registered civil engineer and shall meet the approval of the City Engineer;
- c. Erosion control standard plans and design criteria on file with the City Engineer

are to be used as guidelines by the Engineer;

- d. Two sets of erosion control plans shall be submitted by September 1 for review by the City Engineer.

G. Violation. It shall be a violation of this section for any person to:

1. Perform work without a permit;
2. Perform work without an approved plan;
3. Continue to work in violation of a stop work order.

H. Enforcement. Any violation of this section shall be a public nuisance and a misdemeanor which may be punishable by imposing a maximum fine of \$500.00 and/or imprisonment in the County Jail for up to six months for each such violation.

I. Permit—Inspection. City Engineer is authorized to inspect and initiate enforcement procedures as necessary.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.070. Minimum building permit valuation basis.

A. The minimum valuation basis to be used in computing permit fees shall be such as are fixed from time to time by resolution of City Council.

B. Building permit fees shall be based on the above-mentioned minimum valuation schedule or the actual value, whichever is greater.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.080. Moved buildings.

The following shall apply to any work that is subject to the provisions of this Chapter:

Buildings or structures proposed to be moved within the City limits shall be inspected by the Building Department prior to moving and issuance of permits. Fees for such inspections shall be such as fixed by resolution of the City Council.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.090. (Reserved)²¹

§ 15.04.100. (Reserved)²²

§ 15.04.110. Appeals board.

Notwithstanding anything to the contrary stated by any of the provisions of the California Building Code, the Appeals Board for any appeal that may be made under this Chapter is hereby designated to be the City Council.

21. Editor's note: Former § 15.04.090, Section 101.2 amendment, which derived from Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019 and Ord. No. 1441, § 1(Exh. A), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

22. Editor's note: Former § 15.04.100, Penalty for violation, which derived from Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019 and Ord. No. 1441, § 1(Exh. A), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.120. Conflict or inconsistency.

In the event of any conflict or inconsistency between any of the provisions of the California Building Code and any of the provisions stated expressly by this Chapter, the provisions of this Chapter shall be controlling.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.130. No mandatory duty.

By adoption of this chapter the City Council does not intend to create, establish, or impose any mandatory duty or liability on the part of the city, its officers, employees, or any other person acting on its behalf, notwithstanding the use of "shall", "will", "must", or similar terms stated expressly or incorporated into this chapter.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

§ 15.04.140. Unsafe and substandard buildings.

- A. No person may occupy, inhabit, reside or remain within, any building or structure that has been determined by the Building Official to be unsafe pursuant to Section 116 of the California Building Code and posted in compliance with that section.
- B. No person may occupy, inhabit, reside or remain within, any building or structure that constitutes a substandard building as defined by Health and Safety Code Section 17920.3, as it may be amended from time to time, after such building or structure has been designated a substandard building and a notice to vacate has been issued in accordance with the provisions of the State Housing Law (Part 1.5 of Division 13, commencing with Section 17910, of the Health and Safety Code).
- C. Nothing in this section shall prevent the Building Official from authorizing any repairs, alterations, or corrections necessary to remove or abate the conditions that have been determined to be unsafe or that constitute a substandard building under this section. Any person acting in accordance with such authority shall not be deemed to be in violation of this section.

(Ord. No. 1427 C.S., § 1(Exh. A), 11/20/2019; Ord. No. 1441, § 1(Exh. A), 12/21/2022)

CHAPTER 15.05
RESIDENTIAL CODE²³

§ 15.05.010. Adoption of the California Residential Code.

The City hereby adopts by reference the 2025 Edition of the California Residential Code, which incorporates a California version of the 2024 Edition of the International Residential Code as published by the International Code Council, also known as Part 2.5 of Title 24 of the California Code of Regulations.

(Ord. No. 1399 C.S., § 2(Exh. B), 11/16/2016; Ord. No. 1427 C.S., § 2(Exh. B), 11/20/2019; Ord. No. 1441, § 2(Exh. B), 12/21/2022; Ord. No. 1479, 11/19/2025)

§ 15.05.020. Applicability.

Division 1, Chapter II of the California Residential Code shall be excluded from this Chapter. Notwithstanding any of the provisions of the California Residential Code, the provisions of Chapter 15.04 shall be applied to any work subject to this Chapter.

(Ord. No. 1399 C.S., § 2(Exh. B), 11/16/2016; Ord. No. 1427 C.S., § 2(Exh. B), 11/20/2019; Ord. No. 1441, § 2(Exh. B), 12/21/2022)

§ 15.05.030. Conflict or inconsistency.

In the event of any conflict or inconsistency between any of the provisions of the California Residential Code and any of the provisions stated expressly by this Chapter, the provisions of this Chapter shall be controlling.

(Ord. No. 1399 C.S., § 2(Exh. B), 11/16/2016; Ord. No. 1427 C.S., § 2(Exh. B), 11/20/2019; Ord. No. 1441, § 2(Exh. B), 12/21/2022)

§ 15.05.040. No mandatory duty.

By adoption of this chapter the City Council does not intend to create, establish, or impose any mandatory duty or liability on the part of the city, its officers, employees, or any other person acting on its behalf, notwithstanding the use of "shall", "will", "must", or similar terms stated expressly or incorporated into this chapter.

(Ord. No. 1399 C.S., § 2(Exh. B), 11/16/2016; Ord. No. 1427 C.S., § 2(Exh. B), 11/20/2019; Ord. No. 1441, § 2(Exh. B), 12/21/2022)

23. Editor's note: Prior history: Ord. No. 1375 C.S., 12/4/2013; Ord. No. 1358 C.S., 12/15/2010.

CHAPTER 15.06
STORMWATER MANAGEMENT AND DISCHARGE CONTROL²⁴

§ 15.06.010. Intent and purpose.

- A. The intent of this Chapter is to protect and enhance the water quality in the City of Martinez's watercourses pursuant to, and consistent with the Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.) and the Federal Clean Water Act (33 U.S.C. Section 1251 et seq).
- B. This Chapter also carries out the conditions in the City's National Pollutant Discharge Elimination System (NPDES) permit that require implementation of appropriate source control and site design measures and stormwater treatment measures for development projects.
- C. It is the purpose of the City Council in enacting this Chapter to protect the health, safety and general welfare of Martinez's citizens by:
 - 1. Minimizing non-stormwater discharges, whose pollutants would otherwise degrade the water quality of local streams, to the stormwater system.
 - 2. Minimizing increases in nonpoint source pollution caused by stormwater runoff from development that would otherwise degrade local water quality.
 - 3. Controlling the discharge to the City's stormwater system from spills, dumping or disposal of materials other than stormwater.
 - 4. Reducing stormwater runoff rates and volumes and nonpoint source pollution whenever possible, through stormwater management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.020. Definitions.

The following words and phrases when used in this Chapter shall be as defined herein. Words and phrases in this Chapter and not otherwise defined shall be interpreted as defined in the regulations issued by the United States Environmental Protection Agency to implement the provisions of the Federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act:

- A. "Best management practices" or "BMP" are structural devices, measures, stormwater management facilities, activities, prohibitions, or practices; general good housekeeping, pollution prevention practices, maintenance procedures, and other management practices, to prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies, and wetlands.
- B. "City's NPDES permit" shall mean the NPDES permit issued to the City of Martinez, Permit No. CAS612008 and any subsequent amendment, reissuance or successor to this NPDES permit.
- C. "Development runoff requirements" shall mean the provisions in the City's NPDES permit

24. Editor's note: Prior history: Ord. No. 1318 C.S., 2005.

that contain performance standards to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality.

- D. "Director" shall mean the City Manager of the City of Martinez or his or her designee.
- E. "Enforcement officer" or "officer" shall mean those individuals designated by the Director to act as authorized enforcement officers.
- F. "Guidebook" shall mean the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.
- G. "Non-stormwater discharge" is any addition of any pollutant to the City's stormwater system, except discharges pursuant to a NPDES permit, or discharges further exempted in Section 15.06.060 C. and D. of this Chapter.
- H. "Pollutant" shall mean any material other than stormwater including, but not limited to, petroleum products or by-products, solid waste, incinerator residue, sewage, sewage sludge, heat, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, soil and industrial, municipal or agricultural waste discharged into the water or stormwater system.
- I. "Premises" shall mean any building, structure, facility, or installation, (including a building's grounds or other appurtenances), and adjacent sidewalks and parking strips.
- J. "Responsible person" shall mean the owner or occupant of any premises or who engages in any activity from which there is or may be a non-stormwater discharge or any person who releases pollutants to the City's stormwater system.
- K. "Stormwater" shall mean flow on the surface of the ground resulting from precipitation.
- L. "Stormwater control plan" shall mean a plan that meets those criteria contained in the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.
- M. "Stormwater management facility" shall mean any device that utilizes detention, retention, filtration, harvest for reuse, evapotranspiration or infiltration to provide treatment (and/or control volume, flows, and durations) of stormwater for purposes of compliance with development runoff requirements.
- N. "Stormwater operation and maintenance plan" shall mean a detailed plan that incorporates requirements for the operation and maintenance of the stormwater control management facilities that meets those criteria contained in Chapter 6 of the most recent version on the Contra Cost Clean Water Program Stormwater C.3 Guidebook.
- O. "Stormwater system" is that system of facilities by which stormwater may be conveyed to any stream, watercourse, other body of water or wetlands, including flood control channels, any roads with drainage systems, City streets, catch basins, curbs, gutters, ditches, improved channels, storm drains or storm drain system, which are not part of a Publicly Owned Treatment Works ("POTW") as that term is defined in 40 CFR Section 122.2.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.030. Responsibility for administration.

The Director or his or her designee shall administer this Chapter for the City.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.040. Construction and application.

This Chapter shall be construed consistent with the requirements of the Federal Clean Water Act and amendments thereto or applicable implementing regulations and the City's NPDES permit.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.050. Stormwater control plan required.

- A. In accordance with thresholds and effective dates in the City's NPDES Permit, every application for a development project, including but not limited to a rezoning, tentative map, parcel map, conditional use permit, variance, site development permit, design review, or building permit that is subject to the development runoff requirements in the City's NPDES permit shall be accompanied by a stormwater control plan that meets the criteria in the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook.
- B. Implementation of an approved stormwater control plan and submittal of an approved stormwater control operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a certificate of occupancy for a project subject to this Section.
- C. All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the Guidebook.
- D. All stormwater management facilities shall be maintained according to the Guidebook and the approved stormwater control operation and maintenance plan. The person(s) or organization(s) responsible for maintenance shall be designated in the stormwater control operation and maintenance plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the stormwater management facility at least annually. The stormwater operation and maintenance plan shall also describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain a stormwater management facility in accordance with this Chapter or the plan, the City may perform the maintenance and recover its costs from the responsible person as provided in Sections 15.06.170 and 15.06.180.
- E. Easements or recorded covenants for access to stormwater management facilities for inspections and maintenance, shall be provided by the property owner for access by the City, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.060. Prohibited discharges.

- A. The release of non-stormwater discharges to the City stormwater system is prohibited.
- B. The discharge of stormwater from premises or an activity that causes or contributes to a violation of receiving water limitations in the City's NPDES permit is prohibited.
- C. The following discharges are exempt from the prohibition set forth in subsection A above:

1. Any discharge in compliance with a NPDES permit issued to the discharger.
 2. Flows from riparian habitats and wetlands, diverted stream flows, flows from natural springs, rising ground waters, uncontaminated and unpolluted groundwater infiltration, single-family homes' pumped groundwater, foundation drains, and water from crawl space pumps and footing drains, and pumped groundwater from drinking water aquifers.
- D. The following discharges are exempt from the prohibition set forth in subsection A above, if and only if, the discharges are in accordance with conditions including but not limited to specific conditions for each type of discharge set forth in Section C.15 of the City's NPDES permit: pumped groundwater from non-drinking-water aquifers; pumped groundwater from other sources, foundation drains, and water from crawl space pumps and footing drains; air conditioning condensate; planned discharges from routine operation and maintenance activities in the potable water distribution system; unplanned discharges from breaks, leaks, overflows, fire hydrant shearing, or emergency flushing of the potable water distribution system; emergency discharges of the potable water distribution system as a result of firefighting, unauthorized hydrant openings, or natural or man-made disasters; individual residential car washing; swimming pool, hot tub, spa, and fountain water discharges, and discharges from irrigation water, landscape irrigation, and lawn or garden watering.
- (Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.070. Discharges in violation of NPDES permit.

Any discharge that would result in or contribute to a violation of the City's NPDES permit either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge, and such person shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.080. Unlawful discharge and unlawful connections.

- A. It is unlawful to establish, use, maintain or continue unauthorized drainage connections to the City's stormwater system, and to commence or continue any unauthorized discharges to the City's stormwater system.
- B. No discharge shall cause the following conditions, create a nuisance, or adversely affect beneficial uses of waters of the State:
 1. Floating, suspended or deposited macroscopic matter or foam;
 2. Bottom deposits or aquatic growth;
 3. Alterations of temperature, sediment load, nutrient load, or dissolved oxygen, which cause significant adverse impacts to native aquatic biota;
 4. Visible, floating, suspended or deposited oil or products of petroleum origin; or
 5. Substances present in concentrations or quantities which cause deleterious effects on aquatic biota, wildlife or waterfowl, or which render any of these unfit for human consumption.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.090. Best management practices and standards.

- A. Generally. Any person owning or operating premises that may contribute pollutants to the City's stormwater system shall undertake best management practices to reduce the potential for pollutants entering the system to the maximum extent practicable. Examples of such premises include, but are not limited to, parking lots, gasoline stations, industrial facilities, and other commercial enterprises. Examples of best management practices include, but are not limited to, those described in publications by the United States Environmental Protection Agency, the California Water Boards, the California Stormwater Quality Association, the Bay Area Stormwater Management Agencies Association, the Contra Costa Clean Water Program, and, the City of Martinez.
- B. Litter. No person shall throw, deposit, leave, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage or other discarded or abandoned objects, articles or other litter in or upon any street, alley, sidewalk, business place, creek, stormwater system, fountain, pool, lake, stream, river or any other body of water, or upon any public or private parcel of land so that the same might become a pollutant, except in containers or in lawfully established waste disposal facilities.
- C. Sidewalks. The occupant or tenant of, or in the absence of an occupant or tenant, the owner or proprietor of any real property in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained as required for the disposal of solid waste. This section constitutes an alternative procedure and shall not limit or restrict the City from the civil, criminal or administrative enforcement of this or other city ordinances in any other manner provided by law.
- D. Maintenance of facilities and landscaped areas. Best Management Practices shall be implemented to minimize the release of pesticides, fertilizers, herbicides, and other related materials used to maintain landscaping and facilities.
- E. Parking lots, paved areas and related stormwater systems. Persons owning, operating or maintaining a paved parking lot, the paved areas of a gasoline station, a paved private street or road, and related stormwater systems shall clean those premises as frequently and thoroughly as practicable in a manner that does not result in the discharge of pollutants to the City's stormwater system. Upon a determination by the Director that a discharge of pollutants to the City's stormwater system is likely to occur based upon the condition or use of such paved areas, the Director may require installation and maintenance of devices or facilities to prevent the discharge of trash or other pollutants from private parking lots, streets, roads, and drainage facilities into the storm drain system. The Director shall provide written notice of such determination and requirement for the installation of devices or facilities to the persons owning, operating or maintaining such paved area. Failure or refusal to comply with such requirement is prohibited and shall constitute a violation of this Chapter.
- F. Construction activities. All construction projects shall incorporate site-specific BMPs, which can be a combination of BMPs from the California BMP Handbook, Construction, January 2003, the Caltrans Stormwater Quality Handbooks, Construction Site Best

Management Practices Manual, Manual, March 2003, the San Francisco Bay Regional Water Quality Control Board Erosion and Sediment Control Field Manual, 2002, the City's grading and erosion control ordinance and other generally accepted engineering practices for erosion control as required by the Director. The Director may establish controls on the rate, volume, and duration of stormwater runoff from new developments as may be appropriate to minimize the discharge and transport of pollutants. Such controls shall be incorporated into the conditions of approval or permit conditions for the new development.

- G. Notification of intent and compliance with general permits. Each discharger associated with construction activity or other discharger described in any general stormwater permit addressing discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall provide the Director with the notice of intent, comply with and undertake all other activities required by any general stormwater permit applicable to such dischargers. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by the permit.
- H. Development runoff requirements. For each new development project subject to the development runoff requirements, every applicant will submit a stormwater control plan and implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Similarly, increases in runoff volume, flows, and durations shall be managed in accordance with the development runoff requirements "that meets the requirements of the conditions of approval and those criteria contained in the most recent version of the Contra Cost Clean Water Program Stormwater C.3 Guidebook."
- I. Stormwater pollution prevention plan. The Director may require any business or utility in the City that is engaged in activities that may result in non-stormwater discharges or runoff pollutants to develop and implement a stormwater pollution prevention plan, which must include an employee training program. Business activities which may require a stormwater pollution prevention plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, fueling, vehicle maintenance, food handling or processing, or cleanup procedures, carried out partially or wholly out of doors. The Director shall provide written notice of the requirement for such plan to such building or utility. Failure or refusal to comply with such requirement is prohibited and shall constitute a violation of this Chapter.
- J. Coordination with hazardous material release response and inventory plans. Any business subject to the Hazardous Material Release Response and Inventory Plan, Division 20, Chapter 6.95 of the California Health and Safety Code (commencing with section 25500), shall include, in that Plan, provision for compliance with this Chapter, including the prohibitions of non-stormwater discharges and the requirement to reduce release of pollutants to the maximum extent practicable.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.100. Authority to inspect.

- A. Generally. Routine or scheduled inspections shall be based upon as reasonable a selection process as may be deemed necessary to carry out the intent of this Chapter, including, but not limited to, random sampling or sampling in areas with evidence of stormwater

contamination, evidence of the discharge of non-stormwater to the stormwater system, inspection of stormwater treatment and flow-control facilities for proper operation and evidence of routine and corrective maintenance, inspections for compliance with the City's Enforcement Response Plan, or similar activities. Inspections may also be conducted in conjunction with routine or scheduled inspections conducted by other public agencies or special districts, including but not limited to the Central Contra Costa Sanitary District, the Contra Costa County Fire Protection District, County Environmental Health Department, the Contra Costa Mosquito and Vector Control District, or the Regional Water Quality Control Board. The City Council may by resolution establish a schedule of fees for inspections.

- B. Authority to sample and establish sampling devices. With the consent of the owner or occupant, or pursuant to a search or inspection warrant, any Officer may establish on any property such devices as are reasonably necessary to conduct sampling or metering operations. During all authorized inspections, the Officer may take any sample deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.
- C. Notification of spills. All persons in charge of the premises or responsible for emergency response for the premises have a responsibility to train premises' personnel and maintain notification procedures to ensure that immediate notification is provided to the City of any suspected, confirmed or unconfirmed release of pollutants creating a risk of non-stormwater discharge into the City stormwater system.

As soon as any person in charge of the premises or responsible for emergency response for the premises has knowledge of any suspected, confirmed or unconfirmed release of non-stormwater discharge entering the City stormwater system, such person shall take all necessary steps to ensure the detection and containment and clean up of such release and shall notify the City of the occurrence by telephoning the Director. This notification requirement is in addition to and not in lieu of other required notifications.

- D. Requirement to test or monitor. Any Officer may require that any person engaged in any activity or owning or operating any premises that may cause or contribute to non-stormwater discharges, undertake such monitoring activities or analysis and furnish such reports as the Officer may specify in writing. The burden, including costs of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analysis and reports required.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.110. Violations.

- A. The violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor, except that notwithstanding any other provisions of this Chapter, any violation constituting a misdemeanor under this Chapter may, at the discretion of the Officer or City Attorney, be charged and prosecuted as an infraction.
- B. Any person required to perform monitoring, analysis, reporting or corrective activity pursuant to this Chapter by any Officer may be informed of such decision, in writing, by a notice of violation. Any person aggrieved by the decision of the Officer, may file a written appeal of the notice of violation to the Director within ten days following the date of the

notice of violation. Upon receipt of such request, the Director shall request a report and recommendation from the Officer and shall set the matter for hearing at the earliest practical date. At said hearing, all evidence and testimony deemed relevant and admissible by the Director shall be considered, and the Director may reject, affirm, or modify the Officer's decision. Formal rules of evidence shall not apply. Failure to request a hearing or appear at the hearing shall constitute a waiver and failure to exhaust administrative remedies.

In addition to the penalties and procedures provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare. Such condition is hereby declared and deemed to be a nuisance, which may be abated as provided in Chapters 12 and 13 of Title 1 of this Code including the assessment of the costs of abatement which may be collected at the same time and in the same manner as ordinary municipal taxes as provided by Government Code section 38773.5, and by civil action to abate, enjoin or otherwise compel the cessation of such nuisance by the City Attorney.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.120. Penalty for violation.

- A. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code section 36901.
- B. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code section 36900.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.130. Continuing violation.

Every day that any violation of this Chapter shall continue shall constitute a separate offense.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.140. Concealment.

Concealing, aiding or abetting a violation of any provision of this Chapter shall constitute a violation of such provision.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.150. Acts potentially resulting in violation of the Federal Clean Water Act or Porter-Cologne Act.

Any person who violates any provision of this Chapter, or the provisions of any permit issued pursuant to this Chapter, or who releases a non-stormwater discharge, or who violates any cease and desist order, prohibition or effluent limitation, may also be in violation of the Federal Clean Water Act or the Porter-Cologne Act and may be subject to the enforcement provisions of those acts, including civil and criminal penalties. Any enforcement actions authorized pursuant to this Chapter may also include notice to the violator of such potential liability pursuant to federal or state law.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.160. Civil actions.

- A. In addition to any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any and all of the following remedies:
1. A temporary restraining order, preliminary injunction and permanent injunction;
 2. An action for an unlawful business practice pursuant to Business and Professions Code section 17206.
- B. In addition any person violating this Chapter shall be liable for:
1. Reimbursement for the costs of any investigation, inspection or monitoring which led to the discovery of the violation;
 2. Costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation;
 3. Compensatory damages for the loss of, or destruction to, water quality, wildlife, fish or aquatic life. Costs and damages under this subsection shall be paid to the City and shall be used exclusively for costs associated with monitoring and establishing a stormwater discharge pollution control system and implementing or enforcing the provisions of this Chapter;
 4. The cost of maintenance and repair of any BMP or stormwater management facility that is not maintained in accordance with the Guidebook or the stormwater control plan;
 5. The reasonable costs of preparing and bringing administrative action under this Chapter.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.170. Remedies not exclusive.

The remedies identified in this Chapter are in addition to, and do not supersede or limit, any and all other remedies, administrative, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.180. Judicial review.

The provisions of Code of Civil Procedure section 1094.5 are applicable to judicial review of determinations made pursuant to this Chapter.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

§ 15.06.190. Appeal.

Decisions by the Director made pursuant to this Chapter are appealable to the City Council. Appeals shall be made, within ten (10) calendar days of the date a decision was rendered. All appeals shall be submitted in writing, together with the name, address, phone number and signature of the appellant and the filing fee as set forth by resolution of the City Council. The written appeal shall specifically state the pertinent facts of the case and the basis for the appeal.

(Ord. No. 1368 C.S., § 1, 4/3/2013)

CHAPTER 15.07
GREEN BUILDING STANDARDS CODE²⁵

§ 15.07.010. Adoption of the California Green Building Standards Code.

The City hereby adopts by reference the 2025 Edition of the California Green Building Standards Code as published by the International Code Council, also known as Part 11 of Title 24 of the California Code of Regulations, for the purpose of prescribing regulations governing the planning, design, operation, construction, use, and occupancy of every newly constructed building or structure unless otherwise indicated in the California Green Building Standards Code.

(Ord. No. 1479, 11/19/2025)

25. Editor's note: Former Ch. 15.07, Green Building Standards Code, which derived from Ord. No. 1358 C.S., 12/15/2010, Ord. No. 1375 C.S., 12/4/2013, Ord. No. 1399 C.S., § 3(Exh. C), 11/16/2016, Ord. No. 1427 C.S., § 3(Exh. C), 11/20/2019 and Ord. No. 1441, § 3(Exh. C), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.08
ELECTRIC VEHICLE CHARGING STATION

§ 15.08.010. Title.

This chapter shall be known as "Electric Vehicle Charging Station."
(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.020. Purpose.

The purpose of this chapter is to adopt an ordinance in compliance with AB 1236/SB 970 (Chapter 598, Statutes 2015, Cal. Gov't Code § 65850.7/Chapter 710, Statutes of 2021, Cal Gov't Code §§ 65850.7 and 65850.71) while protecting public health and safety.
(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.030. Definitions.

"Electric vehicle charging station(s)" or "charging stations(s)" means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this Chapter or as it may be amended and/or renumbered thereafter, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

"Electronic submittal" means the utilization of one or more of the following:

1. Email;
2. The internet; and/or
3. Facsimile.

"Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.040. Applicability.

- A. This Chapter applies to the permitting of all electric vehicle charging stations in the City.
- B. All electric vehicle charging stations shall require a permit issued in accordance with this Chapter. It shall be unlawful for any person to install, operate, or maintain an electric vehicle charging station without such a permit.
- C. Electric vehicle charging stations legally established or permitted prior to the effective date of this Chapter are not subject to the requirements of this Chapter unless physical modifications or alterations are undertaken that materially change the size, type, capacity, or components of a charging station. Routine operation and maintenance or like-kind replacements shall not require a permit.

(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.050. Electric vehicle charging station requirements.

- A. All electric vehicle charging stations shall meet applicable Federal, State, and City health and safety standards and requirements.
 - B. All electric vehicle charging stations shall meet all applicable safety and performance standards established by the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.
 - C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.
 - D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.
- (Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.060. Application requirements.

- A. The Building Official shall approve a checklist of all requirements with which the electric vehicle charging stations shall comply to be eligible for expedited review.
- B. Every application to the Building Official for the installation, alteration and replacement of an electric vehicle charging station shall be in the form provided by the Building Official, in writing, and contain the information set forth in the checklist and such other information as the Building Official may reasonably require to carry out the purpose of this Chapter. The permit application, checklist, and required permitting documentation shall be available on the City's website.
- C. The applicant may submit the permit application and associated documentation by personal, mailed, or electronic submittal. The Building Official shall approve requirements for the submittal of the permit application, associated application documentation, and fees. Personal, mailed, or electronic submittal of the permit application, associated application documentation, and fees shall conform to the requirements approved by the Building Official. In the case of electronic submittal, the electronic signature of the applicant on all forms, applications and other documentation may be used in lieu of a wet signature. In connection with each permit application, an applicant shall:
 - 1. Verify to the Building Official's reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the electric vehicle charging station is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the ground; and
 - 2. At the applicant's cost, verify to the Building Official's reasonable satisfaction using standard electrical inspection techniques that the existing electrical system including existing line, load, ground and bonding wiring as well as main panel and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new electrical loads.

- D. If the Building Official determines an application for an electric vehicle charging station satisfies the requirements of this Chapter, the Building Official will deem the application complete within the applicable time period. If the Building Official receives an incomplete application, the Building Official will issue a written correction notice to the applicant detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance, within the applicable time period. After the Building Official determines an application for an electric vehicle charging station is complete, the application will be processed in accordance with this Chapter.
1. For purposes of this subsection the "applicable time period" means: either of the following:
 - a. Five business days after submission of the application to the city if the application is for at least one, but not more than 25 electric vehicle charging stations at a single site.
 - b. Ten business days after submission of the application to the city if the application is for more than 25 electric vehicle charging stations at a single site.
- E. An application for an electric vehicle charging station that is not accompanied by the applicable fees shall be considered incomplete.
(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.070. Permit compliance review—Ministerial process.

- A. The Building Official shall adopt an administrative, nondiscretionary review process to expedite approval of permit applications for electric vehicle charging stations for which no finding of specific, adverse impact has been made, within the following time periods:
1. Within 20 business days after the application is deemed complete, if the application is for at least one, but not more than 25 electric vehicle charging stations at a single site.
 2. Within 40 business days after the application is deemed complete, if the application is for more than 25 electric vehicle charging stations at a single site.
- B. Where an application meets local, State, and Federal health and safety requirements, the requirements of the checklist, and there are no specific, adverse impacts upon public health or safety, the Building Official shall complete the nondiscretionary permit approval process within the time specified in subsection A above.
(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.080. Electric vehicle charging station use permit—Discretionary process.

- A. The Zoning Administrator, in coordination with the Building Official, may require an applicant to apply for an electric vehicle charging station use permit if the Zoning Administrator finds, based on the initial application submittal, that the electric vehicle charging station could have a specific, adverse impact upon the public health or safety. The Zoning Administrator's decision may be appealed to the Planning Commission by filing a written request for appeal within ten calendar days of the date of the Zoning Administrator's decision, in accordance with Section 22.06.050.

- B. If an electric vehicle charging station use permit is required, the Zoning Administrator may only deny an application for the electric vehicle charging station use permit if the Zoning Administrator makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact. The findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. The Zoning Administrator's decision may be appealed to the Planning Commission by filing a written request for appeal within ten calendar days of the date of the Zoning Administrator's decision, in accordance with Section 22.06.050.
- C. If the Zoning Administrator issues an electric vehicle charging station use permit, the permit may include conditions designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost. A feasible method to satisfactorily mitigate or avoid the specific, adverse impact includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit.

(Ord. No. 1435 C.S., § 1, 3/16/2022)

§ 15.08.090. Fees.

The City Council shall establish by resolution the fees charged for applications and permits under this Chapter.

(Ord. No. 1435 C.S., § 1, 3/16/2022)

CHAPTER 15.09
**PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR
SYSTEMS**

§ 15.09.010. Definitions.

- A. "Solar energy system" means either of the following:
1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
 2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
- B. "Small residential rooftop solar energy system" means all of the following:
1. A solar energy system that is no larger than ten kilowatts alternating current nameplate rating or 30 kilowatts thermal.
 2. A solar energy system conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and all state and City health and safety standards.
 3. A solar energy system that is installed on a single or duplex family dwelling.
 4. A solar panel or module array that does not exceed the maximum legal building height as defined by Chapter 22 of this Code.
- C. "Electronic submittal" means the utilization of one or more of the following:
1. Email;
 2. The internet;
 3. Facsimile.
- D. "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development. A "common interest development" means any of the following:
1. A community apartment project.
 2. A condominium project.
 3. A planned development.
 4. A stock cooperative.
- E. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- F. "Reasonable restrictions" on a solar energy system are those restrictions that do not

significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

G. "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding 10% of the cost of the system, but in no case more than \$1,000.00, or decreasing the efficiency of the solar energy system by an amount exceeding 10%, as originally specified and proposed.
2. For photovoltaic systems: an amount not to exceed \$1,000.00 over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10% as originally specified and proposed.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

§ 15.09.020. Purpose.

The purpose of the Chapter is to adopt an expedited, streamlined solar permitting process complies with the Solar Rights Act and AB 2188 (Government Code Section 65850.5) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The provisions of this Chapter encourage the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install solar energy systems. This Chapter allows the City to achieve these goals while protecting the public, health, safety and welfare of the citizens of Martinez.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

§ 15.09.030. Applicability.

- A. This Chapter applies to the permitting of all small residential rooftop solar energy systems in the City.
- B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of the ordinance from which this Chapter derived are not subject to the requirements of this Chapter unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance shall not require a permit.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

§ 15.09.040. Solar energy system requirements.

- A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City and the Contra Costa Fire District.
- B. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.
- C. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of

Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

§ 15.09.050. Duties of building department and building official.

- A. All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible City website.
- B. Electronic submittal of the required permit application and documents by email, the internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants. Applications shall be considered complete when all information is received and payment made. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.
- C. All fees prescribed for the permitting of small residential rooftop solar energy systems comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

§ 15.09.060. Permit review and inspection requirements.

- A. The City Building Department shall adopt a standard plan and checklist for the administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems on or before September 1, 2015. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall be available on the City's website and shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the *California Solar Permitting Guidebook* adopted by the Governor's Office of Planning and Research.
- B. The Building Department shall issue a building permit (the same day for over-the-counter applications or within 3 business days for electronic applications) of receipt of a complete application which meets the requirements of the approved checklist and standard plan. The building official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City Planning Commission.
- C. Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.
- D. If a use permit is required, the building official may deny an application for the use permit if the official makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the City Planning Commission.
- E. Any condition imposed on an application shall be designed to mitigate the specific, adverse

impact upon health and safety at the lowest possible cost.

- F. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.
- G. Approval of an application shall not be conditioned upon the approval of an association, as defined in Section 4080 of the Civil Code.
- H. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.
- I. Only one inspection shall be required and performed by the Building Department for small residential rooftop solar energy systems eligible for expedited review. A separate fire inspection may be required by the Contra Costa Fire District.
- J. The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within 2 business days of a request and provide a 2-hour inspection window.
- K. If a small residential rooftop solar energy system fails inspection, a subsequent inspection shall be required. Such subsequent inspection shall not be required to comply with the requirements of subsection J above.

(Ord. No. 1386 C.S., § 2, 6/17/2015)

CHAPTER 15.10
POST-DISASTER SAFETY ASSESSMENT PLACARDS

§ 15.10.010. Intent.

This Chapter establishes standard placards to be used to indicate the condition of a structure for continued occupancy after any natural or manmade disaster. The Chapter further authorizes the Community Development Department and the Department of Public Services, as well as authorized representatives of those departments to post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

§ 15.10.020. Application of provisions.

The provisions of this Chapter are applicable, following each natural or manmade disaster, to all buildings and structures of all occupancies regulated by the City of Martinez, County of Contra Costa. The Council may extend the provisions as necessary.

§ 15.10.030. Definitions.

Safety assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy following a natural or manmade disaster.

§ 15.10.040. Placards.

The following are verbal descriptions of the official jurisdiction placards to be used to designate the condition for continued occupancy of buildings or structures.

- A. **INSPECTED**—Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building or structure.
- B. **RESTRICTED USE** is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.
- C. **UNSAFE**—Do Not Enter or Occupy is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings or structures posted with this placard shall not be entered under any circumstance except as authorized in writing by the department that posted the building. Safety assessment teams shall be authorized to enter these buildings at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

This ordinance number, the name of the department, its address, and phone number shall be permanently affixed to each placard.

Once it has been attached to a building or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the department or upon written notification from the department.

(Ord. 1203 C.S. § 1, 1993)

CHAPTER 15.11
ENERGY CODE²⁶

§ 15.11.010. Adoption of the California Energy Code.

The City hereby adopts by reference the 2025 Edition of the California Energy Code as published by the International Code Council, also known as Part 6 of Title 24 of the California Code of Regulations.

(Ord. No. 1479, 11/19/2025)

26. Editor's note: Former Ch. 15.11, Energy Code, which derived from Ord. No. 1439, 10/5/2022, Ord. No. 1441, 12/21/2022 and Ord. No. 1460, § IV, 7/31/2024, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.13
EXISTING BUILDING CODE

§ 15.13.010. Adoption of California Existing Building Code.

The City hereby adopts by reference the 2025 Edition of the California Existing Building Code, also known as Part 10 of Title 24 of the California Code of Regulations, with references to Part 8 and 12 as applicable.

(Ord. No. 1479, 11/19/2025)

CHAPTER 15.16
MECHANICAL CODE²⁷

§ 15.16.010. Adoption of the Mechanical Code.

The City hereby adopts by reference the 2025 Edition of the California Mechanical Code which incorporates a California version of the 2024 Edition of the Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials, also known as Part 4 of Title 24 of the California Code of Regulations.
(Ord. No. 1479, 11/19/2025)

27. Editor's note: Former Ch. 15.16, Mechanical Code, which derived from prior code §§ 9300, 9301, 9302, Ord. 796 C.S., 1974, Ord. 851 C.S., 1976, Ord. 916 C.S., 1980, Ord. 1011 C.S., 1984, Ord. 1091 C.S., 1987, Ord. 1170 C.S., 1991, Ord. 1188 C.S., 1992, Ord. 1228 C.S., 1995, Ord. 1268 C.S., 1999, Ord. 1297 C.S., 2002, Ord. 1341 C.S., 2007, Ord. No. 1358 C.S., 12/15/2010, Ord. No. 1375 C.S., 12/4/2013, Ord. No. 1399 C.S., § 4(Exh. D), 11/16/2016, Ord. No. 1427 C.S., § 4(Exh. D), 11/20/2019 and Ord. No. 1441, § 5(Exh. E), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.20
PLUMBING CODE²⁸

§ 15.20.010. Adoption of the California Plumbing Code.

The City hereby adopts by reference the 2025 Edition of the California Plumbing Code which incorporates a California version of the 2024 Edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, also known as Part 5 of Title 24 of the California Code of Regulations, for the purpose of prescribing minimum regulations for the installation, alteration, repair and inspection of plumbing and drainage systems.

(Ord. No. 1479, 11/19/2025)

28. Editor's note: Former Ch. 15.20, Plumbing Code, which derived from prior code §§ 9200, 9201, Ord. 796 C.S., 1974, Ord. 851 C.S., 1976, Ord. 916 C.S., 1980, Ord. 1011 C.S., 1984, Ord. 1091 C.S., 1987, Ord. 1170 C.S., 1991, Ord. 1188 C.S., 1992, Ord. 1228 C.S., 1995, Ord. 1268 C.S., 1999, Ord. 1297 C.S., 2002, Ord. 1341 C.S., 2007, Ord. No. 1358 C.S., 12/15/2010, Ord. No. 1375 C.S., 12/4/2013, Ord. No. 1399 C.S., § 5(Exh. E), 11/16/2016, Ord. No. 1427 C.S., § 5(Exh. E), 11/20/2019 and Ord. No. 1441, § 6(Exh. F), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.21
**EXCESS FLOW GAS SHUT-OFF DEVICES AND GAS SHUT-OFF DEVICES
ACTIVATED BY MOTION**

§ 15.21.010. Definitions.

For the purpose of this Chapter, certain terms shall be defined as follows:

- A. "Downstream of gas utility meter" refers to all customer owned gas piping.
- B. "Residential building" means any single family dwelling, duplex, apartment building, condominium, townhouse, lodging house, congregate residence, hotel, or motel.
- C. "Excess flow gas shut-off device" shall mean those valves or devices that are not actuated by motion, but are activated by significant gas leaks or overpressure surges, which can occur when pipes rupture inside the structure. The design shall provide a proven method to automatically provide for expedient and safe gas shutoff in an emergency. The design of the device shall provide a capability for ease of consumer or owner resetting without concern for safety. The operational and functional design of the device shall be certified by the Independent Laboratory of the International Approval Services (IAS) [formerly American Gas Association] or Underwriters Laboratory (UL).
- D. "Seismic gas shut-off device" means a system consisting of a seismic sensing means and actuating means designed to automatically actuate a companion gas shut off means installed in a gas piping system in order to shut-off the gas downstream of the location of the gas shut-off means in the event of a severe seismic disturbance. The system may consist of separable components or may incorporate all functions in a single body. The design of the device shall minimize or preclude the disruption to the flow of gas from erroneous vibrations, alien forces, or both erroneous vibrations and alien forces. Standards for such devices developed by the Z-21 American National Standards Committee, the California State Architect's office and the comments or suggestions from various public utilities shall be utilized to certify the appropriate utilization and design of these devices.
- E. "Upstream of gas utility meter" refers to all gas piping installed by the utility up to and including the meter and the utility's bypass tee at the connection to the customer owned piping.
- F. "Gas shut-off device," as used in this Chapter, refers to either a seismic gas shut-off device or excess flow gas shut-off device.

(Ord. 1269 C.S. § 1, 1999)

§ 15.21.020. Scope.

An approved seismic gas shut-off device (motion sensitive) or an approved excess flow gas shut-off device (non-motion sensitive) shall be installed downstream of the gas utility meter on each fuel gas line where the gas line serves the following building or structures:

- A. Any building or structure (commercial, industrial or residential) containing fuel gas piping for which a building permit is first issued on or after 60 days from the passage of the ordinance codified in this Chapter; or
- B. Any existing building or structure (commercial, industrial or residential) which is altered

or added to; and

1. Such a building or structure has fuel gas piping supplying the existing building or structure or the addition to the building or structure; and
2. The alteration or addition is valued at more than \$10,000.00 and a building permit for the work is first issued on or after 60 days from the passage of the ordinance codified in this Chapter.
 - a. With respect to commercial or industrial buildings, alterations or additions to individual units or tenant spaces shall require a gas shut-off device to be installed for all gas piping serving that commercial or industrial building.
 - b. With respect to residential buildings, alterations or additions to an individual condominium or apartment unit shall require a gas shut-off device to be installed for all gas piping serving that building.

(Ord. 1269 C.S. § 1, 1999)

§ 15.21.030. Exceptions.

- A. Gas shut-off devices may be installed upstream of a gas utility meter provided they are installed by a public utility in accordance with manufacturer's guidelines.
- B. Gas shut-off devices installed on a building or structure prior to 60 days from the passage of the ordinance codified in this Chapter are exempt from the requirements of this Section provided they remain installed on the building or structure and are maintained for the life of the building or structure.
- C. Gas shut-off devices installed on a gas distribution system owned or operated by a public utility shall not be subject to the requirements of this Section.

(Ord. 1269 C.S. § 1, 1999)

§ 15.21.040. General requirements.

Gas shut-off device installed either in compliance with this Chapter or voluntarily with a permit issued on or after 60 days from the passage of the ordinance codified in this Chapter shall comply with the following requirements:

- A. Be installed by a contractor licensed in the appropriate classification by the State of California.
- B. In the case of seismic gas shut-off devices (motion sensitive) only, such devices must be mounted rigidly to the exterior of the building or structure containing the fuel gas piping. This requirement need not apply if the Building Inspection Department determines that the seismic gas shut-off device (motion sensitive) has been tested and listed for an alternate method of installation.
- C. Be listed by an approved testing laboratory (IAS, formerly AGA, or IAMPO) or the office of the State Architect, or Underwriters Laboratory (UL).
- D. Have a 30 year warranty which warrants that the valve or device is free from defects and will continue to properly operate for 30 years from the date of installation.

- E. Where gas shut-off devices are installed as required by this Section, they shall be maintained for the life of the building or structure or be replaced with a valve or device complying with the requirements of this Section.

(Ord. 1269 C.S. § 1, 1999)

§ 15.21.050. List of approved valves and devices.

The Building Inspection Department shall maintain a list of all seismic gas shut-off devices (motion sensitive) and excess flow gas shut-off devices (non-motion sensitive) which are approved for installation in the State of California.

(Ord. 1269 C.S. § 1, 1999)

CHAPTER 15.24
ELECTRICAL CODE²⁹

§ 15.24.010. Adoption of California Electrical Code.

The City hereby adopts by reference the 2025 Edition of the California Electrical Code which incorporates the 2023 National Electrical Code as published by the National Fire Protection Agency, also known as Part 3 of Title 24 of the California Code of Regulations.
(Ord. No. 1479, 11/19/2025)

29. Editor's note: Former Ch. 15.24, Electrical Code, which derived from prior code §§ 9400, 9401, 9402, 9403, Ord. 754, 1972, Ord. 851 C.S., 1976, Ord. 898 C.S., 1979, Ord. 964 C.S., 1982, Ord. 1091 C.S., 1987, Ord. 1170 C.S., 1991, Ord. 1228 C.S., 1995, Ord. 1268 C.S., 1999, Ord. 1297 C.S., 2002, Ord. 1341 C.S., 2007, Ord. No. 1358 C.S., 12/15/2010, Ord. No. 1375 C.S., 12/4/2013, Ord. No. 1399 C.S., § 6(Exh. F), 11/16/2016, Ord. No. 1427 C.S., § 6(Exh. F), 11/20/2019 and Ord. No. 1441, § 7(Exh. G), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.28
FIRE PREVENTION CODE³⁰

§ 15.28.010. Adopted.

In accordance with Health and Safety Code Section 13869.7, the City hereby ratifies the Contra Costa County Fire Protection District Fire Code, adopting by reference the 2025 California Fire Code (California Code of Regulations, Title 24, Part 9 (based on the 2024 International Fire Code published by the International Code Council)) as amended by the changes, additions and deletions set forth in Contra Costa County Fire Protection District Ordinance No. 2025-14. The Chief, or the Chief's authorized representative, of the Contra Costa County Fire Protection District is hereby delegated the enforcement of the Fire Prevention Code within the City of Martinez, pursuant to Health and Safety Code Section 13869.7.
(Ord. No. 1479, 11/19/2025; Ord. No. 1482, 3/4/2026)

30. Editor's note: Former Ch. 15.28, Fire Prevention Code, which derived from prior code § 3100, Ord. No. 1358 C.S., 12/15/2010, Ord. No. 1375 C.S., 12/4/2013, Ord. No. 1399 C.S., § 7(Exh. G), 11/16/2016, Ord. No. 1427 C.S., § 7(Exh. G), 11/20/2019 and Ord. No. 1441, § 8(Exh. H), 12/21/2022, was repealed by Ord. No. 1479, 11/19/2025.

CHAPTER 15.29
WILDLAND-URBAN INTERFACE CODE

§ 15.29.010. Adoption of California Wildland-Urban Interface Code.

In accordance with Health and Safety Code Section 13869.7, the City hereby ratifies the Contra Costa County Fire Protection District Wildland-Urban Interface Code, adopting by reference the 2025 California Wildland-Urban Interface Code Fire Code (California Code of Regulations, Title 24, Part 7) as amended by the changes, additions, and deletions set forth in Contra Costa County Fire Protection District Ordinance No. 2025-15. The Chief, or the Chief's authorized representative, of the Contra Costa County Fire Protection District is hereby delegated the enforcement of the Wildland-Urban Interface Fire Code within the City of Martinez, pursuant to Health and Safety Code Section 13869.7.
(Ord. No. 1479, 11/19/2025; Ord. No. 1482, 3/4/2026)

CHAPTER 15.30
FLOODPLAIN MANAGEMENT

§ 15.30.010. Statutory authorization, findings of fact, purpose and methods.

- A. Statutory authorization. The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Martinez does hereby adopt the following floodplain management regulations.
- B. Findings of fact.
 - 1. The flood hazard areas of the City of Martinez are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - 2. These flood losses are caused by uses which are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.
- C. Statement of purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately own land within flood-prone, mudslide [i.e. mudflow] or flood related erosion areas. These regulations are designed to:
 - 1. Protect human life and health;
 - 2. Minimize expenditure of public money for costly flood control projects;
 - 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 4. Minimize prolonged business interruptions;
 - 5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
 - 6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
 - 7. Ensure potential buyers are notified the property is in an area of special flood hazard; and
 - 8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.
- D. Methods of reducing flood losses. In order to accomplish its purposes, this ordinance

includes regulations to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
2. Require uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 1388 C.S., § 2, 8/19/2015)

§ 15.30.020. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- A. "A zone." See "Special flood hazard area."
- B. "Accessory structure" means a structure which is either:
 1. Solely for the parking of no more than two cars; or
 2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500.00 in value.
- C. "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
- D. "Alluvial fan" means a geomorphologic feature characterized by a cone or fan shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
- E. "Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- F. "Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.
- G. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

- H. "Area of special flood hazard." See "Special flood hazard area."
- I. "Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.
- J. "Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.
- K. "Basement" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.
- L. "Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:
1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
- M. "Building." See "Structure."
- N. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.
- O. "Development" means any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- P. "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.
- Q. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 11, 1995.
- R. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

S. "Flood, flooding, or floodwater" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood related erosion.

T. "Flood boundary and floodway map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

U. "Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

V. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

W. "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - See "Flooding."

X. "Floodplain administrator" is the City official designated by Section 15.30.040 to administer and enforce the Floodplain Management Regulations.

Y. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, Floodplain Management Regulations, and open space plans.

Z. "Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

AA. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 and any amendment to these Bulletins.

BB. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

- CC. "Floodway fringe" is the area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.
- DD. "Fraud and victimization" as related to Section 15.30.060, means the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the review authority will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for 50 to 100 years. Buildings which are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware it is subject to potential flood damage, and can be insured only at very high flood insurance rates.
- EE. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities which are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
- FF. "Governing body" is the local governing unit, i.e. county or municipality, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
- GG. "Hardship" as related to Section 15.30.060 of this ordinance means the exceptional hardship which would result from a failure to grant the requested variance. This requires the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- HH. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- II. "Historic structure" means any structure which is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Listed individually on the California Register of Historical Resources; or 4.
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the

Interior in states without approved programs.

- JJ. "Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- KK. "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.
- LL. "Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).
1. An unfinished or flood-resistant enclosure below the lowest floor which is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - a. The flood openings standard in Section 15.30.050.A.3.c;
 - b. The anchoring standards in Section 15.30.050.A.1;
 - c. The construction materials and methods standards in Section 15.30.050.A.2; and
 - d. The standards for utilities in Section 15.30.050.B.
 2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.
- MM. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- NN. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- OO. "Market value" is defined in the City of Martinez substantial damage/improvement procedures. See Section 15.30.040.B.2.a.
- PP. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on the Flood Insurance Rate Map applicable to the City are referenced.
- QQ. "New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after January 11, 1995, and includes any subsequent improvements to such structures.
- RR. "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is

completed on or after January 11, 1995.

- SS. "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- TT. "One-hundred-year flood" or "100-year flood. See "Base Flood."
- UU. "Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.
- VV. "Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.
- WW. "Public safety and nuisance" as related to Section 15.30.060 of this ordinance, means the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- XX. "Recreational vehicle" means a vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- YY. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- ZZ. "Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways which impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.
- AAA. "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

BBB. "Sand dunes" mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

CCC. "Sheet flow area. See "Area of Shallow Flooding."

DDD. "Special flood hazard area (SFHA)" means an area in the floodplain subject to a 1% or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

EEE. "Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

FFF. "Structure" means a walled and roofed building which is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

GGG. "Substantial damage" means damage of any origin sustained by a Structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the Structure before the damage occurred.

HHH. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided the alteration will not preclude the structure's continued designation as a "historic structure."

III. "V zone. See "Coastal High Hazard Area."

JJJ. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

KKK. "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate,

other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as the documentation is provided.

LLL. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

MMM. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 1388 C.S., § 2, 8/19/2015)

§ 15.30.030. General provisions.

- A. Lands to which this ordinance applies. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of City of Martinez.
- B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of Martinez, dated March 15, 1978, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), dated March 15, 1978, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at the City of Martinez Public Works Department, 525 Henrietta Street, Martinez, California 94553.
- C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor and a public nuisance in which may be abated in accordance with the provisions of Title 1. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under State statutes.
- F. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and

engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of City, any official, officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages which result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(Ord. No. 1388 C.S., § 2, 8/19/2015)

§ 15.30.040. Administration.

- A. Designation of the floodplain administrator. The Public Works Director or person designated by the City Manager is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.
- B. Duties and responsibilities of the floodplain administrator. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - 1. Permit review. Review all development permits to determine:
 - a. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures; structure(s) shall be in compliance with the requirements of City's Floodplain Management Ordinance in effect at the time of issuance construction permit(s);
 - b. All other required State and Federal permits have been obtained;
 - c. The site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City of Martinez; and
 - e. All Letters of Map Revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "Start of Construction" definition.
 - 2. Development of substantial improvement and substantial damage procedures.
 - a. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
 - b. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

3. Review, use and development of other base flood data. When base flood elevation data has not been provided in accordance with Section 15.30.030.B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or State agency, or other source, in order to administer Section 15.30.050.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

4. Notification of other agencies.
 - a. Alteration or relocation of a watercourse:
 - i. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - ii. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - iii. Assure the flood-carrying capacity within the altered or relocated portion of said watercourse is maintained.
 - b. Base Flood Elevation changes due to physical alterations:
 - i. Within six months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - ii. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "Start of Construction" definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.
 - c. Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.
5. Documentation of floodplain development. Obtain and maintain for public inspection and make available as needed the following:
 - a. Certification required by Section 15.30.050.A.3.a and Section 15.30.050.D (lowest floor elevations);
 - b. Certification required by Section 15.30.050.A.3.b (elevation or floodproofing of nonresidential structures);

- c. Certification required by Section 15.30.050.A.3.c (wet floodproofing standard);
 - d. Certification of elevation required by Section 15.30.050.C.1.c (subdivisions and other proposed development standards);
 - e. Certification required by Section 15.30.050.F.2 (floodway encroachments);
 - f. Information required by Section 15.30.050.G.6 (coastal construction standards); and
 - g. Maintain a record of all variance actions, including evidence supporting their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.
6. Map determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.30.040.D.
7. Remedial action. Take action to remedy violations of this ordinance as specified in Section 15.30.030.C.
8. Biennial report. Complete and submit Biennial Report to FEMA.
9. Planning. Assure community's General Plan is consistent with floodplain management objectives herein.
- C. Development permit. A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 15.30.030.B. Application for a development permit shall be made on forms furnished by the City of Martinez. The applicant shall provide the following minimum information:
- 1. Plans in duplicate, drawn to scale, showing:
 - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - b. Proposed locations of water supply, sanitary sewer, and other utilities;
 - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - d. Location of the regulatory floodway when applicable;
 - e. Base flood elevation information as specified in Section 15.30.030.B or Section 15.30.040.B.3;
 - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - g. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 15.30.050.A.3.b of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.

2. Certification from a registered civil engineer or architect the nonresidential floodproofed building meets the floodproofing criteria in Section 15.30.050.A.3.b.
3. For a crawl-space foundation, location and total net area of foundation openings as required in Section 15.30.050.A.3.c of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93 and any amendment of these Bulletins.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. All appropriate certifications listed in Section 15.30.040.B.5 of this ordinance.

D. Appeals.

1. Within ten days following the date of a decision of the Floodplain Administrator pursuant to this chapter, the decision may be appealed to the Planning Commission by the applicant or any other interested party who alleges there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
2. An appeal shall be made on a form prescribed by the City and shall be filed with the Planning Department. The appeal shall state specifically the basis of the appeal and the basis under which it is claimed there was an error, abuse of discretion or lack of evidence in the record to support the decision by the Floodplain Administrator. An appeal fee shall be required pursuant to the City's fee schedule.
3. Planning Commission shall hold a noticed public hearing on the appeal and shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Floodplain Administrator. Approval of any permit at issue shall require a majority vote of the members of the Planning Commission voting on the matter. A tie vote shall have the legal effect of denying any permit at issue.
4. The decision of the Planning Commission which has been the subject of an appeal shall become effective ten days following the date on which the decision is made by the Planning Commission on appeal.
5. Within ten days following the date of a decision of the Planning Commission on an appeal, the decision of the Planning Commission may be appealed to the City Council by the applicant or any other interested party. An appeal shall be made on a form prescribed by the City and shall be filed with the City Clerk. The appeal shall state specifically the basis of the appeal and the basis under which it is claimed there was an error or abuse of discretion or the basis of why the appellant claims the decision is not supported by the evidence in the record. An appeal fee shall be required pursuant to the City's fee schedule.
6. The City Council shall hold a noticed public hearing on the appeal and shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Planning Commission. Approval of any permit at issue shall require a majority vote of the members of the City Council voting on the matter. A tie vote shall have the legal effect of denying any permit at issue.

(Ord. No. 1388 C.S., § 2, 8/19/2015)

§ 15.30.050. Provisions for flood hazard reduction.

A. Standards of construction. In all areas of special flood hazards the following standards are required:

1. Anchoring. All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. Construction materials and methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
 - a. With flood-resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - b. Using methods and practices which minimize flood damage;
 - c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities which are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - d. Within Zones AH or AO, so there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
3. Elevation and floodproofing.
 - a. Residential construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
 - i. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation plus one foot or the designed flood elevation, whichever is higher.
 - ii. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.
 - iii. In an A zone, without BFEs specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 15.30.040.B.3.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the City building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
 - b. Nonresidential construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 15.30.050.A.3.a or:
 - i. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 15.30.050.A.3. so the

structure is watertight with walls substantially impermeable to the passage of water;

- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Be certified by a registered civil engineer or architect that the standards of Sections 15.30.050.A.3.b.i and 15.30.050.A.3.b.ii are satisfied. Such certification shall be provided to the Floodplain Administrator.
- c. Flood openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) which are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:
- i. For non-engineered openings:
 - (A) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (B) The bottom of all openings shall be no higher than one foot above grade;
 - (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of floodwater; and
 - (D) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
 - ii. Be certified by a registered civil engineer or architect.
- d. Manufactured homes.
- i. See Section 15.30.050.D.
- e. Garages and low cost accessory structures.
- f. Attached garages.
- i. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 15.30.050.A.3.c. Areas of the garage below the BFE must be constructed with flood-resistant materials. See Section 15.30.050.A.2
 - ii. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.

- g. Detached garages and accessory structures. "Accessory structures" used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 15.30.020, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - i. Use of the accessory structure must be limited to parking or limited storage;
 - ii. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - iii. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - iv. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - v. The accessory structure must comply with floodplain encroachment provisions in Section 15.30.050.F; and
 - vi. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 15.30.050.A.3.c.
- h. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 15.30.050.A.

B. Standards for utilities.

- 1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - a. Infiltration of flood waters into the systems; and
 - b. Discharge from the systems into flood waters.
- 2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

C. Standards for subdivisions and other proposed development.

- 1. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is the lesser, shall:
 - a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - b. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map

Revision based on Fill (LOMR-F) to the Floodplain Administrator:

- i. Lowest floor elevation.
 - ii. Pad elevation.
 - iii. Lowest adjacent grade.
2. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
 3. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 4. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for manufactured homes.

1. All manufactured homes which are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
 - a. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meets the requirements of Section 15.30.050.G.
2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map which are not subject to the provisions of Section 15.30.050.D.1 will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so either the:
 - a. Lowest floor of the manufactured home is at or above the base flood elevation; or
 - b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength which are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

E. Standards for recreational vehicles.

1. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 - a. Be on the site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the permit requirements of Section 15.30.040.C of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 15.30.050.D.
2. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 15.30.050.E.1 and Section 15.30.050.G.

F. Floodways. Since floodways are an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Martinez.
2. Within an adopted regulatory floodway, the City of Martinez shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
3. If Sections 15.30.050.F.1 and 15.30.050.F.2 are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.30.050.

G. Coastal high hazard areas. Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 15.30.030.B, the following standards shall apply:

1. All new residential and nonresidential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

2. All new construction and other development shall be located on the landward side of the reach of mean high tide.
3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 15.30.020 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
4. Fill shall not be used for structural support of buildings.
5. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.
6. The Floodplain Administrator shall obtain and maintain the following records:
 - a. Certification by a registered engineer or architect that a proposed structure complies with Section 15.30.050.G.1; and
 - b. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

(Ord. No. 1388 C.S., § 2, 8/19/2015; Ord. No. 1460, § V, 7/31/2024)

§ 15.30.060. Variance procedure.

- A. Nature of Variances. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law providing that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

- B. Conditions for variances.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below

the base flood level, providing the procedures of Sections 15.30.040 and 15.30.050 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 15.30.020 of this Chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to the elevation which the Review Authority believes will both provide relief and preserve the integrity of the local ordinance.
5. Any applicant to whom a variance is granted shall be given written notice that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
 - b. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Contra Costa County Recorder and shall be recorded in a manner so it appears in the chain of title of the affected parcel of land.
6. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

C. Consideration of variance.

1. In passing upon requests for variances, the review authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger of life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 - d. Importance of the services provided by the proposed facility to the community;

- e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
 - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
2. Variances shall only be issued upon a:
- a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public Safety and Nuisance"), cause "Fraud and Victimization" of the public, or conflict with existing local laws or ordinances.
3. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided the provisions of Sections 15.30.060.C.1 through 15.30.060.C.4 are satisfied and the structure or other development is protected by methods minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
4. Upon consideration of the factors of Section 15.30.060.B.1 and the purposes of this chapter, the review authority may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (Ord. No. 1388 C.S., § 2, 8/19/2015)

CHAPTER 15.32 WOODBURNING APPLIANCES

§ 15.32.010. Applicability.

Except as specifically provided by Section 15.32.030 of this Chapter, the provisions of this Chapter shall apply to each of the following categories of woodburning appliances installed within the limits of the City of Martinez:

- A. Any woodburning appliance installed on or after January 1, 2006, in any building as that term is defined by the most current edition of the Uniform Building Code, which shall include but not be limited to residences, hotels and restaurants;
- B. Gas fireplaces shall be exempt from the provisions of this Chapter. Notwithstanding the above, however, the conversion of a gas fireplace to a woodburning appliance on or after January 1, 2006, shall constitute the installation of a woodburning appliance and shall be subject to the provisions of this Chapter;
- C. Any woodburning appliance installed on or after January 1, 2006, or that is located within a building that is renovated, altered or modified, which requires opening up walls immediately adjacent to the woodburning appliance.

(Ord. 1322 C.S. § I, 2005)

§ 15.32.020. Definitions.

- A. "Bay Area Air Quality Management District" means the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code Section 40200.
- B. "EPA" means United States Environmental Protection Agency.
- C. "EPA-certified wood heater" means any wood heater or woodburning insert that meets the standards in Title 40, 60, subpart AAA, Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.
- D. "Fireplace" means any permanently installed masonry or factory-built woodburning appliance, except a pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1.
- E. "Garbage" means all solid, semisolid and liquid wastes generated from residential, commercial and industrial sources, including trash, refuse, rubbish, industrial wastes, asphaltic products, manure, vegetable or animal solids and semisolid wastes, and other discarded solid and semisolid wastes.
- F. "Gas fireplace" means any device designed to burn natural gas in a manner that simulates the function and appearance of a woodburning fireplace.
- G. "Install" means to construct, lay or insert a woodburning appliance in a building in which no woodburning appliance had existed at the time of such act, or replace an existing woodburning appliance with another woodburning appliance in a building.
- H. "Paints" means all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, undercoatings, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.

- I. "Paint solvents" means all original solvents sold or used to thin paints or to clean up painting equipment.
- J. "Pellet-fueled wood heater" means any woodburning appliance that operates exclusively on wood pellets.
- K. "Solid fuel" means wood or any other nongaseous or nonliquid fuel.
- L. "Treated wood" means wood of any species that has been chemically impregnated, painted or similarly modified to improve resistance to insects or weathering.
- M. "Waste petroleum products" means any petroleum product other than gaseous fuels that has been refined from crude oil, and has been used, and as a result of use, has been contaminated with physical or chemical impurities.
- N. "Woodburning appliance" means fireplace, wood heater or pellet-fired wood heater or any similar device burning any solid fuel used for aesthetic or space-heating purposes.
(Ord. 1322 C.S. § I, 2005)

§ 15.32.030. Prohibitions.

It shall be a violation of this Chapter to do any of the following:

- A. Notwithstanding Section 15.32.010 of this Chapter, use any woodburning appliance that has been installed before, on or after January 1, 2006, when the Bay Area Air Quality Management District issues a "Spare the Air Tonight" warning and a gas, electric or woodburning heat source that is otherwise permitted by this Chapter is available for use in the building;
- B. Install a woodburning appliance that is not one of the following: (1) a pellet-fueled wood heater; (2) an EPA-certified wood heater; or (3) in the event that EPA develops a fireplace certification program, a fireplace certified by EPA;
- C. Notwithstanding Section 15.32.010 of this Chapter, use any of the following prohibited fuels in a woodburning appliance that has been installed before, on or after January 1, 2006:
 - 1. Garbage;
 - 2. Treated wood;
 - 3. Plastic products;
 - 4. Rubber products;
 - 5. Waste petroleum products;
 - 6. Paints;
 - 7. Paint solvents;
 - 8. Coal;
 - 9. Glossy or colored paper;
 - 10. Particle board;

11. Salt water driftwood.
(Ord. 1322 C.S. § I, 2005)

§ 15.32.040. Enforcement.

Any person who plans to install a woodburning appliance must submit documentation to the Building Department, with a permit application, demonstrating that the appliance is a pellet-fueled wood heater, an EPA-certified wood heater, or in the event that the EPA develops a fireplace certification program, a fireplace certified by EPA.

Any violation of this Chapter shall be deemed a misdemeanor and upon conviction shall be punishable by a maximum \$500.00 fine and/or imprisonment in the County Jail for no more than 6 months. A continuing violation shall be deemed to be and shall constitute a separate and distinct offense for each day or portion thereof that such violation continues.
(Ord. 1322 C.S. § I, 2005)

CHAPTER 15.34
UNIVERSAL DESIGN AND ACCESSIBILITY

§ 15.34.010. Purpose and intent.

The purposes of this Chapter are to:

- A. Establish consistent, practical, and proven building and design standards that will make specified dwelling units visitable, more usable, and safer for occupancy and visitability for persons with disabilities.
- B. Enhance the full life cycle use of housing without regard to the physical abilities or disabilities of a residences' occupants or guests to accommodate a wide range of individual preferences and functional abilities.
- C. Implement the City of Martinez General Plan Housing Element by providing housing that meets a diverse range of needs, including those of disabled occupants and visitors.
- D. Not create or otherwise establish or designate any particular class or group of persons who will or should be specifically protected or benefited by the requirements of this Chapter.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.020. Objective standards.

The requirements of this Chapter are and shall be deemed objective planning standards for purposes of Government Code Section 65913.4 and objective development standards for purposes of Government Code Section 65589.5, as those sections may be amended from time to time.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.030. Definitions.

The following words and terms shall, for the purposes of this Chapter, have the meanings specified below. Words and terms not defined in this Section that are defined in the California Building Standards Code ("CBSC") shall have the meanings ascribed to them in the CBSC. Words and terms not defined in this Section or Chapter 2 of the CBSC shall have their ordinary, accepted meanings as the context may require. References to provisions of the CBSC and other codes in this Section shall apply to such provisions and codes as they are amended from time to time and to any successor provisions and codes.

- A. "Accessible" shall have the meaning as defined in the CBSC.
- B. "ANSI A117.1" shall have the same meaning as the most current version of the Standard on Accessible and Usable Buildings and Facilities, commonly known as ICC/ANSI A117.1, published by the International Code Council and American National Standards Institute, Inc.
- C. "Bathroom" means a room containing a toilet (water closet), lavatory (sink), and either a shower, bathtub, combination bathtub and shower, or both a shower and bathtub. It includes a compartmented bathroom in which the fixtures are distributed among interconnected rooms.
- D. "Building official" shall have the same meaning as "Building Official" as defined in the

CBSC.

- E. "CBSC, Chapter 11A" shall have the same meaning as in Chapter 11A of the CBSC (located in Part 2 of Title 24 of the California Code of Regulations), or its successor provisions.
- F. "Common-use room" means a room commonly used by residents or guests to congregate, such as a dining room or living room.
- G. "Dwelling unit" shall have the same meaning as in the CBSC.
- H. "Powder room" means a room containing a toilet (water closet) and lavatory (sink), but no bathtub or shower. It includes a compartmented powder room in which the fixtures are distributed among interconnected rooms.
- I. "Primary entry" means the principal entrance through which most people enter a residential building or residential unit, as designated by the building official.
- J. "Universal design dwelling" means a dwelling unit satisfying all the criteria in Section 15.34.060.
- K. "Visitable dwelling" means a dwelling unit satisfying all the criteria in Section 15.34.050. (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.040. Applicability and effective date of regulations.

- A. The requirements of this Chapter shall apply to building permit applications for two or more new dwelling units, except as otherwise provided in this Section.
- B. The requirements of Section 15.34.050, Visitable Dwellings, shall apply to all new dwelling units within a building with two to four dwelling units.
- C. The requirements of Section 15.34.060, Universal Design Dwellings, shall apply to 15 percent of the total dwelling units within developments with five or more total dwelling units.
 - 1. Universal design dwelling units shall be constructed and occupied concurrently with or prior to the construction and occupancy of the other residential units in the development project, unless an alternative schedule is permitted by the Chief Building Official or designee, based on extenuating circumstances. In phased projects, universal design dwelling units shall be constructed and occupied in proportion to the number of units in each phase of the project.
 - 2. Universal design dwelling units shall be distributed throughout the residential project site, to the fullest extent practicable.
 - 3. The design, appearance, and general quality of the universal design units shall be comparable to and compatible with the design of the other units in the development project as determined by the Chief Building Official, Planning Manager, or designee(s), provided all other applicable zoning and building codes are met.
- D. When calculating the number of required universal design dwellings, the following shall apply:

1. All phases of the development shall be considered and not only the number of dwelling units indicated on an individual building permit application.
 2. Fractional numbers of dwelling units shall be rounded up to the next whole number.
- E. The provisions of this Chapter shall not apply to:
1. Alteration or expansion of an existing dwelling unit;
 2. Reconstruction of an existing dwelling unit destroyed due to fire or other natural disaster;
 3. Accessory dwelling units and junior accessory dwelling units;
 4. Construction of one single-family residence; or
 5. The addition of four or fewer residential units to or within an existing structure.
- F. This Chapter shall not apply to applications for dwelling units that have already received discretionary approval pursuant to Title 22, Zoning, prior to the effective date of this Chapter.
- (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.050. Visitable dwellings.

All visitable dwellings shall be constructed to include all the following:

- A. An accessible primary entrance in accordance with Section 15.34.070.
 - B. An accessible interior route in accordance with Section 15.34.080.
 - C. An accessible common-use room in accordance with Section 15.34.090.
 - D. An accessible primary floor powder room or bathroom in accordance with Section 15.34.100.
- (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.060. Universal design dwellings.

All universal design dwellings shall be constructed to include all the following:

- A. An accessible primary entrance in accordance with Section 15.34.070.
- B. An accessible interior route in accordance with Section 15.34.080.
- C. An accessible common-use room in accordance with Section 15.34.090.
- D. An accessible primary floor powder room or bathroom in accordance with Section 15.34.100.
- E. An accessible bedroom in accordance with Section 15.34.110.
- F. An accessible kitchen in accordance with Section 15.34.120.
- G. The miscellaneous accessible requirements in accordance with Section 15.34.130.

- H. An accessible laundry facility shall have an accessible route to and from the accessible entrance, either through the dwelling unit or around the dwelling unit.
 - I. If a universal design dwelling unit is two or more stories, then it shall have electrical outlets at stairs to accommodate future stair chairlift installation.
- (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.070. Accessible primary entrances.

- A. Visitable dwelling units and universal design units shall all include an accessible primary entrance in accordance with Subsection B.
- B. Accessible primary entrances shall include the following:
 - 1. An exterior accessible route that is either:
 - a. Consistent with the requirements of CBSC; or
 - b. Not less than 40 inches wide and with a slope no greater than one unit vertical in 20 units horizontal.
 - 2. An accessible primary entrance that is consistent with the requirements of CBSC.
 - 3. A floor or landing at and on the exterior and interior side of the accessible primary entrance door that is either of the following:
 - a. Consistent with the requirements of CBSC; or
 - b. Having a level area on the side to which the accessible entrance door swings extending 24 inches past the strike edge of the door.
 - 4. An exterior accessible entry door that is either:
 - a. Consistent with the requirements of CBSC; or
 - b. Having a 34-inch net clear opening.
 - 5. A second exterior door that is installed so that it is accessible as provided in this Section with a 32-inch net clear opening.
 - 6. Where at least one eyehole is provided in the accessible entry door, one shall be at standard height and a second one that is between 42 inches and 44 inches from the finished floor.
 - 7. Where at least one doorbell is provided for the accessible entry door, it shall be placed between 42 inches and 48 inches from the finished floor.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.080. Accessible interior routes.

- A. Visitable dwelling units and universal design units shall all include accessible interior routes in accordance with Subsection B.
- B. Accessible interior routes shall comply with the following:

1. There shall be at least one accessible interior route through the hallway(s), consistent with the requirements of CBSC, from the accessible primary entrance of the dwelling unit to a powder room or bathroom, common-use room, and the kitchen;
2. Accessible interior routes shall have a minimum width of 42 inches; except a 39-inch hallway width is permitted when all doors leading to any bathroom or powder room, if on the primary entry level, have an accessible minimum clear door opening of 34 inches, and a 36-inch hallway is permitted when all doors leading to any bathroom or powder room on the primary entry level have a minimum clear door opening of 36 inches;
3. On accessible interior routes, no sunken or raised areas are permitted between the primary entry and bathroom or powder room, the accessible common-use room, the accessible bedroom, and the accessible kitchen; and
4. Handrail reinforcement must be installed on one or both sides of accessible interior routes.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.090. Accessible common-use rooms.

- A. Visitable dwelling units and universal design units shall all include an accessible common-use room in accordance with Subsection B.
- B. Accessible common-use rooms shall:
 1. Be located on accessible interior routes.
 2. Not have sunken areas.
 3. Be consistent with standards related to accessible interior paths to any other common-use room on the primary entry level.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.100. Accessible primary floor powder rooms or bathrooms.

- A. Visitable dwelling units and universal design units shall all include an accessible primary floor powder room or bathroom in accordance with Subsection B.
- B. Accessible primary floor powder rooms or bathrooms shall:
 1. Be on the same level as the residential unit as a primary accessible entry of the residential dwelling unit that complies with the requirements of the CBSC.
 2. Contain clear space that is either:
 - a. Consistent with the requirements of CBSC; or
 - b. Outside of the swing of the door and either a 48-inch circle, a 48-inch by 60-inch rectangle or a 60-inch-diameter circle, at the option of the purchaser and/or owner.
 3. Contain a bathtub or shower that meets the requirements of ANSI A117.1.

4. Contain either of the following:
 - a. Grab bar reinforcement consistent with CBSC; or
 - b. Grab bars installed in a manner consistent with CBSC for the toilet, shower or bath, or lavatory, or any combination thereof, at the option of the purchaser and/or owner.
5. Include faucets and handles not requiring tight grasping, pinching, or twisting of the wrist consistent with the requirements of CBSC.
6. Include a lavatory or sink installed consistent with CBSC.
7. Include a toilet installed consistent with CBSC.
8. Include removable cabinets under the lavatory or sink.
9. Include only mirrors and towel fixtures in the accessible bathroom or powder room that are installed consistent with the requirements of CBSC.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.110. Accessible bedrooms.

- A. Universal design units shall include an accessible bedroom in accordance with Subsection B.
- B. Accessible bedrooms shall:
 1. Be on an accessible interior route of travel.
 2. Contain at least one closet that has at least a 32-inch net opening and adjustable closet rods and shelving.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.120. Accessible kitchens.

- A. Universal design units shall include an accessible kitchen in accordance with Subsection B.
- B. Accessible kitchens shall:
 1. Be located on the primary entry level of a residential dwelling unit.
 2. Be on an accessible interior route to the kitchen, with a pathway through the kitchen to the stove, oven, or combination stove-oven consistent with the requirements of CBSC.
 3. Include at least a 48-inch by 60-inch clear space in front of a stove at the base of a U-shaped kitchen.
 4. Include at least a 30-inch by 48-inch clear space in front of the sink (counting open access underneath, if available).
 5. Include at least one 18-inch-wide breadboard and/or at least 18 inches of counter space at a 34-inch height, or any combination thereof, at the option of the purchaser and/or owner.

6. Have sink controls consistent with CBSC.
 7. Have an adjustable sink and/or removable under-sink cabinets consistent with CBSC.
 8. Include hood fan controls at light switch level or lower.
- (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.130. General miscellaneous accessible requirements for universal design dwellings.

- A. Universal design units shall be built in accordance with Subsections B through G.
- B. The installation of all receptacle outlets, lighting controls, and environmental controls throughout the residential dwelling unit must comply with CBSC or applicable provisions of the California Electrical Code.
- C. Rocker light switches and controls installed in rooms must be accessible and on an interior accessible route.
- D. On accessible interior routes all adjacent, interior doors or openings for rooms and routes of travel must be accessible consistent with CBSC. However, a 34-inch clear doorway width is permitted provided from a hallway with a 39-inch width, and a 36-inch clear doorway width is permitted from a hallway with a 36-inch width.
- E. The width of the level area on the side toward which an accessible door swings must be consistent with CBSC.
- F. Flooring along accessible interior routes must be consistent with CBSC.
- G. Standards pertaining to residential structures from ANSI A117.1 shall apply throughout this Chapter when CBSC does not contain specific standards.
- H. If on the primary entry level, miscellaneous areas or facilities (such as a patio or yard, laundry room, or storage area) for the dwelling must have an accessible route to and from the accessible entrance, either through the dwelling unit or around the dwelling unit.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.140. Exemptions.

- A. When the applicant adequately demonstrates to the Chief Building Official's or designee's reasonable satisfaction that compliance with any portion of any regulation under this Chapter would create an undue hardship, or that equivalent compliance is not possible or practicable, the Chief Building Official or designee shall grant an exception to that portion of the regulation.
- B. When the applicant adequately demonstrates to the Chief Building Official's or designee's reasonable satisfaction that a residential dwelling unit is being reconstructed due to a natural disaster, then the Chief Building Official or designee shall grant an exemption to all or any portion of this Chapter.
- C. In considering whether an undue hardship may exist to justify an exemption pursuant to this Section, the Chief Building Official or designee shall consider factors including, but not limited to, the following:
 1. The cost of satisfying the visitability or universal design standards in this Chapter;

2. The cost of the proposed construction project;
 3. The impact of compliance with the visitability or universal design standards in this Chapter on the financial feasibility of the project;
 4. The nature of the accessibility to be gained by complying with the visitability or universal design standards in this Chapter;
 5. Any negative impact on the natural environment resulting from complying with the visitability or universal design standards in this Chapter; and
 6. The anticipated nature of the use of the project by people with disabilities.
- (Ord. No. 1455, § V, 3/20/2024)

§ 15.34.150. Appeals.

- A. Any aggrieved applicant may appeal a determination of the Chief Building Official or designee regarding the application of the provisions of this Chapter to a development project.
- B. Appeals must be filed in writing, along with the applicable fee, with the Chief Building Official not later than ten calendar days after the date of the determination by the Chief Building Official or designee.
- C. Appeals shall state the reason(s) for the appeal and include any pertinent supporting materials.
- D. Appeals shall be considered by the City Council at a public hearing. The appeal shall be placed on the agenda as soon as practicable. Such date for the hearing shall not be less than ten days nor more than 60 days from the date the appeal was filed. Each appellant shall receive notice of the time and place of the hearing at least ten calendar days prior to the date of the hearing.

(Ord. No. 1455, § V, 3/20/2024)

§ 15.34.160. Enforcement.

Violations of the requirements of this Chapter shall be subject to enforcement and imposition of the remedies listed in Chapter 1.13, Nuisance Abatement, and Chapter 1.15, Administrative Citations.

(Ord. No. 1455, § V, 3/20/2024)

CHAPTER 15.36
NUMBERING BUILDINGS

§ 15.36.010. Required—Conformance required.

- A. Every person owning any building (or the agent thereof) shall place or cause to be placed on the building, where it may be readily seen from the street at all times, the proper number of the building as herein specified.
- B. All existing buildings shall conform to the terms and conditions of this chapter, within 1 year of the effective date of the ordinance codified in this Chapter. New buildings shall conform to this Chapter before occupancy of the building.
- C. Where a building cannot be seen from the street, acceptable identification or addressing shall be located at the driveway entrance to the building.

(Prior code § 9800; Ord. 755 C.S. § 1, 1972; Ord. 1091 C.S. § VII, 1987)

§ 15.36.020. Manner.

- A. Unless otherwise approved by the enforcing agency, each building shall be numbered with nonswitched internally lighted house numbers and every subdivision of or apartment within the building shall have the entrance into same, numbered with identifying letters or numbers at least 1 ¾ inches in height. The numbers or letters placed at each entrance shall be of a contrasting color from the background on which they are placed; and it is unlawful for any person, whether owner or occupant of the building or any apartment therein, to place, maintain or allow to remain thereon any number other than the one required by this chapter. All numbers shall be of substantial and permanent material and must be so placed or affixed as not to be easily removed or affected. The numbers and the surrounding area shall be maintained in such a fashion that the house number may be readily seen from the street at all times.
- B. Every dwelling or commercial complex with buildings not fronting directly on the street, shall have installed at the entry of said complex, a lighted directional map showing the location and number of each subdivision within the site served by that entry. The map shall be constructed of a substantial material with numbers of sufficient size to be easily read. A plan of the map shall be submitted to the Planning and Building Department for review and approval prior to installation.

(Prior code § 9801; Ord. 755 C.S. § 1, 1972; Ord. 898 C.S. § 2, 1979; Ord. 1091 C.S. § VII, 1987)

§ 15.36.030. Determination of numbers to be used.

All houses shall be numbered in accordance with the numbers shown and delineated on the map of the City on the file in the office of the City Clerk.

(Prior code 9802; Ord. 755 C.S. § 1, 1972)

CHAPTER 15.40
MOVING BUILDINGS

§ 15.40.010. Compliance required prior to removal.

No person, firm or corporation shall move or cause to be moved any building on, over or along any public street or highway within the City except having first complied with the provisions of this chapter and Section 8.08.100.

(Prior code § 4300)

§ 15.40.020. Consent of property owners required.

Any person, firm or corporation desiring to move or have removed a building shall first obtain the written assent to such removal from persons owning a majority of feet front of lots in same block of the street in which it is proposed to locate such removed building; provided, however, that this section shall not apply to any person removing a building upon his own premises and not going upon the premises of any other person, or upon any street, alley or other public place in making such removal.

(Prior code § 4301)

§ 15.40.030. Permit—Bond—Required.

No person shall move, or cause to be moved on, over or through any public street or highway any building without obtaining from the Director of Public Works a permit in writing to do so. The permit shall be issued upon the presentation of the written assent to the removal of such building, or upon the waiver of such assent by the Director of Public Works, and shall not be issued until after the person so applying therefor shall have first delivered to the City Clerk a bond, running to the City, in the sum of \$1,000.00 with at least two good and sufficient sureties, approved by the City Manager, which bond shall be conditioned that the party so desiring to move a building in the City will strictly comply with all the conditions and requirements of this chapter and of any ordinance hereafter passed regulating house moving and of any other rule or regulation concerning house moving that may hereafter be passed by the City Council, and that the party will pay any and all damages which may result by reason of any house moving in the City by said party, his agents, employees or workmen, to any fence, tree, pavement, street sidewalk, telegraph pole or wire belonging to the City or belonging to any telegraph or telephone company having a franchise in the City, and conditioned further that said party, said principal, will save, indemnify and keep harmless the City against all liabilities, judgments, costs and expenses which may in anywise accrue against the City in consequence of the granting of such permit, and will in all things strictly comply with the conditions of such permit. Any such bond filed by any person shall operate as a bond for the purposes required by the ordinances of the City, for the term of one year from the date of filing thereof, insofar that no other or additional bond need be given by such party for the removal of houses in the City during the period of one year, and at the expiration of one year a new bond shall be required to be filed by such party before the issuance to such party of any permits hereunder.

(Prior code § 4302)

§ 15.40.040. Permit—Contents.

The permit referred to in Section 15.40.030 shall specify the character of the building to be removed, the place from which and to which the building is to be removed, and the street on,

over or through which such removal may be made; and the building shall not be moved on, over or through any other streets, except those named in the permit.

(Prior code § 4303)

§ 15.40.050. Permit—Revocation.

The City Council may, at any time, for such cause as it, upon investigation, deems sufficient, revoke any permission or license granted under this chapter. All permits and licenses granted in accordance with the provisions of this chapter, although granted for the nominal term of one year, are held at the pleasure of the Council.

(Prior code § 4307)

§ 15.40.060. Standard of care required.

All removals made under such permits shall be done in a careful manner, and shall be prosecuted with diligence and shall be under the superintendence and control and to the satisfaction and approval of the superintendent of streets.

(Prior code § 4304)

§ 15.40.070. Period of obstruction limited.

No person owning or having charge of the removal of any building through the public streets, shall permit the building to be or stand on any street, lane, alley or public grounds within the limits of one block for a longer period than 24 hours.

(Prior code § 4305)

§ 15.40.080. Cutting of wire.

When the cutting or temporary removal of any pole or poles of any public or private telegraph, telephone, electric light wire or any other wire passing along or over any street, lane or alley, becomes necessary for the removal of any building, the person in charge of such removal, at least six hours in advance of reaching the same, shall notify the person or persons having charge of and control over such wire or wires, and the person so notified shall cause such wires to be promptly cut or removed and replaced.

(Prior code § 4306)

CHAPTER 15.44 BUILDING SECURITY REGULATIONS

§ 15.44.010. Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

- A. "Building official" is the officer or other designated authority charged with the administration and enforcement of the building code or his duly authorized representative.
- B. "Commercial building" is any building or structure used to conduct, manage or carry on any business. Storage of any merchandise, household goods or products shall be included as a business.
- C. "Cylinder guard" is a hardened ring surrounding the exposed portion of the lock cylinder or other device which is so fastened so as to protect the cylinder from wrenching, prying, cutting or pulling by attack tools.
- D. "Dead bolt" is a bolt which has no automatic spring action and is operated by a key cylinder, thumbturn or lever.
- E. "Deadlatch" is a latch in which the latchbolt is positively held in the projected position by a guardbolt, plunger or auxiliary mechanism.
- F. "Insert" is a hardened steel roller inside unhardened bolts to prevent bolt cutting or sawing with common tools.
- G. "Latch" is a moveable piece which automatically holds a door in a closed position by entering a notch or cavity.
- H. "Owner" as referred to in this chapter includes a designated agent, owner, joint owner, tenant in common or joint tenant of the whole or part of any building or land in the City of Martinez.

(Prior code § 9108 (909); Ord. 796 C.S. § 5, 1974)

§ 15.44.020. Purpose.

The purpose of this chapter is to provide minimum security standards to safeguard property and public welfare by regulating and controlling the design, construction, use and quality of materials and maintenance of all buildings and structures within the City.

(Prior code § 9108 (901); Ord. 796 C.S. § 5, 1974)

§ 15.44.030. Scope.

The provisions of this chapter shall apply to all new construction and to buildings and structures to which additions, alteration or repairs are made except as specifically provided in this chapter. No portion of this chapter shall supersede any local, State or Federal laws regulating egress for life safety and panic conditions.

(Prior code § 9108 (902); Ord. 796 C.S. § 5, 1974)

§ 15.44.040. Application to existing buildings.

- A. When additions, alterations or repairs exceed 50 percent of the assessed value of an existing

structure within any twelve-month period, such building or structure shall be made to conform to the requirements for new buildings or structures.

- B. Buildings or structures moved into or within the City shall comply with the provisions of the building code for new buildings.

(Prior code § 9108 (903); Ord. 796 C.S. § 5, 1974)

§ 15.44.050. Administration and enforcement.

This chapter shall be enforced and administered by the Building Official who may call on the Chief of Police or his authorized agents to assist in the enforcement of this chapter. The City Attorney may be called upon to institute necessary legal proceedings to obtain compliance, and is authorized to institute appropriate actions to that end.

(Prior code § 9108 (904); Ord. 796 C.S. § 5, 1974)

§ 15.44.060. Responsibility for compliance.

The owner(s) or his designated agent(s) shall be responsible for compliance with this chapter.

(Prior code § 9108 (905); Ord. 796 C.S. § 5, 1974)

§ 15.44.070. Alternate security provisions.

The provisions of this chapter shall not prevent the use or installation of any security device or method not specifically prescribed herein when such alternate is found to provide equivalent or better security and approval by the Building Official prior to installation.

(Prior code § 9108 (908); Ord. 796 C.S. § 5, 1974)

§ 15.44.080. Commercial buildings—Securing exterior doors.

All exterior doors shall be secured as follows:

- A. A single door shall be secured with either a double cylinder dead bolt or a single cylinder dead bolt without a turnpiece, with a minimum throw of 1 inch. A hook or expanding bolt may have a throw of 3/4 inch. Any dead bolt must contain an insert of hardened material to repel attempts at cutting through the bolt and must have a minimum of 6,000 possible key changes or locking combinations.
- B. On pairs of doors, the active leaf shall be secured with the type of lock required for single doors in subsection A. The inactive leaf shall be equipped with flush bolts protected by hardened material with a minimum throw of 5/8 inch at head and foot. Multiple point locks, cylinder activated from the active leaf and satisfying this subsection and subsection A may be used in lieu of flush bolts.
- C. Any single door or pair of doors requiring locking at the bottom or top rail shall have locks with a minimum 5/8-inch throw bolt at both the top and bottom rails.
- D. Cylinders shall be so designed or protected that they cannot be gripped by pliers or other wrenching devices.
- E. Exterior sliding commercial entrances will be secured as in subsections A, B and D, with special attention given to safety regulations.
- F. Rolling overhead doors, solid overhead swinging, sliding or accordion garage-type doors

shall be secured with a cylinder lock or a padlock on the inside when not otherwise controlled or locked by electric power operation. If a padlock is used, it shall be of hardened steel shackle, with a minimum 5 pin tumbler operation with non-removable key when it is in an unlocked position.

- G. Metal accordion grate or grill-type doors shall be equipped with a metal guide track, top and bottom, and a cylinder lock and/or padlock with hardened steel shackle and minimum 5 pin tumbler operation with non-removable key when in an unlocked position. The bottom track shall be so designed that the door cannot be lifted from the track when the door is in a locked position.
- H. Outside hinges on all exterior doors shall be provided with non-removable pins or hinges of the interlocking stud type when using pin-type hinges.
- I. Doors with glass panels and doors that have glass panels adjacent to the door frame shall be secured as follows:
 - 1. Rated burglary resistant glass or glass-like material; or
 - 2. The glass shall be covered with iron bars of at least ½ inch round or 1 inch by ¼ inch flat steel material mortised, spaced not more than 5 inches apart, secured on the inside of the glazing; or
 - 3. Iron or steel grills of at least 1/8 inch material of 2-inch mesh secured on inside of the glazing.
- J. Inswinging doors shall have rabbetted jambs.
- K. Wood doors, not of solid core construction, or with panels therein less than 1 3/8-inch thick, shall be covered on the inside with at least 16-gauge sheet steel or its equivalent attached with screws on a minimum of 6-inch centers.
- L. Jambs for all doors shall be so constructed or protected so as to prevent violation of the function of the strike.
- M. All exterior doors shall have a minimum of 20-foot candle power over the outside of the door. Such bulb shall be protected with a vapor cover or cover of equal breaking resistant material.

(Prior code § 9108 (910)(IA); Ord. 796 C.S. § 5, 1974; Ord. No. 1460, § VI, 7/31/2024)

§ 15.44.090. Commercial buildings—Glass windows.

- A. Accessible rear and side windows not viewable from the street shall consist of rated burglary resistant glass or glass-like material.

Exception: Window openings required by the building code for access by the Fire Department shall be protected by a material approved by the Fire Department.

Protection of these window openings should be by glass, i.e., tempered glass, which may be broken without unnecessary delay and use of specialized equipment.

- B. If the accessible side or rear window is of the openable type it shall be secured on the inside with a locking device capable of withstanding a force of 300 pounds applied in any direction.

- C. Louvered windows shall not be used within 8 feet of ground level, adjacent structures or fire escapes.
- D. Outside hinges on all accessible side and rear glass windows shall be provided with non-removable pins. If the hinge screws are accessible, the screws shall be of the non-removable type.

(Prior code § 9108 (910)(IB); Ord. 796 C.S. § 5, 1974)

§ 15.44.100. Commercial buildings—Accessible transoms.

- A. All exterior transoms exceeding 8 inches by 12 inches on the side and rear of any building or premises used for commercial purposes shall be protected by one of the following:
 - 1. Rated burglary resistant glass or glass-like material; or
 - 2. Outside iron bars of at least ½-inch round or 1 inch by ¼-inch flat steel material, spaced no more than 5 inches apart; or
 - 3. Outside iron or steel grills of at least 1/8-inch material but not more than 2-inch mesh.

- B. The window barrier shall be secured with rounded head flush bolts on the outside.

(Prior code § 9108 (910)(IC); Ord. 796 C.S. § 5, 1974)

§ 15.44.110. Commercial buildings—Roof openings.

- A. All glass skylights on the roof of any building or premises used for business purposes shall be provided with:
 - 1. Rated burglary resistant glass or glass-like material meeting building code requirements; or
 - 2. Iron bars of at least ½-inch round or 1 inch by ¼-inch flat steel material under the skylight and securely fastened; or
 - 3. A steel grill of at least 1/8-inch material of 2-inch mesh under the skylight and securely fastened.
- B. All hatchway openings on the floor of any building or premises used for business purposes shall be secured as follows:
 - 1. If the hatchway is of wooden material, it shall be covered on the inside with at least 16-gauge sheet steel or its equivalent attached with screws.
 - 2. The hatchway is to be secured from the inside with a slide bar or slide bolts. The use of a crossbar or padlock must be approved by the Fire Marshal.
 - 3. Outside hinges on all hatchway openings shall be provided with non-removable pins when using pin-type hinges.
- C. All air duct or air vent openings exceeding 8 inches by 12 inches on the roof or exterior walls of any building or premises used for business purposes shall be secured by covering the same with either of the following:
 - 1. Iron bars of at least ½-inch round or 1 inch by ¼-inch flat steel material, spaced no

more than 5 inches apart and securely fastened; or

2. A steel grill of at least 1/8-inch material of 2-inch mesh and securely fastened;
3. If the barrier is on the outside, it shall be secured with rounded head flush bolts on the outside.

- D. Ladders. Any ladder, excluding fire escapes, located on the exterior of any building which could provide access to the roof shall be protected from such access by a continuous piece of wood or metal covering the rungs. The wood or metal shall be locked with a padlock. The padlock shall have a minimum of five pin tumblers and be of case-hardened steel. Hinges used on the covering shall be of a non-removable pin type. The wood or metal barrier shall be of a minimum of 8 feet continuous covering of not less than ½-inch thickness and located 4 feet from ground level or be secured in a manner approved by the Building Official.

(Prior code § 9108 (910)(ID); Ord. 796 C.S. § 5, 1974)

§ 15.44.120. Commercial buildings—Special security measures.

- A. Safes. Commercial establishments having \$1,000.00 or more in cash on the premises after closing hours shall lock such money in at least a Class E or higher rated safe after closing hours.
- B. Office buildings (multiple occupancy). All entrance doors to individual office suites shall have a dead bolt lock with a minimum 1-inch throw bolt which can be opened from the inside.

(Prior code § 9108 (910)(IE); Ord. 796 C.S. § 5, 1974)

§ 15.44.130. Commercial buildings—Intrusion detection devices.

- A. If it is determined by the enforcing authority of this chapter that the security measures and locking devices described in this chapter do not adequately secure the building, he may require the installation and maintenance of an intrusion detection device (burglar alarm system).
- B. Establishments having specific type inventories shall be protected by the following type alarm service:

1. Silent Alarm—Central Station—Supervised Service:
 - a. Jewelry store, manufacturing, wholesale and retail,
 - b. Guns and ammunition,
 - c. Wholesale liquor,
 - d. Wholesale tobacco,
 - e. Wholesale drugs,
 - f. Fur stores;
2. Silent alarm:

- a. Liquor stores,
 - b. Pawnshops,
 - c. Electronic equipment including musical instrument,
 - d. Wig stores,
 - e. Clothing (new),
 - f. Coins and stamps,
 - g. Industrial tool supply houses,
 - h. Camera stores,
 - i. Precious metal storage facility,
 - j. Drugstores;
3. Local alarm (bell outside premises):
 - a. Antique dealers,
 - b. Art galleries,
 - c. Service stations.

(Prior code § 9108 (910)(IF); Ord. 796 C.S. § 5, 1974)

§ 15.44.140. Residential structures—Purpose for provisions.

The purpose of Sections 15.44.150 through 15.44.220 is to set forth minimum standards of construction for resistance to unlawful entry to the residential structures located in the City.

(Prior code § 9108 (910)(IIA); Ord. 796 C.S. § 5, 1974)

§ 15.44.150. Residential structures—Alternatives.

Nothing contained in this chapter shall be deemed to prohibit the use of alternate materials, devices or measures when such alternate provisions are by the Building Official as providing equivalent security.

(Prior code § 9108 (910)(IIB); Ord. 796 C.S. § 5, 1974)

§ 15.44.160. Residential structures—Sliding glass windows and doors—Testing.

- A. Sliding glass doors. Panels shall be closed and locked. Tests shall be performed in the following order:
 1. Test A. With the panels in the normal positions a concentrated load of 300 pounds shall be applied separately to each vertical pull stile incorporating a locking device at a point on the stile within 6 inches of the locking device, in the direction parallel to the plane of glass that would tend to open the door.
 2. Test B. Repeat Test A while simultaneously adding a concentrated load of 150 pounds to the same area of the same stile in a direction perpendicular to the plane of glass toward the interior side of the door.

3. Test C. Repeat Test B with the 150 pounds force in the reversed direction towards the exterior side of the door.
 4. Tests D, E and F. Repeat Tests A, B and C with the movable panel lifted upwards to its full limit within the confines of the door frame.
- B. Sliding glass windows. The sash shall be closed and locked. Tests shall be performed in the following order:
1. Test A. With the sliding sash in the normal position, a concentrated load of 150 pounds shall be applied separately to each sash member within 6 inches of the locking device, in the direction parallel to the plane of glass that would tend to open the window.
 2. Test B. Repeat Test A while simultaneously adding a concentrated load of 75 pounds to the same area of the same sash member in the direction perpendicular to the plane of glass toward the interior side of the window.
 3. Test C. Repeat Test B with 75-pound force in the reversed direction towards the exterior side of the window.
 4. Tests D, E and F. Repeat Tests A, B and C with the movable sash lifted upwards to its full limit within the confines of the window frame.
- C. Testing agency. All tests shall be performed by an approved independent testing agency. Written reports shall be submitted to the Building Official.
(Prior code § 9108 (910)(IIC); Ord. 796 C.S. § 5, 1974)

§ 15.44.170. Residential structures—Doors—Generally.

A door forming part of the enclosure of a dwelling unit shall be of solid core construction installed and secured as set forth in Sections 15.44.180, 15.44.190 and 15.44.200, when such door is accessible from a street, highway, yard, court, corridor, balcony, patio, breezeway, private garage, portion of the building which is available for use by the public or other tenants or similar area. A door enclosing a private garage with an interior opening leading directly to a dwelling unit shall also comply with Sections 15.44.180, 15.44.190 and 15.44.200.

(Prior code § 9108 (910)(IID); Ord. 796 C.S. § 5, 1974; Ord. 1091 C.S. § VIII, 1987)

§ 15.44.180. Residential structures—Doors—Swing doors.

- A. A single swing door, the active leaf of a pair of doors and the bottom leaf of dutch doors shall be equipped with a dead bolt with a minimum throw of 1 inch and a deadlocking latch. Dead bolts shall contain hardened inserts, or equivalent, so as to repel cutting tool attack. The lock or locks shall be key operated from the exterior side of the door and engaged or disengaged from the interior side of the door by a device not requiring a key or special knowledge or effort.
- B. Flushbolts with a minimum throw of 5/8 inch shall be provided at the head and foot (floor and ceiling) of the inactive leaf of double doors, and at the top and bottom of the upper leaf of dutch doors.
- C. Door stops on wooden jambs for in-swing doors shall be of one piece construction with the jamb or joined by a rabbet.

- D. Non-removable pins or interlocking stud-type hinges which are accessible from the outside when the door is closed.
- E. Cylinder guards shall be installed on all mortise or rim-type cylinder locks whenever the cylinder projects beyond the face of the door or is otherwise accessible to gripping tools.
(Prior code § 9108 (910)(IIE); Ord. 796 C.S. § 5, 1974)

§ 15.44.190. Residential structures—Doors—Sliding glass.

- A. Sliding glass doors shall be equipped with locking devices and shall be so installed that, when subject to tests specified in Section 15.44.160, they remain intact and engaged. Movable panels shall not be rendered easily openable or removable from the frame during or after the tests. A secondary locking device shall be installed to allow the sliding door to be opened a minimum 2" and a maximum of 4" to provide ventilation. The door in the secondary locking position shall not be removable by lifting.
- B. Cylinder guards shall be installed on all mortise or rim-type cylinder locks which project beyond the face of the door or are otherwise accessible to gripping tools.
(Prior code § 9108 (910)(IIF); Ord. 796 C.S. § 5, 1974; Ord. 1091 C.S. § VIII, 1987)

§ 15.44.200. Residential structures—Doors—Overhead and sliding.

- A. Metal or wooden overhead sliding doors shall be secured with a cylinder lock, padlock with a hardened steel shackle, metal slide bar, bolt or equivalent on the inside when not otherwise locked by electric power operations. In the event that this type door provides the only entrance to a garage, the cylinder lock or padlock may be on the outside.
- B. Cylinder guards shall be installed on all mortise or rim-type cylinder locks which project beyond the face of the door or are otherwise accessible to gripping tools.
(Prior code § 9108 (910)(IIG); Ord. 796 C.S. § 5, 1974)

§ 15.44.210. Residential structures—Windows—Generally.

A window, skylight or other light forming a part of the enclosure of a dwelling unit shall be constructed, installed and secured as set forth in Section 15.44.220 when such window, skylight or light is not more than 12 feet above the grade of a street, highway, yard, court, passageway, corridor, balcony, patio, breezeway, private garage, portion of the building which is available for use by the public or other tenants or similar area. A window enclosing a private garage with an interior opening leading directly to a dwelling unit shall also comply with Section 15.44.220.
(Prior code § 9108 (910)(IIH); Ord. 796 C.S. § 5, 1974; Ord. 1091 C.S. § VIII, 1987)

§ 15.44.220. Residential structures—Windows—Locking devices.

- A. Sliding glass windows shall be provided with locking devices that, when subjected to the tests specified in Section 15.44.160 remain intact and engaged. A secondary locking device shall be installed to allow the movable panel to be opened a minimum 2" and a maximum of 4" to provide ventilation. The window in the secondary locking position shall not be removable by lifting.
- B. Movable panels shall not be rendered easily openable or removable from the frame during or after the tests.

- C. Other openable windows shall be provided with substantial locking devices which the Building Official finds render the building as secure as the devices required by this chapter.
- D. Louvered windows, except those above the first story shall not be permitted.
- E. Open parking lots (including lots having carports) providing more than ten parking spaces shall be provided with a maintained minimum of 3 foot-candles of light on the parking surface during hours of darkness.

(Prior code § 9108 (910)(II-I); Ord. 796 C.S. § 5, 1974; Ord. 1091 C.S. § VIII, 1987)

§ 15.44.230. Failure to provide security devices unlawful.

It is unlawful for the owner(s) of a building or structure to fail to provide the security devices required by this chapter.

(Prior code § 9108 (906); Ord. 796 C.S. § 5, 1974)

§ 15.44.240. Appeal—Board of appeals.

Any interested person may appeal the decision of the Building Official by filing a notice with the Secretary of the Board of Appeals; the Police Chief or his designated representative shall be a member of the Appeals Board to pass upon matters pertaining to this chapter.

(Prior code § 9108 (907); Ord. 796 C.S. § 5, 1974)

§ 15.44.250. Appeal—Notice—Contents.

The notice of appeal shall set forth in concise language the following:

- A. Date of appeal;
- B. Name of appellant;
- C. Appellant's representative (if any);
- D. Address(es) to which notices shall be sent;
- E. Telephone number of appellant and/or representative;
- F. Name of owner, if different from appellant;
- G. Date of action or decision from which appeal is taken;
- H. Action or decision being appealed;
- I. Grounds for appeal;
- J. Estimated time required by appellant to present appeal;
- K. Address and description of real property involved.

(Prior code § 9108 (907)(a); Ord. 796 C.S. § 5, 1974)

§ 15.44.260. Appeal—Filing fee.

No filing fee shall be required for an appeal from actions or decisions pertaining to this chapter.

(Prior code § 9108 (907)(b); Ord. 796 C.S. § 5, 1974)

§ 15.44.270. Appeal—Hearing.

The Secretary of the Board of Appeals shall cause the notice of appeal to be placed on the agenda as soon as practicable. Such date for the hearing shall not be less than ten (10) days nor more than sixty (60) days from the date the appeal was filed. Each appellant shall receive notice of the time and place of the hearing at least five (5) calendar days prior to the date of the hearing.

(Prior code § 9108 (907)(c); Ord. 796 C.S. § 5, 1974)

CHAPTER 15.50
CERTIFICATE OF OCCUPANCY

§ 15.50.010. Purposes.

To ensure that each new or expanded use of a structure or site and each new structure or alteration of an existing structure complies with all applicable provisions of this title and, in order that the City may have a record of each new or expanded use of a structure or site, a certificate of occupancy is required before any structure or site may be occupied or used.
(Ord. No. 1468, § VIII, 1/15/2025)

§ 15.50.020. Certificate required.

No structure or site shall be occupied or used after the effective date of this title until a certificate of occupancy has been issued by the Chief Building Official or designee.
(Ord. No. 1468, § VIII, 1/15/2025)

§ 15.50.030. Application.

Application for a certificate of occupancy shall be filed with the Building Division prior to the erection, moving, alteration, or enlargement of any structure and prior to the commencement of a new use or a change in use of any structure or site.
(Ord. No. 1468, § VIII, 1/15/2025)

§ 15.50.040. Issuance.

The Chief Building Official or designee shall issue a certificate of occupancy upon receipt of written notice that the structure or site is ready for occupancy or use and after he has inspected the structure or site, provided that the structure or site and the intended use thereof conform with the regulations for the district in which it is located and all other applicable provisions of this title.
(Ord. No. 1468, § VIII, 1/15/2025)

CHAPTER 15.55

RESIDENTIAL AMNESTY PROGRAM FOR UNPERMITTED DWELLING UNITS³¹

§ 15.55.010. Intent.

This Chapter establishes standard procedures and protocols used to determine the condition of and the steps necessary to legalize existing unpermitted single-family dwelling, multi-family dwelling, accessory dwelling unit ("ADU"), or junior ADU ("JADU"), and herein referred to collectively as any "dwelling unit." Notwithstanding any other law, the City shall not deny a permit for an unpermitted dwelling unit, except where provided in this Chapter. This Chapter is not intended to provide amnesty to any unpermitted additions or conversions which do not constitute a new independent dwelling unit as defined in Chapter 22.04 and/or California Health and Safety Code Section 17958.1.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.020. Applicability.

This Chapter applies to any unpermitted dwelling unit if the dwelling unit was constructed or converted before January 1, 2025.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.025. Exceptions.

The City may deny a request to legalize an unpermitted dwelling unit if the dwelling unit is deemed "substandard" according to Health and Safety Code Section 17960.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.030. Building code and zoning ordinance compliance.

The City shall not deny a Certificate of Health and Safety Compliance for an ADU or JADU that is in violation of California building standards or does not comply with any state or local regulations related to dwelling units, other than Health and Safety Code Section 17960.

Unpermitted single-family and multi-family dwelling units shall still be subject to applicable requirements provided in Title 22 - Zoning.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.040. Impact fees.

The property owner applying for amnesty pursuant to Section 15.55.060 to legalize an unpermitted dwelling unit shall not be required to pay impact fees or connection or capacity charges except where utility infrastructure is required to comply with Health and Safety Code Section 17920.3.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.050. No penalization for applicants with unpermitted units.

The City is prohibited from penalizing an applicant for having an unpermitted dwelling unit and the City must approve necessary permits to correct noncompliance with applicable health

31. Editor's note: Originally enacted as Ch. 15.50; renumbered because that chapter was already used.

and safety standards. However, if an unpermitted dwelling unit is determined upon inspection, outlined in Section 15.55.070.C, to be a substandard structure pursuant to Health and Safety Code Section 17920, then the property owner may request up to five years from said inspection to correct any discrepancies or violations. Further, the City shall suspend and shall not open any code enforcement cases regarding the noncompliance during the requested five-year period, provided the applicant makes a good-faith effort towards achieving compliance, as determined by the Chief Building Official or designee.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.060. Pathways to legalize an unpermitted dwelling unit.

Interested parties seeking amnesty through this Chapter shall be offered two pathways to legalize an unpermitted dwelling unit.

- A. Apply for a building permit and receive a certificate of occupancy. Applicants utilizing this pathway must meet all the applicable requirements provided in this Title, Title 22 - Zoning, and all requirements of the California Building Code, in addition to Health and Safety Code Section 17920. If the project meets all requirements, then the Chief Building Official or designee shall grant a Certificate of Occupancy for the dwelling unit; or
- B. Apply for a certificate of health and safety compliance. Applicants who pursue a Certificate of Health and Safety Compliance are only required to meet the requirements of Health and Safety Code Section 17920. If the project meets all requirements, then the Chief Building Official or designee shall grant a Certificate of Health and Safety Compliance for the dwelling unit. A Certificate of Health and Safety Compliance is a finding by the Chief Building Official or designee that a dwelling unit built without building permits and inspections pursuant to the requirements of the Uniform Building Code meets minimum safety requirements for occupancy; this finding is not equivalent to a building permit or "as built" building permit and does not entitle the property owner to a separate Certificate of Occupancy.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.070. Application and inspection requirements.

If an applicant is applying to legalize an unpermitted dwelling unit pursuant to Section 15.55.060, then the applicant shall be required to:

- A. When pursuing a Certificate of Occupancy:
 - 1. Application and fee. Complete and submit a Building Permit application and pay applicable fees in accordance with the currently adopted fee schedule. The Building Permit application should include, but not be limited to:
 - a. Site plan;
 - b. Floor plans;
 - c. Interior elevations;
 - d. Exterior elevations;
 - e. Building sections; and

- f. Details demonstrating specific code compliance requirements such as fire-resistant rating of a wall.
 2. Inspections. Schedule an inspection with the Building Division to inspect the subject dwelling unit for compliance with applicable building, health, and safety standards. If the inspector finds noncompliance with applicable standards, then the inspector shall provide recommendations necessary to obtain a Certificate of Occupancy. Upon scheduling of the inspection with the City, property owner and/or applicant is obligated to correct any discrepancies deemed by the inspector to be violations to building, health, and/or safety codes in a timely manner, as indicated by State Law. Property owners and/or applicants are also obligated to legalize the dwelling unit, but can apply for a five-year delay of enforcement of non-health and safety code-related violations. The delay allows applicants up to five years to remedy the non-health and life safety violations before being subject to code enforcement to complete the legalization process.
 3. Certificate issuance. The applicant shall schedule follow-up inspections with the Building Division to confirm all noncompliance issues identified in Subsection A.2 have been resolved. If the inspector determines the dwelling unit complies with all applicable building, health, and safety standards, then the Chief Building Official or designee shall grant a Certificate of Compliance.
- B. When pursuing a Certificate of Health and Safety Compliance:
 1. Application and fee. Complete and submit an Unpermitted Dwelling Unit Amnesty Application and an applicable Building Permit application(s), and pay applicable fees in accordance with the currently adopted fee schedule.
 2. Dwelling unit documentation. Provide proof the unpermitted dwelling unit was constructed or converted before January 1, 2025. Proof is at the discretion of the Planning Manager or designee and can generally include, but not limited to:
 - a. Utility bills;
 - b. Property tax bills;
 - c. Dated lease or rental agreement;
 - d. Rental receipts;
 - e. Contractor bills;
 - f. Dated communication between the landlord and tenant(s) showing the unit was rented;
 - g. Written affidavits from neighbors, former owners, or former tenants;
 - h. Photos or videos of the completed unit or unit under construction, if the photos or videos can be dated with time stamps or other context clues;
 - i. Sales or Multiple Listing Service records that reference the unit; or
 - j. Building construction materials and technologies.

3. Inspections. Schedule an inspection with the Building Division to inspect the subject dwelling unit for compliance with applicable building, health, and safety standards. If the inspector finds noncompliance with applicable standards, then the inspector shall provide recommendations necessary to obtain a Certificate of Health and Safety Compliance. Upon scheduling of the inspection with the City, the property owner and/or applicant is obligated to correct any discrepancies deemed by the inspector to be violations to building, health, and/or safety codes in a timely manner, as indicated by State Law. Property owners and/or applicants are also obligated to legalize the dwelling unit, but can apply for a five-year delay of enforcement of non-health and safety code-related violations. The delay allows applicants up to five years to remedy the non-health and life safety violations before being subject to code enforcement to complete the legalization process.
4. Certificate issuance. The applicant shall schedule follow-up inspections with the Building Division to confirm all noncompliance issues identified in Subsection B.3 have been resolved. If the inspector determines the dwelling unit complies with all applicable building, health, and safety standards, then the Chief Building Official or designee shall grant a Certificate of Health and Safety Compliance.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.080. Tenant habitability and relocation plan.

In the event a corrective action is identified as part of the inspection of the unpermitted dwelling, prior to making any repairs, the property owner shall complete a Tenant Habitability and Relocation Plan describing how they will maintain habitability for the tenant and any adjacent units while repairs are being performed. In the event a corrective action or an imminent life-threatening hazard is identified and requires a tenant to be temporarily relocated, the plan shall also include details about how the property owner will assist with temporary relocation, which must include offering an available unit at the same rent (if the property owner owns other properties within Central Contra Costa County as provided by the Contra Costa Transportation Authority), paying for moving expenses to both the temporary housing and back to the subject dwelling unit, and providing to pay for the cost of temporary housing in excess of their current monthly rent for the full duration of the relocation. The property owner must also agree to continue renting to the existing tenant after repairs are complete with reasonable limits on rent increases for that tenant, as provided by the California Tenant Protection Act.

(Ord. No. 1469, § IV, 4/2/2025)

§ 15.55.090. Prohibition on short-term rentals.

Upon granting of a Certificate of Occupancy or Certificate of Health and Safety Compliance, applicants shall be prohibited from renting the subject dwelling units for a period of less than 31 days and cannot be used or occupied as a short-term rental unit.

(Ord. No. 1469, § IV, 4/2/2025)

BUILDINGS AND CONSTRUCTION

MARTINEZ CODE

Title 16

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**Division I
Generally**

**CHAPTER 16.04
SIGN CODE**

§ 16.04.010. Adoption of Uniform Sign Code.

There is adopted by reference the Uniform Sign Code, with amendments as set forth herein, for the purpose of prescribing regulations governing installation, location, electrification and maintenance of signs within the corporate limits of the City, the Uniform Sign Code, 1994 Edition, recommended by the International Conference of Building Officials and includes Chapters 16.20 through 16.68 of this Code, is adopted and made a part of this Code as if set out in full herein.

(Prior code § 9600; Ord. 796 C.S. § 9, 1974; Ord. 852 C.S. § 1, 1976; Ord. 1011 C.S. § 6, 1984; Ord. 1091 C.S. § X, 1987; Ord. 1170 C.S. § 2, 1991; Ord. 1188 C.S. § II, 1992; Ord. 1228 C.S. § I, 1995)

§ 16.04.020. Amendments to Uniform Sign Code.

A. Section 303 of the Uniform Sign Code is amended by deleting paragraph (3) in its entirety;

B. Permit fees for work regulated by this chapter shall be as adopted from time to time by Resolution of the City Council of the City of Martinez.

(Prior code § 9600; Ord. 796 C.S. § 9, 1974; Ord. 852 C.S. § 1, 1976; Ord. 916 C.S. § 7, 1980; Ord. 1091 C.S. § X, 1987)

CHAPTER 16.08
SIGNS ADJACENT TO LANDSCAPED AREAS

§ 16.08.010. Definitions.

As used in this chapter, certain terms are defined as follows:

- A. "Advertising display" refers to advertising structures and to signs;
- B. "Advertising structure" refers to a structure of any kind or character erected or maintained for outdoor advertising purposes on which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary;
- C. "Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State;
- D. "Landscaped freeway" means a section or sections of a freeway which is now, or hereafter may be, improved by the planting, at least to one side of the freeway right-of-way, of lawns, trees, shrubs, flowers or other ornamental vegetation which shall require reasonable maintenance. Planting for the purpose of soil erosion control, traffic safety requirements, reduction of fire hazards or traffic noise abatement, shall not change the character of a freeway to landscaped freeway;
- E. "Signs" refers to any card, cloth, metal, painted or wooden sign of any character, placed for outdoor advertising purposes, on or to the ground, or any tree, wall, bush, rock, fence, building, structure or thing, either publicly or privately owned, other than an advertising structure;
- F. Neither "advertising structure" nor "sign" as used in this chapter includes:
 - 1. Official notices issued by a court or public body or officer;
 - 2. Notices posted by any public officer in performance of a public duty, or by any person in giving legal notice;
 - 3. Directional, warning or information signs or structures required or authorized by law or by Federal, State or Municipal Authority.
- G. The verb "to place" and any of its variants, as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, stitching, carving, or otherwise fastening, affixing, or making visible, any advertising display on or to the ground, or any tree, bush, rock, fence, post, wall building, structure or thing.

(Prior code § 9700)

§ 16.08.020. Prohibitions.

No advertising displays shall be placed or maintained on property adjacent to a section of freeway which has been, or hereafter may be, landscaped as defined herein, if the advertising display is designed to be viewed primarily by persons traveling on such landscaped section of a freeway.

(Prior code § 9701)

§ 16.08.030. Exemptions.

The provision of Section 16.08.020 of this chapter shall not apply to any of the following listed advertising structures or signs used exclusively to:

- A. Advertise the sale or lease of the property on which the advertising display is placed;
- B. Designate the name of the owner or occupant of the premises upon which the advertising display is placed or to identify such premises;
- C. Advertise the business conducted or goods manufactured or produced, or services rendered upon the property upon which the advertising display is placed.

(Prior code § 9702)

§ 16.08.040. Removal of prohibited displays.

Any advertising structure or sign which is now, or hereafter may be, in violation of the provisions of Sections 16.08.020 shall be removed within three years from the effective date of this chapter or within three years from the date when the project for the landscaping of a section or sections of a freeway has been completed or accepted, and the character of the section or sections has been changed from a freeway to a landscaped freeway, whichever is later.

(Prior code § 9703)

**Division II
Regulations**

**CHAPTER 16.20
PURPOSE**

§ 16.20.010. Designated.

The purpose of this chapter and Chapters 16.24 through 16.68 is to provide minimum standards to safeguard life, health, property and the public welfare by regulating and controlling the design, materials, construction, size, location and maintenance of signs and sign structures. These regulations further have the purpose of allowing for identification of a business in a manner that is most harmonious with an aesthetic and functional business district, to encourage signs that are well designed and pleasing in appearance, and to reduce overhead clutter and enhance property values. It is not the intent of these regulations that on-site signs be used for general advertising purposes as opposed to identifying the business to which the sign relates. (Prior code § 10,201.0; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.24 DEFINITIONS

§ 16.24.010. Generally.

For the purposes of Chapters 16.20 through 16.68 certain words and terms herein are defined as set out in this chapter.

(Prior code § 10,201.1; Ord. 822 C.S. § 2, 1975)

§ 16.24.020. Accessory sign (on-premises sign).

"Accessory sign (on-premises sign)" means any sign which advertises goods manufactured or produced or services rendered on the property upon which such sign is located.

(Prior code § 10,201.1(3); Ord. 822 C.S. § 2, 1975)

§ 16.24.030. Approved plastic material.

"Approved plastic material" means a material which the building official has found to meet the requirements of the Uniform Building Code approved standards of the City.

(Prior code § 10,201.1(4); Ord. 822 C.S. § 2, 1975)

§ 16.24.040. Area identification sign.

"Area identification sign" means a permanent sign used to identify a neighborhood, subdivision, shopping district, industrial district or any area composed of more than one ownership.

(Prior code § 10, 201.1(5); Ord. 822 C.S. § 2, 1975)

§ 16.24.050. Awning.

"Awning" means any movable structure attached to a building and projecting over a thoroughfare or sidewalk.

(Prior code § 10,201.1(6); Ord. 822 C.S. § 2, 1975)

§ 16.24.060. Building area.

"Building area" means the total square footage of floor area of a building used for commercial, office, industrial, quasi-public or agricultural farm product sale.

(Prior code § 10,201.1(7); Ord. 822 C.S. § 2, 1975)

§ 16.24.070. Building line.

"Building line" means a line established by ordinance beyond which no building may extend.

(Prior code § 10,201.1(8); Ord. 822 C.S. § 2, 1975)

§ 16.24.080. Combination sign.

"Combination sign" means a sign incorporating any combination of the features of ground sign, sign tower, projecting and roof signs.

(Prior code § 10,201.1(9); Ord. 822 C.S. § 2, 1975)

§ 16.24.090. Curbline.

"Curbline" means the line at the face of the curb nearest to the street or roadway.

(Prior code § 10,201.1(10); Ord. 822 C.S. § 2, 1975)

§ 16.24.100. Double-faced sign.

"Double-faced sign" means a sign designed to be viewed from two directions and which at no point is thicker than 24 inches measured from the exterior surfaces of each face, and the two faces of the sign are either parallel or the angle between them is less than 30 degrees.

(Prior code § 10,201.1(11); Ord. 822 C.S. § 2, 1975)

§ 16.24.110. Electric sign.

"Electric sign" means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.

(Prior code § 10,201.1(12); Ord. 822 C.S. § 2, 1975)

§ 16.24.120. Erect.

"Erect" means to build, construct, attach, hang, place, suspend or affix, including the painting of wall signs.

(Prior code § 10,201.1(13); Ord. 822 C.S. § 2, 1975)

§ 16.24.130. Flyer.

"Flyer" means letters, figures, characters or representations in cut-out or irregular forms attached to or superimposed upon any sign structure or display surface.

(Prior code § 10,201.1(14); Ord. 822 C.S. § 2, 1975)

§ 16.24.140. Free-standing sign.

"Free-standing sign" means a sign supported by one or more uprights, poles or braces in or upon the ground, with no portion of the sign over a building, other than a combination sign or a portable sign as defined herein.

(Prior code § 10,201.1(15); Ord. 822 C.S. § 2, 1975)

§ 16.24.150. Freeway.

"Freeway" means a highway to which the owners of abutting lands have limited or no access.

(Prior code § 10,201.1(16); Ord. 822 C.S. § 2, 1975)

§ 16.24.160. Frontage.

"Frontage" means the property line of a site abutting on a street, other than the sideline of a corner lot.

(Prior code § 10,201.1(17); Ord. 822 C.S. § 2, 1975)

§ 16.24.170. Incombustible material.

"Incombustible material" means material which meets the requirements of the Uniform Building code approved standards for the City.

(Prior code § 10,201.1(18); Ord. 822 C.S. § 2, 1975)

§ 16.24.180. Marquee.

"Marquee" means a permanent roofed structure attached to and supported by the building and projecting over public property.

(Prior code § 10,201.1(19); Ord. 822 C.S. § 2, 1975)

§ 16.24.185. Non-commercial sign.

"Non-commercial sign" means any sign which does not advertise goods or commercial services, events or establishments. Non-commercial signs include signs expressing ideological or political views.

(Ord. 1059 C.S. § 5, 1986)

§ 16.24.190. Nonstructural trim.

"Nonstructural trim" means molding, battens, caps, nailing strips, latticing, flyers and walkways which are attached to the sign structure or display surface.

(Prior code § 10,201.1(20); Ord. 822 C.S. § 2, 1975)

§ 16.24.200. Occupancy sign.

Except as otherwise provided herein, all signs shall only identify the occupant of the building upon which the sign is attached. Such signs shall contain only the name of the business and the type of service rendered. Such signs are referred to herein as "occupancy signs." No occupancy sign shall be placed upon any portion of the building except that portion occupied by the business which is identified by the sign.

(Prior code § 10,201.1(21); Ord. 822 C.S. § 2, 1975)

§ 16.24.210. Off-site sign.

"Off-site sign" means a sign which advertises products, services or other uses not associated with any use established on the premises on which such a sign is located. Nonaccessory includes, but is not limited to, such terms as "billboard" and "outdoor advertising structures."

(Prior code § 10,201.1(22); Ord. 822 C.S. § 2, 1975)

§ 16.24.220. Permanent sign.

"Permanent sign" means any sign which from the nature and effect of its proposed composition, construction, message to be carried or its proposed placement, would make it reasonable to determine that it was intended for continuous display for a period of time greater than 90 days.

(Prior code § 10,201.1(23); Ord. 822 C.S. § 2, 1975)

§ 16.24.230. Person.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

(Prior code § 10,201.1(24); Ord. 822 C.S. § 2, 1975)

§ 16.24.240. Political sign.

"Political sign" means any sign which is designed to influence the action of the voters either for the passage or defeat of a measure appearing on the ballot of any national, State or local election, or which is designed to influence the action of the voters either for the election or defeat of a candidate for nomination or election to any public office at any national, State or local election.

(Prior code § 10,201.1(25); Ord. 822 C.S. § 2, 1975)

§ 16.24.250. Portable free-standing sign (A-frame signs).

"Portable free-standing sign (including A-frame type signs)" means a sign that is designed to be

movable and is not structurally attached to the ground, a building, a structure or any other sign. Such sign may or may not be in the configuration of an "A."
(Prior code § 10,201.1(26); Ord. 822 C.S. § 2, 1975)

§ 16.24.260. Projection.

"Projection" means the distance by which a sign extends over public property or beyond the building line or eaves of a building.
(Prior code § 10,201.1(27); Ord. 822 C.S. § 2, 1975)

§ 16.24.270. Projecting sign.

"Projecting sign" means a sign other than a wall sign which projects from and is supported by a wall or roof of a building, structure or sign structure, and projects beyond the eaves of a building.
(Prior code § 10,201.1(28); Ord. 822 C.S. § 2, 1975)

§ 16.24.280. Roof sign.

"Roof sign" means a sign erected upon the roof or parapet of a building or structure.
(Prior code § 10,201.1(29); Ord. 822 C.S. § 2, 1975)

§ 16.24.290. Shall.

"Shall" is mandatory and not directory.
(Prior code § 10,201.1(1); Ord. 822 C.S. § 2, 1975)

§ 16.24.300. Sign.

"Sign" means any lettering or symbol made of cloth, metal, paint, paper, plastic, wood or other material of any kind whatsoever erected for advertising, identification or other purposes upon the ground, or upon any bush, tree, rock, wall, post, fence, roof, building, structure, vehicle or any place whatsoever; provided however that the following shall not be included in the application of the regulations herein:

- A. Any device not exceeding 2 square feet in area and bearing only the property address numbers, post box number, names of occupants or premises, or other identification of the premises not having commercial connotation, providing such device is not located where other signs are prohibited;
- B. Flags or insignia of any government except where displayed in connection with commercial promotion;
- C. Legal notices, identification, information or directional signs erected or required by governmental bodies;
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
- E. Signs directing and guiding traffic on private property providing such sign contains no business or product name or trademark or otherwise identifies the use of the premises upon which such sign is located and further provided that such sign is not located where other signs are prohibited;
- F. Window signs not exceeding 36 square inches identifying acceptable credit cards or trading

stamps.

(Prior code § 10,201.1(30); Ord. 822 C.S. § 2, 1975)

§ 16.24.310. Sign area.

"Sign area." The area of a sign having an integral part of a building as its background shall be the area within the smallest of a circle, square or rectangle drawn to include all letters, designs and tubing which are a part of the sign. The area of all other signs shall be the smallest of a circle, square or rectangle drawn to encompass all portions of the sign including background and tubing, but excluding posts without attached sign lighting. In computing the area of a double-faced sign, only the 1 face of the sign shall be included.

(Prior code § 10,201.1(31); Ord. 822 C.S. § 2, 1975)

§ 16.24.320. Sign structure.

"Sign structure" means the supports, uprights, braces and frame work of the sign.

(Prior code § 10,201.1(32); Ord. 822 C.S. § 2, 1975)

§ 16.24.330. Sign tower.

"Sign tower" means a tower erected for the specific purpose of supporting a sign or having a sign attached flat against the face or faces. The tower may or may not be an integral part of the building.

(Prior code 10,201.1(33); Ord. 822 C.S. § 2, 1975)

§ 16.24.340. Street.

"Street" means any public street, alleyway, place or thoroughfare. The sidelines of the right-of-way constitute the sidelines of a street.

(Prior code 10,201.1(34); Ord. 822 C.S. § 2, 1975)

§ 16.24.350. Structure.

"Structure" means that which is built or constructed, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together with some definite manner.

(Prior code § 10,201.1(35); Ord. 822 C.S. § 2, 1975)

§ 16.24.360. Temporary sign.

"Temporary sign" means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a period of not more than 90 calendar days.

(Prior code § 10,201.1(36); Ord. 822 C.S. § 2, 1975)

§ 16.24.370. Uniform Building Code.

"Uniform Building Code" means the latest edition of the Uniform Building Code adopted by the City.

(Prior code § 10,201.1(37); Ord. 822 C.S. § 2, 1975)

§ 16.24.380. Wall sign.

"Wall sign" means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall, and not extending beyond the eaves or building face.

(Prior code § 10,201.1(38); Ord. 822 C.S. § 2, 1975)

§ 16.24.381. City gateway sign.

"City gateway signs" that identify the City, are signs located at the primary gateways to the City, on land owned by the City or on land in which the City has an interest and which may be sponsored by a specific commercial enterprise. Gateway signs shall be permitted only at the following 6 gateway points to the City:

1. Within the City median on the north side of State Route 4 at the Morello Avenue exit;
2. On the south side of State Route 4 and on the west side of the Pine Street/Center Avenue exit (directly adjacent to the John Muir Inn);
3. On the east side of Alhambra Avenue directly north and adjacent to the freeway exit from westbound SR 4;
4. Within the landscaped median on Alhambra Avenue north of Devon Avenue (in the proximity of the existing City sign);
5. Within the landscaped median between Marina vista and Escobar; and
6. Within the City right of way on the north side of the Pacheco Boulevard/Bush Street intersection.

The manner in which the City is featured shall be equally as noticeable as the sponsoring business, including colors, size and character of letters and lighting.

(Ord. 1278 C.S. § 2, 2000)

CHAPTER 16.28
DESIGN REVIEW

§ 16.28.010. Findings for approval.

All proposed signs shall be subject to design review in accord with the provisions of Sections 22.34.030 through 22.34.070 of this Code. All proposed signs with areas in excess of 20 square feet, and all free-standing signs shall be reviewed by the Board of Adjustments under design review. In approving a sign, the following findings shall be made:

- A. The sign is in architectural harmony with the building and/or premises upon which the sign is to be erected;
- B. That any structure supporting the sign is an integral part of the sign design;
- C. That there will be no visible angle iron, guy wires or such other bracing or supports that may detract from the appearance of the sign; and
- D. That all provisions of Chapters 16.20 through 16.68 including the intent and purpose thereof have been complied with.

(Prior code § 10,201.2; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.32
GENERAL RESTRICTIONS

§ 16.32.010. Generally.

Except as otherwise provided in this title the restrictions set out in this chapter shall apply to all signs in all zoning districts in the City.

(Prior code § 10,201.3; Ord. 822 C.S. § 2, 1975)

§ 16.32.020. Occupancy signs.

Except as otherwise provided herein, all occupancy signs shall be placed flat against the wall of the building, or placed on the roof parallel to the front wall of the building, or suspended from the eaves or from the ceiling of a covered walkway, or any combination thereof. No wall or roof sign shall extend, project or protrude laterally from the building or portion thereof occupied by the business identified by such sign other than as necessitated by the thickness of such sign or as may be necessary to comply otherwise with the sign placement regulation contained herein. Occupancy signs shall not contain moving parts.

(Prior code § 10,201.3(a); Ord. 822 C.S. § 2, 1975)

§ 16.32.030. Roof signs.

Roof signs shall only be permitted on a roof covering the ground floor of a building or covering a ground floor walkway, and shall be placed in such a manner that the difference in vertical distance between the highest point on the sign and the top edge of the roof is equal to or greater than the difference between the lowest point on the sign and the low edge of the roof in front of the sign. Roof signs shall be placed only above or in front of the business identified by such sign. No roof sign shall have a vertical dimension of more than 30 inches. Roof signs shall not contain moving parts.

(Prior code § 10,201.3(b); Ord. 822 C.S. § 2, 1975)

§ 16.32.040. Free-standing signs.

Free-standing signs shall not project into or over a public street or thoroughfare, or the right-of-way thereof. The maximum size of a free-standing sign shall be 20 square feet, or 200 square feet if a use permit is obtained under Chapter 22.40. Free-standing signs shall not contain moving parts. A free-standing sign not exceeding 20 feet in height from the finished grade of the ground at the base of the sign to the top of the sign structure may be permitted as part of the total allowable sign area by the Board of Adjustments only if the following findings can be made:

- A. A free-standing sign is the only feasible means by which the business conducted on the premises can have the same degree of identification to the traveling and shopping public as that available to business on neighboring premises without free-standing signs; and
- B. The free-standing sign will not give the business on the premises a greater degree of identification to the public than that available to business on neighboring premises without free-standing signs; and
- C. The free-standing sign is consistent with the objectives of the zoning regulations prescribed in Section 22.02.010 of this Code; and
- D. The free-standing sign, if granted, would not adversely affect the preservation of property

values in the vicinity.

(Prior code § 10,201.3(c); Ord. 822 C.S. § 2, 1975; Ord. 1051 C.S. § I, 1985)

§ 16.32.041. City gateway signs.

- A. Notwithstanding anything to the contrary stated in this Chapter, City gateway signs ("gateway signs"), which identify the City and may be sponsored (paid for and maintained) by a single commercial enterprise in accordance with the provisions of this Section, shall be permitted at any or all of the following 6 gateway points to the City:
1. Within the City median on the north side of State Route 4 at the Morello Avenue exit;
 2. On the south side of State Route 4 and on the west side of the Pine Street/Center Avenue exit (directly adjacent to the John Muir Inn);
 3. On the east side of Alhambra Avenue directly north and adjacent to the freeway exit from westbound SR 4;
 4. Within the landscaped median on Alhambra Avenue north of Devon Avenue (in the proximity of the existing City sign);
 5. Within the landscaped median between Marina Vista and Escobar;
 6. Within the City right of way on the north side of the Pacheco Boulevard /Bush Street intersection.
- B. Gateway signs shall feature and identify the words, "City of Martinez", and may identify the business sponsoring the sign. The manner in which the City is identified shall be equally as noticeable as the sponsoring business, including colors, size and character of letters and lighting.
- C. Gateway signs shall be designed as a monument style sign not to exceed 8 feet in overall height (measured from the finished grade of the ground at the base of the sign to the top of the sign structure) and 200 square feet in area size. An exception may be granted to allow a sign up to 60 feet tall at any of the above identified gateways if the following finding can be made:
- That surrounding site constraints prevent or substantially interfere with views of the gateway sign from major arterial roads and/or freeways if the gateway sign is no taller than 8 feet in height.
- For purposes of this subsection, "site constraints" shall include but not be limited to the following: limited visibility from the freeway or major arterials, Caltrans improvements, roadway alignment or existing topographic conditions.
- In the event a sign taller than 8 feet is requested, it shall not exceed 60 feet in overall height (measured from the finished grade of the ground at the base of the sign to the top of the sign structure).
- D. The following design requirements shall apply to gateway signs:
1. Sign colors shall be compatible with surrounding structures.
 2. The signs shall contain raised block letters and if the letters are lighted, they shall be

back lit and shall have no moving parts. The sign and raised letters shall reflect natural materials, i.e. wood. The materials and style of the sign shall be compatible with the architectural style of the surrounding structures wherever possible. Neon tubing and individual steel poles or uprights are not permitted for gateway signs. The sign shall be placed on two supports finished in the same material as the sign face.

3. All interior illuminated signs shall have an opaque background.
- E. Prior to and as a condition precedent to the issuance of a sign permit for the construction and installation of a gateway sign permitted hereunder, the applicant must enter into an agreement with the City, prepare and execute an easement in favor of the City or enter into some other legally binding arrangement with the City which shall include, at a minimum, the following terms and conditions:
1. The applicant shall maintain and repair the gateway sign as long as the sign is standing or as long as the agreement/easement/arrangement is in effect, whichever is longer;
 2. The nature and frequency of maintenance shall be determined by the City, in the exercise of its reasonable discretion, and should the applicant fail to maintain the gateway sign at the times and in the fashion specified by the City, the City shall have the right to go upon the property on which the sign is erected and effect the maintenance or repair, all at the sole cost of the applicant;
 3. Once approved by the City, the sign cannot be changed and the approval to allow an applicant's business identification to appear on the sign cannot be assigned or transferred (collectively "transfer") without the written approval of the City; provided, that any such approval must be sought and obtained by utilizing the procedures set forth in subsection F, of this Section, provided, further, that as long as the modification and/or transfer has as its sole purpose the changing of the name of the business identification without a change in the nature of the business, the City may not withhold its consent unreasonably; otherwise, the City may withhold its consent for any or no reason;
 4. The applicant shall provide security or other evidence that it possesses the resources to perform the terms and conditions of the arrangement;
 5. The applicant shall indemnify, defend and hold the City harmless from any and all liability, damages, expenses, attorney's fees and costs arising out of the approval, installation, maintenance and repair of the sign; and
 6. The applicant shall comply with the provisions of subsection (F)(5) or (6) of this Section, whichever is applicable.

All other terms and conditions shall be subject to the approval of the City Attorney.

- F.
1. Any person desiring to install a sign described in this section must submit an application for design review approval of same with the Community Development Department on forms approved by the Department, pursuant to Chapter 16.28.
 2. Any person desiring to invoke the exception specified in subsection C of this Section shall also submit an application for a use permit with the Community Development Department as required by the Department, pursuant to Chapter 22.40. Not

withstanding Chapter 22.40 to the contrary, the application for the use permit shall be made to and decided by the Planning Commission; the hearing and notice thereof shall be held and given pursuant to Sections 22.40.040 and 22.40.050; the Planning Commission shall have the powers and make the findings specified in Section 22.40.070; and any appeal of the Planning Commission or Design Review decision shall be taken pursuant to Section 22.40.100.

3. The applications shall be considered and acted upon by the Planning Commission whose decision shall be final unless appealed to the City Council within 10 days after the Planning Commission makes its decision. Notice of hearing for design review before the Planning Commission and, if appealed, before the City Council, shall conform to the noticing requirements of the City Code.
4. As to gateway signs which are proposed to be installed and/or constructed on a gateway point owned by the City, the City shall have the right to deny the application therefor for any or no reason.
5. As to gateway signs which are proposed to be installed and/or constructed on a gateway point owned by the City, the City shall have the right to terminate such use of its property and to compel the applicant to remove the sign, all at the applicant's sole cost, upon reasonable notice (not to exceed 90 days), which said notice and the City's rights described in this subsection shall be specified in the arrangement described in subsection E of this Section.
6. As to gateway signs which are proposed to be installed and/or constructed on a gateway point owned by the City, the City shall have the right to terminate such use and to compel the applicant to remove the sign, all at the applicant's sole cost, in the event that the applicant has (a) violated this Section; (b) with respect to the sign, violated any other provision of this Code, State or federal law and/or the regulations promulgated thereunder; and/or (c) breached the arrangement described in subsection E of this Section. Said rights to terminate the use and compel the removal of the gateway sign shall be exercisable by the City only after it has given the applicant reasonable notice to cure the violation/breach, and if such cure has not occurred within the time specified by the City, then the City may exercise its rights hereunder after (i) providing the applicant notice of hearing, (ii) conducting a hearing to revoke the applicant's privilege to use its property in the fashion permitted under this Section and (iii) making written findings specifying the reasons for any decision made by the City after the conclusion of said hearing. Provisions substantially similar to those specified in this subsection shall be included in the arrangement described in subsection E of this Section.

(Ord. 1278 C.S. § 1, 2000)

§ 16.32.045. Portable free-standing A-frame signs.

Portable free-standing A-frame type signs shall be permitted in all commercial zone districts subject to the exceptions and conditions following:

- A. A business shall be allowed a maximum of one A-frame sign to be placed in front of the business or in front of a nearby business, a maximum of 100 feet from and on the same side of the street as the advertising business, with the written approval of the property owner of the neighboring business and the approval of the Community Development Department.

- B. A business which conducts any part of its operation above the ground floor shall be permitted to install an A-frame sign pursuant to this Title with the written approval of the property owner and the approval of the Community Development Department. A maximum of one A-frame sign may be placed in front of each business.
 - C. Portable A-frame signs shall be placed so that the free flow of pedestrian traffic is not obstructed. Specifically, signage shall be placed adjacent to curbs, at least 14 feet from the street corner (see sketch B, below) or as approved by the Community Development Department.
 - D. A business in a shopping center may place a maximum of one A-frame sign behind or on the sidewalk in front of the shopping center or in other locations on the shopping center property, with the written consent of the property owner. The location of these signs shall be subject to review by the Community Development Department to ensure that visibility and/or pedestrian use of the sidewalk are not impeded by the sign.
 - E. The maximum size of a portable freestanding A-frame sign shall be three feet in height by two feet in width.
 - F. Lights, moving parts, removable flyers and/or flexible materials shall be prohibited on portable A-frame signs.
 - G. Prior to installation or use, the location, the design and materials of portable free-standing A-frame signs must receive the Administrative Design Review approval of the Community Development Department which is authorized to impose conditions on the approval.
 - H. Administrative variances to the restrictions on the number of signs and the distance of signs from the advertising business may be approved by the Community Development Director.
 - I. Portable Free-standing A-frame signs shall be properly maintained and removed when the establishment is not open for business. If there exists a safety hazard due to the lack of lighting after dark an A-frame sign shall be removed from the exterior of the business prior to dark.
 - J. All A-frame signs existing on May 16, 1994 may be grandfathered in, but administrative design review approval by the Community Development Department shall be required. If the existing sign does not meet the location standards of this section, an administrative variance must be applied for. There shall be no fee for the design review. The fee for the variance shall be that as set by City Council Resolution.
 - K. The business owner and the property owner of new and existing A-frame signs shall sign an agreement holding the City harmless for damages caused by their signs located in the City right-of-way.
- (Ord. 979 C.S. § 2, 1982; Ord. 1215 C.S. § I, 1994)

§ 16.32.050. Height limits.

No part of any sign attached to a building shall be higher than 25 feet from the finished grade of the ground below the sign to the highest elevation of the sign structure, except that the Board of Adjustments may allow a sign to be higher than otherwise permitted herein providing the following findings are made:

- A. Good design criteria requires a higher sign; and

- B. The business identified by the sign occupies all floor space adjacent to the wall upon which the sign is to be placed, from the ground to the top of the sign; and
- C. That the higher sign improves the architectural appearance of the building.
(Prior code § 10,201.3(d); Ord. 822 C.S. § 2, 1975)

§ 16.32.060. Size limits.

- A. No individual sign face, or elements related in such a manner as to comprise one sign, shall exceed 200 square feet of surface area. The maximum total sign surface area permitted for a business shall not exceed one square foot of sign area for each front foot of principal building frontage occupied by such business, plus one square foot of sign area for each 200 square feet of gross floor area occupied by such business. Notwithstanding the above limitations, no ground floor business shall be restricted to less than 20 square feet of sign area, and the total sign area for any one ground floor business shall not exceed 200 square feet, except as otherwise provided herein.
- B. Any business occupying a building or portion of a building which is set back more than 100 feet from a street may increase the wall sign area otherwise permitted to face such street by twenty-five percent (25%).
- C. Any business which has customer entrances on other than the major street frontage may have additional wall sign area on each building face which contains a customer entrance. The sign area on each such other building faces for any building occupying less than 50,000 square feet of floor area shall not exceed sixty percent (60%) of the sign area permitted on the primary building face. The Board of Adjustments may allow additional sign area not to exceed 200 square feet of signing on each of such other building faces for any business occupying in excess of 50,000 square feet of gross floor area.
- D. "Frontage," as used in this chapter, means the length of the principal frontage of a building or portion thereof occupied by one business and exposed to a public street or parking lot. If the building frontage does not consist of any straight line, the frontage of any offset portion shall be projected for computation purposes to the extension of the line of the major portion of the frontage.
- E. Any business which is not on the ground floor shall not be allowed any sign on the exterior of the building except where the principal access to the business is by a stairway opening to the outside, in which case such business shall be permitted 3 square feet of sign area.
(Prior code § 10,201.3(e); Ord. 822 C.S. § 2, 1975)

§ 16.32.070. Shingle and suspended signs.

Shingle signs and suspended signs shall be subject to review by the Board of Adjustments. In approving a shingle or suspended sign, the Board of Adjustments shall make the following findings in addition to the findings required of all signs:

- A. The sign, if nonilluminated, is constructed of painted or stained wood, or material simulating wood;
- B. The message on the sign is limited to the name of the business and the principal classification of goods or services rendered on the property;

- C. The sign will not be attached to any structure other than a building;
- D. No portion of the sign will exceed the elevation of the eaves of the building to which it is attached, and in no case will it exceed 11 feet from the finished grade of the ground below the sign;
- E. The sign will be not more than 3 inches thick nor less than ½ inch thick except as reasonably required in connection with some graphic element of the sign;
- F. The sign will be not less than 7 ½ feet above any pedestrian walkway, and not above any vehicular passageway;
- G. The installation of the sign will not exceed the permitted sign surface area;
- H. There is no on-site free-standing sign accessory to the same business;
- I. The sign is reasonably required for and assists in the identification of the premises by pedestrians approaching along public passageways or open space;
- J. The sign will have no garish or obtrusive qualities and will embody strong elements of quality graphic design;
- K. Neither the supporting structure nor the proposed external lighting will materially detract from the design quality of the sign or building.

(Prior code § 10,201.3(f); Ord. 822 C.S. § 2, 1975)

§ 16.32.080. Real estate signs.

One temporary real estate sign not exceeding 12 square feet of sign surface area may be displayed during any period a parcel of real property is for sale, rent or lease; and such a sign may be continued for not more than fifteen (15) days thereafter. The sign shall state the name of the seller, telephone and address, and whether for sale, rent or lease.

(Prior code § 10,201.3(g); Ord. 822 C.S. § 2, 1975)

§ 16.32.090. Future use.

One temporary sign not exceeding 12 square feet in surface area announcing a future use is permitted providing such sign shall not be erected until there is a valid permit for such use and/or construction, and shall be removed not later than fifteen (15) days after the completion of the main building. Such sign may be combined with a real estate sign as permitted by Section 16.32.070, but shall not be in addition thereto. In addition to the future use sign, a temporary sign not exceeding 12 square feet in surface area denoting the architect, engineer, contractor, financier or persons of similar capacity, may be placed upon real property upon which a building is being constructed. The signs permitted by this section and Section 16.32.070 may be combined into one sign not exceeding a surface area of 24 square feet.

(Prior code § 10,201.3(h); Ord. 822 C.S. § 2, 1975)

§ 16.32.100. Window signs.

Temporary signs attached to or painted on windows are exempt from these regulations.

(Prior code § 10,201.3(i); Ord. 822 C.S. § 2, 1975)

§ 16.32.110. Lights.

No sign shall contain flashing lights, lights in any manner that are excessively bright, lights that depict moving arrows or animation, or lights that could result in confusion with traffic lights. (Prior code § 10,201.3(j); Ord. 822 C.S. § 2, 1975)

§ 16.32.120. Flexible signs—Permit required when.

No pennants, banners or other paraphernalia composed of paper, cloth, plastic or other flexible material shall be permitted except as authorized by the City Council for city-wide promotional events or celebrations, except that permits may be issued for pennants, banners and similar advertising devices placed over private property to advertise business openings, providing such pennants, banners or similar devices are permanently removed within fifteen (15) calendar days after the first day of such opening, or within twenty (20) calendar days of installation whichever occurs first. The term "business opening" shall not be construed to include openings of sales or rentals of subdivisions or real estate development projects. (Prior code § 10,201.3(k); Ord. 822 C.S. § 2, 1975)

§ 16.32.130. Placement of non-commercial signs.

Notwithstanding any other provision of this title, non-commercial signs may be placed in lieu of the identification, occupancy and commercial advertising signs which are allowed by the provisions of this title, provided such non-commercial signs do not exceed the number, location, height and other applicable requirements or restrictions for such identification, occupancy and commercial advertising signs on the particular property on which they are placed, and provided that such non-commercial signs meet the other requirements of this title. (Ord. 1059 C.S. § 6, 1986)

§ 16.32.140. Business identification signs.

On office buildings four or more stories tall, a maximum of one tenant identification sign in addition to the master identification sign may be permitted with a Use Permit subject to the following conditions:

- A. The tenant must occupy a minimum of 25,000 gross square feet of the building area;
- B. The sign copy shall be limited to the company name and logo;
- C. The sign shall be compatible with the architecture of the building;
- D. The signing and logo shall consist only of individual letters mounted on an architectural surface, and shall be indirectly lighted (no cabinet signs or floodlights);
- E. Letter size shall be appropriate to the size of the building but in no case higher than 48 inches;
- F. The maximum total sign surface area permitted shall be one square foot of sign for each 200 square feet of gross area occupied by such business. The total area of the sign shall not exceed 200 square feet.

(Ord. No. 1134 C.S. § I, 1989)

CHAPTER 16.36
RESIDENTIAL DISTRICTS

§ 16.36.010. Permitted signs designated.

No sign, outdoor advertising structure or display of any character shall be permitted except the following:

- A. Home Occupation: One nameplate not exceeding one square foot in area pertaining to a home occupation;
- B. Residential Office Activity: One sign per site not exceeding 4 square feet in area;
- C. Real Estate Sign: One temporary real estate sign, nonilluminated, not exceeding 6 square feet in area. If the site has 150 feet or more of street frontage, and two or more acres in area, two such signs shall be permitted. For sites having frontage on more than one street, the provisions of this subsection shall apply to each street;
- D. Permitted Use Identification Sign: One identification sign, not directly illuminated, not exceeding 8 square feet in area, located flat against a wall and not projecting above the cornice or roof of a lodging house, apartment hotel, or professional office building, or located on the premises of a parking lot;
- E. Conditional Use Identification Sign: One identification sign, not directly illuminated, not exceeding 12 square feet in area, located flat against a wall and not projecting above the eaves, of a conditional use which occupies a structure, or located on the premises of a conditional use which does not occupy a structure, provided that no sign shall be located in or project into a required front, side or rear yard area. An exception is that a church bulletin board, otherwise complying with the provisions of this section may be located in a required front yard area, but not closer than 10 feet to any street line;
- F. Subdivision Sign: permitted in accord with the regulations prescribed in Section 16.56.010 of this title;
- G. Regional Identification: permanent signs not exceeding 12 square feet in total surface area are permitted at each main entrance to a region containing more than 400 dwelling units, or consisting of more than 200 acres in area, providing such signs contain only the name of such region. Such signs may be larger than 12 square feet or may identify a smaller region provided that the Board of Adjustments shall make a finding that the area is sufficiently unique to require such identification and will not have an adverse effect on the neighborhood in which it is located. If such a sign is used for identification of a subdivision or groups of subdivisions during the time of development and sales of such subdivision or groups of subdivisions, the sign shall be removed at the end of the sales program, or the perpetual maintenance thereof shall be guaranteed;
- H. Future Use: signs permitted in accordance with the provisions of Section 16.32.090 of this title;
- I. Roof Sign: no roof signs of any kind shall be permitted.
(Prior code § 10,201.4; Ord. 822 § 2, 1975)

CHAPTER 16.40
PROFESSIONAL ADMINISTRATIVE OFFICE DISTRICT

§ 16.40.010. Permitted signs designated.

No sign, outdoor advertising structure or display of any character shall be permitted except the following:

- A. Home occupation signs shall be the same as provided in Section 16.36.010A;
- B. Real estate signs shall be the same as provided in Section 16.36.010C;
- C. Permitted use identification lodging house and apartment hotel signs shall be the same as provided in Section 16.36.010D;
- D. Permitted use occupancy sign shall be permitted in accord with the regulations prescribed in Chapter 16.32 of this title, except no roof signs shall be permitted;
- E. Future use shall be the same as provided in Section 16.36.010H;
- F. Master Signs. Any site containing four or more offices shall be permitted one master identification sign, not exceeding 4 square feet per acre of site nor 24 square feet total area, subject to the approval of the Board of Adjustments, who shall make the following findings in approving such master signs:
 - 1. The master identification sign is in architectural harmony with the design of the buildings intended to be identified;
 - 2. Where feasible, the master identification sign is designed as an integral part of the wall of a building or directly on the ground, rather than visibly pole-supported, and is properly landscaped;
 - 3. The master identification sign contains only the name of the office complex or institutional use and its street address; directional signs, not exceeding 72 square inches of additional sign area each, may be erected for each occupant as part of the master sign concept.

(Prior code § 10,201.5; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.44
COMMERCIAL DISTRICTS

§ 16.44.010. Permitted signs designated.

The following signs shall be permitted in all commercial districts:

- A. Occupancy signs for permitted and conditional uses shall be in accord with the provisions of Chapter 16.32 of this title;
- B. Other signs shall be as prescribed in Chapter 16.32 of this title.
(Prior code § 10,201.6; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.48
INDUSTRIAL DISTRICTS

§ 16.48.010. Permitted signs designated.

No sign, outdoor advertising structure or display of any character shall be permitted except the following:

- A. Occupancy signs for permitted and conditional uses in accord with the provisions of Chapter 16.32 of this title;
 - B. Other signs as prescribed in Chapter 16.32 of this title.
- (Prior code § 10,201.7; Ord. 822 C.S. § 2, 1975; Ord. 1059 C.S. § 2, 1986)

CHAPTER 16.52
OTHER DISTRICTS

§ 16.52.010. Appropriate criteria to be established.

Signs in other zoning districts shall be considered by the Board of Adjustments, who shall establish appropriate criteria for their approval. All signs shall meet the requirements set forth in Chapter 16.32 of this title.

(Prior code § 10,201.8; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.56
SUBDIVISION SIGNS

§ 16.56.010. Permitted signs designated.

Each subdivision within the City wherein the initial sales promotion is active may have two on-site signs not exceeding a surface area of 32 square feet each. In addition, upon application to the Board of Adjustments, subdivisions in locations which are difficult to reach or describe may be permitted one to four off-site directional signs, each not exceeding a surface area of 8 square feet. Under no circumstances shall two or more such signs be combined into a larger sign. The Board of Adjustments shall make the following findings prior to approving any off-site signs:

- A. The proposed subdivision location is difficult to reach or describe, and off-site directional signing is essential for reasonable sales and development;
- B. Each proposed directional sign is essential for the potential purchaser to reach the site;
- C. The proposed signing concept, two on-site and up to four off-site, is the total signing planned for the subdivision, inside and outside the City limits, within the Martinez planning area. In the event the signing plan approved by the Board of Adjustments is exceeded at any time, the building official shall immediately order the removal of all off-site signs for the particular project within the City.

(Prior code § 10,201.9; Ord. 822 C.S. § 2, 1975)

CHAPTER 16.60
MAJOR SIGN PROGRAMS

§ 16.60.010. Purpose.

The purpose of a Major Sign Program is to provide property owners and business owners with flexibility in applying sign regulations for properties with multiple signs, multi-tenant properties, and other properties with unified development, while creating a cohesive design that might not be achievable under standard provisions of this Title. Any aspect of proposed signage that is not addressed in an approved Major Sign Program shall comply with the remainder of this Title.
(Ord. No. 1469, § V, 4/2/2025)

§ 16.60.020. Application requirements.

An application for a Major Sign Program shall include the following details:

- A. Location. The location and placement where signage would be permitted (e.g., front facing, side or rear, window).
 - B. Type. The type of signage permitted (e.g., wall mounted, shingle, suspended).
 - C. Size. Minimum and maximum permitted sign size, including ranges based on type of sign and location (e.g., square footage, dimensions).
 - D. Lighting. Permitted methods of illumination (e.g., internally or externally illuminated). When externally illuminated, the light fixture cutsheet shall be specified.
 - E. Other signs. Any other identification signs permitted and associated general requirements (e.g., monument, wayfinding).
 - F. Fonts. Specific fonts which shall be permitted and/or excluded.
 - G. Logos. Provisions for logos.
 - H. Colors and materials. Colors and materials which shall be permitted and/or excluded.
 - I. Tenant criteria. Criteria for tenants and approval process for future signs.
- (Ord. No. 1469, § V, 4/2/2025)

§ 16.60.030. Design criteria.

An application for a Major Sign Program shall be evaluated based upon the following design criteria:

- A. Placement. All signs shall be placed where they are sufficiently visible and readable for their function. Consideration shall be given to the purpose of the signs, the sign locations relative to traffic movement and access points, site features, structures, and sign orientation relative to viewing distances and viewing angles. In commercial centers where some tenants have little or no street visibility, wall signs may be allowed on walls of the building that are not directly over the space occupied by those tenants.
- B. Quantity. The number of signs within any development shall be no greater than that required to provide project identification, business identification, entry signs, and directional and informational signs for internal circulation and access. Consideration shall

be given to the size of the development, the layout of the site, and the hierarchy of signs.

- C. Size. Signs shall not be larger than necessary for visibility and readability. Considerations for determining appropriate size shall include topography, volume and speed of traffic, visibility range, proximity to adjacent uses, amount of sign copy, placement of display (location and height), lettering style, and the presence of distractive influences.
 - D. Materials. Sign materials shall be compatible with architectural and/or natural features of the project. This may be accomplished through similarity of materials for sign structures and faces, the use of complementary colors, similarity of architectural style, or the use of a consistent lettering style or copy.
 - E. Context. All Major Sign Programs shall respect the context of the surrounding area and the character established by the proposed signage. Consideration shall be given to lettering style, sign placement, lighting, and architectural style.
- (Ord. No. 1469, § V, 4/2/2025)

§ 16.60.040. Findings.

In addition to the design criteria, all applications for a Major Sign Program or amendments to an existing Major Sign Program shall be subject to the following findings:

- A. That the Major Sign Program's contribution to effective and attractive identification of businesses, services, and uses and the design quality of the site and surrounding area will be superior to the quality that would result under the regulations and standards of this Title;
 - B. That all the proposed signs are compatible with the style or character of existing or proposed improvements on the site and are well related to each other;
 - C. That all the proposed signage shall generally conform with the intent of this Title;
 - D. That any structure supporting the sign is an integral part of the sign design; and
 - E. That there will be no visible raceways, angle iron, guy wires, or such other bracing or supports that may detract from the appearance of the sign.
- (Ord. No. 1469, § V, 4/2/2025)

§ 16.60.050. Review and approval authority.

Any proposal for a Major Sign Program or amendment to an existing Major Sign Program shall be reviewed and approved by the Zoning Administrator or the Planning Commission. All signs proposed after the approval of a Major Sign Program shall obtain a building permit subject to review and approval by the Planning Manager or designee for compliance with the approved Major Sign Program. Signs that do not comply with an approved Major Sign Program shall not be approved.

(Ord. No. 1469, § V, 4/2/2025)

§ 16.60.060. Lessees to be informed of major sign program.

The Major Sign Program requirements and the tenant's responsibility to comply with the approved Program shall be incorporated into all tenant leases and/or other agreements between the property owner and the tenant(s).

(Ord. No. 1469, § V, 4/2/2025)

CHAPTER 16.64
PROHIBITED SIGNS

§ 16.64.010. Designated.

Except as otherwise provided in this title the following signs are prohibited in the City:

- A. Nonaccessory signs and arrows;
- B. Placards, posters, announcements and similar signs posted or attached to any fence, utility pole, signpost, tree or any object in a public thoroughfare, except those required by City Ordinance;
- C. Sign "A" boards, structures or merchandise for sale placed on any portion of a street, sidewalk or right-of-way, and not in compliance with Section 16.32.045, and portable signs on parked vehicles and excluding newspaper vending devices which may be permitted by action of the City Council;
- D. Signs of any kind in residential zones except those expressly permitted in this title;
- E. Any signs expressly prohibited by any other ordinance of the City;
- F. Any sign which because of its lighting, shape, design, color or reflected light is a detriment to surrounding property or prevents the peaceful enjoyment of residential uses or presents a conflict with traffic regulations.

(Prior code § 10,201.12; Ord. 822 C.S. § 2, 1975; Ord. 979 C.S. § 1, 1982)

CHAPTER 16.68 NONCONFORMING SIGNS

§ 16.68.010. Purpose.

The purpose of this chapter is to provide for the maintenance, continued use and/or removal and replacement of signs not conforming to the regulations prescribed in this chapter and Chapters 16.20 through 16.64.

(Prior code § 10,202.0; Ord. 822 C.S. § 2, 1975)

§ 16.68.020. Continued maintenance.

Nonconforming signs lawfully existing on the date this chapter and Chapters 16.20 through 16.64 become applicable may be maintained without being made to comply with the requirements of this chapter and Chapters 16.20 through 16.64 except as otherwise provided in this chapter. Such nonconforming signs shall be altered or moved only after approval of a valid application thereof, except that no permit shall be required for the removal of a nonconforming sign. The term "alter" shall not be construed to apply to normal maintenance, upkeep or the changing of the advertising or the sign face.

(Prior code § 10,202.1; Ord. 822 C.S. § 2, 1975)

§ 16.68.030. Record.

Within three years of April 18, 1975, the Planning Director shall compile a list of signs which as of said date do not conform to the provisions of this chapter, Chapters 16.20 through 16.64 and Titles 20 and 22 and shall notify owners of the nonconforming signs and the time within which same must be made to conform or be abated.

(Prior code § 10,202.2; Ord. 822 C.S. § 2, 1975)

§ 16.68.040. Small and inexpensive signs.

Each nonconforming A-frame sign, portable sign, temporary sign, sign composed of flexible material or off-site sign containing 24 or less square feet per face, and each nonconforming sign painted on a building wall or painted on or attached to a motor vehicle or trailer, shall be removed or altered to conform to the provisions of this chapter and Chapters 16.20 through 16.64 within six months following April 18, 1975.

(Prior code § 10,202.3; Ord. 822 C.S. § 2, 1975)

§ 16.68.050. Subdivision signs.

All on-site and off-site subdivision signs not conforming to the provisions of this chapter and Chapters 16.20 through 16.64 shall be removed or altered to comply with these provisions within six months following April 18, 1975.

(Prior code § 10,202.4; Ord. 822 C.S. § 2, 1975)

§ 16.68.060. Amortization of excessively high free-standing signs.

- A. Each and every existing free-standing sign which exceeds by more than 100 percent the maximum permissible height specified in this chapter, Chapters 16.20 through 16.64 and Titles 20 and 22 shall be removed or altered to conform to the provisions of this chapter and Chapters 16.20 through 16.64 not later than three years from April 18, 1975.

- B. The Planning & Building Director may grant an exception to the owner of a free-standing sign which exceeds by more than one hundred percent (100%) the maximum permissible height specified in this chapter, Chapters 16.20 through 16.64 and Titles 20 and 22 for a period of time not greater than the period of time necessary to amortize the cost of the sign, for tax purposes, under Section 167 of the Internal Revenue Code. Request for such extension shall be supported by legal documents, sworn statements, affidavits or other documents clearly establishing a need for additional time beyond the standard three-year amortization period.

(Prior code § 10,202.5(a); Ord. 822 C.S. § 2, 1975)

§ 16.68.070. Signs with moving parts, flashing, bright lights or animation.

Each and every existing sign which contains moving parts, flashing lights, animation or excessively bright lights shall be modified and altered to eliminate the movement, flashing or animation, or to reduce the level of lighting to an acceptable level within six months of April 18, 1975.

(Prior code § 10,202.5(b); Ord. 822 C.S. § 2, 1975)

§ 16.68.080. Off-site signs.

- A. Each non-conforming off-site sign shall be removed or altered to conform to the provisions of this chapter and Chapters 16.20 through 16.64 not later than August 16, 1978 or three years after such sign becomes non-conforming, whichever date is later.
- B. The provisions of A above shall not apply to any sign made non-conforming that is not permitted to be removed under local regulations or laws without the payment of just compensation as required under the provisions of the California Outdoor Advertising Act which validly preempt the City's police power and other authority which has been granted to it by the State Constitution and/or general law; provided, however, that any off-site sign not permitted to be removed without the payment of compensation under such provisions of the Act shall be removed in the manner required by law, upon the adoption of a Resolution by the City Council authorizing the payment of such compensation, as may be required by law, for its removal.
- C. Off-site signs existing pursuant to the provisions of subsection B above on or after the removal date set forth in subsection A above, may be approved by the City to be relocated in accordance with the provisions of this subsection. An application to relocate an existing sign may only be approved if all of the following criteria are met:
1. Signs may only be relocated to be within the Heavy Industrial (HI) district;
 2. There must be a minimum distance of 2 miles between electronic non-accessory signs and 1,000 feet between non-electronic, non-accessory signs;
 3. The relocated sign may not significantly impact any biological resources;
 4. The applicant for a relocated sign must provide a geotechnical study and incorporate the recommended measures; and
 5. All relocated signs shall be subject to a relocation agreement.

(Prior code § 10,202.5(c); Prior Ord. 822 C.S. § 2, 1975; Ord. 1059 C.S. § 4, 1986; Ord. No. 1364 C.S., § 1, 9/21/2011)

§ 16.68.090. Vacating premises—Sign removal.

All nonconforming on-site signs shall be removed immediately upon the vacating of the premises by the occupant which the sign advertised, identified or otherwise pertained to.
(Prior code § 10,202.5(d); Ord. 822 C.S. § 2, 1975)

§ 16.68.100. Signs for nonconforming buildings and uses.

- A. The sign control regulations contained in this chapter and Chapters 16.20 through 16.64 for the various land use districts should not be interpreted to prevent the placement of signs on nonconforming uses or buildings. The Board of Adjustments shall hear and decide upon all requests to identify nonconforming buildings and/or uses.
- B. In making exceptions to the sign control regulations as provided in this chapter, and Chapters 16.20 through 16.64, the Board of Adjustments shall make the following findings that:
 - 1. Strict adherence to the sign control regulations will not allow the proper functioning of the nonconforming use to which the owner thereof is entitled;
 - 2. The exception will not exceed, or be more lenient than would be allowed if the land were zoned such that the use would be conforming;
 - 3. The placement of the sign on the premises does not increase the degree of incompatibility of the nonconforming use with its environs.

(Prior code § 10,202.6; Ord. 822 C.S. § 2, 1975)

§ 16.68.110. Signs for abandoned uses.

- A. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product available for purchase by the public, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure or land upon which such sign may be found within thirty (30) calendar days after written notice is mailed by the building official.
- B. Upon failure to comply with such notice within the time specified in such order, the building official is authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the building, structure or land on which such sign can be found.

(Prior code § 10,202.7; Ord. 822 C.S. § 2, 1975)

§ 16.68.120. Illegally constructed signs.

If the building official finds that any sign has been constructed or erected, or is being maintained in violation of the provisions herein, he shall give written notice of such conditions to the permittee, or in the absence of a valid permit, to the owner of the building, land or sign. If the permittee, or owner, as the case may be, fails to remove or alter the sign so as to comply with the standards herein set forth thirty (30) calendar days or less after such notice is mailed, such signs may be removed by the building official at the expense of the permittee or owner of the property upon which the sign is located.

(Prior code § 10,202.8; Ord. 822 C.S. § 2, 1975)

§ 16.68.130. Unsafe signs.

Any sign found to be unsafe and an immediate peril to persons or property may be removed summarily and without notice by the building official. The cost of such removal shall be assessed against the owner of the sign removed.

(Prior code § 10,202.9; Ord. 822 C.S. § 2, 1975)

§ 16.68.140. Unauthorized signs erected on public property.

Any sign erected upon public property in violation of the provisions herein may be removed or destroyed by the building official.

(Prior code § 10,202.10; Ord. 822 C.S. § 2, 1975)

§ 16.68.150. Costs of removal.

The cost of the removal or alteration of any sign and any expense incidental thereto which by the terms of this section shall be paid by a permittee, sign owner, property owner or any other person, shall become a debt owing to the City for the collection of which the City may maintain civil action thereon in its own name.

(Prior code § 10,202.11; Ord. 822 C.S. § 2, 1975)

§ 16.68.160. Appeal to the Board of Adjustments.

The Board of Adjustments shall have the authority to hear and decide appeals involving the administration of this chapter and chapters 16.20 through 16.64 by the building official when such appeals are based upon questions of the interpretation of the administration hereof.

(Prior code § 10,202.12; Ord. 822 C.S. § 2, 1975)

SIGNS

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Title 17

SWIMMING POOL CODE

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CHAPTER 17.04
GENERAL PROVISIONS

§ 17.04.010. Short title.

This title shall be known as the "Uniform Swimming Pool Code," and may be cited as such and will be referred to in this title as "this Code."

(Prior code Ch. 9, Art. 1)

§ 17.04.020. Scope and application.

- A. No provisions of this Code shall be deemed to require a change in any portion of a swimming pool system or any other work regulated by this Code in or on an existing swimming pool when such work was installed in accordance with the law prior to the effective date of this Code; except when any swimming pool system or work regulated by this Code is determined by the Administrative Authority to be in fact dangerous, unsafe and a menace to life, health or property.
- B. The provisions of this Code shall apply to all new construction, to any alterations, repairs or reconstruction, except as provided in this Code.
- C. All work performed in the construction of a pool shall comply with the provisions of this Code.
- D. Where this Code provides for the use of approved equipment and components, it is expressly understood that such approved equipment and components will not be required for a period of six months following the effective date of the Code.

(Prior code § 9900.14)

CHAPTER 17.08 DEFINITIONS

§ 17.08.010. Generally.

For the purpose of this Code, the following terms shall have the meanings indicated in this chapter.

No attempt is made to define ordinary words which are used in accordance with their established dictionary meaning, except where the word has been loosely used and it is necessary to define its meaning as used in this Code to avoid misunderstanding. Singular shall include the plural unless it is clear from the text to the contrary.

Because the primary purpose is to define terms rather than words, the definitions are arranged alphabetically according to the first word of the term rather than the noun.
(Prior code § 9901)

§ 17.08.020. Administrative authority.

"Administrative authority" is the individual office, board, department or agency established and authorized by a state, county, city or other political subdivision created by law to administer and enforce the provisions of the swimming pool code as adopted or amended.
(Prior code § 9901.1)

§ 17.08.030. Approved.

"Approved" means accepted or acceptable under an applicable specification stated or cited in this Code, or accepted as suitable for the proposed use under procedures and power of the Administrative Authority.
(Prior code § 9901.1)

§ 17.08.040. Approved testing agency.

"Approved testing agency" means an organization primarily established for the purpose of testing to approved standards and approved by the Administrative Authority.
(Prior code § 9901.1)

§ 17.08.050. Backwash piping.

"Backwash piping." See "Filter waste discharge piping," Section 17.08.230.
(Prior code § 9901.1)

§ 17.08.060. Body feed.

"Body feed" means filter aid fed into a diatomite-type filter throughout the filtering cycle.
(Prior code § 9901.1)

§ 17.08.070. Cartridge filter.

"Cartridge filter" means a filter using cartridge-type filter elements.
(Prior code § 9901.1)

§ 17.08.080. Chemical piping.

"Chemical piping" means piping which conveys concentrated chemical solutions from a feeding apparatus to the circulation piping.

(Prior code § 9901.1)

§ 17.08.090. Circulating piping system.

"Circulating piping system" means the piping between the pool structure and the mechanical equipment, and usually includes suction piping, face piping and return piping.

(Prior code § 9901.1)

§ 17.08.100. Design head.

"Design head" means the total head requirement of the circulation system at the design rate of flow and at the end of the normal filtration cycle.

(Prior code § 9901.1)

§ 17.08.110. Design rate.

"Design rate" means the average system flow rate in gallons per minute (G.P.M.) over the filtration cycle.

(Prior code § 9901.1)

§ 17.08.120. Diatomite (diatomaceous earth).

"Diatomite (diatomaceous earth)" is a type of filter aid.

(Prior code § 9901.1)

§ 17.08.130. Face piping.

"Face piping" means the piping, with all valves and fittings, which is used to connect the filter system together as a unit.

(Prior code § 9901.1)

§ 17.08.140. Filter.

"Filter" means any apparatus by which water is clarified.

(Prior code § 9901.1)

§ 17.08.150. Filter aid.

"Filter aid" means a nonpermanent type of filter media or aid such as diatomite, alum, etc.

(Prior code § 9901.1)

§ 17.08.160. Filter cartridge.

"Filter cartridge" means a disposable or renewable filter element which generally employs no filter aid.

(Prior code § 9901.1)

§ 17.08.170. Filter element.

"Filter element" means that part of a filter which retains the filter media.

(Prior code § 9901.1)

§ 17.08.180. Filter media.

"Filter media" means the fine material which entraps the suspended particles and removes them from the water.

(Prior code § 9901.1)

§ 17.08.190. Filter rate.

"Filter rate" means the average rate of flow per square foot of filter area.

(Prior code § 9901.1)

§ 17.08.200. Filter rock.

"Filter rock" means specially graded rock and gravel used to support filter sand.

(Prior code § 9901.1)

§ 17.08.210. Filter sand.

"Filter sand" means a specially graded type of permanent filter media.

(Prior code § 9901.1)

§ 17.08.220. Filter septum.

"Filter septum" means that part of the filter element in a diatomite-type filter upon which a cake of diatomite or other nonpermanent filter aid may be deposited.

(Prior code § 9901.1)

§ 17.08.230. Filter waste discharge piping.

"Filter waste discharge piping" means piping that conducts waste water from a filter to a drainage system. Connection to drainage system is made through an air break or other approved methods.

(Prior code § 9901.1)

§ 17.08.240. Fresh water.

"Fresh water" means those waters having a specific conductivity less than a solution containing 6,000 parts per million of sodium chloride.

(Prior code § 9901.1)

§ 17.08.250. Inlet fitting.

"Inlet fitting" means the fitting or fixture through which circulated water enters the pool.

(Prior code § 9901.1)

§ 17.08.260. Main outlet.

"Main outlet" means the outlet(s) at the deep portion of the pool through which the main flow of water leaves the pool when being drained or circulated.

(Prior code § 9901.1)

§ 17.08.270. Swimming pool.

See "Swimming Pool," Section 17.08.390.
(Prior code § 9901.1)

§ 17.08.280. Pool depths.

"Pool depths" means the distance between the floor of pool and the maximum operating water level.
(Prior code § 9901.1)

§ 17.08.290. Portable pool.

"Portable pool" means a prefabricated pool which may be erected at the point of intended use and which may be subsequently disassembled and reerected at a new location, and generally installed on the surface of the ground and without excavation.
(Prior code § 9901.1)

§ 17.08.300. Precoat.

"Precoat" means in a diatomite-type filter, the initial coating or filter aid placed on the filter septum at the start of the filter cycle.
(Prior code § 9901.1)

§ 17.08.310. Receptor.

"Receptor" means an approved plumbing fixture or device of such material, shape and capacity as to adequately receive the discharge from indirect waste piping, so constructed and located as to be readily cleaned.
(Prior code § 9901.1)

§ 17.08.320. Return piping.

"Return piping" means that portion of the circulation piping which extends from the outlet side of the filters to the pool.
(Prior code § 9901.1)

§ 17.08.330. Saline water.

"Saline water" means those waters having a specific conductivity in excess of a solution containing 6,000 parts per million of sodium chloride.
(Prior code § 9901.1)

§ 17.08.340. Sand filter.

"Sand filter" means a filter designed to be used with sand as the filter media.
(Prior code § 9901.1)

§ 17.08.350. Separation tank.

"Separation tank" means a device used to clarify filter rinse or waste water, and sometimes called a "reclamation tank."
(Prior code § 9901.1)

§ 17.08.360. Skim filter.

"Skim filter" means a surface skimmer combined with a vacuum diatomite filter.
(Prior code § 9901.1)

§ 17.08.370. Suction piping.

"Suction piping" means that portion of the circulation piping located between the pool structure and the inlet side of the pump and usually includes the following: main outlet piping, skimmer piping, vacuum piping and surge tank piping.
(Prior code § 9901.1)

§ 17.08.380. Surface skimmer.

"Surface skimmer" means a device generally located in the pool wall which skims the pool surface by drawing pool water over a self-adjusting weir.
(Prior code § 9901.1)

§ 17.08.390. Swimming pool.

"Swimming pool" means any constructed or prefabricated pool used for swimming or bathing, over 18 inches in depth.
(Prior code § 9901.1)

§ 17.08.400. Swimming pool, private.

"Private swimming pool" includes all constructed pools which are used as a swimming pool in connection with a single-family residence, and available only to the family of the householder and his private guests.
(Prior code § 9901.1)

§ 17.08.410. Swimming pool, public.

"Public swimming pool" means any swimming pool other than a private swimming pool. (See Title 17, California Administrative Code)
(Prior code § 9901.1)

§ 17.08.420. Turnover time.

"Turnover time" means the time in hours, required for the circulation system to filter and recirculate a volume of water equal to the pool volume.
(Prior code § 9901.1)

§ 17.08.430. Vacuum fitting.

"Vacuum fitting" means a fitting in the pool which is used as a convenient outlet for connecting the underwater suction cleaning equipment.
(Prior code § 9901.1)

§ 17.08.440. Vacuum piping.

"Vacuum piping" means the piping from the suction side of a pump connected to a vacuum fitting located at the pool and below the water level.
(Prior code § 9901.1)

§ 17.08.450. Waste piping.

"Waste piping." See "Filter waste discharge piping," Section 17.08.230.
(Prior code § 9901.1)

§ 17.08.460. Width and/or length.

"Width and/or length" means the actual water dimension taken from wall to wall at the maximum operating water level.
(Prior code § 9901.1)

CHAPTER 17.12
ADMINISTRATION AND ENFORCEMENT

§ 17.12.010. Administrative authority and assistants defined.

"Administrative Authority." Whenever the term is used in this Code it shall be construed to mean the Chief Building Inspector or his authorized representative.

(Prior code § 9900)

§ 17.12.020. Department having jurisdiction.

Unless otherwise provided for by law, the Office of the Administrative Authority shall be part of the Building Inspection Department.

(Prior code § 9900.1)

§ 17.12.030. Duties of the administrative authority.

The Administrative Authority shall maintain public office hours necessary to efficiently administer the provisions of this Code and amendments thereto and shall perform the following duties:

- A. Require submission of, examine and check plans, specifications, drawings, descriptions or diagrams where necessary to show clearly the character, kind and extent of swimming pool work covered by applications for a permit, and upon approval thereof shall issue the permit applied therefor;
- B. Collect all fees for permits issued as provided by this Code, issue receipts therefor in duplicate, the duplicate copy of which shall be maintained as a record of his office;
- C. Administer and enforce the provisions of this Code in a manner consistent with the intent thereof, and inspect all swimming pool work authorized by any permit to assure compliance with provisions of this Code or amendments thereto, approving or condemning the work in whole or in part as conditions require;
- D. Issue upon request a certificate of approval for any work approved by him;
- E. Condemn and reject all work done or materials used or being used which do not in all respects comply with the provisions of this Code and amendments thereto;
- F. Order changes in workmanship, materials or both, essential to obtain compliance with all provisions of this Code;
- G. Investigate any construction or work regulated by this Code and issue such notices and orders as provided in Section 17.12.050 of this Code;
- H. Keep a record of all essential transactions in his office;
- I. Transfer all fees collected by him to the proper authority provided by law to receive such funds;
- J. Maintain an official register of all persons, firms or corporation lawfully entitled to carry on or engage in the business of swimming pool installations.

(Prior code § 9900.2)

§ 17.12.040. Dangerous construction discontinuance.

Whenever brought to the attention of the department having jurisdiction that any construction or work regulated by this Code is hazardous, dangerous, unsafe or a menace to life, health or property or otherwise in violation of this Code, the department may request an investigation by the Administrative Authority who, upon determining such information to be fact, shall order any person, firm or corporation, using or maintaining any such condition, or is responsible for the use or maintenance thereof, to discontinue the use of or maintenance thereof, or to repair, alter or change same as he may consider necessary for the proper protection of life, health or property. Every such order shall be in writing addressed to the owner, agent or person responsible for the premises on which such condition exists, and shall specify the date or time when such order shall be complied with, which shall allow a reasonable period in which such order can be complied with by the person, firm or corporation receiving such order, but shall never exceed the maximum period for which such construction can be safely used or maintained in the judgment of the Administrative Authority.

Refusal, failure or neglect to comply with such notice or order shall be considered a violation of this Code.

(Prior code § 9900.4)

§ 17.12.050. Authority to stop work.

Whenever any construction regulated by this Code is being, or has been done contrary to the requirements of this Code, the Administrative Authority may order all work stopped, and order the removal or correction on which the violation has occurred. Every such Order shall be in writing, stating the nature of the violation and fixing a time limit for compliance. No person shall do any work on any portion of the equipment regulated by this Code after a stop order has been issued, except in conformance with directions of the Administrative Authority.

(Prior code § 9900.5)

CHAPTER 17.16 INSPECTIONS

§ 17.16.010. All work to be inspected.

All swimming pool installations or alterations thereto including equipment, piping and appliances related thereto shall be inspected by the Administrative Authority to insure compliance with all the requirements of the Code prior to covering or concealment of the work.
(Prior code § 9900.10(a))

§ 17.16.020. Notification.

It shall be the duty of the person doing the work authorized by the permit, to notify the Administrative Authority, that the work is ready for inspection. Such notification shall be given no less than 24 hours before the work is to be inspected.
(Prior code § 9900.10(b))

§ 17.16.030. Required inspection.

- A. The following inspections shall be made and approval given for each of the following:
1. Forms, excavation and steel inspection;
 2. Rough plumbing, including test on lines;
 3. Electrical bonding of the pool equipment and reinforcement as required;
 4. Electrical conduit and wiring installation prior to covering and including the change of electric service if required;
 5. Electrical and plumbing final inspection and approval;
 6. Equipment foundation;
 7. Gas inspections, if required;
 8. Approved fence and gate completely installed with approved closers and latches, if required;
 9. Enclosure for heaters, boilers and electrical equipment if required;
 10. All flues in place and complete.
- B. When in the opinion of the Administrative Authority the nature of the site or the proposed construction is such that it appears that continuous inspection during the placing of the structure is desirable, then the Administrative Authority shall have the right to require such continuous inspection by the responsible registered engineer who shall thereafter submit a letter certifying as to the proper execution of the work.
(Prior code § 9900.10(c))

§ 17.16.040. Inspection prior to plastering and filling required.

It shall be required that all swimming pools shall be in a completed state, having received all inspections and approvals as required, prior to plastering and filling of the pool with water.

(Prior code § 9900.10(d))

§ 17.16.050. Final inspection.

All swimming pool installations must be completed, the pool shall be completely filled with water and in operation before final inspection.

(Prior code § 9900.10(e))

§ 17.16.060. Failure to call for inspection—Violation.

Failure to call for the proper inspections and securing approval for each inspection will be considered a separate violation and continuing violation for each inspection for each craft.

(Prior code § 9900.10(f))

CHAPTER 17.20 PERMITS

§ 17.20.010. Required.

No swimming pool installation, alteration or repair work shall be commenced until a permit to do such work has first been obtained from the Administrative Authority.

Exception. No permit shall be required for the repair or replacement of any pump, filter, heater or other component part, piping, valves, or pool structure on which repair or replacement costs less than \$20.00 for labor and material, upon the approval of the building official.

(Prior code § 9900.7)

§ 17.20.020. Application.

- A. Any person legally entitled (under the State Contractor's License Law) to apply for and receive a permit shall make such application on forms provided for that purpose. He shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith.
- B. The Administrative Authority may require plans, specifications or drawings and such other information as he may deem necessary and as prescribed in Chapter 17.24 of this Code.
- C. Application for permits for new construction shall be accompanied by plans in duplicate, and in sufficient detail, including the following:
 1. Plot plan site grades, dimensioned and drawn to a scale not less than 1/4 inch per foot, and showing at least the following:
 - a. Property lines, easements and rights-of-way of record, and overhead utilities adjacent to or over the property,
 - b. Existing structures, fencing, retaining walls and other relevant characteristics,
 - c. Proposed pool shape, dimensioned and located to show setbacks, side yards and clearance from existing structures,
 - d. Proposed mechanical equipment pad, dimensioned and located as to setbacks and side yards,
 - e. Indicate all deck equipment items, if included,
 - f. Proposed deckwork configuration showing its anticipated drainage,
 - g. Anticipated overall drainage of the pool site,
 - h. Proposed facing;
 2. Structural plan, showing at least the following:
 - a. Type of construction, gunite, poured concrete, prefabricated or other,
 - b. Pool dimensions, depth and adequate cross sections drawn to scale,
 - c. Reinforcing steel schedule and detail,

- d. A statement concerning the anticipated nature of the soil under and around the pool structure. A soil condition report shall be submitted where required by the Administrative Authority,
 - e. Interior finish details,
 - f. Pool edge details,
 - g. Computations , street diagrams and other data sufficient to show the correctness of the plans;
3. Mechanical plan, showing at least the following:
- a. Volume, system flow rate in gallons per minute, and turnover in hours,
 - b. Type and size of filtration system and means of waste disposal,
 - c. Type and size of pool heater if included, including method of venting and provisions for combustion air,
 - d. Pool piping layout with all sizes shown and types material to be used, and showing the location of the main outlet, surface skimmers and inlets,
 - e. The rates capacity of the pool pump in G.P.N. at design head with the size and type of motor indicated identified as self-priming or straight centrifugal,
 - f. Means of adding makeup water,
 - g. Size, length from source to heater, and routing of gas line,
 - h. Electrical connections, equipment switch locations and source of electrical power.
- The above requirements shall not void any requirements by any other department having jurisdiction.
- D. All plans and documents submitted shall be on substantial paper and shall show the name and address of the party under whose supervision the documents were prepared.
- E. If the Administrative Authority determines that the plans, specifications, drawings, descriptions or information furnished by the applicant are in compliance with this Code, he shall issue the permit applied for upon payment of the required fee as fixed in Section 17.20.030. The Administrative Authority shall further require that permits be obtained by the parties responsible for all of the electrical, pool-plumbing related utility connections and heating work prior to issuance of the building permit for the pool structure.
- (Prior code § 9900.8)

§ 17.20.030. Fees—Schedule.

- A. Every applicant for a permit to install, alter or repair a swimming pool system or part thereof, shall state in writing on the application form provided for that purpose, the character of work proposed to be done and the amount and kind in connection therewith, together with such information pertinent thereto as may be required.
- B. Such applicant shall obtain a permit by paying a fee at the rate provided for each

classification as set forth in a resolution adopted by the City Council.

- C. Any person who commences any swimming pool work for which a permit is required by this Code, without first having obtained a permit therefor, shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by this section for such work, provided however, that this provision shall not apply to emergency work when it shall be demonstrated to the satisfaction of the Administrative Authority that such work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. In all such cases a permit must be obtained as soon as it is practical to do so, and if there is an unreasonable delay in obtaining such permit, a double fee as herein provided shall be charged.
- D. Permit fees for work regulated by this chapter shall be as adopted from time to time by resolution of the City Council of the City of Martinez.
(Prior code § 9900.9; Ord. 898 C.S. § 3, 1979)

§ 17.20.040. Expiration.

Every permit issued by the Administrative Authority under the provisions of this Code shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 60 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 60 days. Before such work can be recommenced a new permit shall be first obtained.
(Prior code § 9900.11)

§ 17.20.050. Correction of errors.

The issuance of a permit, based upon submitted plans and specifications shall not prevent the Administrative Authority from thereafter requiring the correction of errors in the plans and specifications, or from preventing construction operations being carried on thereunder, when in violation of the Code, or any other pertinent ordinance, or from revoking any approval when issued in error.
(Prior code § 9900.12)

§ 17.20.060. Permittee's responsibilities.

Applicant for the pool building permit shall be considered to be the prime contractor and shall be responsible for all work required by this Code.
(Prior code § 9900.13)

CHAPTER 17.24
PLANS AND SPECIFICATIONS

§ 17.24.010. Required when.

The Administrative Authority may require the submission of plans, specifications, drawings and such other information as he may deem necessary, prior to the commencement of, and at any time during the progress of, any work regulated by this Code.

(Prior code § 9900.6(a))

§ 17.24.020. Professional requirements.

All design, construction and workmanship shall be in conformity with accepted engineering practices and shall be of such character as to secure the results sought to be obtained by this Code. The Administrative Authority shall require that plans, specifications and drawings be prepared and certified by a registered professional engineer of the appropriate discipline, i.e., for the pool structure, a registered civil or structural engineer, and for the mechanical system, a registered civil or mechanical engineer.

(Prior code § 9900.6(b))

§ 17.24.030. Manufacturer's standard structural and mechanical details uses—Certification required.

When the permittee desires to use standard structural and mechanical details, it shall be his responsibility to obtain and furnish a letter from the responsible registered engineer(s) certifying that the structural and mechanical designs are suitable for the conditions actually encountered on the site.

(Prior code § 9900.6(c))

§ 17.24.040. Manufacturer's standard structural and mechanical details use—Portable pools.

When the permittee desires, he may use manufacturer's standard structural and mechanical details for portable pool erection on the surface of the ground.

(Prior code § 9900.6(d))

CHAPTER 17.28
REPAIRS AND ALTERATIONS

§ 17.28.010. Approval required when.

On existing premises on which swimming pool installations are to be altered, repaired or renovated, deviations from the provisions of this Code are permitted, provided such deviations are found to be necessary and are first approved by the Administrative Authority.
(Prior code § 9900.15)

CHAPTER 17.32 MECHANICAL SYSTEM

§ 17.32.010. Generally.

Unless otherwise specified in this Code, all piping, equipment and materials used in the plumbing system shall conform to the latest edition of the Uniform Plumbing Code, as published by the Western Plumbing Officials Association.

(Prior code § 9902)

§ 17.32.020. Approval.

All materials, piping, valves, equipment or appliances entering into the construction of swimming pools or portions thereof, shall be of a type complying with the Code or of a type approved by an approved testing agency to an approved standard, and acceptable to the Administrative Authority.

(Prior code § 9902.1)

§ 17.32.030. Alternate materials and methods of construction.

- A. The provisions of this Code are not intended to prevent the use of any alternate material, method of construction, appliance, or equipment, provided any such alternate has been first approved and its use authorized by the Administrative Authority.
- B. When there is insufficient evidence to substantiate claims for alternates, the Administrative Authority may require tests, as proof of compliance, to be made by an approved testing agency at the expense of the applicant.

(Prior code § 9902.2)

§ 17.32.040. Prints pool design criteria.

- A. Approved Equipment Required. Every private swimming pool shall be equipped with approved equipment consisting of a filter, pump and component parts.
- B. Turnover Time. The system shall be designed to provide complete turnover of the pool contents in 12 hours or less.

(Prior code § 9902.3)

§ 17.32.050. Circulation piping—Design velocity—Table 3-1.

Pool circulation piping shall be sized so that the water velocity will not exceed the values given in Table 3-1 for the design rate.

Table 3-1 Maximum Velocity of flow In Feet Per Second		
Type of Pipe	Fresh Water	Saline Water
Copper	8 feet per second	Not Permitted
P.V.C.	10 feet per second	10 feet per second
Wrought Iron	10 feet per second	4 feet per second

Table 3-1 Maximum Velocity of flow In Feet Per Second		
Type of Pipe	Fresh Water	Saline Water
Cast Iron	10 feet per second	4 feet per second
90-10 cupro nickel	10 feet per second	10 feet per second
Brass pipe	8 feet per second	5 feet per second
Galvanized Steel	10 feet per second	Not Permitted

(Prior code § 9902.4(1))

§ 17.32.060. Circulation piping—Material.

Pool circulation piping shall be of the following approved material:

A. Copper: Type L or K underground (Type M permissible aboveground);			
B. Polyvinyl chloride: NSF Schedule 40 Type I or II; Exception: When PVC is used for pool piping, 10 feet of copper or other approved material must be installed on the downstream side of any water-heating equipment, and a check valve must be installed adjacent to the heating equipment on the upstream side prior to the connection of PVC.			
C. Wrought iron	*ASA	B36.2	1958
D. Cast iron	*AWWA	C102	1953
E. 90-10 cupro nickel	ASTM	B111	1962
F. Brass (red)	ASA	H27.1	1958
G. Galvanized steel	*AISI	SAE	1020

Notes:

* Shall be protected against corrosion as provided for gas piping in Sections 17.32.270 through 17.32.370.

(Prior code § 9902.4(2))

§ 17.32.070. Circulation piping—Dissimilar metals.

Where metals not normally considered compatible on the electromotive scale are joined, such point of joining shall be located above grade and a dielectric coupling shall be employed.

(Prior code § 9902.4(3))

§ 17.32.080. Circulation piping—Installation standards.

All piping materials shall be installed in strict accord with the manufacturer's installation standards.

(Prior code § 9902.4(4))

§ 17.32.090. Valves.

- A. Approved full-way valves shall be installed where appropriate to insure proper functioning of the filtration and piping system.
- B. Where the pool pump and filter are located below the maximum water level, valves shall be installed on the discharge and suction lines.
- C. All valves shall be located where they will be readily and easily accessible for maintenance and removal. Valves located under concrete slabs shall be set in a pit having at least a dimension of 10 pipe diameters, with a minimum of at least 12 inches, and fitted with a suitable cover.
- D. Valves up to and including 2 inches in size shall be brass, stainless steel or equal. Sizes over 2 inches may have cast iron, brass, stainless steel or equal bodies. Each gate valve shall be a full-way type with working parts of corrosion resistant metal.
- E. Combination valves may be installed when approved by the Administrative Authority.
- F. Check or full-way valves shall be installed on the circulating pump suction piping when:
 - 1. Non-self-priming pumps i.e., straight centrifugal) are located above the pool water level;
 - 2. Self-priming pumps are located in excess of 2 feet above the water level.
- G. Where check valves are installed they shall be of the swing check pattern.
(Prior code § 9902.5)

§ 17.32.100. Tests.

All pool piping shall be inspected and approved before being covered or concealed. It shall be tested and proved tight to the satisfaction of the Administrative Authority, under a static water or air pressure test of not less than 30 pounds per square inch.

Exception: Circulating pumps need not be tested as required in this section.

Gas piping shall be installed in accordance with the provisions of this title.
(Prior code § 9902.6)

§ 17.32.110. Pool fittings—Generally.

Pool fittings shall be of such type and design as to be appropriate for the specific application as set out in Sections 17.32.120 through 17.32.160.
(Prior code § 9902.7)

§ 17.32.120. Pool fittings—Surface skimmers.

Approved surface skimmers are required and shall be installed in strict accordance with the manufacturer's installation instructions. Skimmers shall be installed on the basis of one per 800 square feet of surface area, or fraction thereof, and shall be designed for a flow rate of at least 25 G.P.M. per skimmer.
(Prior code § 9902.7(1))

§ 17.32.130. Pool fitting—Main outlet.

An approved main outlet shall be provided at the deepest point in every pool for emptying and/or circulation of the water in the pool. For other than portable pools this outlet shall be installed by means of an approved prefabricated assembly which incorporates a removable grate or antivortex plate and which also provides for a hydrostatic relief tube or system, to effectively protect the pool structure.

(Prior code § 9902.7(2))

§ 17.32.140. Pool fittings—Inlet fittings.

Approved manufactured inlet fittings for the return of recirculated pool water shall be provided on the basis of at least one per 14,400 gallons of pool capacity. Such inlet fittings shall be of such design and construction as to insure an adequate seal to the pool structure and shall incorporate a convenient means of sealing for pressure testing of the pool circulation piping. Inlets shall be located so as to aid in establishing flow patterns within the pool which are beneficial to effective skimming of the pool surface and mixing of the pool contents. Where more than one inlet is required, the shortest distance between any two required inlets shall be at least 20 feet.

(Prior code § 9902.7(3))

§ 17.32.150. Pool fittings—Vacuum fittings.

Approved manufactured vacuum fittings, where provided, shall be located in a convenient position below the minimum operating water level.

(Prior code § 9902.7(4))

§ 17.32.160. Pool fittings—Gutter fittings.

Approved manufactured gutter fittings, where provided, shall be installed in accordance with the manufacturer's instructions.

(Prior code § 9902.7(5))

§ 17.32.170. Circulating pump.

- A. Pool circulating pumps shall be approved and shall be equipped on the inlet side with an approved type hair and lint strainer.
- B. Pumps shall have a design capacity at the following heads:
 - 1. Pressure diatomaceous earth: At least 60 feet;
 - 2. Vacuum diatomaceous earth: 20 inches vacuum on the suction side and 45 feet total head;
 - 3. Sand and gravel: At least 45 feet. Pump impellers, shafts, wear rings and other working parts shall be of corrosion-resistant materials. Pumps in sizes up to and including 2 horsepower shall have pump cases of corrosion-resistant materials. Pumps in sizes over 2 horsepower may have cast iron pump cases.
- C. Corrosion-resistant materials: The following is a list of presently accepted corrosion-resistant materials.
 - 1. Approved copper alloys (including bronze and brass);

2. AINSI type 300 series stainless steel;
 3. Monel;
 4. Approved synthetic (certain plastics, fiberglass, etc) materials.
- (Prior code § 9902.8)

§ 17.32.180. Filters—Diatomite type.

Diatomite-type filters shall be approved for operation under either pressure or vacuum. The design capacity shall not exceed 2 gallons per minute per square foot of effective filter area for pressure and/or vacuum filters. A 2 ½ gallon per minute per square foot rate is permissible when body feed is used.

(Prior code § 9902.9(1))

§ 17.32.190. Filters—Sand.

Rapid sand filters (flow up to 5 G.P.M. per square foot) shall be constructed in accordance with approved standards. Where high rate sand filters (flow in excess of 5 G.P.M. per square foot) are used, they shall be approved. The circulation system and backwash piping shall be adequate for proper backwashing of the filter and shall provide backwash flow rates of at least 12 G.P.M. per square foot for rapid sand filters or 15 G.P.M. per square foot for high rate sand filters.

(Prior code § 9902.9(2))

§ 17.32.200. Filters—Operating instructions required—Required equipment.

- A. Every filter system shall be provided with operating instructions.
- B. A filter system shall be equipped with the following:
 1. An influent pressure gauge shall be provided;
 2. An effluent pressure gauge shall be provided;
 3. A valve to release the air at the top of each filter;
 4. A backwash sight glass where the backwash discharge outlet to the receptor is not visible from the backwash control valve.

Note: Sight glass shall be installed adjacent to the backwash control valve.

(Prior code § 9902.9(3))

§ 17.32.210. Equipment foundation and enclosure.

All mechanical equipment shall be set on a poured-in-place concrete base or slab. All mechanical equipment, unless approved for outdoor installation, shall be adequately protected against the weather or installed within a building.

(Prior code § 9902.10)

§ 17.32.220. Accessibility and clearances.

Equipment shall be so installed as to provide ready accessibility for cleaning, operating, maintenance and servicing.

(Prior code 9902.11)

§ 17.32.230. Waste water disposal—Generally.

- A. No direct or indirect connection shall be made between any storm drain, sewer, drainage system, seepage pit, underground leaching pit or subsoil drainage line, and any line connected to a swimming pool unless approved by the Administrative Authority.
- B. When the waste water from a swimming pool is to be disposed of through a public sewer, a 4-inch cast iron P trap shall be installed on the lower terminus of the building drain and the tail piece from the trap shall extend a minimum of 3 inches above finished grade and below finished flood grade. The connection between the filter waste discharge piping and the P trap shall be made by means of an indirect connection.
- C. Plans and specifications for any deviation from the above manner of installation shall be first approved by the Administrative Authority before any portion of any such system is installed.
- D. When waste water disposal is to seepage pit installation, it shall be installed in accordance with the approval granted by the health department.

(Prior code § 9902.12(1))

§ 17.32.240. Waste water disposal—Separation tank.

- A. A separation tank may be used with diatomite systems, in lieu of the aforementioned means of waster water disposal when connected as a reclamation system.
- B. A separation tank shall be constructed of corrosion-resistant materials for a design pressure of 75 psi. The tank shall be provided with quick removable cover, inlet and outlet connections, site glass, pressure gauge and air cock. Collector bag shall be of material resistant to moisture and chemicals customarily used in swimming pools and provided with back support for free water flow and to prevent rupture of separator bag.
- C. When separation tanks are used they shall contain usable volume according to the following schedule:

Actual Effective Filter Area (square feet)	Usable Volume (cubic inches)
10	225
15	338
20	450
25	562
30	675
35	787
40	900
45	1012
50	1125

Actual Effective Filter Area (square feet)	Usable Volume (cubic inches)
60	1350

Above 60 square feet effective filter area, provide usable volume on the basis of 22.5 cubic inches per square foot of effective filter area.

(Prior code § 9902.12(2))

§ 17.32.250. Water supply.

All pools shall be equipped with an approved type of filling system with backflow protection. No over-the-rim spout shall be accepted unless located under a diving board or properly guarded.

(Prior code § 9902.13)

§ 17.32.260. Water heating equipment.

Swimming pool water heating equipment shall conform to the design, construction and installation requirements as set forth in the latest edition of the Uniform Plumbing Code, shall bear the A.G.A. label, and shall include a consideration of combustion air, venting and gas supply requirements for water heaters and in addition, the following shall be required:

- A. An approved permanent bypass or antisiphon device shall be installed to provide a positive means of retaining water in the heater when the pump is not in operation.
- B. When the heater is installed in a pit, the pit shall be provided with approved drainage facilities.
- C. All water heating equipment shall be installed with flanges or union connection adjacent to the heater.
- D. When water heating equipment is installed in a closed system, i.e., has a valve between the appliance and the pool, a pressure relief valve shall be installed on the discharge side of the water heating equipment. For units up to and including 200,000 B.T.U./Hr. input the relief valve shall be A.G.A. rated and for inputs over 200,000 B.T.U./Hr., the valve shall be A.S.M.E. rated.

- E. A check valve shall be located between the heater and the filter.

(Prior code § 9902.14)

§ 17.32.270. Gas piping—Workmanship.

No gas piping shall be strained or bent and no appliance shall be supported by or develop any strain or stress on its supply piping.

(Prior code § 9902.15)

§ 17.32.280. Gas piping—Inspections—Notification.

Upon completion of the installation, alteration or repair of any gas piping, and prior to the use thereof, the Administrative Authority shall be notified that such gas piping is ready for inspection.

(Prior code § 9902.15)

§ 17.32.290. Gas piping—Inspections—Rough and final.

The Administrative Authority shall make the following inspections and shall either approve that portion of the work as completed, or shall notify the permit holder wherein the same fails to comply with this Code:

- A. Rough Piping Inspection. Rough piping inspection shall be made after all gas piping authorized by the permit has been installed and before any such piping has been covered or concealed or any fixture or appliance has been attached thereto. This inspection shall include a determination that the gas piping size, material and installation meet the requirements of this Code.

This inspection shall include an air pressure test, at which time the gas piping shall stand a pressure of not less than 10 pounds per square inch gauge pressure, and shall hold this pressure for a length of time satisfactory to the Administrative Authority, but in no case for less than 15 minutes with no perceptible drop in pressure. For welded piping and for piping carrying gas at pressures in excess of 14 inches water column pressure, the test pressure shall be not less than 60 pounds per square inch and shall be continued for a length of time satisfactory to the Administrative Authority, but in no case for less than 30 minutes. These tests shall be made using air pressure only, and shall be made in the presence of the Administrative Authority. All necessary apparatus for conducting tests shall be furnished by the permit holder.

- B. Final Piping Inspection. Final piping inspection shall be made after all piping authorized by the permit has been installed, and after all portions thereof, which are to be covered or concealed, are so concealed, and after any fixture, appliance or shutoff valve has been attached thereto.

(Prior code § 9902.15)

§ 17.32.300. Gas piping—Inspections—Waived when.

In cases where the work authorized by the permit consists of a minor installation of additional piping to piping already connected to a gas meter, the foregoing inspections may be waived at the discretion of the Administrative Authority. In this event, the Administrative Authority shall make such inspection as he deems advisable in order to assure himself that the work has been performed in accordance with the intent of this Code.

(Prior code § 9902.15)

§ 17.32.310. Gas piping—Inspections—Certificate issuance.

If, upon final piping inspection, the installation is found to comply with the provisions of this Code, a certificate of inspection may be issued by the Administrative Authority.

(Prior code § 9902.15)

§ 17.32.320. Gas piping—Material.

- A. All pipe used for the installation, extension, alteration or repair of any gas piping shall be standard weight wrought iron or steel (galvanized or black), yellow brass (containing not more than 75 percent copper) or internally tinned or equivalently treated copper of iron pipe size.
- B. All such pipe shall be either new, or shall previously have been used for no other purpose

than conveying gas; it shall be in good condition and free from internal obstructions. Burred ends shall be reamed to the full bore of the pipe.

- C. All fittings used in connection with the above piping shall be of malleable iron or yellow brass (containing not more than 75 percent copper).
- D. All valves and appurtenances used in connection with the above piping shall be of a type designed and approved for use with fuel gas.
(Prior code § 9902.15)

§ 17.32.330. Gas piping—Installation.

- A. All joints in the piping system, unless welded, shall be screwed joints, having approved standard threads. Such screwed joints shall be made up with approved pipe joint material, insoluble in the presence of fuel gas and applied to the male threads only.
- B. No gas piping shall be installed in or on the ground under any building or structure, and all exposed gas piping shall be kept at least 6 inches above grade or structure.
- C. Where water vapor is present in the fuel gas served, accessible drip pipes shall be provided at points where condensation will tend to collect.
- D. Ferrous gas piping installed underground in exterior locations shall be protected from corrosion by approved coatings or wrapping materials, and all such horizontal piping shall have at least 12 inches of earth cover or other equivalent protection. Risers shall be wrapped to a point at least 6 inches above grade.
- E. All gas pipe protective coatings shall be approved types, machine applied, and conform to recognized standards. Field wrapping shall provide equivalent protection and is restricted to those short sections and fittings necessarily stripped for threading or welding. Zinc coatings (galvanizing) shall not be deemed adequate protection for piping below ground. Ferrous metals in exposed exterior locations shall be protected from corrosion in a manner satisfactory to the Administrative Authority.
- F. All gas piping shall be adequately supported by metal straps or hooks at intervals of not more than 6 feet for piping 1 inch or smaller and not more than 10 feet for larger piping. Gas piping installed below grade shall be effectively supported at all points on undisturbed or well compacted soil. Material used for backfill around the pipe shall be free of rocks, building materials, hot ashes and trash.
- G. Where unions are necessary, right and left nipples and couplings shall be used. Ground-joint unions may be used in exposed fixtures, appliance or equipment connections and in exposed exterior locations. Bushings shall not be used in concealed locations.
- H. Valves used in connection with gas piping shall be approved types having a full bore equivalent to the area of the piping served.
- I. An accessible shut-off valve of a type set forth in subsection H of this section, shall be installed in the fuel supply piping outside of each appliance and ahead of the union connection thereto, and in addition to any valve on the appliance. Shut-off valves shall be within 3 feet of the appliance. Shut-off valves may be located immediately adjacent to and inside or under an appliance when placed in an accessible and protected location and then such appliance may be removed without removal of the valve.

(Prior code § 9902.15)

§ 17.32.340. Gas piping—Liquefied petroleum gas—Storage, facilities and piping.

In addition to the requirements of this Code for gas piping, the facilities and piping for use with liquefied petroleum gas shall meet the following requirements:

- A. All liquefied petroleum gas facilities shall conform to approved standards. All such facilities and their locations shall be acceptable to the Administrative Authority and shall conform to State and local fire prevention regulations.
- B. All liquefied petroleum gas facilities shall be so placed as to be at all times readily accessible for inspection, reading, testing and shutting off the gas supply. All service piping and main supply shut-off valves shall be outside of the building. All main supply valves shall be of an approved type and readily accessible.
- C. Liquefied petroleum gas facilities shall not be located in any pit or basement, under show windows or interior stairways, in engine, boiler, heater or electric meter rooms. When not prohibited by another regulation, approved liquefied petroleum gas metering devices may be located in the open under exterior stairways.
- D. Liquefied petroleum gas piping shall not serve any gas water heater located in a pit or basement where heavier than air gas might collect to form a flammable mixture.
- E. Pipe joint compounds used on thread connections shall be insoluble in liquefied petroleum gas.
- F. Every valve and appurtenance used on such piping shall be designed and approved for use with liquefied petroleum gas.
- G. Discharge from relief valves shall be into the open air and shall be at least 5 feet away from any opening into a building.

(Prior code § 9902.15)

§ 17.32.350. Gas piping—Leaks.

- A. Leaks in gas piping shall be located by applying soapy water to the exterior of the piping.
- B. Fire or acid shall not be used to locate or repair leaks, nor shall any substance other than air be introduced into the gas piping.
- C. It is not permissible to repair defects in gas piping or fittings, but upon having been located, the defective pipe or fittings shall be removed and replaced with sound material.

(Prior code § 9902.15)

§ 17.32.360. Gas piping—Required gas supply.

- A. The following regulations as set forth in this section and in Section 17.32.370 shall be the standard for the installation of gas piping. All regulations and tables are based on the use of natural gas having a specific gravity of 0.65, supplied at approximately 8 inches water column pressure at the outlet of the meter.
- B. The hourly volume of gas required at each piping outlet shall be taken as not less than the

maximum hourly rating, as specified by the manufacturer of the appliance or appliances to be connected to each such outlet.

- C. Where the manufacturer's rating of an appliance is given in British Thermal Units (B.T.U.) per hour, this rating shall be divided by the heating value of the gas to be delivered in B.T.U. per cubic foot, to obtain the corresponding gas demand in cubic feet per hour.

(Prior code § 9902.15)

§ 17.32.370. Gas piping—Required size—Table 3-11.

- A. Where the maximum demand does not exceed 250 cubic feet per hour and the maximum length of piping between the meter and the most distant outlet is not over 250 feet, the size of each section and each outlet of any system of gas piping shall be determined by means of Table 3-11. Other systems within the range of Table 3-11 may be sized from that table or by means of the methods set forth in subsection C of this section.
- B. To determine the size of each section of pipe in any system within the range of Table 3-11, proceed as follows:
1. Measure the length of the pipe from the gas meter location to the most remote outlet on the system;
 2. In Table 3-11 select the column showing that distance, or the next longer distance, if the table does not give the exact length;
 3. Use this vertical column to locate all gas demand figures for this particular system of gas piping;
 4. Starting at the most remote outlet, find in the vertical column just selected, the gas demand for that outlet. If the exact figure of demand is not shown, choose the next larger figure below in the column;
 5. Opposite this demand figure, in the first column at the left in Table 3-11 will be found the correct size of pipe;
 6. Proceed in a similar manner for each outlet and each section of pipe. For each section of pipe determine the total gas demand supplied for that section.
- C. For conditions other than those covered by subsection A of this section, such as longer runs or greater gas demands, the size of each gas piping system shall be determined by standard engineering methods acceptable to the Administrative Authority and each such system shall be so designed that the total pressure drop between the meter or other point of supply and any outlet when full demand is being supplied to all outlets, will at no time exceed 0.5 inches water column pressure.
- D. Where gas of a different specific gravity is to be delivered, or where the pressure may be higher than 14 inches or lower than 7 inches of water column, the design, pipe sizing, materials, location and use of such systems first shall be approved by the Administrative Authority and the gas utility supplying the gas.
- E. The appliance connecting piping shall at no time have a diameter less than the inlet connection of the appliance as provided by the manufacturer and shall not exceed 2 feet in length.

Table 3-11**Distance**

Pipe Size	10 feet	20 feet	30 feet	40 feet	50 feet	60 feet	70 feet	80 feet	90 feet	100 feet	125 feet	150 feet	200 feet	250 feet	300 feet	350 feet	400 feet	450 feet	500 feet	550 feet	600 feet
½ inch	170	118	95	80	71	64	60	55	52	49	44	40	34	30	27	25	23	22	21	20	19
¾ inch	360	245	198	169	150	135	123	115	108	102	44	83	71	63	57	52	48	45	43	41	39
1 inch	670	430	370	318	282	255	235	220	205	192	172	158	132	118	108	100	92	86	81	77	74
1¼ inches	1320	930	740	640	565	510	470	440	410	390	345	315	270	238	215	200	185	172	162	155	150
1½ inches	1990	1370	1100	950	830	760	700	650	610	570	510	460	400	350	320	295	275	255	240	230	220
2 inches	3880	2680	2150	1840	1610	1480	1350	1250	1180	1100	1000	910	780	690	625	570	535	500	470	450	430

§ 17.32.370

SWIMMING POOL CODE

§ 17.32.370

(Prior code § 9902.15)

CHAPTER 17.36 ENCLOSURES

§ 17.36.010. Required.

All swimming pools within the jurisdiction of this Administrative Authority shall be fenced with an approved fence as provided in this title.

(Prior code § 9904(A))

§ 17.36.020. Approved fence designated.

An approved fence shall meet the following requirements:

- A. Every person in possession of land within the jurisdiction of this local Administrative Authority, either as an owner, purchaser under contract, lessee, tenant, licensee or otherwise, upon which land is situated a swimming pool of other out-of-doors body of water designed, constructed and used for swimming, dipping or immersion purposes by men, women or children, having a depth in excess of 18 inches or with a surface area exceeding 250 square feet, shall maintain on the lot or premises upon which such pool or body is located, and completely surrounding such pool or body of water, a fence or wall not less than 4 feet, 6 inches high (measured outside the enclosure), with openings, holes or gaps therein no larger than 4 inches measured horizontally, except for doors or gates, provided however that a dwelling house or accessory building may be used as apart of the enclosure upon approval of the Building Official.
- B. The maximum vertical clearance between grade and bottom of the fence/barrier shall be 2 inches measured on the side of the barrier which faces away from the pool. Where the top of the pool structure is above grade the barrier may be at ground level.
- C. Where the fence/barrier is made of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 $\frac{3}{4}$ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 $\frac{3}{4}$ inches in width.
- D. Maximum mesh size for chain link fences shall be a 1 $\frac{1}{4}$ inch square unless the fences is provided with slats fastened at the top or the bottom which reduce the openings to 1 $\frac{3}{4}$ inches or less, the wire shall not be less than #9 gauge.
- E. Where the barrier is made of diagonal members the maximum openings formed by the diagonal members shall be 1 $\frac{3}{4}$ inches or less.
- F. Access gates shall comply with the same requirements as for fences/barriers and shall be equipped with a locking device. Pedestrian-access gates shall open outward away from the pool and shall have a self-closing and latching device. Gates other than pedestrian access gates shall have a self—latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, (a) the release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate, and (b) the gate and barrier shall have no openings greater than $\frac{1}{2}$ inch within 18 inches of the release mechanism.
- G. Where a wall of a dwelling serves as part of the barrier, doors with direct access to the pool

through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened, and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as a touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for no more than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the door. Other means of protection, such as self-closing doors with self-latching devices approved by the Building Official, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by the alarm system described above.

- H. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (a) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (b) the ladder or steps shall be surrounded by a barrier which meets the requirements for fences/barriers. When the ladder or steps is secured, locked or removed, any openings created shall not allow the passage of a 4 inch diameter sphere.
- I. Doors leading directly to indoor swimming pools shall comply with the requirements in G above and other applicable sections.

(Prior code § 9904; Ord. 916 C.S. § 8, 1980; Ord. 1188 C.S. § III, 1992)

§ 17.36.030. Exception discretionary with administrative authority.

The Administrative Authority may grant an exception to the requirements of fencing a swimming pool when he finds there is a barrier existing on the premises by reason of vegetation, landscaping, or topography suitable to prevent children from straying into the pool.

(Prior code § 9904)

CHAPTER 17.40
PENALTIES

§ 17.40.010. Designated.

- A. Any person, firm or corporation violating any of the provisions of this Code is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County Jail not to exceed 5 months or by both such fine and imprisonment. Each separate day or any portion thereof during which violation of this Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.
- B. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorizes is lawful.

(Prior code § 9900.16)

SWIMMING POOL CODE

MARTINEZ CODE

Title 18

MOBILE HOME PARKS

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CHAPTER 18.04
DEFINITIONS

§ 18.04.010. Generally.

As used in this title, unless the context otherwise requires, words and phrases shall be as defined in this chapter.

(Prior code § 4600)

§ 18.04.020. Approved.

"Approved," when used in conjunction with any material, appliance or type of construction, means meeting the approval of the City Building Department:

- A. As the result of investigations or tests conducted by a nationally recognized testing agency;
or
- B. By reason of accepted principles and standards established by national authorities, technical, health, or scientific organizations or agencies; or
- C. By reason of a specific City ordinance.

(Prior code § 4600(a))

§ 18.04.030. Awning.

"Awning" means any shade structure of approved material installed, erected or used adjoining or adjacent to a mobile home with at least one end open at all times. Awning does not include a window awning.

(Prior code § 4600(b))

§ 18.04.040. Building.

"Building" as used in this title, means public toilets, public baths and laundry rooms or other structures, and a compartment containing a toilet or bath, or both, constructed for the exclusive use of an occupant of a mobile home site, or his invited guest.

(Prior code § 4600(e))

§ 18.04.050. Building department.

"Building department" means any authorized Building Official of the City of Martinez, or his subordinate.

(Prior code § 4600(d))

§ 18.04.060. Carport.

"Carport" means an awning or shade structure for an automobile on a mobile home site.

(Prior code § 14600(e))

§ 18.04.070. City engineer.

"City engineer" means the engineer designated by the City Council.

(Prior code § 4600(h))

§ 18.04.080. Commission.

"Commission" means the City Planning Commission.
(Prior code § 4600(i))

§ 18.04.090. Dependent mobile home.

"Dependent mobile home" means a mobile home not equipped with a toilet for sewage disposal.
(Prior code § 4600 (j))

§ 18.04.100. Electrical service.

"Electrical service" as used in this title means installations made in strict accordance with the City of Martinez Electrical Code.
(Prior code § 4600(k))

§ 18.04.110. Gas distribution system.

"Gas distribution system" means all of the gas supply piping within a mobile home park extending from the main public supply, or other source of supply to, but not including, the mobile home service system, and shall include branch service lines, devices and appurtenances thereto.
(Prior code § 4600(l))

§ 18.04.120. Health department.

"Health department" is the Health Officer of the City of Martinez and his appointed subordinates.
(Prior code § 4600(m))

§ 18.04.130. Independent mobile home.

"Independent mobile home" means a mobile home equipped with one water closet, a lavatory, a shower or bathtub, and a kitchen sink.
(Prior code § 4600(n))

§ 18.04.140. Liquid petroleum gases.

"Liquid petroleum gases" means cylinder systems for cooking, heating and refrigerating installations on highway mobile vehicles, and shall be in accordance with standards of the National Board of Fire Underwriters as outlined in their pamphlet "Storage and Handling of Liquefied Petroleum Gases", NBFU No. 58.
(Prior code § 4600(o))

§ 18.04.150. Manufactured home.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
(Prior code § 4600(cc); Ord. 818 C.S. § 2, 1975; Ord. 1091 C.S. § XI, 1987)

§ 18.04.160. Mobile home drain connection—Hose connection.

"Mobile home drain connection" or "hose connection" means that removable extension, of which shall be flexible, connecting the mobile home drainage system from the mobile home outlet to the trap inlet on the mobile home site.

(Prior code § 4600(dd))

§ 18.04.170. Mobile home drainage system.

"Mobile home drainage system" means that portion of drainage piping within or permanently attached to the mobile home including the venting system, the mobile home drain connection, and receiving the discharge from any fixture or water closet.

(Prior code § 4600(ee))

§ 18.04.180. Mobile home park.

"Mobile home park" as used in this title means any area or tract of land where space is rented or held out for rent to two or more owners or users of mobile homes.

(Prior code § 4600(ff))

§ 18.04.190. Mobile home service system.

"Mobile home service system" means that portion of the water or gas piping within or permanently attached to the mobile home and shall include the service connection.

(Prior code § 4600(gg))

§ 18.04.200. Mobile home site.

"Mobile home site" means that portion of a mobile home park designated and designed for the occupancy of a mobile home, and includes any area that is set aside or used for automobile parking, carport, storage or awning.

(Prior code § 4600(hh))

§ 18.04.210. Occupied area.

"Occupied area" means the total area of a mobile home site that is occupied by any mobile home, carport, awning or storage cabinet.

(Prior code § 4600(pp))

§ 18.04.220. Park drainage system.

"Park drainage system" means the entire system of drainage piping used to convey sewage or other wastes from the mobile home drain connection at its connection to the mobile home site trap to a public sewer or private sewage disposal system.

(Prior code § 4600(q))

§ 18.04.230. Park water main.

"Park water main" means that portion of the water distributing system which extends from the street main water meter, or other source of supply to the branch service lines.

(Prior code § 4600(r))

§ 18.04.240. Person.

"Person" means any individual, corporation, copartnership or association.
(Prior code § 4600(s))

§ 18.04.250. Planning department.

"Planning department" means the City of Martinez Planning Department and includes the City Planning Director of the City of Martinez, or his authorized representative.
(Prior code § 4600(t))

§ 18.04.260. Plumbing.

"Plumbing" as used in this title includes the installation of required fixtures for sanitation, health, convenience and safety. The required service line extensions and the connections to sanitary sewers, water mains or gas mains, to insure the safe and convenient usability of the fixtures, all such installations and connections thereto, shall be made in strict accordance with the permit and inspections by the Martinez Building Inspection Department.
(Prior code § 4600(u); Ord. 818 C.S. § 1, 1975)

§ 18.04.270. Public street.

"Public street" means any thoroughfare of the City of Martinez.
(Prior code § 4600(v))

§ 18.04.280. Service connection.

"Service connection" means that portion of the water distributing system which extends from the termination of the park branch service line to the inlet fitting at the mobile home.
(Prior code § 4600(w))

§ 18.04.290. Service road.

"Service road" means any passageway inside a mobile home park intended for the use of automobiles and/or transporting mobile homes.
(Prior code § 4600(x))

§ 18.04.300. Sewer lateral.

"Sewer lateral" means that portion of the park drainage system extending to a mobile home site and includes the "P" trap.
(Prior code § 4600(y))

§ 18.04.310. Structure.

"Structure" means that which is built, or constructed, an edifice or building of any kind or any piece of work artificially built up or composed, or parts joined together in some definite manner. "Structure" does not include a manufactured home without a permanent foundation, placed on a site for less than 180 days.
(Prior code § 4600(aa); Ord. 1091 C.S. § XI, 1987)

§ 18.04.320. Toilet.

"Toilet" includes water closet.

(Prior code § 4600(bb))

§ 18.04.330. Unfit for human habitation or occupancy.

"Unfit for human habitation or occupancy" as applied to mobile homes, or other structures, means any mobile home or structure which is dangerous to human life or detrimental to health through either lack of maintenance or repair generally, or because of unsafe or improper construction or installation, and includes, but is not limited to, mobile homes or structures in which any of the following exist: Exterior walls, supporting structures, doors, windows, floors, roofs, appliances or equipment are so deteriorated, broken or damaged as to be hazardous to the occupants, or the walls, roof, floor, doors or windows are in such condition as not to adequately protect the occupants from the elements.

(Prior code § 4600(ii))

§ 18.04.340. Utilities.

"Utilities" as used in this title means adequate facilities necessary to the health, welfare and convenience of persons occupying a mobile home park, and shall include water distributing system, sanitary sewer system, gas distributing system, electrical distributing system, communications distributing system, television and radio antennas, and park drainage system.

(Prior code § 4600(jj))

§ 18.04.350. Water distributing system.

"Water distributing system" means all of the water supply piping within a mobile home park extending from the main public supply, or other source of supply to, but not including the mobile home service system, and shall include branch service lines, fixtures, devices and appurtenances thereto.

(Prior code § 4600(kk))

§ 18.04.360. Windbreak.

"Windbreak" means any protective fence, wall, structure or shelter from the wind which exceeds 42 inches in height.

(Prior code § 4600(11))

§ 18.04.370. Window awning.

"Window awning" means any awning which does not project more than 30 inches from the body of the mobile home and which does not extend more than 6 inches on either side of the window it is designed to serve.

(Prior code § 4600(mm))

CHAPTER 18.08
UNIFORM CODES

§ 18.08.010. Application of Health and Safety Code.

The provisions of 18000 et seq. of the Health and Safety Code of the State pertaining to mobile home parks shall be deemed to be a part of this title. Should there be any conflict between this title and the Health and Safety Code, the provisions of the Health and Safety Code shall prevail. (Prior code § 4601; Ord. 818 C.S. § 3, 1975)

§ 18.08.020. Application of Uniform Building Code.

All buildings or structures shall be constructed in accordance with the Uniform Building Code adopted by the City. (Prior code § 4602)

§ 18.08.030. Application of Plumbing Code.

All plumbing and sanitation facilities shall be installed and maintained in conformity with the plumbing code adopted by the City. (Prior code § 4603)

§ 18.08.040. Application of Electrical Code and State Safety Code.

All electrical installations shall be in conformance with the State Safety Code and the City Electrical Code. (Prior code § 4604)

§ 18.08.050. Application of the Martinez Municipal Code.

All installations shall be subject to the provisions set forth in Sections 15.04.190 and 15.04.195 of the Martinez Municipal Code. (Ord. 1091 C.S. § 1 XI, 1987)

CHAPTER 18.12
APPROVED ALTERNATES

§ 18.12.010. Alternates permitted when approved.

The provisions of this title are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed herein, provided such alternate has been approved.

(Prior code § 4605(a))

§ 18.12.020. Approval criteria.

The City Building Inspector may approve any such alternate if he finds that the proposed design is satisfactory and the material, appliances, installation, device, arrangement, method or work offered, is, for the purpose intended, at least the equivalent of that prescribed in this title in quality, strength, effectiveness, durability, safety, and for the protection of life and health.

(Prior code § 4605(b))

§ 18.12.030. Evidence or proof may be required.

The City Building Inspector may require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the use of any such alternate.

(Prior code § 4605(c))

§ 18.12.040. Tests required when.

Wherever there is evidence that any material, appliance installation, device, arrangement or method of construction, does not conform to the requirements of this title, or in order to substantiate claims for an alternate, the City Building Inspector may require tests by an approved agency as proof of compliance to be made at the expense of the mobile home park operator or mobile home owner.

(Prior code § 4605(d))

CHAPTER 18.16
PERMITS

§ 18.16.010. Application for use permit—Required—Fee.

To establish a mobile home park, an application for a use permit must be made to the City Planning Commission. The application shall be accompanied by a fee set by resolution of the City Planning Commission sufficient to cover the cost of handling the application as prescribed in chapter 22.40 of this Code. The application fee shall be in lieu of any use permit fee required generally by other provisions of the ordinances of the City.

(Prior code § 4606)

§ 18.16.020. Application for use permit—Plot plan required—Required information.

A plot plan as set forth below shall be submitted with the application. The plot plan must have received prior approval of the City Health Officer. The plot plan shall be reviewed by the City Planning Commission in accordance with the use permit procedure set forth in Chapter 22.40 of this Code. Application for any mobile home park within the City shall contain the following information:

- A. Name of applicant and all persons to be directly connected if the permit is granted;
- B. The residence and business address of the applicant. This is to include all members of a firm, or all officers of a corporation applying for a permit;
- C. The applicant to state on the application whether he is owner or lessee of the property and state present use of the land;
- D. Application shall give legal description of the property proposed for the mobile home park. If deed restrictions exist on property, so state;
- E. State the source of water supply. If private well, state alternate source of supply;
- F. Applicant shall show adjacent land uses;
- G. The applicant shall give such additional information as may be required by the various departments of the City.

(Prior code § 4606)

§ 18.16.030. Application for use permit—Plot plan copies and scale—Other drawings.

Six copies of the plot plan, at a scale no greater than one inch equals 100 feet, and giving scaled dimensions and showing exterior boundaries of the property for the proposed mobile home park, and such other drawings that may be necessary to show the following, shall be submitted at time of application for a use permit:

- A. All mobile home sites with dimensions of such spaces;
- B. All public streets in the vicinity of such proposed mobile home parks;
- C. The location, width and type construction of all mobile home park roadways;
- D. Unpaved areas which are to be landscaped;

- E. Locations of all mobile home park buildings;
- F. Type building construction, elevations and/or perspective drawings;
- G. Fire hydrants, locations and size of outlet connections;
- H. Laundry and drying yard area and facilities;
- I. Fences and other improvements which the City may require;
- J. Proposed method for site drainage.
(Prior code § 4606)

§ 18.16.040. Operating without valid license or permit unlawful.

It is unlawful for any person to establish or maintain, upon any property owned or controlled by him, a mobile home park in the City unless a valid permit or license is issued in accordance with the provisions of this title. Permits so issued may be revoked for violation of the provisions of this title, after notice and hearing.

(Prior code § 4606)

§ 18.16.050. Inspection of grounds—Permit issuance by Building Inspector.

Within ten days after the application, descriptions, plans and specifications, and required fee, if any, are filed and paid, an inspector of the City Building Department shall inspect the grounds upon which the applicant proposed to do the work for which he seeks a permit. The City Building Inspector shall issue a written permit to the Planning Commission and the applicant, provided that the description and plans and specifications filed indicate that the work proposed will meet the requirements of this title and are in accordance with the permit issued by the Planning Commission.

(Prior code § 4609)

§ 18.16.060. Posting.

Permits for construction, installation and operation shall be posted in a conspicuous place.

(Prior code § 4611)

§ 18.16.070. Expiration.

All permits as required in this title for installation, construction or reconstruction of a mobile home park shall expire 12 months from the date of the issuance thereof in those cases where the construction, installation or reconstruction has not been completed within the period; provided, however, that the City Building Inspector may extend the expiration date of the permit for a reasonable time.

(Prior code § 4612)

CHAPTER 18.20
PERMIT SUSPENSION AND RESTORATION

§ 18.20.010. Suspension—Generally.

In the event that any person holding a permit issued by the City Building Inspector under the provisions of this title, violates any of the provisions of the permit, the permit may be subject to suspension as provided in this chapter.

(Prior code § 4613)

§ 18.20.020. Suspension—Notice—Contents.

The City Building Inspector shall issue and serve upon the permittee a notice setting forth in what respect the provisions of the permit and/or of this title have been violated, and shall notify him that unless these provisions have been complied with within 30 days after the date of notice, the permit shall be subject to suspension.

(Prior code § 4614)

§ 18.20.030. Suspension—Notice—Service.

The notice shall be served by posting at least one copy in a conspicuous place on the premises described in the permit, and by sending another copy by registered mail, postage prepaid, return requested, to the person to whom the permit was issued at the address therein given.

(Prior code § 4615)

§ 18.20.040. Suspension—When.

If the requirements of the notice have not been complied with on or before the expiration of thirty (30) days after the mailing and posting of the notice, the City Building Inspector may suspend the permit.

(Prior code § 4616)

§ 18.20.050. Restoration.

Upon compliance by the permittee with the provisions of this title and of the notice, and submission of proof thereof to the City Building Inspector, the City Building Inspector shall reinstate the permit.

(Prior code § 4617)

§ 18.20.060. Hearing—Notice.

- A. Any permittee receiving a suspension notice may request and shall be granted a hearing on the matter before a representative of the City Building Inspector designated by the City Engineer to hold such hearing. The permittee shall file in the office of the City Building Inspector a written petition requesting such a hearing and setting forth a brief statement of the grounds therefor within 10 days of the date of mailing of such notice.
- B. Upon receipt of such petition, the City Building Inspector shall set a time and a place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause, if any, why such notice should be modified or withdrawn.

- C. Such hearing shall be commenced not later than 10 days after the day on which such petition was filed; provided that, upon application of the petitioner, the City Building Inspector may postpone the date of such hearing for a reasonable time beyond such 10-day period, if in his judgment the petitioner has submitted a good and sufficient reason for such postponement.
- D. After such hearing, the City Building Inspector shall sustain, modify or withdraw the notice, depending upon his findings as to whether the provisions of the title have been complied with.

(Prior code § 4619)

CHAPTER 18.24
SITE AND RECREATION AREAS

§ 18.24.010. Minimum site area for mobile home parks.

The minimum site for a mobile home park shall be 15 acres, all of which shall be developed as a single unit.

(Prior code § 4620)

§ 18.24.020. Recreation area.

It shall be required that a basic area of 2,500 square feet plus a minimum area of 200 square feet for each mobile home space beyond the first ten spaces, be set aside for recreation purposes; of this area one recreational building, 3,500 square feet for each mobile home site park shall be provided.

(Prior code § 4621)

CHAPTER 18.28
GRADING

§ 18.28.010. Specifications generally.

Any property proposed for use as a mobile home park shall be adequately graded and drained by means of surface or underground structures to prevent accumulation of standing water or consequent muddy conditions.

(Prior code § 4622)

CHAPTER 18.32
SITE REQUIREMENTS

§ 18.32.010. Minimum site area.

The minimum mobile home site area shall be not less than 2,400 square feet. The corners of each site shall be clearly and permanently marked.

(Prior code § 4635(a))

§ 18.32.020. Minimum site width.

The minimum width of a mobile home site shall be not less than 36 feet for conventional mobile homes and not less than 46 feet for expandable mobile homes.

(Prior code § 4635(b))

§ 18.32.030. Front setback.

A minimum front setback of 5 feet shall be established from any service road to the front line of any mobile home or structure.

(Prior code § 4635(c))

§ 18.32.040. Rear setback.

A minimum setback of 5 feet shall be established from any mobile home to the rear mobile home site line. No fence or storage cabinet higher than 6 feet may be erected or projected into the rear yard. The area occupied by a storage cabinet shall not exceed 50 square feet.

(Prior code § 4635(d))

§ 18.32.050. Side yard.

The minimum side yard shall be 3 feet. A minimum side setback of 5 feet will be established from any service road to any mobile home or structure.

(Prior code § 4635(e))

§ 18.32.060. Distance from park boundary.

Each mobile home site along the exterior line of a mobile home park shall be so designated that any part of any mobile home shall be a minimum of 10 feet from the exterior boundary of the park and a minimum of 15 feet from any public street or alley.

(Prior code § 4635(f))

§ 18.32.070. Distance from other structures.

No mobile home shall be closer than 10 feet to any building or another mobile home.

(Prior code § 4635(g))

§ 18.32.080. Patio area.

It shall be required that a paved patio be constructed on each mobile home site. The patio shall be a minimum of 4 inches of Portland cement concrete which shall be a 5 sack mix with a psi of 2500 in 27 days with adequate cross-gradient for surface drainage. The patio shall be located

only on the entry side adjacent to and paralleling the longer dimension of the mobile home pad. The patio area shall be a minimum of 8 ½ feet in width and 40 feet in length. If required, the patio may be covered by means of a free-standing canopy adequately designed and constructed to standards as specified in the Uniform Building Code.

(Prior code 4635(h))

§ 18.32.090. Parking space.

A minimum auto parking space of 9 feet by 40 feet shall be required on each mobile home site. No portion of this required area may project into any required front or side yards. Mobile home site drives shall be a minimum of 9 feet wide.

(Prior code § 4635(i))

CHAPTER 18.36
UTILITIES

§ 18.36.010. Location.

All facilities heretofore referred to in this title as "utilities" shall be installed underground in accordance with standards of the public utility involved with the concurrence of the City Engineer and/or Building Department. Compliance with this section shall be the responsibility of the permittee and he shall make all necessary arrangements with the public utility involved or the City, as the case may be.

(Prior code § 4623)

CHAPTER 18.40
ADDITIONAL STRUCTURES

§ 18.40.010. Authorized structures.

No structure except those authorized by this title shall be erected, constructed, placed, maintained or occupied on any mobile home site.
(Prior code § 4639)

§ 18.40.020. Distance between structures.

No structure nor portion or projection thereof including an approved awning shall be located closer than 10 feet from any mobile home on an adjacent mobile home site; provided, however, that a windbreak or fence not in excess of 6 feet may be located on lot lines provided it is at least 5 feet from a mobile home.
(Prior code § 4640)

§ 18.40.030. Limitations on location of structures.

To prevent obstruction of natural light and ventilation, no awning, building or windbreak or combination thereof shall be erected, placed or maintained on more than one side or one end of any mobile home.
(Prior code § 4641)

§ 18.40.040. Carport.

A free-standing awning or shade structure serving exclusively as a carport may be erected, placed or maintained on the entry side of a mobile home provided the carport is entirely open on at least two sides. The carport shall be located not less than 8 ½ feet from any mobile home.
(Prior code § 4642)

§ 18.40.050. Awning construction.

- A. Awnings shall be made of metal or of other approved material; provided, however, that neither canvas nor similar fabric material may be used unless it is approved by the City Fire Department.
 - B. Framework for awnings shall be of standard metal pipe not less than ½ inch diameter. Uprights of framework may be of any approved material of equal or greater strength. Metal or other rigid awnings shall have supporting framework of similar or other approved materials, provided, however, that the weight of the awning is adequately supported. All joints of metal pipe framework shall be securely fastened with standard screw-pipe or pipe-connected fittings. Welded joints may be used. Awnings shall be free-standing, except that one side may be attached to an approved awning track on the trailer coach.
 - C. Awnings shall have at least one side entirely open at all times.
 - D. Awning location and spacing, except window awnings, shall be subject to the requirements as provided in Section 18.40.020 of this title.
- (Prior code § 4648)

§ 18.40.060. Windbreak construction.

- A. A windbreak shall be designed, erected and maintained as a free-standing structure. No portion of a windbreak shall be attached to or become a part of any mobile home.
- B. Windbreaks in excess of 72 inches in height shall be designed to withstand vertical live and dead loads imposed upon them and to withstand a horizontal force from any direction of 15 pounds per square foot wind pressure on the vertical projection of the exposed surface of the structure.
- C. A windbreak shall be erected and maintained so that neither of the ends nor any other portion shall be returned to form an enclosure or cabana. Only approved windbreaks shall support a roof or awning.

(Prior code § 4649)

CHAPTER 18.44
LANDSCAPING AND FENCING

§ 18.44.010. Fences.

No fence higher than 18 inches shall be located within 10 feet of any front mobile home site line.
(Prior code § 4629)

§ 18.44.020. Landscaping.

- A. All areas of a mobile home park not occupied by paved roadways or pathways, patios and other park facilities shall be landscaped.
- B. Tree screen. A belt of approved trees shall be established and maintained between the mobile home park and all adjoining properties. These trees shall be planted in such proximity to each other that they will form a natural screen around the mobile home park.
- C. Shade trees. There shall be the equivalent of at least one tree of an approved type, a minimum of 6 feet in height, for each mobile home site.
(Prior code § 4630)

CHAPTER 18.48
STORAGE AREA

§ 18.48.010. Specifications.

Storage spaces shall be provided for parking dependent mobile homes, smaller trailers and boats. Such spaces shall be provided at the rate of one space for each ten mobile home sites. The storage area shall be screened on at least one side with a solid type fence or wall not less than 6 feet in height. In addition, the 5 feet on the side of the fence or wall facing the mobile home sites shall be landscaped with plant materials and permanently maintained to screen the storage area.
(Prior code § 4628)

CHAPTER 18.52
PARKING

§ 18.52.010. Auto parking standards.

No parking shall be permitted in any required driveway or service road.
(Prior code § 4626)

§ 18.52.020. Off-driveway parking.

All parking, required or otherwise, shall be located in such a manner that the designated parking spaces shall not be closer than 3 feet to any service road. Guest parking shall be provided in parking bays off the park service roads at the rate of one space for each eight mobile home sites. The spaces in the parking bays shall be no less than 9 feet wide by 19 feet.
(Prior code § 4627)

**CHAPTER 18.56
SERVICE ROADS**

§ 18.56.010. In mobile home parks.

The entrance park roadway at the connection with a public street shall be a minimum of 30 feet in width and fully paved in accordance with specifications set forth in section 18.56.020. In addition, at least a 4-inch rolled curb and gutter shall be constructed. Each mobile home site shall front upon a paved service road of not less than 25 feet in width. All driveways shall have clear and unobstructed access to a service road.

(Prior code § 4624)

§ 18.56.020. Design.

- A. By reason of varying bearing values of native subsoils in different localities within the boundaries of the City, the City Engineer may in each instance specify the design requirements for service roads within each particular mobile home park. The basic minimum specification for service roads within a mobile home park shall be a base course composed of 4 inches of approved crusher-run rock, which shall be thoroughly compacted by means of 10-ton tandem rollers.
- B. The required paving shall consist of 1 ½ inches of asphaltic concrete (black top) developed to a smooth finish by mechanical rollers. Should the developer of the mobile home park, for aesthetic or other valid reasons, choose to substitute three course rock (armor-coat) paving instead of blacktop paving, the operation shall be conducted in accordance with the specifications furnished by the City Engineer.

(Prior code § 4625)

CHAPTER 18.60
OCCUPANTS AND OCCUPANCY

§ 18.60.010. Unlawful occupancy.

It is unlawful for any person in a mobile home park to use or cause or permit to be used for occupancy:

- A. Any mobile home from which any tire or wheel has been removed therefrom, except for the purpose of making temporary repairs or placing it in dead storage;
- B. Any mobile home to which are attached any rigid water, gas or sewer pipes; provided, however, that metal tubing not to exceed ½-inch inside diameter may be used for water and that approved flexible metal tubing not less than ¾-inch inside diameter nor more than 15 feet in length may be used for a gas connector from the branch service riser to the service connector;
- C. Any mobile home which is permanently attached with under-pinning or foundation to the ground;
- D. Any mobile home which does not conform to the requirements of the California State Vehicle Code governing the use of mobile homes on public highways;
- E. Any mobile home which does not carry a current yearly license issued by any state or foreign vehicle department;
- F. Any mobile home in an unsanitary condition;
- G. Any mobile home which is structurally unsound and does not protect its occupants against the elements.

(Prior code § 4636)

§ 18.60.020. Unlawful use.

It is unlawful for any person to use, occupy or maintain any mobile home upon any area or tract of land without the written permission of the owner or person legally in charge of the land.

(Prior code § 4637)

§ 18.60.030. Unlawful rent.

It is unlawful for any person to rent or hold out for rent any mobile home in a mobile home park which is owned by or in the possession or control of the owner or operator of the mobile home park or his agent. The rental paid for any such mobile home shall also be deemed to be rental for the space it occupies.

(Prior code § 4638)

§ 18.60.040. Register of occupants.

- A. It shall be the duty of each licensee and permittee to keep a register containing a record of all mobile home owners and occupants located within the mobile home park. The register shall contain the following information:

- 1. The name and address of each mobile home occupant;

2. The name and address of the owner of each mobile home and the motor vehicle by which it is towed;
 3. The make, model, year and license number of each mobile home and motor vehicle;
 4. The state, territory or county issuing such licenses;
 5. The date of arrival and of departure of each mobile home;
 6. Whether or not each mobile home is a dependent or independent mobile home.
- B. The owners and managers of the mobile home park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of 3 years following the date of departure of the registrant from the mobile home park.
- (Prior code § 4653)

CHAPTER 18.64
GENERAL REGULATIONS

§ 18.64.010. Illumination.

Mobile home parks shall have installed and kept in operation from sunset to sunrise sufficient artificial light to clearly illuminate every building containing public toilets and showers and all pathways leading to such public toilets and showers. Illumination shall also be furnished for all service roads within the park. Illumination of service roads shall receive approval of the City Engineer.

(Prior code § 4631)

§ 18.64.020. Public telephone.

Telephone service housed in rainproof booths shall be installed for the convenience of occupants of mobile homes.

(Prior code § 4634)

§ 18.64.030. Prohibited obstruction.

No obstruction of any kind shall be erected, placed or maintained on or about the mobile home site that would impede the movement of a mobile home from a site to a driveway or prevent inspection of plumbing and electrical facilities and related mobile home equipment.

(Prior code § 4645)

§ 18.64.040. Plot plan in park.

The owner or operator of every mobile home park containing mobile homes shall maintain in a conspicuous location a copy of any approved plot of the mobile home park. The plot plan shall show in detail the site layouts, and the location of mobile homes, and each site shall be designated by number or by other means of identification.

(Prior code § 4646)

§ 18.64.050. Animals.

Domestic pets shall not be permitted to run at large in any mobile home park.

(Prior code § 4647)

§ 18.64.060. Additional regulations.

- A. A mobile home site in a mobile home park shall not be occupied as a living quarter unless a single mobile home is parked on the site.
- B. There shall not be located on each mobile home site more than two automobiles and one mobile home, one patio, one windbreak and an approved storage cabinet. There shall not be more mobile homes in a mobile home park than there are approved mobile home sites.
- C. Dependent trailer coaches shall not be occupied in any mobile home park in the City.
- D. Independent mobile homes shall not be parked in other than those sites which have approved plumbing facilities for parking such mobile homes.

- E. All toilet compartments and compartments containing bath facilities shall be kept free from obnoxious odors, mosquitoes, flies, etc.
 - F. The public toilets shall be maintained and accessible to tenants at all times.
 - G. All toilets and bathing facilities shall be for the exclusive use of the occupants of the mobile home park.
- (Prior code § 4650)

**CHAPTER 18.68
MAINTENANCE**

§ 18.68.010. Generally.

- A. All devices or safeguards required by this title shall be maintained in good working order. The owner, operator or lessee of the mobile home park or his designated agent shall be responsible for their maintenance.
- B. The owner or operator of a mobile home park shall be responsible for securing the maintenance of all structures and their sites.
- C. Every structure shall be maintained in an approved, safe and sanitary condition and in a state of approved repair.
- D. All devices, installations and safeguards required by this title shall be maintained in approved working order.
- E. No structure shall be so erected, placed or maintained as to obstruct a required opening in an awning, a required open space on a site, or prevent inspection of electrical or sanitary facilities of mobile home equipment. Storage cabinets approved by the Building Inspector may be used on a mobile home site.

(Prior code § 4644)

§ 18.68.020. Responsibility for connections.

When it is evident that there exists, or may exist, a violation of service facilities rules and regulations, the owner, operator, lessee, person in charge, of the park or any other person causing a violation shall cause to be corrected immediately or disconnect the service connection and mobile home drain connection from the respective park branch service lines and sewer lateral.

(Prior code § 4643)

§ 18.68.030. Supervision.

The licensee or permittee, or a duly authorized manager or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, operable and sanitary condition. The manager or caretaker shall be answerable with the licensee or permittee, for violation of any provision of this title.

(Prior code § 4654)

CHAPTER 18.72
FIRE PROTECTION

§ 18.72.010. Specifications.

Mobile home parks shall install permanent fire hydrants in sufficient quantity and of a standard conforming with the requirements of the Contra Costa County Consolidated Fire District. All buildings located within mobile home parks which may be used for public assembly or recreation shall be equipped with City-approved fire extinguishers or other fire extinguishing apparatus.
(Prior code § 4633; Ord. 818 C.S. § 4, 1975)

CHAPTER 18.76
LIQUID PETROLEUM GASES

§ 18.76.010. Compliance with rules and regulations required.

All appliances, containers, shut-off valves, pipe and fittings, and the location of all containers for liquefied petroleum gases must be in accordance with the rules and regulations of the National Board of Fire Underwriters and the Industrial Accident Commission of the State.
(Prior code § 4652(a))

§ 18.76.020. Cylinder location.

In no case shall a cylinder be located within a building enclosed on four sides nor within a mobile home, nor within 5 feet of a source of ignition, nor below ground level, nor with the outlet less than 5 feet away from any building or mobile home opening which is below such outlet.
(Prior code § 4652(b))

§ 18.76.030. Discharge from safety valves.

Discharges from safety valves shall be such as to prevent any impingement upon the vessel holding the petroleum gas and shall be at a point not less than 5 feet horizontally from any building or mobile home opening which is below such outlet.
(Prior code § 4652(c))

§ 18.76.040. Maximum volumetric capacity permitted.

The maximum size volumetric capacity permitted on a single mobile home site shall be 25 gallons in one tank.
(Prior code § 4652(d))

§ 18.76.050. Larger capacities to comply with gas service establishment provisions.

Any petroleum gas equipment and vessels with larger capacity must conform to the City's regulations covering petroleum gas service establishments.
(Prior code § 4652(e))

§ 18.76.060. Flammable material location.

Readily ignitable materials shall not be permitted within 10 feet of any cylinder, regulator or vaporizer.
(Prior code § 4652(f))

§ 18.76.070. Charging cylinders within ten feet prohibited.

A cylinder may not be charged within 10 feet of any mobile home in a mobile home park.
(Prior code § 4652(g))

CHAPTER 18.80
SANITATION

§ 18.80.010. Garbage and rubbish disposal and general sanitation.

- A. Adequate garbage cans and garbage collection service shall be provided within the mobile home park.
- B. All garbage and waste shall be removed from the mobile home park in accordance with the applicable provisions of the City as found in Chapter 8.16 of this code.
- C. All rubbish shall be removed from the park without creating a nuisance and in conformance with local smog control laws.
- D. No waste water or material from sinks, plumbing fixtures or waste lines shall be deposited upon the surface of the ground. All must be connected to the park sanitary sewer system.
(Prior code § 4651)

§ 18.80.020. Sanitation facilities—Generally.

Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitation facilities and such laundry facilities and car washing facilities as required, and more particularly described in the State's Division of Housing Trailer Park Act.
(Prior code § 4632)

**CHAPTER 18.84
ENFORCEMENT**

§ 18.84.010. Authority of officers.

- A. The officers or agents of the City Building Inspector and the County Health Officer shall have the authority of peace officers as may be necessary to secure enforcement of this title.
- B. The officers or agents of the City Building Inspector or the County Health Officers may:
 - 1. Enter public or private property to determine whether there exists any mobile home park to which this title applies;
 - 2. Enter and inspect all mobile home parks wherever situated, and inspect all accommodations, equipment or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of the provisions of this title.

(Prior code § 4655)

§ 18.84.020. Unfit structure deemed nuisance—Notice for correction or abatement.

Any structure that has become unfit for human habitation or occupancy as defined is a nuisance. The City Building Inspector after so determining shall notify the owner or operator of a mobile home park when such structure is found to be unfit for human occupancy. Such notice shall set forth the conditions that render the structure unfit for occupancy and shall order the correction or abatement thereof either by demolition or repair within 30 days or such additional time as is reasonable.

(Prior code § 4656)

§ 18.84.030. Legal actions.

If any building or structure is constructed, altered, converted, used or maintained in violation of any provision of this title or of any order or notice issued by the City Building Inspector or the County Health Officer pursuant to this title, or if a nuisance exists in any mobile home park or in any structure or upon the mobile home site on which it is situated, the City Building Inspector or the County Health Officer may institute any appropriate action or proceeding to prevent, restrain, correct or abate the violation or nuisance.

(Prior code § 4657)

§ 18.84.040. Abatement procedure.

In any action or proceeding to abate a nuisance in a mobile home park, proof of the following facts is sufficient for a judgment or order for the abatement of the operation of the mobile home park:

- A. Previous conviction of the owner or operator of the mobile home park of a violation of this title which constitutes a nuisance;
- B. Failure on the part of the owner or operator to correct the violation after the conviction;
- C. The violation is the basis for the proceeding.

(Prior code § 4658)

§ 18.84.050. Permit revocation.

The Health Department may revoke any license to maintain and operate a mobile home park when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this title.

(Prior code § 4659)

MOBILE HOME PARKS

MARTINEZ CODE

Title 20

ENVIRONMENTAL REVIEW

Chapter 20.04
ENVIRONMENTAL REVIEW

§ 20.04.010.	Purpose.	§ 20.04.050.	Review of final EIR or negative declaration.
§ 20.04.020.	State guidelines.	§ 20.04.060.	Ministerial projects.
§ 20.04.030.	Administration.	§ 20.04.070.	Categorical exemptions.
§ 20.04.040.	Certification of final EIR.	§ 20.04.080.	Review by Council.
		§ 20.04.090.	Time limits.

CHAPTER 20.04
ENVIRONMENTAL REVIEW

§ 20.04.010. Purpose.

In accordance with Section 21000 et seq. of the Public Resources Code of the State, the purpose of this title is to ensure that major consideration is given to preventing environmental damage as a consequence of activities of the City.

(Prior code § 10,400; Ord. 1083 C.S. § II, 1986)

§ 20.04.020. State guidelines.

State CEQA Guidelines adopted pursuant to Public Resources Code Section 21083 as amended from time to time are hereby incorporated in this Code by reference as if set forth in full herein.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.030. Administration.

The Planning and Building Director shall administer the provisions of this title. The Director shall carry out all delegated duties as specified in Section 15025(a) of the State CEQA Guidelines. The Director shall also have the authority to decide, in conjunction with the Planning Commission, which course to follow when the CEQA Guidelines allow discretion, and there exists no other state or city law controlling said discretion, such as in holding a separate public hearing on a Draft Environmental Impact Report (EIR), or holding a public scoping session before beginning to prepare a Draft EIR.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.040. Certification of final EIR.

The Planning Commission shall review and decide whether each Final EIR is adequate and complies with CEQA. A Commission decision to certify a Final EIR shall be appealable to the City Council by any interested party by filing a written appeal with the City Clerk within ten days of the Commission decision on the EIR, which decision may be taken at an earlier date than the decision on the project itself.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.050. Review of final EIR or negative declaration.

As to all development projects, permits or other planning submittals over which the Planning Commission has final approval authority (barring an appeal to the City Council), the Planning Commission shall review and consider the certified Final EIR or approve a negative declaration prior to approving the development project, permit or planning submittal. Under such circumstances, the Planning Commission shall make the findings required by Sections 15091 and 15093 of the CEQA regulations, if applicable.

Where the Planning Commission is required to make a recommendation on a project or any portion of a project (e.g. where other project approvals such as Design Review or Tentative Subdivision Map are approved contingent on Council approval of rezoning, general plan amendment, etc) to the City Council, the Planning Commission shall review and consider the certified Final EIR, or negative declaration in draft or final form and submit its recommended findings and decision on the project to the City Council.

In those instances where the City Council has final approval authority over the granting or denying of a development project, a permit application, a planning submittal, or a public project, the City Council shall review and consider the certified Final EIR or approve a negative declaration prior to approving the project, permit or planning submittal. In such circumstances, the City Council shall make the findings required by Sections 15091 and 15093 of the CEQA regulations, if applicable.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.060. Ministerial projects.

The following are defined as projects over which the City has only ministerial authority, and which are therefore not subject to CEQA or environmental review under this Title: all Police Department licensing and all activities listed in Section 15268(b) of the State CEQA Guidelines.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.070. Categorical exemptions.

Projects normally exempt under Classes 3, 4, 5 and 11 of the State CEQA Guidelines shall not be exempt if located in a visually significant area as shown on the "Visual Environment" or if located in a seismic or geologic hazard area as shown on the "Seismic and Geologic Hazard" map, both maps being contained in the Open Space and Conservation element of the City General Plan.

(Ord. 1083 C.S. § II, 1986)

§ 20.04.080. Review by Council.

Any member of the Council shall have the authority to request the Council to review any decision of the Planning Commission under this title by either making such request orally at the first Council meeting following the Commission meeting at which such decision was made, or by filing a written request with the City Clerk, provided that the oral or written request is made prior to the expiration of the time during which an appeal can be made. When such review is requested by any member of the Council, the decision shall be considered as appealed.

(Ord. 987 C.S. 1983; Ord. 1083 C.S. II, 1986)

§ 20.04.090. Time limits.

When the City is Lead Agency, an EIR shall be completed and certified within one year from the date on which the application is accepted as complete. The Planning & Building Director may extend the above specified time limit applicable to EIR's, for a reasonable period of time, in the event that compelling circumstances justify additional time and the applicant consents to the extension. Such consent shall be written, signed by the applicant, and recite the compelling reasons for the extension. If a time extension has been granted, the City shall approve or disapprove the project within 90 days after certification of the EIR.

(Ord. 1107 C.S. § I, 1987)

ENVIRONMENTAL REVIEW

MARTINEZ CODE

Title 21

SUBDIVISIONS

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SUBDIVISIONS

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CHAPTER 21.02 GENERAL PROVISIONS

§ 21.02.010. Purposes.

This Title is adopted to regulate the subdivision of land and to require the provision of certain prescribed improvements and payment of in-lieu fees which are needed as a consequence of the subdivision of land, and in order that the following purposes shall be achieved to:

- A. Implement the General Plan of the City, hereinafter referred to as the General Plan, adopted by the City Council as the long range, general comprehensive guide to the physical development of the City;
- B. Provide lots of sufficient size and appropriate design for the purpose for which they are to be used;
- C. Provide streets of adequate capacity with appropriate improvements for the anticipated traffic which will utilize them, and to ensure that streets are designed so as to minimize safety hazards to vehicles and pedestrians;
- D. Provide sidewalks and pedestrian ways where needed for the safety and convenience of pedestrians;
- E. Preserve the natural assets of the City and to create new beauty through skilled subdivision design;
- F. Provide for water supply, sewage disposal, storm drainage, street lighting, fire protection and other utilities and services needed to protect and promote the public health, safety and convenience;
- G. Plan and provide for parks, recreation and other types of community facilities where needed to serve new developments;
- H. Ensure that the costs of providing rights-of-way and improvements for vehicular and pedestrian movement, and utilities needed to serve new developments, are borne by the subdivider rather than by the property owners of the City at large;
- I. To ensure that, insofar as possible, land is subdivided in a manner which will promote the public health, safety, convenience and general welfare.

(Prior code § 4500; Ord. 1103 C.S. § I, 1987)

§ 21.02.020. General plan.

A subdivision map shall conform with the principles and standards of the General Plan and all its elements. In the absence of a precise plan line, a major street or secondary street shall conform approximately with the alignment shown on the General Plan.

(Prior code § 4501; Ord. 1103 C.S. § I, 1987)

§ 21.02.030. Precise plans and official plan lines.

A subdivision map shall conform with the precise plans for streets, community facilities sites and other projects, adopted by the City Council. A subdivision map shall conform with official plan lines of the widening of streets and for other projects.

(Prior code § 4502)

§ 21.02.040. Conformity with zoning provisions.

A subdivision map shall conform with the zoning provisions of the City, as found in Title 22 of this code, hereinafter simply referred to as the zoning provisions, with respect to use of land, lot size and dimensions, space for off-street parking and off-street loading areas and other applicable regulations.

(Prior code § 4503)

§ 21.02.050. State Subdivision Map Act applicability.

The provisions of this Title are supplemental to the provisions of the Subdivision Map Act of the State, hereinafter referred to as the Subdivision Map Act, and all terms used herein which are defined in the Subdivision Map Act shall have the same meaning as ascribed thereto in the Act, and as the Act may hereafter be amended.

(Prior code § 4504)

§ 21.02.060. Advisory agency designated.

The Planning Commission of the City, hereinafter referred to as the City Planning Commission, is designated as the advisory agency referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions, and the Commission shall have such additional powers and duties with respect to subdivisions, the maps thereof, and the procedure relating thereto as are prescribed by the Subdivision Map Act and by this Title. For review and approval of parcel maps, the advisory agency shall be the Board of Adjustments as defined in Title 22.

(Prior code § 4505; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.04
DEFINITIONS

§ 21.04.010. Generally.

All words in the present tense shall include the future tense. All words in the singular number shall include the plural number, and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise.
(Prior code § 4506(a))

§ 21.04.020. Alley.

"Alley" means a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.
(Prior code § 4506(c))

§ 21.04.022. Area of special flood hazard.

"Area of special flood hazard" means the land in the flood plain within the City that would be inundated by the base flood.
(Ord. 876 C.S. § 1, 1978)

§ 21.04.023. Arterial street.

"Arterial street" means a street designated for through traffic movement of heavy volumes of traffic between areas of the City between the City and neighboring cities, or as an approach to a highway or freeway. Arterial streets may be subject to control of access to abutting properties.
(Ord. 1103 C.S. § I, 1987)

§ 21.04.027. Bikeways.

"Bikeway" means a portion of a street, right-of-way, or a separate improved right-of-way designated for use by bicycles.
(Ord. 1103 C.S. § I, 1987)

§ 21.04.030. Block.

"Block" means a parcel of subdivided land bounded by streets or by streets and rights-of-way, railroads, other public sites, unsubdivided lands, drainage channels or watercourses.
(Prior code § 4506(d))

§ 21.04.035. Collector street.

"Collector street" means a street designated for traffic movement between major arterials and local street, with direct access to abutting property.
(Ord. 1103 C.S. § I, 1987)

§ 21.04.040. Cul-de-sac.

"Cul-de-sac" means a street which connects with another street only at one end and has a turnaround at the other end.
(Prior code § 4506(5))

§ 21.04.060. Frontage street.

"Frontage street" means a street which is parallel to and adjacent to a freeway or major street, and which provides access to abutting properties while relieving them of the effects of heavy volumes of fast through traffic.

(Prior code § 4506(g))

§ 21.04.070. Hillside.

"Hillside" means land having an average cross slope of twenty (20) percent or greater determined by measurement of the average slope perpendicular to the street line between the rear lot lines and the center of the street before grading. A block frontage shall be deemed a hillside if the slope of 30 percent or more of its length equals or exceeds 20 percent.

(Prior code § 4506(h))

§ 21.04.075. Local street.

"Local street" means a street designated for direct access to abutting land and for local traffic movement.

(Ord. 1103 C.S. § I, 1987)

§ 21.04.080. Lot.

"Lot" means a parcel of subdivided land under one ownership used or susceptible to being used in accord with the regulations of this Title and in accord with the zoning provisions.

(Prior code § 4506(i))

§ 21.04.090. Lot, double frontage.

"Double frontage lot" means an interior lot having frontage on two parallel or approximately parallel streets.

(Prior code § 4506(j))

§ 21.04.100. Lot, key.

"Key lot" means the first interior lot to the rear or a reversed corner lot.

(Prior code § 4506(k))

§ 21.04.110. Lot, reversed corner.

"Reversed corner lot" means a corner lot the side line of which is substantially a continuation of the front property line of the first lot to its rear.

(Prior code § 4506(l))

§ 21.04.114. Lot line adjustment.

"Lot line adjustment" means a shift or rotation of an existing lot line between two or more adjacent parcels where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existing is not thereby created.

(Prior Ord. 909 C.S. § 1, 1979; Ord. 1103 C.S. § I, 1987; Ord. 1154 C.S. § I, 1990)

§ 21.04.140. Nonaccess strip.

"Nonaccess strip" means a strip of land separating private property and a street right-of-way

which is intended to prevent access to abutting property from the street.
(Prior code § 4506(o); Ord. 1103 C.S. § I, 1987)

§ 21.04.144. Parcel map.

"Parcel map" means a map showing a division of land of four or less parcels as required by this Title, prepared in accordance with the provisions of this Chapter, and the Subdivision Map Act.
(Ord. 896 C.S. § 2, 1979)

§ 21.04.150. Pedestrian way.

"Pedestrian way" means a public way designed for use by pedestrians which is not intended for use by automobile vehicles and which is not located within a street right-of-way.
(Prior code § 4506(p))

§ 21.04.160. Planting strip.

"Planting strip" means a strip between the sidewalk and property line, within a street right-of-way, which is intended to be planted with trees or otherwise landscaped.
(Prior code § 4506(q))

§ 21.04.170. Preliminary map.

"Preliminary map" means a map prepared in accord with the provisions of Chapter 21.40 of this Title, showing the design of a proposed subdivision and the existing conditions in and around it, for the purpose of review with respect to the conformity of the map with the provisions of this Title and other applicable ordinances and possible improvements in the design of the subdivision plan.
(Prior code § 4504(r))

§ 21.04.180. Reversion to acreage map.

"Reversion to acreage map" means a map prepared in accord with the provisions of Chapter 21.50 of this Title for the purpose of reverting subdivided land to acreage.
(Prior code § 4506(s))

§ 21.04.200. Sidewalk.

"Sidewalk" means a way designed for use by pedestrians which is located within a street right-of-way.
(Prior code § 4506(u))

§ 21.04.210. Shall.

"Shall" is mandatory and not directory.
(Prior code § 4506(b))

§ 21.04.218. Utilities easement.

"Utilities easement" means an easement over a portion of a parcel reserved for the installation of utilities.
(Ord. 1103 C.S. § I, 1987)

§ 21.04.220. Utilities strip.

"Utilities strip" means a strip between the curb and the property line within a street right-of-way which is intended for the installation of utilities.

(Prior code 4506(v); Ord. 1103 C.S. § I, 1987)

§ 21.04.230. Wording.

Where the wording "shall agree", "enter into an agreement" and "shall report" is used within this Title, it means in writing.

(Prior code § 4506(w))

CHAPTER 21.06
ENFORCEMENT

§ 21.06.010. Penalties.

Any offer to sell, contract to sell, or sale of a subdivision or any part thereof before a final map thereof in full compliance with the provisions of this Title has been duly recorded or filed in the office of the county recorder is a misdemeanor, and any person, firm, partnership or corporation, upon conviction thereof, shall be punishable by a fine of not less than \$25.00 and not more than \$500.00, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment, except that nothing herein contained shall be deemed to bar any legal, equitable or summary remedy to which the City or any other political subdivision, or person, or firm, partnership or corporation may otherwise be entitled; and the City or any other political subdivision, or person, firm, partnership or corporation may file a suit in the Superior Court of Contra Costa County to restrain or enjoin any attempted or proposed subdivision or sale in violation of this Title.

(Prior code § 4559)

§ 21.06.020. Duties of City Engineer.

It shall be the responsibility of the City Engineer to notify the City Attorney of any violation of this Title and to sign any necessary complaints.

(Prior code § 4560)

§ 21.06.030. Voidable conveyances.

Any deed of conveyance, sale, or contract to sell made contrary to the provisions of this Title, is voidable at the sole option of the grantee, buyer or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy, within one year after the dates of execution of the deed of conveyance, sale or contract to sell, but the deed of conveyance, sale or contract to sell is binding upon any assignee or transferee of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or his assignee, heir, or devisee.

(Prior code § 4561)

CHAPTER 21.08
STREETS, ALLEYS AND WALKWAYS

§ 21.08.010. Street rights-of-way and improvements.

Street rights-of-way and improvements shall conform with the minimum standards prescribed in Table 1. Any variance to the minimum standard is subject to the approval of the City Engineer.
(Prior code § 4507(a); Ord. 1103 C.S. § I, 1987)

§ 21.08.020. Curbs and gutters.

Standard concrete curbs shall be required in accordance with standards approved by the City Engineer, and rolled curbs and gutters shall not be permitted.
(Prior code § 4507(b); Ord. 1103 C.S. § I, 1987)

§ 21.08.030. Utilities strips.

A utilities strip shall be provided between the curb and property line in accord with the standards prescribed in Table 1, unless a utility easement is provided.
(Prior code § 4507(c); Ord. 1103 C.S. § I, 1987)

§ 21.08.040. Sidewalks.

Sidewalks shall be provided in accord with the standards prescribed in Table 1.
(Prior code § 4507(d))

§ 21.08.050. Non-access strips.

A non-access strip shall be provided if required by the Planning Commission.
(Prior code § 4507(e); Ord. 1103 C.S. § I, 1987)

§ 21.08.060. Curves and tangents.

Curved streets shall have center line radii and tangent lengths of not less than the minimum standards prescribed in Table 1.
(Prior code § 4507(f); Ord. 1103 C.S. § I, 1987)

§ 21.08.070. Grades.

Street grades shall conform to the standards prescribed in Table 1, unless an exception is granted by the City Planning Commission under Section 21.52.040 of this Title.
(Prior code § 4507(g))

§ 21.08.080. Corners.

At street intersections, corners shall be rounded at the property line by a radius of not less than 20 feet.
(Prior code § 4507(h))

§ 21.08.090. Street intersections.

Street intersections shall be as near right angles as practicable.

(Prior code § 4507(i))

§ 21.08.100. Alignment of streets.

Streets located on opposite sides of an intersecting street shall have their center lines directly opposite each other where physically possible; otherwise the center lines shall be separated by not less than 150 feet.

(Prior code § 4507(j))

§ 21.08.110. Continuations of existing streets.

Subdivision streets which constitute continuations of streets in contiguous territory shall be aligned so that their center lines coincide. In cases where straight continuations are not physically possible, or where better subdivision design results, center lines shall be continued by curves.

(Prior code § 4507(k))

§ 21.08.120. Streets in subdivisions adjoining acreage.

Where a subdivision adjoins unsubdivided land, streets which may be extended in the event of the subdivision of the adjoining land shall be provided through to the boundary line of the tract; a 1-foot non-access strip at the stub end of each such street shall be offered for dedication to the City. The developer shall provide adequate right-of-way and construct a temporary circular turnaround at the end of the street where required by the City Engineer.

(Prior code § 4507(l); Ord. 1103 C.S. § I, 1987)

§ 21.08.130. Cul-de-sacs.

Cul-de-sacs shall be not more than 600 feet in length, or 16 lots whichever is greater, and shall terminate with a circular turnaround with a curb radius of not less than 40 feet. Cul-de-sac length shall be measured to the nearest fully-improved through street, and shall include any other cul-de-sacs branching from that common point.

(Prior code 4507(m); Ord. 1103 C.S. § I, 1987)

§ 21.08.140. Frontage streets.

A frontage street separated from a freeway or a major street by a non-access strip may be required for access to a contiguous subdivision.

(Prior code 4507(n); Ord. 1103 C.S. § I, 1987)

§ 21.08.150. Planting strips.

A planting strip may be required between the sidewalk and property line in accordance with standards prescribed in Table 1. If required by the City Planning Commission, the subdivider shall plant trees in the planting strips or otherwise landscape them. Varieties, sizes and locations of trees and plant materials shall be subject to the approval of the City Engineer.

(Prior code § 4507(o); Ord. 1103 C.S. § I, 1987)

§ 21.08.160. Street names.

A street which is a continuation of an existing street shall bear the name of the existing street. In order to avoid duplication, names of new streets and requests for name changes shall be subject

to the approval of the City Planning Commission. Each new subdivision shall have at least one new street named after a former mayor of Martinez, starting with the first mayor.

(Prior code § 4507(p); Ord. 1103 C.S. § I, 1987)

§ 21.08.170. Alleys.

A. Alleys 30 feet in width may be required at the rear of lots in commercial and industrial zoning districts. Alleys shall not be permitted in residential, multiple dwelling, and professional and administrative office zoning districts;

B. Where two alleys intersect, the corners shall be rounded at the property line by a radius of not less than 20 feet;

C. Alleys shall be graded and paved to their full width.

(Prior code § 4508)

§ 21.08.180. Pedestrian ways.

A. Pedestrian ways not more than 20 feet in width may be required through the middle of blocks which are more than 1,200 feet in length, and to connect cul-de-sacs or to provide access to playgrounds, parks, schools, shopping centers or similar community facilities;

B. Required pedestrian ways shall be graded and paved to a width of not less than 10 feet.

(Prior code § 4509)

§ 21.08.190. Bikeways.

Bikeway shall be provided in accordance with the City Trails Plan and Circulation Element, and when needed for adequate circulation for the proposed subdivision.

(Ord. 1103 C.S. § I, 1987)

§ 21.08.200. Table I-Minimum street right-of-way and improvements standards.

	Arterial Sts.	Collector Sts.	Local Sts.	Hillside Sts.****
Traffic Lanes	4—12'	2—12'	2—10'	2—10'
Parking Lanes	2—8'	2—8'	2—8'	1—8'
Median strip	1—16'	—	—	—
Curb-to-curb width	80'	40'	36'	28'
Utilities strip	2—3'	2—3'	2—3'	2—2'
Planting strip*	2—3'	2—3'	2—3'	1—4'
Sidewalk**	2—4'	2—4'	2—4'	1—4'
Right-of-way				
(1)	100'	60'	56'	40'
(2)	94'	54'	50'	40'
Radius of curvature (minimum)	550'	300'	150'	130'

	Arterial Sts.	Collector Sts.	Local Sts.	Hillside Sts.****
Grade				
(maximum)	10%	10%	15%	15%***
(minimum)	0.5%	0.5%	0.5%	0.5%
Curb height	6"	6"	6"	6"

Notes:

- * When the subdivider agrees to plant trees on the property, as approved by City Planning Commission, a planting strip will not be required and "Right-of-Way(2)" shall apply.
- ** An exception to required sidewalks on lots with a minimum of 75-foot frontage and a minimum site area of 10,000 square feet may be granted by the Planning Commission under Section 21.52.040 of this Title.
- *** Slope of streets shall not exceed 15 percent except by special permission of the City Planning Commission pursuant to Section 21.52.040 of this Title.
- **** Hillside street standards shall require on-street parking prohibitions on one side of the street for 28' curb to curb width.

(Ord. 1103 C.S. § I, 1987)

§ 21.08.210. Traffic fees.

A traffic mitigation fee may be required as a condition of approval in an amount, of a nature and with those terms and conditions as specified by City Council resolution.

(1103 C.S. § I, 1987)

CHAPTER 21.10
LOTS AND BLOCKS

§ 21.10.010. Lots.

- A. The size and shape of lots shall be appropriate for the locality in which the subdivision is situated, the topography of the land and the proposed use.
- B. Lot configuration shall conform to all requirements of Title 22 such as lot area, width, depth and street frontage and intended use.
- C. Double frontage lots shall not be permitted except where necessary to prevent residential development from fronting on a freeway, a major street or a secondary street, or where necessitated by topographic or other physical conditions.
- D. Reverse corner lots and key lots shall not be permitted except where necessitated by topographic or other physical conditions.
- E. The side lines of lots shall run at right angles to the street upon which the lot fronts, as far as practicable.
- F. No lot shall be divided by a boundary line of the City, a school district, a sanitary district or any other taxing district.
- G. In a subdivision in which the lots may be resubdivided at some future time, the location of lot lines and other details of layout shall be such that resubdivisions may readily take place without violating the requirements of this Title or the zoning provisions and without interfering with the orderly extension of adjacent streets.
- H. All lots shall be adequately drained and sloped in such a manner that surface water is conducted to streets, underground drains or drainage channels approved by the City Engineer.

(Prior code § 4510; Ord. 1103 C.S. § I, 1987)

§ 21.10.020. Blocks.

- A. Blocks shall not exceed 1,200 feet in length except where necessitated by topographic or other physical conditions. Long blocks normally shall be provided adjacent to major and secondary streets in order to reduce the number of intersections.
- B. The depth of blocks shall be sufficient to allow for two tiers of lots, the depth of which lots shall be not more than three times the width, except where necessitated by topographic or other physical conditions.

(Prior code § 4511)

CHAPTER 21.12
WATERCOURSES

§ 21.12.010. Dedication.

In the event that the subdivision is traversed by any watercourses, channels, streams or creeks, the subdivider may be required to dedicate to the City easements for storm drainage or conservation purposes conforming substantially with the lines of such watercourses, channels, streams or creeks, and may be required to dedicate such additional easements for structures or channel changes or both to adequately dispose of surface and storm waters.

(Prior code § 4512; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.14
RAILROAD AND GRADE CROSSINGS

§ 21.14.010. Railroads.

Where a subdivision adjoins a railroad right-of-way and the General Plan, or the zoning provisions designate the property for industrial use, the streets nearest to and running in the same general direction as the railroad shall be as nearly parallel thereto as practicable and at a sufficient distance therefrom to provide suitable depths for industrial sites between the streets and the railroad.

(Prior code § 4513(a))

§ 21.14.020. Railroad grade crossing.

Where a subdivision adjoins a railroad and the street layout involves a railroad grade crossing, the possibility of a grade separation or other treatment shall be considered by the City Planning Commission, and the plan of the subdivision may be required to conform to prescribed conditions in anticipation of a grade separation or other treatment.

(Prior code § 4513(b))

CHAPTER 21.16
DRAINAGE

§ 21.16.010. Required.

The subdivider shall collect all storm waters entering and generated within the site and convey such waters to approved drainage facilities. The subdivider shall provide structures, storm sewers and drainage channels necessary for adequate drainage of surface and storm waters, beyond the boundary of the subdivision. Disposal of surface and storm waters including means for the disposal of surface and storm waters into wells or into leaching lines of individual sanitary sewage disposal systems shall not be permitted.

(Prior code § 4514(a); Ord. 1103 C.S. § I, 1987)

§ 21.16.020. Facilities design to be in accord with city specifications.

The design of drainage facilities shall be in accord with City specifications and shall be approved by the City Engineer prior to the commencement of construction. Drainage facilities required to be installed shall be of sufficient size to convey anticipated ultimate runoff resulting from ultimate development of the watershed area.

(Prior code § 4514(b); Ord. 1103 C.S. § I, 1987)

§ 21.16.030. Drainage fee.

A drainage fee may be required as a condition of approval in an amount, of a nature and with conditions and terms as specified by City Council resolution or Drainage District ordinance.

(Ord. 1103 C.S. § I, 1987)

CHAPTER 21.18
WATER AND SEWERS

§ 21.18.010. Sanitary sewers.

The subdivider shall install sanitary sewer facilities connecting with a sanitary district sewage disposal system to serve each lot, in accord with plans approved by the City Engineer. The sanitary sewerage facilities connecting with the City shall be installed to the satisfaction of the City Engineer.

(Prior code § 4515)

§ 21.18.020. Water supply.

The subdivider shall install adequate water mains connecting with the City water supply system which can serve each lot, in accord with plans approved by the City Engineer. The water mains shall be installed to the satisfaction of the City Engineer.

(Prior code § 4516)

CHAPTER 21.20
FIRE HYDRANTS

§ 21.20.010. Location and installation.

The subdivider shall install fire hydrants in conformity with City specifications and the standards established by the National Board of Fire Underwriters. The location of fire hydrants shall be determined by the Chief of the Contra Costa County Consolidated Fire Protection District and approved by the City Engineer.

(Prior code § 4517; Ord. 819 C.S. § 1, 1975; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.22
UTILITY EASEMENTS

§ 21.22.010. Required when.

Except where alleys are provided, utility easements may be required along property lines, and electric power, and telephone distribution lines may be required to be located in such easements. (Prior code § 4518; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.24
ACCESS LIMITATION

§ 21.24.010. Dedication of non-access strips.

Where the side or rear lines of any lots abut on a freeway, major street or secondary street, the City may require that the subdivider dedicate to the City non-access strips to preclude access to and from such lots across the side line of the freeway, major street or secondary street.
(Prior code § 4519; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.26
RESERVE STRIPS

§ 21.26.010. Dedication required.

Reserve strips controlling access to and from streets, alleys or pedestrian ways shall not be permitted unless such reserve strips are offered for dedication to the City.
(Prior code § 4520)

CHAPTER 21.28
STREET SIGNS AND LIGHTS

§ 21.28.010. Street signs.

The subdivider shall furnish and install at the location prescribed by the City Engineer one street sign at each intersection with a sign for each intersecting street lettered on both sides conforming with City specifications.

(Prior code § 4521)

§ 21.28.020. Street lights.

The subdivider shall provide a street lighting system. Street lighting shall conform with City specifications. The locations of street lights shall be prescribed by the City Engineer.

(Prior code § 4522; Ord. 1103 C.S. § I, 1987)

§ 21.28.030. Traffic control devices.

The subdivider shall provide and install traffic control devices as may be required by the City Engineer.

(Ord. 1103 C.S. § I, 1986)

CHAPTER 21.30
COMMUNITY FACILITIES SITES

§ 21.30.010. Reservation by subdivider.

Where precise plans for community facilities within a subdivision have been developed and approved by the City Council, each community facility site shall be designated as a single lot on a subdivision map. Community facilities sites shall include recreation areas, parks, school sites, public building sites and other public areas. The subdivider shall reserve the community facilities sites for sale to the public agency involved as per the current provisions of the State Subdivision Map Act.

(Prior code § 4523; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.32
COMMERCIAL AND INDUSTRIAL AREAS

§ 21.32.010. Specifications generally.

When property is designated on the General Plan or by the zoning provisions for commercial use, the plan of the subdivision shall be appropriate for such use. Streets shall be designed to handle the anticipated traffic that will utilize them. Insofar as possible, streets shall be laid out so that there will be direct access to the commercial area from arterial and collector streets without utilizing local streets or traversing residential areas. Lot areas and dimensions shall conform with the requirements of zoning provisions and shall be adequate to accommodate the yard spaces, off-street parking facilities and off-street loading facilities required by the zoning provisions and such additional spaces and other service facilities as are needed for the type of use and development contemplated. Property shall not be designated for commercial use on a subdivision map unless the property is designated for commercial or industrial use on the General Plan and the zoning provisions.

(Prior code § 4525; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.36
PLANNED UNIT DEVELOPMENTS

§ 21.36.010. Permitted when.

Where in accord with the zoning provisions, a use permit has been granted authorizing a planned unit development on the land or a portion of the land proposed to be subdivided, the plan of the subdivision shall be appropriate for the planned unit development. Exceptions to the subdivision regulations which are necessary to make the planned unit development practicable may be authorized by the City Planning Commission in accord with the provisions of Chapter 21.52 of this Title.

(Prior code § 4526)

CHAPTER 21.38
HAZARDOUS AREAS

§ 21.38.010. Generally.

Areas subject to inundation, slides, or other hazards shall not be subdivided unless corrective measures are taken in accord with good engineering standards.

(Prior code § 4527; Ord. 739 C.S. § 1, 1971; Ord. 876 C.S. § 2, 1978; Ord. 1218 C.S. § 8, 1995)

§ 21.38.050. Utility construction to minimize drainage.

The location, elevation and construction all public utilities and facilities such as sewer, gas, electrical and water systems and streets shall be in such a manner as to minimize or eliminate damage by flooding.

(Prior code § 4527(4); Ord. 739 C.S. § 1 (4), 1971; Ord. 876 C.S. § 2, 1978)

§ 21.38.060. Adequate drainage required.

The developer shall provide for adequate drainage so as to reduce the community's exposure to flood hazards with respect to adjacent and downstream properties.

(Prior code § 4527(5); Ord. 739 C.S. § 1 (5), 1971; Ord. 876 C.S. § 2, 1978)

§ 21.38.070. Cumulative effect of development on flooding.

The cumulative affect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. The subdivider shall provide the necessary engineering calculations of the cumulative effect for the proposed development.

(Prior code § 4527(6); Ord. 739 C.S. § 1 (6), 1971; Ord. 876 C.S. § 2, 1978; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.39
CERTIFICATE OF COMPLIANCE

§ 21.39.010. Certificate of compliance.

Determination of compliance: Any person owning real property within the City of Martinez or a vendee of such person pursuant to a contract of sale of such real property may request a determination as to whether such real property complies with the provisions of this Title and the Subdivision Map Act in the following manner:

- A. Anyone wishing to receive such a determination shall submit such information as required by the Community Development Director along with such fees as are established by resolutions of the City Council to the Community Development Department.
- B. The City Engineer shall review and make a determination as to whether such real property complies with the provisions of this Title and the Subdivision Map Act.
(Ord. 1248 C.S. § 1, 1997)

§ 21.39.020. Property must comply with government code Section 66499.34.

A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Government Code section 66499.34.
(Ord. 1248 C.S. § 1, 1997)

§ 21.39.030. Filing of certificate.

Upon making such a determination, the City Engineer shall cause a certificate of compliance or conditional certificate of compliance to be filed for record with the County Recorder. The certificate of compliance or conditional certificate of compliance shall provide the information specified in Government Code section 66499.35(f).
(Ord. 1248 C.S. § 1, 1997)

§ 21.39.040. Conditional approval.

If the City Engineer determines that such real property does not comply with the provisions of this code or the Subdivision Map Act, the City Engineer may, as a condition to granting a certificate of compliance, impose only those conditions that would have been applicable to the division of the property at the time the current owner of record acquired his interest in the property, and which had been established at such time by ordinance. The City Engineer may also impose such conditions as would be applicable to a current division of the property if it is determined that the applicant was the owner of record at the time of the initial violation of the provisions of the Subdivision Map Act or the City subdivision ordinance and created a parcel(s) in violation of the Map Act or this Title by a grant of real property. Upon making such a determination and establishing such conditions, the City Engineer shall cause a conditional certificate of compliance to be filed for record with the County Recorder. Such certificate shall serve as notice to the property owner who has applied for a certificate pursuant to this Chapter, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued.

(Ord. 1248 C.S. § 1, 1997)

§ 21.39.050. Other documents which constitute certificates of compliance.

A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(Ord. 1248 C.S. § 1, 1997)

§ 21.39.060. Official map pursuant to government code Section 66499.52(b).

An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the City Engineer, within contiguous sections of land.

(Ord. 1248 C.S. § 1, 1997)

§ 21.39.070. Certifying multiple parcels.

Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each such parcel.

(Ord. 1248 C.S. § 1, 1997)

§ 21.39.080. Fee.

A processing and appeal fee as established by City Council shall be charged to the applicant for processing and, if applicable, appealing the certificate of compliance.

(Ord. 1248 C.S. § 1, 1997)

§ 21.39.090. Appeal of compliance determination.

- A. The applicant for a certificate of compliance may appeal the determination made by the City Engineer to the City Council within ten (10) calendar days after the City Engineer delivers the City Engineer's proposed certificate to the applicant. The City Engineer shall not record the certificate during said ten (10) day period. If no written appeal, with appropriate fee, is received by the City Clerk within said appeal period, it shall be conclusively deemed that the applicant has waived his/her/its appeal rights and consents to the recordation of the proposed certificate. Immediately after the appeal period has passed without an appeal being timely filed, the City Engineer shall record the certificate.
- B. Upon appeal, the City Council shall hear the matter de novo, and the City Council's decision shall be final.

(Ord. 1248 C.S. § 1, 1997)

CHAPTER 21.40
PRELIMINARY REVIEW

§ 21.40.020. Form.

The preliminary map shall be clearly and legibly drawn to an appropriate engineering scale.
(Prior code § 4529; Ord. 1103 C.S. § I, 1987)

§ 21.40.030. Required information on map designated.

The preliminary map shall contain the following information:

- A. Name and address of the record owners of the property to be subdivided, and name and address of the subdivider if the owner is not the subdivider;
- B. Name and address of the person who prepared the map;
- C. Date of preparation;
- D. North point;
- E. Scale;
- F. Boundaries of the proposed subdivision;
- G. Locations of streets, alleys and pedestrian ways within the proposed subdivision;
- H. Names and locations of streets and alleys adjacent to the proposed subdivision;
- I. Suggested locations of street extensions and street connections in surrounding unsubdivided properties;
- J. Approximate grades of all streets or parts of streets exceeding six percent;
- K. Lot lines;
- L. Locations of proposed community facilities sites;
- M. Locations of watercourses;
- N. Locations of permanent physical features affecting the design of the proposed subdivision;
- O. Intended use of the lots;
- P. Approximate contour lines if necessary to illustrate the influence of topographic conditions on the design of the subdivision. An aerial photograph or a topographic model of the property may be submitted in lieu of indicating contour lines on the preliminary map;
- Q. Slope density calculations as per Section 22.12.170.
(Prior code § 4530; Ord. 1103 C.S. § I, 1987)

§ 21.40.040. Design conference.

Within twenty (20) days of the day of submission of the preliminary map, the City Planning and Building Director shall submit the map for review to the Development Review Committee, made

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up of representatives of the Planning Division, Building Division, Engineering Division, Water Division, and Police Department.

(Prior code § 4531; Ord. 1103 C.S. § I, 1987)

§ 21.40.050. Report of development review committee.

The City Planning and Building Director shall furnish to the subdivider a written report of the recommendations of the Development Review Committee.

(Prior code § 4532; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.42
TENTATIVE MAP

§ 21.42.010. Filing—Number of copies.

The subdivider shall file with the City the necessary copies as required by the Planning and Building Director.

(Prior code § 4533(a); Ord. 1103 C.S. § I, 1987)

§ 21.42.020. Filing—Fee.

At the time of filing the tentative map, the subdivider shall pay a filing fee set by resolution of the City Council. If a revision of the tentative map or a tentative map including additional land is filed, the subdivider may be required to pay an additional filing fee set by resolution of the Council.

(Prior code § 4533(b))

§ 21.42.030. Filing—Time.

A. The tentative map shall be filed with the City Planning and Building Director prior to the completion of final surveys of streets and lots and before grading or construction work is begun within the proposed subdivision.

B. The time of filing a tentative map shall be construed to be the time when the map is accepted by the City Planning and Building Director and as specified in the California Subdivision Map Act.

(Prior code § 4533(c); Ord. 1103 C.S. § I, 1987)

§ 21.42.050. Form.

The tentative map shall be clearly and legibly drawn to an appropriate engineering scale and shall be prepared by a registered civil engineer or land surveyor.

(Prior code § 4534; Ord. 1103 C.S. § I, 1987)

§ 21.42.060. Required information on map designated.

A tentative map shall contain the following information:

- A. The tract name;
- B. Name and address of the record owner of the property to be subdivided, and name and address of the subdivider if the owner is not the subdivider;
- C. Name and address of the person who prepared the map;
- D. Date of preparation;
- E. North point;
- F. Scale;
- G. A key map showing the proposed subdivision and surrounding subdivisions and streets located within ¼ mile radius of the boundaries of the proposed subdivision;

- H. Boundary lines;
- I. Locations and widths of all streets within the proposed subdivision;
- J. Names, locations and widths of streets and private roads adjacent to the proposed subdivision;
- K. Locations and widths of alleys;
- L. Approximate grades of all streets. Profiles may be required where the topography may present a problem;
- M. Approximate radii of street curves;
- N. Locations and widths of pedestrian ways within the proposed subdivision;
- O. Typical cross section of streets, alleys and pedestrian ways;
- P. Lot lines and approximate dimensions;
- Q. Lot numbers;
- R. Locations and approximate dimensions of proposed community facilities sites;
- S. Limitations on rights of access to and from streets, lots and other parcels of land, and locations and widths of nonaccess strips and reserve strips;
- T. Location of existing utilities together with widths and locations of all existing and proposed public and private easements;
- U. Locations and widths of watercourses and areas subject to inundation from floods;
- V. Locations of structures, canals, pipelines, railroads and other physical features;
- W. Locations of boundary lines of the City, school district, sanitary districts and any other taxing districts;
- X. Contours shall be shown drawn to intervals prescribed by the City Planning and Building Director, and meeting requirements for slope-density calculations. Contours shall be extended into adjoining properties a sufficient distance to show relationships to adjoining properties and feasibility of proposed street extensions.
- Y. Other information as may be required by the Planning and Building Director.
(Prior code § 4535; Ord. 1103 C.S. § I, 1987)

§ 21.42.070. Statements to accompany map.

The tentative map shall show thereon or be accompanied by the following statements:

- A. Legal description of the property;
- B. Existing use or uses of the property including the location of all existing structures to remain on the property;
- C. Purposes of all existing and proposed easements and all building and use restrictions pertaining to such easements;

- D. Proposed uses of the property, including a statement of the relative proportions of the total area of the subdivision proposed to be devoted to each use;
- E. Source of water supply;
- F. Method of sewage disposal;
- G. Provisions for drainage and flood control;
- H. Types of street improvements and utilities which the subdivider proposes to install;
- I. Description of street tree planting plan and other landscaping plans;
- J. Statement of other improvements to be made or installed;
- K. Statement of the time when improvements are proposed to be made or installed;
- L. Tract or deed restrictions, if any;
- M. Description and location of public and private community facilities, including parks, playgrounds, schools, shopping centers and other facilities, which would serve the proposed subdivision;
- N. Description of the proposed subdivision, including the number of lots, average and minimum sizes of lots, type of development and any other information which would be useful to the City Planning Commission in reviewing the tentative map;
- O. A preliminary soils report and geotechnical investigation. In areas of unstable soils the Planning & Building Director may require that this report be reviewed at the applicant's expense by the City's soils and geotechnical consultant prior to accepting the subdivision application as complete. Otherwise, this review shall be required prior to submission of improvement plans for the subdivision.

(Prior code § 4536; Ord. 1103 C.S. § I, 1987)

§ 21.42.080. Planning and building director action.

The City Planning and Building Director shall set a date for consideration of the tentative map, which date shall be within regulations of the Subdivision Map Act.

(Prior code § 4537(a); Ord. 1103, C.S. § I, 1987)

§ 21.42.090. Planning commission action.

- A. The City Planning Commission shall take action on the Tentative Map within the time elements set within the Subdivision Map Act. The Commission may approve, conditionally approve or disapprove the tentative map.
- B. The action of the Commission shall be based on conformity of the tentative map with the Subdivision Map Act, with this Title, with the zoning provisions, with the general plan and with precise plans and official plan lines adopted by the City Council, and on the quality of the design of the proposed subdivision.

(Prior code 4537(b); Ord. 1103 C.S. § 1, 1987)

§ 21.42.100. Appeal to City Council—Hearing.

Within ten (10) days of the date of the City Planning Commission's action, the subdivider, of any interested party may appeal to the City Council for review of the action. An appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission. Upon the filing of an appeal, the Commission shall transmit to the City Clerk the report of the City Planning Director and the reports received from other public and private agencies to which the map was transmitted. The City Clerk shall give notice to the subdivider and/or the appellant of the date when the action of the City Planning Commission will be reviewed by the City Council. Within thirty (30) days after the filing of an appeal, the Council shall review the action of the Commission and shall hold a public hearing there on, in accord with the provisions of the Subdivision Map Act. The Council shall act on the appeal within ten (10) days after the close of the hearing.

(Prior code § 4537(c); Ord. 1009 C.S. § 1, 1984; Ord. 1103 C.S. § I, 1987)

§ 21.42.101. Review by council.

Any member of the Council shall have the authority to request the Council to review any decision of the Board of Adjustments (Board of Appeals or the Planning Commission) by either making such request orally at the first Council meeting following the Commission meeting at which such decision was made, or by filing a written request with the City Clerk provided that such oral or written request is made prior to the expiration of the time during which an appeal can be made. When such review is requested by any member of the Council, the decision shall be considered as appealed.

(Ord. 987 C.S., 1983; Ord. 1103 C.S. § I, 1987)

§ 21.42.110. Term.

- A. Except as provided below, a tentative map shall expire 24 months after its approval or conditional approval. The City Planning Commission may, in its discretion, extend the time at which the tentative map expires for a period or periods not exceeding a total of 36 months. Applications for extensions must be filed no later than 45 days prior to the expiration of the tentative map. Upon such application, the tentative map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. Failure to record a final map prior to the expiration of the tentative map (including any extensions thereof) shall terminate all proceedings. Before a final map may thereafter be recorded or any lots sold, a new tentative map shall be filed in accord with the provisions of this Title.
- B. The period of time specified in subsection A herein (including any extensions thereof) shall be suspended for the duration of any applicable development moratorium (as defined in Government Code § 66452.5, subdivision (f)) imposed after approval or conditional approval of the tentative map, and shall continue upon termination of the moratorium for the same period of time as was left to run on the tentative map at the time that the moratorium was imposed; provided, however, that if the remaining time is less than 120 days, the tentative map shall be valid for 120 days following termination of the moratorium.
- C. A tentative map with respect to property subject to a development agreement (as defined in Government Code § 65864 (et seq.)) may be extended and shall expire only as provided in the agreement.

D. Notwithstanding anything in subsection A herein to the contrary, the City Planning Commission shall not extend the time for expiration of the tentative map if it makes any of the following findings:

1. Due to changes to the general plan any applicable specific plan, or the Municipal Code, the tentative map is no longer in conformance with the General Plan, any applicable specific plan, or the Municipal Code; and/or
2. Due to changed circumstances, the design of the subdivision or the proposed improvements would cause substantial environmental damage; the site is no longer physically suitable for the proposed development; and/or an extension would be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.
3. That any condition of the tentative map approval has not been complied with at the time the application for map extension has been submitted or at the time that the decision to grant or deny the application to extend the map is made, if said condition was required to be satisfied by said date(s.)

Notwithstanding the foregoing, the City Planning Commission may approve an extension in which it finds that due to changed circumstances, the design of the subdivision or the proposed improvements would cause substantial environmental damage if an environmental impact report was prepared for the tentative map or a subsequent EIR is required under CEQA Guidelines § 15162 is prepared for the map extension application which analyzes the changed circumstances and a finding was/is made that the impacts can be mitigated through the imposition of conditions or specific economic, social or other considerations make infeasible the project alternatives or applicable mitigation measures identified in the environmental impact report.

Notwithstanding the foregoing, the City Planning Commission may approve an extension for which the findings in subdivision D(1) and (2) could otherwise be made as long as the subdivider agrees with the imposition of conditions on the extension of the tentative map which, because of the effect of such conditions, preclude the making of all of said findings; provided, however, that no such conditions need to be imposed to address the findings in subdivision D(2) if the immediately preceding paragraph applies.

E. The subdivider or any interested person adversely affected may appeal any action of the Planning Commission on the extension application to the City Council in accordance with § 21.42.100, except that any such appeal shall be filed within fifteen (15) days after the action by the Planning Commission.

(Prior code § 4538; Ord. 966 C.S., 1982; Ord. 1191 C.S. § 1, 1992; Ord. 1194 C.S. § 1, 1992)

CHAPTER 21.43
VESTING TENTATIVE MAP

§ 21.43.010. Purpose.

This Chapter is enacted for the purpose of providing administrative procedures for the implementation of the Vesting Tentative Map provisions of the Subdivision Map Act and to supplement the provisions of the Subdivision Map Act as they relate to vesting tentative maps. To accomplish this purpose, the adoption of this Chapter is determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. Except as otherwise set forth in the provisions of this Chapter the provisions of Title 21 of the Martinez Municipal Code shall apply to the processing of Vesting Tentative Maps.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.020. Definitions.

When used in this Chapter, the following terms shall have the following meanings:

A. "Vesting tentative map" shall mean a tentative map for a subdivision that shall have printed conspicuously on its face the words "Vesting Tentative Map" or "Vesting Tentative Parcel Map" and is thereafter processed in accordance with the provisions of this Chapter.

B. All other definitions set forth in Chapter 21.04 of this Title are applicable.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.030. Applications.

A. Until January 1, 1988, the provisions of this Chapter shall apply only to residential developments.

B. Whenever a provision of the Subdivision Map Act or Title 21 of the Martinez Municipal Code requires the filing of a tentative map or tentative parcel map, a vesting tentative map may be filed instead.

C. This Chapter provides an alternative procedure for the filing of maps for residential subdivisions. Nothing contained in this Chapter shall limit a subdivider's right to file a regular tentative and/or tentative parcel map.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.040. Consistency.

No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan, any applicable specific plan, Title 21 or Title 22 of the Martinez Municipal Code.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.050. Filing and processing.

A vesting tentative map shall be filed in the same form and have the contents, accompanying data and reports, and shall be processed in the same manner as maps filed under Chapters 21.40, 21.42, and 21.50 of the Title except as herein provided:

- A. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map" or "Vesting Tentative Parcel Map".
- B. Applications for vesting tentative maps shall be accompanied by and shall not be complete without the following additional approvals, data, reports and material.
 - 1. Comprehensive development plan including development areas, street layouts, a comprehensive grading plan for the entire site, and a preliminary landscape plan including such elements as fences, pathways, exterior lighting, signs and other features visible to the public;
 - 2. Preliminary floor plans and architectural elevations, indicating materials and colors or the buildings;
 - 3. Slope Density analysis as required in Sections 22.12.130 through 22.12.180 if the proposal involves a residential project;
 - 4. Preliminary soils report;
 - 5. Other features the Planning Commission may deem appropriate.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.060. Fees.

The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same time extensions established by this Title for tentative maps and tentative parcel maps.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.070. Expiration.

The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same time extensions established by this Title for tentative maps and tentative parcel maps.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.080. Development rights—Vesting on approval of vesting tentative map.

- A. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the vesting tentative map is approved or conditionally approved.
- B. Notwithstanding (A) alone, a permit, approval, extension or entitlement may be made conditional or denied if any of the following are determined:
 - 1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety.
 - 2. The condition or denial is required in order to comply with state or federal statutes,

regulations or case law.

- C. Notwithstanding (A) alone, an approved or conditionally approved vesting tentative map shall not limit the City from imposing reasonable conditions on subsequent required approvals or permits (even those secured after recordation of the final map) necessary for the development and authorized by the ordinances, policies and standards described in Section 21.43.080 A. If the ordinances, policies, or standards described in Section 21.43.080 A. are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, or his or her assignee, at any time prior to the expiration of the vesting tentative map pursuant to subdivisions (g) and (h) of Section 66452.6 of the California Government Code, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.
- D. The rights referred to herein shall expire if a final or parcel map is not approved prior to the expiration of the vesting tentative map. If the final or parcel map is approved, the development rights conferred under Section 21.43.080 A. shall last for the following periods of time:
1. An initial time period of twelve months (hereinafter called "initial time period"). Where multiple final maps are recorded on various designated approved phases of a project covered by a single vesting tentative map, the time limit shall begin for each phase when the final map for that phase is recorded.
 2. Before any final map which is part of a phased project (within the meaning of Government Code Sections 66456.1 and 66452.6(g)) may be considered for approval, it must be filed within the time period, or any extensions thereof, provided for in Government Code Section 66452.6(a).
 3. The initial time period shall be automatically extended by any time used for processing a completed application for a grading permit or for design or architectural review if such processing exceeds thirty days from the date a complete application is filed.
 4. A subdivider may apply for a one-year extension of the initial time period at any time before the initial time period expires. If the extension is denied, the subdivider may appeal that denial within fifteen days. A decision to grant or deny an application or extension shall be within the sole discretion of the advisory agency.
 5. If the subdivider submits a completed application for a building permit during the initial time period or during any approved extension, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

(Ord. 1092 C.S. § I, 1987)

§ 21.43.090. Miscellaneous provisions.

- A. Applications for vesting tentative maps may be processed concurrently with any necessary rezoning.
- B. In addition to conditions otherwise allowed by statute, ordinance, plan, or the City's police power, vesting tentative maps may also be subject to a condition which identifies the

nature, type and extent of public infrastructure or services which will be needed to serve the proposed subdivision and surrounding area and which requires that the precise amount of that subdivider's contribution toward those types of infrastructure and services to be calculated by the applicable City department and paid at the time that occupancy permit is issued.

- C. If the subdivider seeks to modify a vesting tentative or final map, such modification may be granted at the discretion of the advisory agency which approved the map, only after public notice and hearing. If the advisory agency approves the requested modification or any portion thereof, the advisory agency may impose additional conditions on such maps. Any such modification shall not extend the life of the vesting tentative or final map or any rights created thereby.
- D. Whenever a vesting map whose development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The City may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

(Ord. 1092 C.S. § I, 1987)

CHAPTER 21.44
FINAL MAP

§ 21.44.010. Preparation generally—Time extension.

Prior to the expiration of the tentative map (including any extensions thereof), the subdivider may cause the subdivision or any part thereof to be surveyed and a final map to be prepared in conformity with the tentative map as approved.

(Prior code § 4539(a); Ord. 1103 C.S. § I, 1987; Ord. 1191 C.S. § 2, 1992)

§ 21.44.020. Tracings and prints.

The subdivider shall submit to the City Engineer one complete set of original tracings and three complete sets of blue and white prints of the final map and such additional number of prints as the City Engineer shall require.

(Prior code § 4539(b); Ord. 1103 C.S. § I, 1987)

§ 21.44.030. Review—Fee.

At the time of submitting the final map, the subdivider shall pay a review fee set by resolution of the City Council. If a revision of the final map is filed, the subdivider may be required to pay an additional review fee set by resolution of the Council.

(Prior code § 4539(c); Ord. 1103 C.S. § I, 1987)

§ 21.44.050. Form.

- A. The final map shall be in accordance with the requirements of the Subdivision Map Act and the Contra Costa County Recorder's Office.
- B. The title sheet shall show the basis of bearings. The basis of bearings shall be that of Zone 3, California Plane Coordinate System, or other bases specifically approved for each final map by the City Engineer and the basis of bearings and equation of true north shall be shown.

(Prior code § 4541; Ord. 1103 C.S. § I, 1987)

§ 21.44.070. Information required on map designated.

- A. The tract number and the tract name, date of preparation, north point and scale shall appear on the final map.
- B. The final map shall show the locations and names of streets and alleys; the center lines thereof; the lengths, tangents, radii and central angles or radial bearing of curves; the total width of the portion of the street being dedicated and the width of existing dedication, if any.
- C. The final map shall show the locations and widths of pedestrian ways.
- D. The final map shall show the locations and dimensions of community facilities' sites and the net acreage, to the nearest 1/10 of an acre, contained therein.
- E. The final map shall show the center lines, widths and side lines of all easements to which the lots are subject and the date on which the easement was created. If the easement is not

definitely located of record, a statement as to the easement shall appear on the title sheet. Easements for storm drains, sewers and other similar purposes shall be denoted by broken lines. Easements shall be clearly labeled and identified and if already of record, precise reference to the records given. A statement of all easements together with all building and use restrictions pertaining thereto, shall appear on the title sheet. Easements being dedicated shall be so indicated in the certificate of dedication.

- F. The final map shall show location and widths of drainage channels.
- G. The final map shall show locations and widths of utility rights-of-way.
- H. The final map shall show locations and widths of railroad rights-of-way.
- I. The final map shall show limitations on rights of access to and from streets and lots and other parcels of land.
- J. The final map shall show locations and widths of nonaccess strips and reserve strips.
- K. The final map shall show locations, widths and names of streets, alleys and pedestrian ways adjacent to the proposed subdivision.
- L. The final map shall show locations of boundary lines of the City, school districts, sanitary districts and any other taxing districts.
- M. The final map shall show the net dimensions of each lot. No ditto marks shall be used. Sufficient data shall be shown to determine readily the bearings and length of each lot line.
- N. The lots shall be numbered consecutively commencing with the number "1", with no omissions or duplications.
- O. All dimensions shown on the final map shall be in feet and decimals of a foot.
- P. The final map shall show the following surveying data:
 - 1. The radius, tangent, arc and central angle of curves;
 - 2. Suitable primary survey control points, including section corners and monuments existing outside of the proposed subdivision;
 - 3. The location of all permanent monuments within the proposed subdivision;
 - 4. Ties to and names of adjacent subdivisions;
 - 5. Ties to any city boundary lines involved.

(Prior code § 4542)

§ 21.44.080. Monuments.

- A. The final map shall show clearly all stakes, monuments or other evidence found on the ground which were used as ties to determine the boundaries of the tract. The corners of adjoining subdivisions or portions thereof shall be identified and ties shown.
- B. In making the survey for the subdivision, the surveyor shall set sufficient permanent monuments so that the survey or any part thereof may be readily retraced. Such monuments shall generally be placed at the angle points on the exterior boundary lines of the tract, at

the intersections of center lines of streets and at the beginnings and ends of survey on the center lines of streets. Monuments may be placed on offset lines. Stakes set at lot corners shall not be considered permanent monuments. The character, type and positions of all monuments shall be noted on the final map.

- C. All permanent monuments shall be placed in accordance with the final map. The City Engineer shall, by field inspection, satisfy himself that all the monuments shown thereon actually exist and that their positions are as shown on the final map prior to acceptance of the subdivision improvements.

(Prior code § 4543)

§ 21.44.090. Survey requirements.

- A. A complete and accurate survey of the land to be subdivided shall be made by a civil engineer or licensed surveyor in accord with the State Subdivision Map Act.
- B. The traverse of the exterior boundaries of the proposed subdivision and of each block and lot shall close within a limit of error of 1 foot to 7,500 feet of perimeter.
- C. Whenever the City Engineer has established the center line of a street or alley, such data shall be considered in making the survey and in preparing the final map, and all monuments found shall be indicated and proper references made to field books or maps of public record relating to the monuments. If the points were reset by ties, that fact shall be stated.

(Prior code § 4544)

§ 21.44.100. Certificates on map.

Those certificates required by the State Subdivision Map Act and the County Recorder shall appear on the Final Map.

The City may require additional information to be filed or recorded simultaneously with a final or parcel map, including but not limited to fee and improvement statements. The additional information shall be in the form of an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. This additional information will be in compliance with section 66434.2 of the Subdivision Map Act.

(Prior code § 4545; Ord. 1103 C.S. § I, 1987; Ord. 1183 C.S. § I, 1992)

§ 21.44.110. Dedications.

- A. Those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants shall be designated on the Final Map.
- B. All parcels of land, streets, alleys, pedestrian ways, drainage channels, reserve strips, easements and other rights-of-way shown on the final map as intended for public use shall be offered for dedication for public use at the time the final map is filed.
- C. All rights of access to and from streets, lots and parcels of land shown on the final map intended to be surrendered shall be offered for dedication at the time the final map is filed.

(Prior code § 4546; Ord. 1103 C.S. § I, 1987)

§ 21.44.120. Improvements—Required when.

The subdivider shall improve, or agree to improve in writing, all improvements required by Chapters 21.08 through 21.38 of this Title including all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way as a condition precedent to acceptance thereof and approval of the final map.

(Prior code § 4547(a); Ord. 1103 C.S. § I, 1987)

§ 21.44.130. Improvements—Conformance with council standards required.

Improvements shall conform with specifications of design, materials and construction standards adopted by the City.

(Prior code § 4547(b))

§ 21.44.140. Improvements—Construction in accord with City Engineer.

Improvements shall be constructed in accord with plans approved by the City Engineer. Improvements shall be installed to the satisfaction of the City Engineer.

(Prior code § 4547 (c))

§ 21.44.150. Improvements—Grade.

Improvements shall be installed to grades prescribed by the City Engineer.

(Prior code § 4547(d))

§ 21.44.160. Improvements—Inspection and plan check—Fees.

The City Engineer shall have the right to enter upon the sites of improvements for the purpose of inspecting them, and shall be furnished with samples of materials as may be required for the making of tests to determine the acceptability of such materials. Upon filing the final map, the subdivider shall pay a fee set by resolution of the City Council to cover the cost of inspection of the work, review and approving plans, and checking of the materials for the improvements during the entire period of construction.

(Prior code § 4547(e))

§ 21.44.170. Improvements—Failure to complete prior to map approval—Agreement.

If the improvements are not satisfactorily completed before the final map is approved, the subdivider shall enter into an agreement with the City whereby, in consideration of the acceptance by the City Council of the streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way offered for dedication, the subdivider agrees to complete the work within the time specified in the agreement. Such agreement shall be secured by a good and sufficient surety bond approved by the Council, or by the deposit of money or negotiable bonds, as provided in the Subdivision Map Act.

(Prior code § 4547(f))

§ 21.44.190. Improvements—Reimbursement to subdivider for use when.

Whenever this Title or the Subdivision Map Act requires a subdivider to construct improvements and such improvements are of benefit or value to other land than that located within the subdivision, the City Council may enter into an agreement with the subdivider to reimburse him

for the use of such improvements by others, and may impose and collect a charge from the owner of the land benefited for the use of such facilities.

(Prior code § 4547(h))

§ 21.44.200. Improvements—Plans.

- A. Improvement plans, prepared under the direction of a registered civil engineer licensed by the State, shall be submitted by the subdivider to the City Engineer. The approval of the improvement plans by the City Engineer shall be a condition of approval of the final map. At the time of approval, the originals or mylar photo copies shall be filed with the City Engineer.
- B. Form of improvement plans:
 - 1. The size of each sheet shall be 24 inches by 36 inches with a blank margin of 1 inch drawn completely around each sheet;
 - 2. The tract name and number, if any;
 - 3. Signature, name and address of the licensed registered Civil Engineer of the State, under whose direction the improvement plans were prepared;
 - 4. Date of preparation;
 - 5. North point;
 - 6. Scale;
 - 7. When three or more sheets are submitted, a key map shall be included on the first sheet;
 - 8. A space shall be provided for the City Engineer's signature needed as a condition of approval of the plans;
 - 9. Eight complete sets of the improvement plans shall be submitted to the City Engineer, if required.
- C. Information on improvement plans:
 - 1. The plans and profiles of all improvements required by this Title as well as other improvements proposed to be installed by the subdivider in, over or under any improvements are required or proposed;
 - 2. Improvement plans shall show the improvements required by Chapters 21.08 through 21.38 of this Title. Such improvements shall include grading and surfacing of streets, alleys and pedestrian ways; construction of sidewalks, curbs, gutters, culverts, water mains, sanitary sewers, retaining walls, bridges, storm drains and drainage channels, including means for the disposal of surface and storm waters beyond the boundary of the subdivision; installations of fire hydrants, street signs and street lights; planting of street trees and other landscaping; and provision of such other improvements as may be required;
 - 3. A grading plan shall show by means of arrows and elevations, the method proposed for drainage of each individual lot.

D. Other information to accompany improvement plans:

1. A report, prepared by a soils engineer, which shall contain information pertaining to soils stability and design of all improvements in the subdivision and which shall be reviewed by the City's soil engineer at the subdivider's cost;
2. Any data, including profiles, contours, design calculation and other information which the City Engineer shall require for checking the adequacy of the proposed drainage system;
3. A certificate of approval of any proposed improvements of concern to a sanitary, water or flood control district within which all or part of the subdivision may be situated.

E. Upon completion of the work, photo mylar as constructed record improvement plans shall be submitted to the City Engineer.

(Prior code § 4548; Ord. 1103 C.S. § I, 1987)

§ 21.44.210. Review by City Engineer—Certification by Planning Commission Secretary.

The City Engineer shall review the final map for conformity with the tentative map as approved. If the final map conforms with the tentative map as approved, the City Engineer shall report such conformity to the secretary of the Planning Commission who shall certify the original tracing of the final map in behalf of the Commission. If the final map does not conform with the tentative map as approved, the secretary of the Commission shall not certify the final map on behalf of the City Planning Commission until the Commission specifically authorizes him to do so.

(Prior code § 4549(a))

§ 21.44.220. Determination of compliance—Submittal of work sheets, plans and profiles.

- A. The City Engineer shall examine a print of the final map and determine the sufficiency of affidavits and acknowledgments, the correctness of surveying data, mathematical data and computations, and determine whether the provisions of the Subdivision Map Act and this Title have been complied with. One copy of the map shall be returned to the subdivider with notations as to errors or omissions or a statement by the City Engineer that the map is correct.
- B. The subdivider shall provide traverse sheets showing the closure of the exterior boundaries of the subdivision and of any irregular blocks and lots.
- C. Plans, profiles and specifications of proposed improvements shall be submitted to the City Engineer for approval at the time the prints of the final map are submitted for checking. Such plans and profiles shall show the full details of the proposed improvements, and the improvements shall comply with specifications and standards adopted by the City Council.

(Prior code § 4549(b))

§ 21.44.230. Certification by City Engineer.

If the final map is found to be correct, the matters shown thereon are sufficient and all applicable provisions of the Subdivision Map Act and this Title have been complied with, the City Engineer shall certify his approval on the original tracing of the map.

(Prior code § 4549(c))

§ 21.44.240. Filing with council for approval—Offers of dedication—Notice of action.

Concurrently with the approval of the final map, the City Council shall accept or reject all offers of dedication and, as a condition precedent to the acceptance of any streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way, shall require that the subdivider, at his option, either improve or agree to improve the streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way in the subdivision.

(Prior code § 4549(d); Ord. 1103 C.S. § I, 1987)

CHAPTER 21.46 PARK DEDICATION

§ 21.46.010. Purpose.

This section is enacted pursuant to the authority granted by the Subdivision Map Act of the State of California. The park and recreation facilities for which dedication of land and/or payment of fee required by this Chapter are in accordance with the General Plan of the City of Martinez, and the adopted Park System Master Plan. For purposes of this Chapter, the term "subdivision" includes any residential development of two (2) or more dwelling units, "subdivider" includes the developer of any residential development, "parcel" includes any residential unit, "parcel map" or "final map" includes issuance of a building permit or grading permit for a residential development or two (2) or more dwellings units.

(Prior code § 4701; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983; Ord. 1103 C.S. § I, 1987)

§ 21.46.020. Requirements.

As a condition of approval of a final subdivision map, parcel map, or residential project approval not involving a subdivision map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes at the time and according to the standards and formula contained in this Chapter. Payment of in-lieu fees may be deferred until occupancy of residential units if the subdivider posts a bond or other surety acceptable to the City guaranteeing payment of the fees.

(Prior code § 4703; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983; Ord. 1103 C.S. § I, 1987)

§ 21.46.030. Basic standard.

It is found and determined that the public interest, convenience, health, welfare and safety require that five (5) acres of property for each one thousand (1000) persons residing within the City be devoted to local park and recreational purposes.

(Prior code § 4702; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983)

§ 21.46.040. Standards and formula for dedication of land.

Where a park or recreational facility has been designated in the City of Martinez's General Plan, and is to be located in whole or in part within the proposed subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography to serve the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following standards and formula:

$$\text{Land} = \text{Average Number of Persons/DU} \times \frac{1,000 \text{ Population}}{\text{Park Acreage Standard (5 acres)}}$$

DU means residential dwelling unit

The following table based on the above formula is to be followed:

Requirement Unit	Average Person Per Dwelling Unit	Average Per Dwelling
Multiple Dwelling Unit	2.1	448 sq. ft.
Single Family (includes patio homes and townhouse)	2.8	598 sq. ft.

NOTE: The figures of 2.6 persons per unit and 557 sq. ft. shall be used for all subdivisions for which application was made prior to May 16, 1986.

(Prior code § 4705(a); Ord. 749 C.S. § 1, 1972; Ord. 840 § 2, 1976; Ord. 985 C.S. § 2, 1983; Ord. 1067 C.S. § I, 1986; Ord. 1103 C.S. § I, 1987)

§ 21.46.050. Formula for fees in lieu of land dedication.

- A. General formula. If there is no park or recreational facility designated in the City of Martinez's General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in lieu of dedicating land, pay a fee equal to the value of the land prescribed for dedication in Section 21.46.040 and in an amount determined in accordance with the provisions of Section 21.46.070, the fee to be used for a local park which will serve the residents of the area being subdivided.
- B. Fees in lieu of land—50 parcels or less. If the proposed subdivision contains 50 parcels or less, the subdivider may be required to only pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision as prescribed in Section 21.46.040 and in an amount determined in accordance with the provisions of Section 21.46.070.
- C. Use of money. The money collected hereunder shall be used only for the purpose of providing park or recreational facilities reasonably related to serving the subdivision by way of the purchase of necessary land or, if the Martinez Planning Commission deems that there is sufficient land available for the subdivision, for improving of such land for park and recreational purposes. The money shall be committed within five (5) years after payment of the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in the same proportion the size of their lot bears to the total area of all lots in the subdivision.

(Prior code § 4705(b); Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983)

§ 21.46.060. Criteria for requiring both dedication and fee.

In subdivisions of over 50 lots, the subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following:

- A. When only a portion of the land to be subdivided as proposed in the General Plan as the site for a local park, such portion shall be dedicated for local park purposes; and a fee computed pursuant to the provisions of Section 21.46.070 hereof shall be paid for any additional land that would have been required to be dedicated pursuant to Section 21.46.080.
- B. When a major part of the local park or recreational site has already been acquired by the

City and only a small portion of land is needed from the subdivision to complete the site, such remaining portion shall be dedicated and a fee computed pursuant to Section 21.46.010 shall be paid in an amount equal to the value of the land which would otherwise have been required to be dedicated pursuant to Section 21.46.070. The fees shall be used for the improvement of the existing park and recreational facility or for the improvement of other local parks and recreational facilities in the area serving the subdivision.

(Prior code § 4705(d); Ord. 749 C.S. §, 1972; Ord. 985 C.S. § 2, 1983)

§ 21.46.070. Amount of fee in lieu of parkland dedication.

When a fee is required to be paid in lieu of parkland dedication, the amount of the fee shall be based, on the average estimated fair market value of the land being purchased in the City for single family and multi-family residential development. This value shall be established yearly by Council resolution.

(Prior code 4705(e); Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983; Ord. 1067 C.S. § II, 1986; Ord. 1103 C.S. § I, 1987)

§ 21.46.080. Subdivisions not within general plan.

When the proposed subdivision lies within an area not then within, but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this article.

(Prior code § 4705; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983)

§ 21.46.090. Determination of land or fee.

Land dedication, or payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- A. The principles and standards for community and neighborhood park facilities found in the City's General Plan;
- B. Topography, geology, access and location of land in the subdivision available for dedication;
- C. Size and shape of the subdivision and land available for dedication;
- D. Feasibility of dedication;
- E. Compatibility of dedication With the City of Martinez's General Plan; and
- F. Availability of previously acquired park property.

(Prior code § 4705(g); Ord. 749 C.S. § 1, 1972; Ord. 985, C.S. § 2, 1983)

§ 21.46.100. Credit for improvements to dedicated open space.

If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by this Chapter. The credit shall be determined by the Planning Department.

(Prior code § 4705; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983)

§ 21.46.105. Partial credit for private space.

Where private area for park and recreational purposes is provided in a proposed development and such area is to be privately owned and maintained by the future owner(s) of the development, partial credit may be given by the planning agency not to exceed fifty percent against the requirement of land dedication or payment of fees in lieu thereof if the planning agency finds that it is in the public interest to do so and that all the standards set forth below are met:

- A. That yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private areas; and,
- B. That the private ownership and maintenance of the area is adequately provided for by recorded written agreement, covenants, or restrictions; and,
- C. That the use of the private area is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be amended or eliminated without the consent of the County, or its successor; and,
- D. That the proposed private area is reasonably adaptable for use for park or recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and,
- E. That facilities proposed for the area are in substantial accordance with the provisions of the recreational element of the general plan; and,
- F. That the area for which credit is given is a minimum of two acres and provides a minimum of four of the local park basic elements listed below, or other recreational improvements that will meet the specific recreation park needs of the future residents of the area:

Criteria List	Acres
(A) Children's play apparatus area	.50-.75
(B) Landscape park-like and quiet area	.50-1.00
(C) Family picnic area	.25-.75
(D) Game court area	.25-.75
(E) Turf playfield	1.00-3.00
(F) Swim pool (42 ft. × 75 ft. with adjacent deck and lawn area)	.25-.50
(G) Recreation center building	.15-.25
(H) Recreation community gardening	.10-.25

(Ord. 1067 C.S. § III, 1986)

§ 21.46.110. Procedure.

Prior to the approval of the tentative subdivision or parcel map, the Martinez Planning Commission shall determine, after a report and recommendations from the Planning & Building Director and Parks and Recreation Commission, pursuant to Sections 21.46.090, 21.46.100 and 21.46.110 whether land is to be dedicated or in lieu fees are to be paid by the subdivider or any

combination of land and fees. The determinations by the Martinez Planning Commission shall include the following:

- A. The amount of land required; or
- B. That a fee be charged in lieu of land; or
- C. That land and a fee be required; and/or
- D. That a stated amount of credit be given to the subdivider, if applicable.

At the time of the filing of the final or parcel map, the subdivider shall dedicate the land and/or pay the fees as determined by the City.

Open Space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded contemporaneously with the final subdivision map.

(Prior code § 4705; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983; Ord. 1103 C.S. § I, 1987)

§ 21.46.120. Review and appeals.

Recommendations of the Martinez Planning Commission shall be appealable as set forth in Section 21.42.100.

(Prior code § 4706; Ord. 749 C.S. § 1, 1972; Ord. 985 C.S. § 2, 1983; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.48
REVERSION TO ACREAGE MAP

§ 21.48.010. Title.

A map filed for the purpose of reverting subdivided land to acreage shall be conspicuously designated with the Title "The Purpose of this Map is a Reversion to Acreage."
(Prior code § 4550)

§ 21.48.020. Procedure.

Procedure shall be as specified in the State Subdivision Map Act.
(Ord. 1103 C.S. § I, 1987)

**CHAPTER 21.50
PARCEL MAPS**

§ 21.50.010. Tentative map.

The tentative map process of Chapter 21.42 of this Title, and the parcel map process shall apply to all subdivisions in which a final map is not otherwise required by the Subdivision Map Act except for Lot Line Adjustments. Tentative parcel maps shall be acted on by the Board of Adjustments, appealable to the Planning Commission within ten days of the decision. (Ord. 896 C.S. § 3, 1979; Ord. 909 C.S. § 2, 1979; Ord. 1103 C.S. § I, 1987)

§ 21.50.020. Waiver of parcel map.

A parcel map shall not be required when the Planning Commission determines that the proposed division of land meets all City requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and sufficient record and survey data is available to accurately determine the location of the parcel. A legal description of the property to be divided shall be submitted with the tentative map. When a parcel map is not required, but the dedication for the purposes of street widening is necessary, such dedication shall be made by a separate instrument prior to approval of the tentative map by the Planning Commission.

Upon waiving the parcel map requirement the City Engineer shall cause to be filed with the County Recorder a "Certificate of Compliance" for the land to be divided. (Ord. 896 C.S. § 3, 1979)

§ 21.50.030. Form.

The form and contents, submittal, approval and filing of parcel maps shall conform to the provisions this section, and the Subdivision Map Act.

- A. The general form and layout of the map, including size and type of lettering, drafting, and location and acknowledgements, shall be as determined by the City Engineer.
- B. The exterior boundary of the land within the subdivision shall be designated by 1/16 of an inch solid black line.
- C. Scale of the map shall be 1" = 20', 1" = 40', 1" = 50' unless otherwise permitted by the City Engineer.
- D. All dimensions shall be shown in feet and hundredths or thousandths of a foot.
- E. If more than two sheets are necessary to show the entire subdivision, an index map shall be included on sheet two.
- F. The parcel map number, city and county, scale and north point, name of the engineer, date and sheet number, shall be shown on each sheet if applicable.
- G. A title sheet designated as sheet 1 of the parcel map shall be provided, except that where the size of a subdivision permits, in lieu of a separate title sheet, the information required to be shown thereon may be shown on the same sheet as the map of the subdivision.
- H. Upon the recordation of the parcel map by County Recorder, the subdivider shall be

responsible to provide the City Engineer with a reproducible on either tracing cloth or 3 mil polyester base film.
(Ord. 896 C.S. § 3, 1979)

§ 21.50.040. Survey required.

An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, center lines of streets, alleys, and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the parcel map shall not exceed 1/10000 for field closures and 1/20000 for calculated closures.
(Ord. 896 C.S. § 3, 1979)

§ 21.50.050. Additional data.

The parcel map shall substantially conform to the tentative map as approved, or conditionally approved, by the Planning Commission, and shall contain, or be accompanied by, such additional information as may be required by the City Engineer, including:

- A. All required survey data and information.
 - B. All lots and parcels intended for sale or lease, or reserved for private purposes with dimensions, boundaries, and courses clearly shown and defined with each parcel identified by number.
 - C. The location and width of streets, alleys, pedestrian ways, and other easements and portions thereof dedicated or offered for dedication to the City, including the recording references on easements that are existing of record.
 - D. All limitations on rights of access to and from the streets from lots and other parcels of land.
 - E. A guarantee of title or letter from a title company certifying that the signatures of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all acknowledgments thereto appear and are correctly shown on the final map, both as to consents for making thereof and the affidavit of dedication.
 - F. If a field survey is made, the engineer or surveyor shall furnish the City Engineer boundary closure sheets.
 - G. Plans, specifications, and applicable permits for the construction and installation of improvements that have been approved by the City Engineer and on which security has been posted to guarantee the installation of said improvements.
 - H. Any city or district boundary line crossing or contiguous to the subdivision shall be clearly designated to determine its relative location to all parcels and lots.
 - I. Adjacent subdivisions or ownerships of record.
- (Ord. 896 C.S. § 3, 1979)

§ 21.50.060. Certificate of acceptance.

Offers of dedication may be made either by separate document or by dedication on the parcel

map. If made on the parcel map, the following certificate shall appear on the parcel map:

The City does hereby accept on behalf of the public all parcels of land as offered for dedication for public use in conformity with terms of the offer of dedication.

City Manager

(Ord. 896 C.S. § 3, 1979)

§ 21.50.065. Planning certificate.

Each parcel map shall have a certificate for the Planning & Building Director to sign, certifying that the parcel map conforms to the approved tentative map and its conditions. If the parcel map does not conform, the Director shall not sign the certificate, and the parcel map shall not be approved by the City Engineer.

(Ord. 1103 C.S. § I, 1987)

§ 21.50.070. Fees and deposits.

All persons submitting maps as required by this Chapter shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges for final maps and construction drawings.

(Ord. 896 C.S. § 3, 1979)

§ 21.50.080. Preliminary submittal.

The subdivider shall submit three sets of prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by two copies of the worksheets, plans and profiles required for final maps by Section 21.44.220 Preliminary Submittal, and as modified herein.

The City Engineer may waive any of the requirements upon finding that the location and nature of the proposed subdivision is such as not to necessitate the construction of public improvements.

Any additional information or documents required shall be as specified with the conditions of approval of the tentative map.

(Ord. 896 C.S. § 3, 1979)

§ 21.50.090. Return for correction.

Upon completing preliminary checks, the City Engineer shall note the required corrections on the preliminary prints, reports, and data and return one set to the subdivider's engineer for revision.

(Ord. 896 C.S. § 3, 1979)

§ 21.50.100. Resubmittal.

The subdivider's engineer shall submit two sets of the revised map, reports and data to the City Engineer. After checking the revisions, one set shall be returned to the subdivider's engineer marked "Approved as Submitted", "Approved when Corrected as Noted", or "Revise and Resubmit".

(Ord. 896 C.S. § 3, 1979)

§ 21.50.110. Approval by City Engineer.

Upon receipt of an approved print, the subdivider shall submit the original tracing of the revised map, prepared in accordance with the Subdivision Map Act and this Chapter and corrected to its final form, and signed by all parties required by the Map Act and this Chapter to execute the certificates on the map, to the City Engineer. The City Engineer, upon signing the City Engineer's certificate, shall transmit the original to the City Clerk or authorized agent.
(Ord. 896 C.S. § 3, 1979)

§ 21.50.120. Filing with county recorder.

The City Clerk or authorized agent shall file the approved parcel map with the County Recorder.
(Ord. 896 C.S. § 3, 1979)

CHAPTER 21.52 EXCEPTIONS

§ 21.52.010. Authorized when.

Exceptions and conditional exceptions to the regulations prescribed in Chapters 21.08 through 21.38 of this Title may be authorized by the City Planning Commission.
(Prior code § 4553)

§ 21.52.020. Application.

Application for an exception shall be made to the City Planning Commission on a form prescribed by the Commission. The subdivider shall state fully the grounds of the application, the facts relied upon and any other data pertinent to the findings prerequisite to the granting of an exception prescribed in Section 21.52.040 of this Chapter. The application shall be filed with the City Engineer along with the tentative map. At the time of filing the application, the subdivider shall agree in writing to an extension of the time limit for action on the tentative map by the City Planning Commission at the option of the Commission.
(Prior code § 4554)

§ 21.52.030. Referrals.

The City Engineer shall transmit copies of the application to the Planning Commission and to the City Council. Prior to the date set for consideration of the tentative map, the City Engineer shall submit to the Commission a written report of his recommendation regarding the proposed exception. Failure to submit such a report shall be deemed approval of the application for an exception.
(Prior code § 4555)

§ 21.52.040. Planning commission action.

The City Planning Commission shall consider the application for an exception at the same meeting at which it considers the tentative map. An exception may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Commission makes the following findings that:

- A. There are special circumstances or conditions affecting the property;
- B. The exception is necessary for the preservation and enjoyment of a substantial property right of the subdivider;
- C. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated;
- D. The granting of the exception is in accord with the purposes prescribed in Section 21.02.010 of this Title;
- E. The granting of the exception is in accord with the objectives, principles and standards of the General Plan.

(Prior code § 4556)

§ 21.52.050. Appeal to city council—Hearing.

Within ten days of the date of the City Planning Commission's action on an application for an exception, the subdivider may appeal to the City Council for review of the action. An appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Commission. The appeal shall be considered under the procedure of Section 21.42.100.

(Prior code § 4557; Ord. 1103 C.S. § I, 1987)

§ 21.52.060. Review by city council.

Section 21.42.101 also applies to any decision on an exception.

(Prior code § 4558; Ord. 1103 C.S. § I, 1987)

CHAPTER 21.53
PARCEL MERGERS

§ 21.53.010. Authority.

- A. This Chapter is adopted pursuant to Chapter 3, Article 1.5, Sections 66451.10 through 66451.21 inclusive and Chapter 6, Article 1., Section 66499.20 $\frac{3}{4}$, of Division 2, of the Government Code of the State of California, and the procedures set forth below are those specified in said Government Code sections as those sections exist upon the adoption of the ordinance creating this Chapter. In the event said Government Code sections are amended to provide for procedures or criteria different than those specified hereinafter, such changes are hereby incorporated by reference as if fully set forth herein.

(Ord. 945 C.S. § 1, 1981; Ord. 1038 C.S. 1985; Ord. 1056 C.S. § 1, 1985)

§ 21.53.020. When lots may be merged.

- A. Two or more contiguous parcels or units of land may be merged by the City Council when held by the same owner if any one of the contiguous parcels or units does not conform to standards for minimum parcel size, under the applicable zoning designation in effect at the time of mailing of a notice of intent to determine status, and if all of the following requirements are satisfied:
1. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
 2. With respect to any affected parcel, one or more of the following conditions exists:
 - a. Comprises less than 5,000 square feet in area at the time of the determination of merger.
 - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.
 - c. Does not meet current standards for sewage disposal and domestic water supply.
 - d. Does not meet slope stability standards.
 - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
 - f. Its development would create health or safety hazards.
 - g. Is inconsistent with the applicable General Plan and any applicable specific plan, other than minimum lot size or density standards.
- B. For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.
- C. The merger of contiguous parcels may not be accomplished under the provisions of this

Chapter if one of the following conditions exists:

1. On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation code.
 2. On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51100, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.
 3. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.
 4. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.
 5. Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provision of the California Coastal Act is based.
- D. For purposes of paragraphs (c) and (d) of Subsection 3, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.
- (Ord. 945 C.S. § 1, 1981; Ord. 1038 C.S., 1985; Ord. 1132 C.S. § I, 1989)

§ 21.53.030. Recordation of notice.

A merger of parcels becomes effective when the City Council causes to be filed for record with the recorder of the county in which the real property is located, a notice merger specifying the names of the record owners and particularly describing the real property.

(Ord. 945 C.S. § 1, 1981; Ord. 1038 C.S., 1985)

§ 21.53.040. Notice of intent to determine status.

Prior to recording a notice of merger, the City Manager and/or his/her designee, shall cause to be mailed by certified mail to the then current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does

not meet the criteria for merger. The notice of intention to determine status shall be filed for record with the recorder of the county in which the real property is located on the date that notice is mailed to the property owner.

(Ord. 945 § 1, 1981; Ord. 1038 C.S., 1985; Ord. 1112 C.S. § 1, 1988)

§ 21.53.050. Request for hearing on determination of status.

At any time within 30 days after recording of the notice of intention to determine status, the owner of the affected property may file with the City Clerk a request for a hearing on determination of status.

(Ord. 945 C.S. § 1, 1981; Ord. 1038 C.S., 1985)

§ 21.53.060. Hearing; time; date; and place.

Upon receiving a request for a hearing on determination of status, the City Council shall fix a time, date, and place for a hearing to be conducted by the City Council and shall be conducted not less than 30 days following the City's receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the City Council and the property owner.

(Ord. 1038 C.S., 1985)

§ 21.53.070. Hearing; evidence; determination of status.

At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in the merger ordinance.

At the conclusion of the hearing, the City Council shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. A determination of merger shall be recorded within 30 days after conclusion of the hearing, as provided for in Section 21.53.030.

(Ord. 1038 C.S., 1985)

§ 21.53.080. Failure to request hearing; determination of merger.

If, within the 30 day period specified in Section 21.53.050, the owner does not file a request for a hearing in accordance with Section 21.53.070, the City Council may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 21.53.030 no later than 90 days following the mailing of notice required by Section 21.53.060.

(Ord. 1038 C.S., 1985)

§ 21.53.090. Determination not to merge; release of notice of intent to determine status; recordation; clearance letter.

If in accordance with Section 21.53.070, or 21.53.080, the City Council determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in Section 21.53.030 a release of the notice of intention to determine status, recorded pursuant to Section 21.53.040, and shall mail a clearance letter to the then current owner of record.

(Ord. 1038 C.S., 1985)

§ 21.53.100. Merger requested by property owner.

- A. Pursuant to Section 66499.20 $\frac{3}{4}$ of the Government Code of the State of California, upon request of the legal owner(s) of contiguous parcels, the City Engineer or authorized representative may approve the merger of such parcels. Such request shall be in writing and signed by all owners of record of such parcels. All signatures shall be notarized by a duly licensed Notary Public. The request shall be accompanied by such data and documents as required by the City Engineer.
- B. Upon approval, a "Notice of Merger" shall be filed by the City with the County Recorder. The form and content of the notice shall be as required by the City Engineer.
- C. In approving such merger, the City Engineer or authorized representative may impose reasonable conditions. The reasonableness of such conditions may be appealed within fifteen (15) days of written notice of the conditions of the Planning Commission whose decision shall be final and unappealable.
- D. A fee shall be charged the applicant for processing such merger in an amount set from time to time by City Council resolution.
(Ord. 1056 C.S. § 3, 1985)

CHAPTER 21.54
REGULATIONS FOR NEW MULTIPLE RESIDENTIAL DEVELOPMENT

§ 21.54.010. Purpose.

- A. To establish requirements and procedures to be followed for review and approval of new condominium, townhouse, apartment, and other multiple residential developments.
- B. To establish criteria for new condominium developments by requiring conformance to the City's Building Code and other development standards set forth in this Chapter.
- C. To ensure that the developer of the project provides adequate private outdoor living space, storage and parking space, usable open space and other amenities.
- D. To provide for planning, unforeseen change, and compliance with the City's General Plan and Housing Element.
- E. To provide a procedure whereby potential buyers of new condominium units will be properly informed as to the physical condition of the structure for purchase.
- F. To ensure that the developer uses contemporary and environmentally sensitive concepts of site planning and architectural design in the construction of a new condominium project and to ensure that the project, once completed, maintains its integrity, not only to preserve the long-term financial commitment of the unit owner but to optimize the utilitarian and aesthetic qualities that make the project a viable home for the owner long into the future.

(Ord. 901 C.S. § 1, 1979; Ord. 1103 C.S. § I, 1987)

§ 21.54.020. General provisions.

- A. Conformity with the General Plan - The development of new condominiums shall conform with the principles and standards of the General Plan.
- B. The design, improvement and construction of any condominium project shall conform to and be in accordance with the most currently adopted requirements of all building and fire codes, zoning provisions and all other applicable local ordinances and regulations, and shall in addition conform to and be in accordance with the following standards in effect at the time of filing of the tentative map:
 - 1. Housing Code
 - 2. Unsafe structure code
 - 3. Building security ordinance
 - 4. Fire Code
- C. New condominium developments include townhouse projects and all residential development projects which contain other than single-family detached units.

(Ord. 901 C.S. § 1, 1979; Ord. 1103 C.S. § I, 1987)

§ 21.54.030. Buyer protection provisions.

Prior to incurring any obligation to purchase any new condominium unit, all potential buyers shall be provided with an informational document containing the following: (informational

document shall be in a form approved by the Planning and Building Director).

- A. A listing of the services and facilities to be furnished to individual owners and a statement of all fees and other conditions applicable to the use of such services and facilities.
- B. A statement of the estimated annual operating and maintenance costs for all common facilities and services for the next three years as prepared or reviewed by a professional management firm familiar with operating and maintaining costs of similar property in the area.

(Ord. 901 C.S. § 1, 1979)

§ 21.54.040. Application requirements.

New condominium developments shall be subject to all applicable rules and regulations prescribed by the State Subdivision Map Act. The applicant shall provide the City with 35 copies of the Tentative Map accompanied by a sufficient number of site development plans to be determined by the Planning and Building Director. In addition to exhibits, as required by Sec. 21.42.060 of the Martinez Municipal Code, the plans shall also show in detail:

- A. Location of each common area;
- B. Location of each private open space;
- C. Locations and dimensions of parking garages and carports including individual parking stalls on the site;
- D. Location and dimension of exterior storage space for each individual unit;
- E. Landscaping Plan.

Additional submittals shall include:

- F. Preliminary Grading Plan;
- G. Elevations of proposed units;
- H. A draft copy of a declaration of CC&R's which will apply and which shall include an agreement for common area maintenance, including facilities and landscaping together with an estimate of the initial assessment fees anticipated for such maintenance; a description of a provision for maintenance of vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
- I. Other information which, in the opinion of the Planning and Building Director, will assist in determining whether the proposed project is consistent with this Chapter.

(Ord. 901 C.S. § 1, 1979)

§ 21.54.050. Design and construction standards.

- A. Each shall meet the sound transmission control requirements of the most recently adopted version of the Uniform Building Code.
- B. Each unit shall be provided with smoke detectors conforming to Uniform Building Code standards.

- C. Each unit shall be separately metered for gas and electricity.
- D. Utility easements shall be provided for each dwelling with an access agreement for entry to repair and maintain same. Individual shutoff valves and disconnects shall be provided for each unit.
- E. Two off-street parking spaces shall be provided for each dwelling unit and shall be located within reasonably close proximity of the units they serve. One off-street parking space shall be provided for each four units for visitor parking and shall be uniformly distributed throughout the development. Accommodations for on-site RV parking shall be made at a ratio of 100 sq. ft. per dwelling unit unless on-site RV parking is otherwise prohibited by the CC&R's.
- F. At least 200 cubic feet of enclosed weatherproof lockable storage space shall be provided for each unit and shall bear a reasonable relationship to each unit. This storage space shall be in addition to that ordinarily contained within each unit.
- G. A minimum of 200 sq. ft. of appurtenant usable private area shall be provided contiguous with each unit.
- H. Common Open Space shall be provided in amounts designated by Sec. 22.12.25 of the Martinez Municipal Zoning Code. Such open space shall be over and above required setbacks and parking facilities and additional to required private open space.
- I. New condominium developments shall meet stable energy conservation standards.
(Ord. 901 C.S. § 1, 1979; Ord. 1103 C.S. § I, 1987)

§ 21.54.060. Landscape maintenance agreement.

The owner of the project shall enter into a landscape maintenance agreement before recordation of the final subdivision map.

(Ord. 901 C.S. § 1, 1979)

§ 21.54.070. Park dedication fees.

New condominium development shall be subject to payment of park dedication fees at the rate in effect at the time of issuance of building permits.

(Ord. 901 C.S. § 1, 1979)

§ 21.54.080. Requirements for design review approval.

Design Review shall be required as set forth by the Design Review Ordinance and shall be based on overall site development which involves all proposed building elevations, proposed grading, areas of both common and private open space, areas of private storage, parking and landscaping and how each relates to the development standards of the ordinance and this site.

(Ord. 901 C.S. § 1, 1979)

§ 21.54.090. Conditions.

The City may impose any conditions it deems necessary in order to ensure that the proposal will conform with the requirements of this Chapter, other municipal code provisions, the general plan and the public health, safety and general welfare.

(Ord. 901 C.S. § 1, 1979; Ord. 1103 C.S. § I, 1987)

§ 21.54.100. Findings justifying denial.

Pursuant to Sec 66427.1 of the Government Code, the Planning Commission shall deny approval of a tentative map for a new condominium project if the following findings are made:

- A. That the proposal is incompatible and inconsistent with the objectives, policies, elements and programs specified in the General Plan and any applicable specific plan.
- B. That the project will not create an acceptable balance between and provide reasonable relationships among the structures and their units, private yard areas, usable open spaces, parking areas and recreational facilities.
- C. That the proposal is inconsistent with the purposes of this Chapter.
- D. That the proposal is inconsistent with the health, safety and welfare of the residents of the City.

(Ord. 901 C.S. § 1, 1979)

CHAPTER 21.56
**REGULATIONS FOR THE CONVERSION OF RENTAL UNITS TO
CONDOMINIUMS³²**

§ 21.56.010. Purpose.

- A. To establish requirements and procedures to be followed for the review and approval or disapproval of the conversion of existing multifamily rental housing to residential condominiums;
- B. To mitigate the effect of such conversions on tenants of rental housing as much as possible by providing a procedure for notice of conversion, assistance to relocate as necessary, and establish rental unit replacement requirements;
- C. To establish criteria for condominium conversion projects by requiring conformance to the applicable building codes and other standards set forth in this Chapter;
- D. To provide for planning, unforeseen change, and compliance with the City's General Plan and Housing Element; and
- E. To provide a procedure whereby potential buyers of converted units will be properly informed as to the physical condition of the structure for purchase.

(Ord. No. 1486, 4/1/2026)

§ 21.56.020. Condominium conversion defined.

A "condominium conversion" means the conversion of the ownership of the units in a residential housing project that are or were previously occupied as rental units from a single ownership to an ownership in which the residential units may be sold individually. Such condominium conversions may include, but are not limited to, the conversion of existing rental residential housing projects to a community apartment project, a condominium project, and a stock cooperative, as defined in California Civil Code Section 1351.³³

(Ord. No. 1486, 4/1/2026)

§ 21.56.030. Findings.

The review authority shall not approve a condominium conversion project unless the proposed project conforms with the following findings:

- A. The conversion of rental units to condominiums is consistent with the General Plan and the Municipal Code.
- B. The conversion of rental units to condominiums will not be detrimental to the health, safety, or general welfare of the community.
- C. Vacancies in the project have not been increased for the purpose of preparing the project for conversion.
- D. The conversion will not adversely impact the community's ability to provide housing for

32. Editor's note: Former Ch. 21.56, Regulations for the Conversion of Rental Units to Condominiums, which derived from Ord. 902 C.S., 1979, Ord. 937 C.S. § 1, 1981, and Ord. 938 C.S. § 1, 1981, was repealed by Ord. No. 1486, 4/1/2026.

33. Editor's Note: See now California Civil Code Section 4075 et seq.

all economic segments of the community.
(Ord. No. 1486, 4/1/2026)

§ 21.56.040. Building Code standards.

The building and each unit proposed for conversion within the building shall comply with Martinez Municipal Code Chapter 15.05 (Residential Code). The Chief Building Official or designee shall, if deemed necessary, inspect the project. Upon completion of the inspection, if any, the Chief Building Official or designee shall identify all items evidenced by the application or the inspection to be in noncompliance with applicable building and safety standards. All such items shall be corrected to the satisfaction of the Chief Building Official or designee, prior to recordation of the Final Map.

(Ord. No. 1486, 4/1/2026)

§ 21.56.050. Existing and prospective tenant notification.

- A. Generally. All notices referred to in this Section shall be provided either by the property owner by personal delivery and mailing the notice via certified mail with return receipt requested. Evidence of compliance with this Section shall be submitted with the application for conversion or immediately thereafter, as applicable. Notices must be written in non-technical language comprehensible to all tenants of the building. Notices provided by the property owner shall be in both English and in the language used in the original lease or rental agreement, and any other language necessary to effectively communicate with the tenant population to clearly inform them of their rights as required by this Chapter. Copies of notices and forms shall be made available if a tenant indicates the items have been misplaced or lost or are otherwise needed. The property owner shall determine whether a member of the household of each unit can speak English and seek appropriate assistance in communicating the importance of the contents of the notice to any household whose members cannot speak English.
- B. Notice of Intent to Convert to Current Tenants. Consistent with Government Code Section 66427.1(a), or any successor statute, at least 60 calendar days prior to the time of the filing of an application for the conversion of rental units, the property owner shall send to each tenant of the rental units to be converted a notice in the form outlined in Government Code Section 66452.9³⁴ or any successor statute.
- C. Notice of Intent to Convert to Prospective Tenants. Commencing at a date not less than 60 calendar days prior to the submittal of an application for the conversion of rental units, the property owner shall give notice of such application to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant.
- D. Notice of Application to Convert Has Been Submitted. Within 10 calendar days after the submittal of a formal application for the conversion of rental units to a condominium development, the property owner shall send to each tenant, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice informing the tenants of all rights provided under the Martinez Municipal Code and state law, including:
 - 1. The property owner of the rental unit in which the tenant resides has submitted an

34. Editor's Note: See now Government Code Section 66452.18.

application to the City to convert the units to a condominium development, the date such application was made, and if approved, that tenants will eventually be required to move unless they purchase the unit or qualify for and accept an offer of a lease as provided in this Chapter.

2. A detailed description of the property owner's plans for relocation of tenants, relocation assistance, compliance with the sales and lease program for qualified acutely low-, extremely low-, very low-, low-, and moderate-income tenants, and limitations on rent increases.
 3. That the property owner submitted an application for a "Public Report" to the California Department of Real Estate and that such report will be made available upon request, in accordance with the provisions of California Government Code Section 66427.1(a) or any successor statute.
 4. That each tenant will be given at least 10 calendar days' prior written notice by the property owner of the date, time, and place of any public hearing held on the application.
 5. Each tenant will be notified in writing of the approval of the conversion, if it is approved, within 10 calendar days of such action by the property owner.
 6. Each tenant will receive 10 calendar days' written notification from the property owner that a final map for the conversion has been recorded and the implications of that filing.
 7. Tenants have a right to terminate their leases with no penalties.
- E. Notice of Conversion Approval. If a conversion application is approved, then the property owner must provide a notice of conversion approval to each tenant within 10 calendar days of the approval. The notice of approval shall contain:
1. Tenant's right to purchase and the terms thereof;
 2. Tenant's right of notification to vacate with approximate date the unit is to be vacated by;
 3. Statement of terms and conditions of tenancy; and
 4. Provisions for relocation and moving expenses, as described in Section 21.56.060.
- F. Notice of Right to Purchase. If a conversion application is approved, then the property owner must provide a notice of right to purchase to each tenant. The notice of right to purchase shall be provided to each tenant at least 10 days prior to the submission of an application to the Department of Real Estate for a Public Report and shall contain:
1. The property owner shall provide notice to each tenant in the project of the fact that the application for a Public Report will be submitted and that upon the issuance of the Public Report the tenant will be granted an exclusive right to contract for the purchase of the unit occupied by the tenant.
 2. Each tenant shall receive a written notice of an exclusive right to contract for the purchase of their respective unit upon the same terms and conditions that such unit will be initially offered to the general public or on terms more favorable to the tenant.

3. This right shall run for a period of not less than 90 calendar days from the date of issuance of the subdivision Public Report issued by the California Department of Real Estate, unless the tenant gives prior written notice of his or her intention not to exercise the right.
 4. At least 10 days prior to the submission of an application to the Department of Real Estate for a Public Report, the property owner shall provide notice to each tenant in the project of the fact that the application for a Public Report will be submitted and that upon the issuance of the Public Report the tenant will be granted an exclusive right to contract for the purchase of the unit occupied by the tenant.
 5. The notice shall further indicate the project will be subject to conditions, covenants, and restrictions establishing a homeowners' association to manage the project, that may restrict how the property is used, and that impose certain financial obligations on the owners of units within the project, such as the payment of monthly homeowners' association dues.
 6. In addition, within 10 days of the issuance of the Public Report, the property owner shall by mail notify each tenant in writing that the Public Report has been issued and shall in writing grant the tenant the right to purchase the unit as provided in this Section.
 7. If the notice is not mailed within 10 days of the issuance of the Public Report, then the tenant's right to purchase granted, pursuant to this Section, shall be extended for a period equal to 90 days from mailing of the notification.
- G. Notice to Vacate. Each tenant shall receive written notice to vacate the unit. In accordance with the provisions of California Government Code Section 66427.1 or any successor statute, such notice shall be provided at least 180 calendar days from the first notice to vacate the unit and at least sixty 60 days prior to the filing of a tentative map. Additional notice shall be given at least 60 calendar days after the filing of the final map, provided that approval of a condominium conversion shall not impair the length of term or any other rights of a tenant under a validly existing lease or tenant agreement
(Ord. No. 1486, 4/1/2026)

§ 21.56.060. Tenant Relocation Assistance Plan.

For the protection of tenants in rental units proposed to be converted to a condominium, all property owners shall be required to prepare a "Tenant Relocation Assistance Plan" that outlines how the property owner will address and account for the following items, as applicable:

- A. Relocation Fee. Any property owner who serves a notice of intent to convert to tenants pursuant to this Chapter shall pay a relocation fee to each tenant in accordance with the provisions of this Section. Such relocation fee shall be due and payable to each tenant who is not in default under their tenancy and does not exercise their right to purchase their unit, unless the existing property owner notifies each tenant in writing of the withdrawal of the notice of intent to convert prior to such time as the tenant has: given the property owner notice of their last date of occupancy, or vacated their unit if such notice of the last date of occupancy is not given by the tenant. The property owner must file a copy of such withdrawal notice with the City within one week after serving such notice on the tenant.
 1. Amount of Fee. The relocation fee due to each non-purchasing tenant shall be

calculated as follows:

- a. Residing on property for less than two years: equivalent to three months' worth of fair market rent.
 - b. Residing on property for two years or longer: equivalent to four months' worth of fair market rent.
 - c. A tenant who, at the time of the notice of intent to convert is filed with the City, is disabled, 60 years or older, terminally ill, or who is a single head of household with minor children, shall be entitled to receive an additional payment of \$2,500. If more than one additional payment category applies, then the property owner shall provide payment of \$2,500 for each category.
2. Time of Payment. The relocation fee shall be paid to any tenant who vacates the rental unit at the time they vacate.
- B. Temporary Relocation Assistance. If temporary relocation of any tenant is necessary for renovation or rehabilitation of a unit between the date of submission of the conversion application and the date established for permanent relocation of the tenant, then the property owner shall describe how they will maintain habitability for the tenant and any adjacent units during such time. In the event such actions requires a tenant to be temporarily relocated, then the property owner shall also include details about how they will assist with temporary relocation, which must include:
1. Rent. Offering an available unit at the same rent (if the property owner owns other properties within Central Contra Costa County as provided by the Contra Costa Transportation Authority).
 2. Moving Expenses. Paying for moving expenses to both the temporary housing and back to the subject dwelling unit. Payment for moving expenses can either be paid directly by the property owner to a licensed and insured moving company or by reimbursing the tenant for the actual and documented cost of moving by a licensed and insured moving company.
 3. Temporary Housing. Providing to pay for the cost of temporary housing in excess of their current monthly rent for the full duration of the relocation.
- C. Right-to-Return and Rent Adjustments. The property owner must agree to continue renting to the existing tenant after repairs are complete with reasonable limits on rent increases for that tenant, as provided by the California Tenant Protection Act.
- (Ord. No. 1486, 4/1/2026)

§ 21.56.070. Application requirements.

The conversion of rental housing into condominiums shall be subject to all applicable rules and regulations prescribed by the State Subdivision Map Act. In addition to exhibits as required by Martinez Municipal Code Section 21.42.060, the application shall also include details related to the following:

- A. Location of each common area.
- B. Location of each private open space.

- C. Locations and dimensions of parking garages, carports, and individual parking spaces on the site.
- D. Location and dimension of exterior storage space for each individual unit.
- E. Landscaping Plan.
- F. Tenant Relocation Assistance Plan, as referenced in Section 21.56.060.
- G. Tenant Information:
 - 1. Names of current tenants, addresses, and the length of time they have rented the unit;
 - 2. Rental history of each unit for the preceding three years; and
 - 3. Current rental rate for each unit.
- H. A draft copy of a declaration of the conditions, covenants, and restrictions which will apply and which shall include an agreement for common area maintenance, including facilities and landscaping together with an estimate of the initial assessment fees anticipated for such maintenance; a description of a provision for maintenance of vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
- I. Other information which, in the opinion of the Community and Economic Development Director and City Engineer, or designees, will assist in determining whether the proposed project is consistent with this Chapter.

(Ord. No. 1486, 4/1/2026)

§ 21.56.080. Parkland dedication fees.

Each unit shall be subject to full parkland dedication fees at the rate in effect at the time the final map is filed less parkland dedication fees previously paid to the City for that unit.

(Ord. No. 1486, 4/1/2026)

§ 21.56.090. Inclusionary housing requirements.

- A. Applicability. Condominium conversions which result in the conversion of 11 or more rental units shall be required to comply with Chapter 22.82 (Inclusionary Housing).
- B. Credit for Prior Inclusionary Zoning Compliance. If the project was required to comply with the Inclusionary Zoning regulations at the time the project was originally constructed, then the project shall receive a credit towards its inclusionary housing obligation equal to the affordable housing requirement applicable at that time.
- C. Existing Affordable Units. Any existing affordable units within the project created pursuant to the City's Inclusionary Housing regulations shall remain affordable units for the remaining extent of their deed-restriction term.
- D. In-Lieu Fee Credit Limitation. If Inclusionary Zoning in-lieu fees were paid rather than creating affordable units, the property owner shall be responsible for payment of any difference between the previously paid in-lieu fees and the in-lieu fees required under the current Inclusionary Housing regulations.

(Ord. No. 1486, 4/1/2026)

§ 21.56.100. Replacement requirement.

In the event that 11 or more rental units are proposed for conversion to condominiums, then Applicants shall be required to provide one or a mix of the following:

A. Replacement Units.

1. **Ratio.** The Applicant shall provide replacement rental dwelling units on a one-to-one basis for each rental dwelling unit proposed to be converted starting with the 11th unit.
2. **Location.** The replacement units shall be on the same site as the converted project or at an alternative site within the City, subject to the approval of the Community and Economic Development Director, or designee.
3. **Timing.** The replacement units shall be available for occupancy no later than the date of final conversion of the respective displaced tenant.
4. **Comparable Units.** The replacement units shall be comparable to the converted units with respect to:
 - a. An equal number of bedrooms and bathrooms;
 - b. Size and quality of construction;
 - c. Accessibility features; and
 - d. Rent less than or equal to the original rental unit.
5. **Inclusionary Requirements.** Replacement rental units required pursuant to this section shall not be credited toward compliance with the City's Inclusionary Housing regulations, unless expressly permitted by those regulations.

B. In-Lieu Fee. Applicants may request to pay an in-lieu fee of all or some of the replacement units otherwise required. The in-lieu fee shall be calculated on a per-unit basis and be in an amount sufficient to mitigate the loss of rental housing that results from condominium conversions, in accordance with applicable law and as determined by the respective review authority.

1. **Nexus Study.** Applicants shall be responsible for preparation of a nexus study demonstrating the relationship between the fee and the cost of providing the replacement housing and reflect the full cost of replacing a comparable rental dwelling unit, including land acquisition, construction, and soft costs. The nexus study shall be subject to review by City staff or peer review by a qualified consultant at the expense of the Applicant.
2. **Timing.** The in-lieu fee shall be paid prior to recordation of the final map.
3. **Use of Fees.** The in-lieu fees collected shall be deposited in the Affordable Housing Fund.

C. Alternative Means of Compliance. Alternative means of compliance for providing replacement units may be approved upon showing, supported by substantial evidence, that strict application of these replacement requirements would preclude any reasonable

economic use of the property, subject to City Council approval.

D. Exceptions. Condominium conversion projects shall not be required to comply with these replacement requirements if:

1. At least 90 percent of condominium units are purchased by current tenants.
2. Conversions to 100 percent housing units with long-term affordability restrictions for households earning 120 percent of Area Median Income ("AMI") or less.

(Ord. No. 1486, 4/1/2026)

§ 21.56.110. Procedures.

A. Projects Converting 10 or Fewer Rental Units. Projects which propose to convert less than 10 rental units to condominiums shall be subject to approval by the Zoning Administrator.

B. Projects Converting 11 or More Rental Units. Projects which propose to convert 11 or more rental units to condominiums shall be subject to approval by the Planning Commission.

(Ord. No. 1486, 4/1/2026)

§ 21.56.120. Appeal to City Council—Hearing.

The procedure involved in the appeal of a Planning Commission action is set forth in Section 21.42.100.

(Ord. No. 1486, 4/1/2026)

CHAPTER 21.60
LOT LINE ADJUSTMENTS

§ 21.60.010. Application required.

A Lot Line Adjustment Application shall be filed with the Community Development Department for lot line adjustments between two or more adjacent parcels, where:

- A. The land taken from one parcel would be added to an adjacent parcel;
- B. A greater number of parcels than originally existing would not thereby be created; and
- C. There would be no resulting violations of the Martinez Municipal Code.
(Ord. 909 C.S. § 3, 1979; Ord. 1154 C.S. § 2, 1990)

§ 21.60.020. Filing fee.

All persons submitting applications for lot line adjustment shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges for subdivision maps and construction drawings.

(Ord. 909 C.S. § 3, 1979; Ord. 1154 C.S. § 2, 1990)

§ 21.60.030. Preparation and form.

- A. The general form and details of the application and accompanying information shall be as determined by the Community Development Director, but, at a minimum, shall include:
 - 1. The names, addresses, and telephone numbers of the Record Owners; the assessor's parcel numbers assigned to the parcels.
 - 2. A diagram showing the boundaries of the lots, both existing and proposed, with sufficient information to locate the property, and
 - 3. A diagram showing the location and names of all existing streets or other public right-of-way in or adjacent to the lots, and
 - 4. A diagram showing the location of all existing buildings in the vicinity of the affected lot lines, and notations of structures to be removed, and
 - 5. A diagram showing important physical features, such as access and utility easements, railroad rights-of-way, political subdivision lines, rancho lines, and water courses, and
 - 6. A diagram showing true north point, dimensional and graphic scale, and date, and
 - 7. A diagram showing layout, numbers and dimensions of lots involved, and
 - 8. A diagram showing location and width of all proposed easements for all utility purposes, and
 - 9. A certificate signed by all owners agreeing to the filing of said application, and agreeing to comply with the provisions of the subdivision ordinance and State Map Act as they apply to the processing and approval of said application, and

10. Preliminary Title Report for all properties affected, and sufficient title information to show that the parcels were legally created, and

11. Such additional information as may be determined to be needed by the Community Development Director.

(Ord. 909 C.S. § 3, 1979; Ord. 1154 C.S. § 2, 1990)

§ 21.60.035. Review of applications.

Lot line adjustment applications shall be approved, conditionally approved or denied by the Board of Adjustments.

(Ord. 1103 C.S. § I, 1987; Ord. 1154 C.S. § 2, 1990)

§ 21.60.040. Term.

A Lot Line Adjustment approval shall be valid for one year; and, if the deed is not a matter of public record within said time, the approval shall expire.

(Ord. 909 C.S. § 3, 1979; Ord. 1154 C.S. § 2, 1990)

§ 21.60.045. Deed.

An approved lot line adjustment shall be filed for public record by means of a deed containing the information specified in Section 21.60.030(A)(1) through (9) of this Chapter, to be reviewed and approved by the City Engineer prior to recording.

(Ord. 1154 C.S. § 2, 1990)

§ 21.60.050. Planning certificate.

Each Lot Line Adjustment deed shall have attached to it a certificate for the Community Development Director to sign, certifying that the deed meets all planning and zoning requirements. If the deed does not meet these requirements, the Director shall not sign the certificate, and the deed shall not be approved by the City Engineer.

(Ord. 1103 C.S. § I, 1987; Ord. 1154 C.S. § 2, 1990)

§ 21.60.055. Survey of record not required.

No record of survey shall be required for an approved lot line adjustment unless required by Section 8762 of the Business and Professions Code. If the lot line adjustment constitutes a correction to a final or parcel map already recorded in the Office of County Recorder, said lot line adjustment may be effected by a certificate of correction in lieu of or in addition to a deed. Whether the lot line adjustment is memorialized and reflected in a deed or a certificate of correction, it will be the responsibility of the applicant to record same with the County Recorder's Office.

(Ord. 1154 C.S. § 2, 1990)

CHAPTER 21.70 SMALL LOT SUBDIVISIONS

§ 21.70.010. Purpose.

The purpose of this chapter is to provide standards and procedures for the approval of subdivisions and residential development projects of ten or fewer residential units on urban lots under five acres in single-family and multifamily zoning districts to comply with the provisions of Government Code Sections 65852.28, 65913.4.5, and 66499.41. Use of this chapter does not affect the underlying zoning designation of any parcel.
(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.020. Ministerial consideration of parcel maps.

The City shall approve, without discretionary review or public hearing, a tentative, final, or parcel map, and the modification thereof, for a residential development that meets all the following requirements:

A. Lot Requirements.

1. Zoning. The lot is zoned for multifamily residential development or is vacant and zoned for single-family residential development.
 - a. If zoned for multifamily residential development, then the lot shall be no larger than five acres and is substantially surrounded by qualified urban uses. "Substantially surrounded" and "qualified urban use" shall have the same meaning as defined in Public Resources Code Section 21072 and Section 21159.25, paragraph (2), subdivision (a), respectively.
 - b. If vacant and zoned for single-family residential development, then the lot shall be no larger than 1.5 acres and is substantially surrounded by qualified urban uses. "Substantially surrounded" and "qualified urban use" shall have the same meaning as defined in Public Resources Code Section 21072 and Section 21159.25, paragraph (2), subdivision (a), respectively.
2. Lot creation. The lot was not established pursuant to this chapter or pursuant to Government Code Section 66411.7.
3. Site limitations. The lot is not located on any of the following sites, which are defined in California Government Code Section 66499.41(a)(9):
 - a. Prime farmland or farmland of statewide importance.
 - b. Wetlands.
 - c. High fire hazard severity zone.
 - d. Hazardous waste site.
 - e. Earthquake fault zone.
 - f. 100-year flood zone.
 - g. Regulatory floodway.

- h. Conservation land.
 - i. Habitat for protected species.
 - j. Land under conservation easement.
- B. Resulting parcels and residential units.
 - 1. The newly created parcels shall be no smaller than 600 square feet in multifamily zoning districts and no smaller than 1,200 square feet in single-family zoning districts.
 - 2. The proposed subdivision shall result in ten or fewer parcels, and the residential development project on any lot subdivided under this chapter shall contain ten or fewer residential units.
- C. Ownership structure.
 - 1. Housing units on the subdivided lot shall be one of the following:
 - a. Constructed on fee simple ownership lots;
 - b. Part of a common interest development;
 - c. Part of a housing cooperative, as defined in Civil Code Section 817;
 - d. Constructed on land owned by a community land trust meeting the criteria outlined in Government Code Section 66499.41(a)(4)(D); or
 - e. Part of a tenancy in common, as described in Civil Code Section 685.
 - 2. Nothing in this chapter prevents or prohibits the rental of units created pursuant to this chapter.
- D. Housing element compliance.
 - 1. If the parcel is identified in the Inventory of Residential Sites in the City's Housing Element for the current planning period, then the development shall result in at least as many units as projected for that parcel in the Housing Element.
 - 2. If the parcel is identified to accommodate any portion of the City's share of the regional housing need for low-, very low-, acutely low-, or extremely low-income households, then the development project shall result in at least as many low-, very low-, acutely low-, or extremely low-income units as projected in the Housing Element.
 - 3. If the parcel is not identified in the Inventory of Residential Sites in the City's Housing Element, then the development must result in at least 66 percent of the maximum allowable density of the applicable zoning district or 19.8 units per acre, whichever is greater.
- E. Floor area. The average total floor area for any individual residential unit shall not exceed 1,750 square feet of net habitable area, as defined in Government Code Section 66499.41(a)(6).

- F. Demolition or alteration prohibition. The development project shall not require the demolition or alteration of any of the following types of existing housing unit(s):
1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of low-, very low-, acutely low-, or extremely low-income.
 2. Housing that is subject to any form of rent or price control.
 3. Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.
 4. Housing on a parcel where the owner of residential real property has exercised the owner's rights under Government Code Chapter 12.75 of Division 7 of Title 1 and withdrawn accommodations from rent or lease within 15 years before the date the property owner submits an application.
- G. Site limitations. The lot is not located on sites listed in Section 21.70.020(A)(3).
- H. Zoning and subdivision law conformance. The subdivision conforms to all applicable objective requirements of the Subdivision Map Act and Government Code Section 65852.28.
- I. Public utilities access. The newly created parcels will be served by public utilities.
(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.030. Exemptions from additional requirements.

- A. A residential development project is not required to comply with the following:
1. Minimum size, width, depth, or dimensions of individual parcels beyond those established in this chapter.
 2. Formation of a homeowners' association, except as required for maintenance of common space and/or by the Davis-Stirling Common Interest Development Act.
- (Ord. No. 1468, § III, 1/15/2025)

§ 21.70.040. Accessory dwelling units and senate bill 9 urban lot split restrictions.

Accessory dwelling units, junior accessory dwelling units, and Senate Bill 9 urban lot splits are not permitted on parcels created pursuant to this chapter.
(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.050. Application review process.

The Planning Division shall ministerially consider applications under this chapter without discretionary review or a public hearing. The Planning Division shall approve or deny an application for a tentative, parcel, or final map within 60 days from receipt of a completed application. If no decision is made within 60 days, then the application is deemed approved.
(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.060. Denial of application.

The Planning Division may deny an application for a tentative, parcel, or final map if written finding(s) are made, based on a preponderance of the evidence, that the project would cause a specific, adverse impact, pursuant to Government Code Section 65589.5, subdivision (d), paragraph (2), upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. If the Planning Division denies an application, then it shall provide a written explanation to the applicant within 60 days of receiving the completed application. This explanation shall include a full set of comments detailing any defective or deficient items and how they may be remedied.
(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.070. Application and standards for residential developments on subdivided lots.

- A. Application process. An applicant shall submit an application, along with the application fee, for a residential development on a lot that has been subdivided under this chapter and meets the requirements set forth in this section.
- B. Objective standards for development.
 - 1. The Planning Division may impose objective zoning standards, objective subdivision standards, or objective design standards related to the residential development or to the design or improvement of a parcel. These standards shall not conflict with any standards set forth in this chapter.
 - 2. The Planning Division shall not impose any objective zoning, subdivision, or design standard that:
 - a. Physically precludes the development of a project at the density specified by the General Plan or Housing Element.
 - b. Imposes a building separation requirement between units created under this chapter in excess five feet, or imposes rear or side setbacks from existing neighboring parcels in excess of five feet.
 - c. Requires parking spaces be enclosed or covered.
 - d. Imposes parking requirements in excess of or more stringent than one uncovered parking space per residential unit.
 - e. Imposes a floor area ratio standard less than:
 - i. 1.0 for residential development projects consisting of three to seven units.
 - ii. 1.25 for residential development projects consisting of eight to ten units.

(Ord. No. 1468, § III, 1/15/2025)

§ 21.70.080. Issuance of building permits for residential developments on subdivided lots.

- A. Building permit issuance. A building permit for one or more residential units that are part of a residential development project consisting of ten or fewer units on a lot proposed to be subdivided pursuant to this chapter shall be issued by the Building Division if the applicant has met the following requirements:

1. The applicant has received tentative map approval or parcel map approval for the subdivision in accordance with the standards set forth in this chapter.
 2. The applicant has submitted a building permit application that the Chief Building Official or designee has deemed complete pursuant to Government Code Section 65913.3, subdivision (b).
- B. Conditions for permit issuance. The Building Division may condition the issuance of a building permit on the applicant submitting proof, to the satisfaction of the Chief Building Official or designee, of a recorded covenant and agreement enforceable by the City. This covenant and agreement must state that the applicant and the applicant's successors and assignees agree that the building permit is issued on the condition that a certificate of occupancy or equivalent final approval for the building will not be issued unless the final map has been recorded.
- C. Permit issuance based on map approval. The Building Division may require security to ensure the faithful performance of the requirements identified in the approved tentative or parcel map or its conditions of approval. The security amount shall be determined by the Chief Building Official or designee and shall not exceed 300 percent of the total estimated cost of the improvements or the acts to be performed. The security may be provided in one of the following forms, as determined by the Chief Building Official or designee:
1. Bond or bonds issued by one or more duly authorized corporate sureties.
 2. An instrument of credit from a state, federal, or local government agency when such an agency provides at least 20 percent of the financing for the portion of the act or agreement requiring security. Alternatively, the security may be provided by one or more financial institutions subject to state or federal regulation, pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or by a letter of credit issued by such a financial institution.
- D. Denial of building permit. Notwithstanding the provisions of this section, the Building Division may deny the issuance of a building permit if the Chief Building Official or designee makes a written finding, based on a preponderance of the evidence, that the project would cause a specific, adverse impact, pursuant to Government Code Section 65589.5, subdivision (d), paragraph (2), upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- E. Subdivision improvements. No certificate of occupancy shall be issued until all subdivision improvements identified in the tentative or parcel map have been completed and approved by the Chief Building Official or designee.

(Ord. No. 1468, § III, 1/15/2025)

SUBDIVISIONS

MARTINEZ CODE

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CHAPTER 22.02 GENERAL PROVISIONS

§ 22.02.010. Objectives of regulations.

This Zoning Title is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare of the public, and for the following more particularly specified objectives:

- A. To implement the objectives of the General Plan in all its elements, through the provision of a precise plan consistent with the General Plan, to guide, control and regulate the maintenance, change, growth and development of the City;
- B. To foster a harmonious, convenient, workable relationship among land uses;
- C. To promote the stability of existing land uses which conform to the General Plan and to protect them from inharmonious influences and harmful intrusions;
- D. To ensure that public and private lands ultimately are used for the purposes which are most appropriate and beneficial from the standpoint of the City as a whole;
- E. To prevent excessive population densities and overcrowding of the land with structures;
- F. To foster the provision of adequate off-street parking and loading facilities;
- G. To facilitate the appropriate location of community facilities and institutions;
- H. To preserve the natural beauty of the City's site.
(Prior code § 10,102.0; Ord. 822 C.S. § 2, 1975)

§ 22.02.020. Nature of regulations.

This Title shall consist of a zoning map designating certain districts and a set of regulations controlling the uses of land, the density of population, the uses and locations of structures, the height and bulk of structures, the open spaces about structures, the areas and dimensions of sites, and requiring the provision of off-street parking and off-street loading facilities in the districts.
(Prior code § 10,102.1; Ord. 822 C.S. § 2, 1975)

§ 22.02.030. Interpretation.

In their interpretation and application, the provisions of this Title shall be held to minimum requirements. No provision of this Title is intended to repeal, abrogate, annul, impair or interfere with any other existing provisions of the ordinances of the City, except as is specifically repealed herein, provided that where this Title imposes a greater restriction on the use of land or structures, or the height or bulk of structures, or requires greater open spaces about structures, or greater areas or dimensions of sites than is imposed or required by any other existing provisions, this Title shall control.

This Title is not intended to abrogate, annul, impair or interfere with any deed restriction, covenant, easement or other agreement between parties provided that when this Title imposes a greater restriction on the use of land or structures or the height or bulk of structures, or requires greater open spaces about structures, or greater areas or dimensions of sites than is imposed or required by deed restriction, covenant, easement or other agreement, this Title shall control.

(Prior code § 10,102.2; Ord. 822 C.S. § 2, 1975)

§ 22.02.040. Application.

This Title shall apply to all property except public streets, railroad rights-of-way, towers and poles and underground facilities for providing gas, water, oil, electricity or telephone and telegraph service, whether owned by private persons, firms, corporations or organizations, by the United States of America or any of its agencies, by the State or any of its agencies or political subdivisions, by any city or county, including the City of Martinez, or any of its agencies, or by any authority or district organized under the laws of the State; provided further, that the route for all proposed transmission lines shall be submitted to the Planning Commission for review and recommendation prior to acquisition of rights-of-way.

(Prior code § 10,102.3; Ord. 822 C.S. § 2, 1975)

§ 22.02.050. Authority.

The Community and Economic Development Director, Planning Manager, or designee shall have the authority to interpret and apply the provisions of this Title as necessary to carry out its purposes and objectives when the requirements of this Title are unclear. In exercising such authority, the Community and Economic Development Director, Planning Manager, or designee may consider any relevant factors, including but not limited to the intent and purpose of this Title, applicable laws and regulations, and the specific circumstances of each case. Such interpretations shall be in writing.

(Ord. No. 1447, § 3, 7/19/2023)

CHAPTER 22.04
DEFINITIONS³⁵

§ 22.04.010. Generally.

For the purposes of this Title, certain words and terms used herein are defined as set out in this Chapter.

(Ord. No. 1458, § VII, 5/15/2024)

§ 22.04.020. Interpretation of tense and number.

All words in the present tense shall include the future tense. All words in the singular number shall include the plural number and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise.

(Ord. No. 1458, § VII, 5/15/2024)

§ 22.04.030. Definitions (A—Z).

Accessory dwelling unit. An "accessory dwelling unit" or ADU is a dwelling unit that is accessory to a primary dwelling and has complete independent living facilities for one or more persons and has a few variations:

- A. Detached: The unit is separated from the primary dwelling.
- B. Attached: The unit is attached to the primary dwelling by a common wall.
- C. Converted Existing Space: Permitted habitable or non-habitable space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.

Accessory dwelling unit, junior. A "junior accessory dwelling unit" or JADU is a specific type of conversion of existing space into a separate dwelling unit that is contained entirely within an existing or proposed single-family dwelling and does not exceed 500 square feet.

Accessory dwelling unit, state exempt. A "state exempt ADU" is an ADU or JADU consistent with Government Code Section 66323. State ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a state exempt ADU.

Activities devoted primarily to the sale or exchange of tobacco-related products. "Activities devoted primarily to the sale or exchange of tobacco-related products" are activities either devoting 20 percent of floor area or display area to, or deriving 75 percent or more of gross sales receipts from, the sale or exchange of tobacco-related products.

Affordable housing fund. "Affordable housing fund" is the City-sponsored fund for use on activities associated with providing housing affordable to acutely low-, extremely low-, very low-, low-, and moderate-income households, and any special needs populations in the City consistent with the goals and policies contained in the City's Housing Element. Possible uses for the fund may include, but are not limited to, land acquisition, predevelopment costs,

35. Editor's note: Prior history: Prior code § 10.102.4; Ord. 822 C.S., 1975; Ord. 960 C.S., 1982; Ord. 963 C.S., 1982; Ord. 965 C.S., 1982; Ord. 974 C.S., 1982; Ord. 1027 C.S., 1984; Ord. 1041 C.S., 1985; Ord. 1055 C.S., 1985; Ord. 1245 C.S., 1997; Ord. 1277 C.S., 2000; Ord. 1284 C.S., 2001; Ord. 1290 C.S., 2001; Ord. 1296 C.S., 2002; Ord. 1312 C.S., 2004; Ord. 1335 C.S., 2007; Ord. 1342 C.S., 2008; Ord. 1359 C.S., 12/15/2010; Ord. No. 1377 C.S., 2/5/2014; Ord. No. 1379 C.S., 2/19/2014; Ord. No. 1422, 4/3/2019; Ord. No. 1447, 7/19/2023; Ord. No. 1448, 9/27/2023; Ord. No. 1450, 12/20/2023; Ord. No. 1451, 1/17/2024; and Ord. No. 1452, 1/17/2024.

rehabilitation of existing units, converting market-rate to affordable housing, construction of new residential units, administration and compliance monitoring of the affordable housing program, and to generally implement the Housing Element, as approved by the City Council.

Aggregate side yards. "Aggregate side yards" means the sum of the two side yards.

Agricultural accessory structure. "Agricultural accessory structure" means an attached or detached subordinate structure which supports agricultural activity; is incidental to the use of the main structure or the main use of the land; and is located on the same site with the main structure or use. Examples of agricultural accessory structures include, but are not limited to, grain silos, water towers, barns, small and large animal structures, and equipment storage structures.

Agricultural product processing. "Agricultural product processing" means the commercial preparation of agricultural products for human consumption or the manufacture of products which are derived from plants and animals. Examples include, but are not limited to, meat processing, lard manufacture, dairy production, and vegetable canning.

Agriculture—Large scale. "Large scale agriculture" means general farming, wholesale horticulture, viticulture, and floriculture, dairying, livestock production, fur farms, chicken raising, animal breeding, aviaries, apiaries, forestry, and similar agricultural uses.

Agriculture—Small scale. "Small scale agriculture" means crop and tree farming, horticulture, and viticulture.

Airport and heliport. "Airport and heliport" means an area designated for the takeoff, landing, and movement of aircraft. Airports typically include runways, taxiways, aprons, and terminal buildings for the embarkation and disembarkation of passengers and cargo. Heliports are specifically designated areas for helicopters to take off and land, often featuring landing pads, fueling stations, and other necessary facilities. These facilities may also include ancillary operations such as aircraft maintenance, air traffic control, customs, and security services.

Alley. "Alley" means a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Alter. "Alter" means to make a change which will prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, or girders.

Animal boarding. "Animal boarding" means the commercial operation of a facility that provides temporary care, shelter, and accommodation for animals, including but not limited to dogs, cats, birds, and small mammals, for a period exceeding 24 hours. Such facilities may offer services such as feeding, grooming, exercise, and medical care under the supervision of trained personnel. Animal boarding establishments shall comply with all applicable health, safety, and zoning regulations to ensure the well-being and comfort of the boarded animals.

Animal structures—Large. "Large animal structures" means accessory structures provided for the shelter or housing of livestock including, but not limited to, barns and stables.

Animal structures—Small. "Small animal structures" means accessory structures provided for the shelter or housing of small animals including, but not limited to, chicken coops, rabbit hutches, and similar scale structures.

Antique shops. "Antique shops" means establishments engaged in retail sales of objects of art or pieces of furniture, household implements and the like, which, because of age, rarity, and fabrication or the manufacture at a time much earlier than present, have acquired a collectors' quality and value. This definition does not include any objects or materials that are obsolete and have secondhand or salvage value only.

Apiary. "Apiary" means beehives or place where bees are kept, located, or found.

Applied water. "Applied water" means the portion of water supplied by the irrigation system to the landscape.

Arcade, architectural. "Arcade, architectural" means a ground-floor colonnade that supports a shed roof or deck that covers a sidewalk or walkway, intended to provide shade and weather protection.

Area median income. "Area median income" is the midpoint of the County's income distribution, meaning half of the households earn more than that amount and half earn less. Area median income shall be prescribed by the California Department of Housing and Community Development, pursuant to Cal. Health & Safety Code § 50093.

Automatic irrigation controller. "Automatic irrigation controller" means a timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers are able to self-adjust and schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

Backflow prevention device. "Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

Bail bonds shops. "Bail bonds shops" means establishments that provide security for the due appearance of an individual to obtain temporary release from imprisonment.

Bar. "Bar" shall mean a business where alcoholic beverages, but not including beer and/or wine only, are sold for on-site consumption, with either no or limited food service which do not include a "bona-fide public eating place." "Bar" does not include a business where alcoholic beverages are served which business complies with all of the following: a) operates as "a bona-fide public eating place", b) possesses a license type issued by ABC which is issued only to establishments with a "bona-fide public eating place"; and c) provides meals, prepared on-site in a full commercial kitchen conforming to all current requirements of the Contra Costa County Health Services Department, the Martinez Municipal Code, and the City Building Official.

Bay window. "Bay window" means a window or group of windows that project from the main volume of a building, and the structural frame in which it or they sit.

Bed and breakfast inn. "Bed and Breakfast Inn" means a business operated as part of a dwelling in which lodging or lodging and meals are provided for compensation for more than two but not more than six persons other than members of the resident family, excluding a nursing home, where the following conditions are met:

- A. The business is conducted within a dwelling by an inhabitant thereof.
- B. No signage is displayed other than a name plate not exceeding six square feet in area.
- C. No noisy or otherwise objectionable machinery or equipment is used in the conduct of the business.
- D. No storage of equipment or supplies takes place outside of the dwelling.
- E. Off-street parking is provided at the rate of two spaces plus one space for each guest room.
- F. The conduct of the business does not create excessive pedestrian, automobile, or truck traffic in the vicinity.

Block. "Block" means an area of land separated from other areas by adjacent streets, railroads, rights-of-way, public areas, or subdivision boundary.

Bona-fide public eating place. "Bona-fide public eating place" shall have the same meaning as set forth in California Business and Professions Code Section 23038 and includes a place which regularly serves meals and which has suitable kitchen facilities connected therewith. "Bona-fide public eating places" does not include establishments with only limited food service such as only sandwiches or salads or pre-prepared foods.

Bracing. "Bracing" means one or more rigid structural struts installed at an angle to support or appear to support an eave, bay window, or other overhanging building feature.

Breezeway. "Breezeway" means a structure for the principal purpose of connecting the main structure on a site with another main structure or an accessory structure on the same site. A breezeway shall not exceed 12 feet in height and no more than 50 percent of the sides of the structure shall be enclosed with any material other than that necessary for roof supports.

Brise soleil. "Brise soleil" means one or more rigid canopies mounted adjacent to windows to shade the window and reflect sunlight from the top of the canopy into the adjacent interior space.

Building. "Building" means any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, chattels, or property of any kind.

Building height. "Building height" means the vertical distance at any point of the surface of the ground covered by the structure directly over said point between the natural grade or base floor elevation as defined by FEMA and the highest point of the structure, not including the exceptions outlined in Section 22.34.170(B).

Building recess. "Building recess" means a vertical gap that interrupts otherwise adjacent façade planes. Building recesses are open to the sky and extend from the ground.

Campground. "Campground" means real property made available to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device. "Campground" does not include a manufactured home community or mobile home park.

Cannabis delivery permit. "Cannabis delivery permit" means a permit issued by the Chief of Police to business that delivers cannabis products within the City limits of the City of Martinez.

Canopy. "Canopy" means an overhead projection that provides weather protection to the space below.

Carport. "Carport" means an accessory structure or portion of a main structure having a roof but open on two or more sides and designed for the storage of motor vehicles.

Certificate of completion. "Certificate of Completion" means the document required under Chapter 22.73 (Water Efficient Landscape).

Certified irrigation designer. "Certified irrigation designer" means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the United States Environmental Protection Agency's WaterSense irrigation designer certification program and Irrigation Association's Certified Irrigation Designer program.

Certified landscape irrigation auditor. "Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program, such as the United States Environmental Protection Agency's WaterSense irrigation auditor certification program and Irrigation

Association's Certified Landscape Irrigation Auditor program.

Check cashing shops. Establishments with a primary purpose of cashing checks and making loans other than a financial institution such as a bank or credit union.

Check valve or anti-drain valve. "Check valve" or "anti-drain valve" means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

Chicken. "Chicken" means any domesticated chicken excluding roosters, kept for the primary purpose of egg production, meat, or as a pet.

Christmas tree farm. "Christmas tree farm" means the seasonal sale of trees grown on site. Customer selection and cutting of trees may be part of the sales process.

Clean technology. "Clean technology" means a business or operation related to the development of innovative practices and technologies aimed at reducing environmental impact, enhancing resource efficiency, and promoting sustainability. It encompasses renewable energy systems like solar and wind power, energy-efficient solutions for buildings and transportation, waste management and recycling facilities, water conservation technologies, clean transportation options such as electric vehicles, sustainable agriculture practices, green building materials, and environmental monitoring and remediation technologies.

Closest zone or closest parcel. "Closest zone" or "closest parcel" means the nearest zone or parcel to the site measured as a straight-line distance. If more than one zone or parcel is closest to the site (i.e., within the same distance), then the City shall apply the zone in which the density permitted is most similar to that proposed by the Housing Development Project.

Commercial corridor. "Commercial corridor" means a street, inclusive of sidewalks and roadways, but excluding freeways, that has a public right-of-way at least 70 feet wide but not greater than 150 feet wide.

Commercial vehicle. "Commercial vehicle" shall have the same meaning as set forth in the California Vehicle Code as the same may be amended from time to time, except that commercial vehicle shall not include a pickup truck as defined in the California Vehicle Code as the same may be amended from time to time.

Commissions, officers, boards.

- A. "Board of Adjustments" and "Board" mean the Zoning Administrator, or the Planning Commission, as determined by the Planning Manager or designee.
- B. "Building Inspector" means the Chief Building Official or designee.
- C. "City Engineer" means the City Engineer or designee.
- D. "City Planning Commission" and "Commission" mean the Planning Commission duly appointed by the City Council.
- E. "Zoning Administrator" means the Community and Economic Development Director, Planning Manager, or designee.

Common interest developments. "Common interest developments" means community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351.

Common open space. "Common Open Space" means land area of the site not covered by

buildings or structures which is accessible to all occupants or dwelling units within the development. It does not include proposed street rights-of-way, open parking areas, driveways, school sites, commercial areas and related facilities, or areas determined unsuitable by the Zoning Administrator or Planning Commission.

Community benefit. "Community Benefits" are benefits provided to the Martinez community from an applicant in the form of affordable housing, contribution to a City-funded program, on-site benefit, and/or off-site benefit, as outlined in Chapter 22.81.

Community-oriented non-profit organization. "Community-Oriented Non-Profit Organization" means an organization owned, controlled, and operated by an entity that maintains a 501c(3) non-profit status and provides services to Martinez residents.

Compost. "Compost" means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

Concession, state density bonus law. "Concession" means modification(s) to City regulatory or development standards that result in actual and identifiable cost reductions to provide for affordable housing costs or rents associated with State Density Bonus Law projects. The number of required incentives is based on the percentage of affordable or senior units provided in the qualifying project consistent with California Government Code Sections 65915 through 95918. Concessions may include:

- A. Reduced lot sizes and/or dimensions;
- B. Reduced minimum setbacks;
- C. Reduced minimum common and/or private open space requirements;
- D. Increased maximum lot coverage;
- E. Increased maximum building height and/or stories;
- F. Reduced off-street parking standards, including the number and size of spaces such that no less is provided as stipulated in California Government Code Sections 65915 through 95918;
- G. Reduced minimum building separation requirements;
- H. Reduced street standards, including street widths;
- I. Approval of mixed-use zoning if commercial, office, or other land uses where not otherwise permitted, will reduce the cost of the housing development, and if the commercial, office, or other land uses are compatible with the housing development and the existing or planned development in the area;
- J. Deferred permit application fees;
- K. Expedited or accelerated permitting process; and/or
- L. Other regulatory incentives or concessions proposed by the applicant and approved by the review authority which result in identifiable cost reductions or avoidance.

Conservation area. "Conservation area" means an area of land that is intended to be protected and conserved for its natural, cultural, or historical significance.

Contracting and construction establishment. "Contracting and construction establishment" means a commercial entity engaged in the construction, renovation, or improvement of structures, buildings, or infrastructure, including, but not limited to, residential, commercial, industrial, and public works projects. This may include general contractors, subcontractors, construction firms, and other entities involved in the planning, management, and execution of construction activities

Conversion factor (0.62). "Conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.

Coop. "Coop" means a roofed structure where chickens typically roost.

Corbeling. "Corbeling" means one or more minor projections comprised of blocks or built-up elements, which support or appear to support an eave, bay window, or other overhanging building feature.

Cornice. "Cornice" means a horizontal molding, often used architecturally to accentuate a building's top and/or to delineate a building's base, middle, and top as part of a tripartite composition.

Courtyard. "Courtyard" means a privately owned, publicly accessible outdoor space that can be used by the public and is next to a street and located midblock. Courtyards are abutted by buildings on at least two sides. Corner plazas may be used to separate blocks.

Craftsmanship establishment. "Craftsmanship establishment" means a business engaged in the skilled production of goods through various artisanal techniques such as metalworking, stonemasonry, glassworking, and woodworking. These establishments typically involve hands-on craftsmanship, precision, and expertise in shaping raw materials into finished products.

Day care, general. "General day care" means a commercial business or institution that provides care for persons on a less than 24-hour basis. This classification is exclusive to those facilities licensed by the State, and includes nursery schools, preschools and day care centers for children or adults, but excludes smaller facilities such as family day care home.

Depth. "Depth" means the horizontal distance between the front and rear property lines of a site measured along a line midway between the side property lines.

Development incentive. "Development incentive" means the predetermined deviations from development standards for specified zoning districts.

Disabled person(s). "Disabled person(s)" means a person who has a medical, physical, or mental impairment or condition that substantially limits one or more major life activities, as those terms are defined in the California Government Code Section 12926, anyone who is regarded as having such a condition or anyone who has a record of having such a condition. It includes a person or persons, or an authorized representative of a disabled person. The term disabled persons does not include a person who is currently using illegal substances, unless they also have a separate disability.

Dispensary—Cannabis. "Dispensary" means a business that holds a valid state license and conducts the retail sale of cannabis or cannabis products. "Dispensary" means the same thing as "retail cannabis store."

Distribution—Cannabis. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between commercial cannabis businesses licensed by the state.

Distribution uniformity. "Distribution uniformity" means the measure of the uniformity of

irrigation water over a defined area.

Dog fancier. "Dog fancier" means a person owning or keeping four or more dogs over the age of six months:

- A. As pets;
- B. For showing in recognized dog shows, field trials, or obedience trials;
- C. For working or hunting;
- D. For improving the variety of breed in temperament or conformation with a view to exhibition in shows or trials, or for use as working dogs in hunting.

Dog kennels, commercial. "Commercial dog kennels" means any lot, building, structure, enclosure, or premises where one or more dogs are kept or maintained for commercial purposes, including boarding, breeding, and veterinary care, for the primary purpose of sale or service for profit. All dogs maintained in commercial dog kennels are to be confined on the premises under the owner's control, and shall be enclosed in a building during the hours of darkness.

Drip irrigation. "Drip irrigation" means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

Dwelling. "Dwelling" means a one-family dwelling, multiple dwelling, lodging house or apartment hotel.

Dwelling, primary. "Primary dwelling" means a means a one-family dwelling, multiple dwelling, lodging house or apartment hotel on the parcel and is the larger of the two if there is an existing accessory dwelling unit on the parcel.

Dwelling, single-family. "Single-family dwelling" means a structure containing no more than one dwelling unit, designed for occupancy or occupied by no more than one family not occupied on a transient basis.

Dwelling unit. "Dwelling unit" means one or more rooms and a single kitchen, designed for occupancy by one family for living and sleeping purposes. This includes mobile homes constructed after 1976 (certified under the National Mobile Home Construction and Safety Standards Act of 1974) and placed on permanent foundations.

Ecological restoration project. "Ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

Educational institution. "Educational institution" means an establishment or facility primarily engaged in providing instruction, training, or education to individuals, including, but not limited to, schools, colleges, universities, vocational training centers, tutoring centers, language schools, and other similar entities.

Effective precipitation or usable rainfall (Eppt). "Effective precipitation" or "usable rainfall" (Eppt) means the portion of total precipitation which becomes available for plant growth.

Employee housing. "Employee Housing" means residential accommodations for individuals employed within a specific geographic area or by a particular employer. Employee housing serving six or fewer employees shall be deemed a single-family structure and shall be subject to the same standards as any single-family residence in the same zoning district. Employee housing is not a business run for profit.

Established landscape. "Established landscape" means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

Establishment period of the plants. "Establishment period of the plants" means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.

Estimated total water use (ETWU). "Estimated Total Water Use" or "ETWU" means the total water used for the landscape as described in Section 22.73.040.

ET Adjustment factor (ETAF). "ET adjustment factor" or "ETAF" means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. The ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.

Evapotranspiration rate. "Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

Event rental business. "Event rental business" means a commercial enterprise engaged in renting out equipment, facilities, or services for events such as weddings, parties, conferences, and exhibitions. These businesses provide a variety of items for rent, including tents, tables, chairs, decorations, audiovisual equipment, lighting, and other event-related supplies. Event rental businesses may also offer delivery, setup, and pickup services as part of their rental packages.

Façade plane. "Façade plane" means a single exterior wall plane that is uninterrupted by wall planes at angles or offsets from that plane. The width of a façade plane shall be measured between building sides, a building side and recess, or between two building recesses.

Façade, street-facing. "Façade, street-facing" means a façade that is within 20 feet of a required front yard or street-adjacent side yard, and is parallel or within 45 degrees of parallel to a street-adjacent property line.

Fair housing laws. "Fair Housing Laws" means the Federal Fair Housing Act (42 United States Code Section 3601 et seq.) and the California Fair Employment and Housing Act (California Government Code Section 12926 and 12955 et seq.), including amendments there to.

Family. "Family" means one or more persons related by blood, marriage, or legal adoption, or a group of persons living together who constitute a single-family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind.

Family day care home. A facility located in a residential district which provides licensed family day care to 12 or fewer children including children who reside at the home.

Farmworker and employee housing. "Farmworker and employee housing" means accommodations for up to 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household. All occupants of the housing units must be agricultural employees who are employed in, raising, or harvesting any agricultural commodity. Such employees need not work on the property where the housing is located. Any farm worker and employee housing providing accommodations for six or fewer farm workers or employees shall be deemed a single-family structure. Farm worker and employee housing is not a business run for profit.

Financial institution. "Financial institution" means an establishment or entity engaged in providing financial services, including but not limited to banks, credit unions, savings and loan associations, mortgage brokers, investment firms, and insurance companies. This category may also include ATM facilities, currency exchanges, and other similar financial service providers.

Flexible community benefit. "Flexible Community Benefit" means tangible benefits provided to the City from an applicant which are not provided on the City's predetermined list, outlined in Chapter 22.81, subject to approval by the City Council.

Floor area, gross. "Gross floor area" means the total horizontal area in square feet on each floor within the exterior walls of a structure but not including the area of inner courts, shaft enclosures, or exterior walls.

Floor area ratio. "Floor area ratio" means the ratio of gross habitable floor area to total lot area.

Flow rate. "Flow rate" means the rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

Flow sensor. "Flow sensor" means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or flow monitor capable of receiving flow signals and operating master irrigation valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

Foster family home. "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed, or as defined and regulated by the California Health and Safety Code.

Freight and transportation station. "Freight and transportation station" means a facility designated for the storage, handling, and distribution of goods and materials, as well as the transfer of passengers and cargo between different modes of transportation. These stations serve as hubs for various transportation activities, including shipping, receiving, sorting, passenger transit, and transferring freight and cargo.

Friable. "Friable" means a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.

Frontage. "Frontage" means the property line of a site abutting on a street, other than the side yard property line of a corner lot.

Fuel modification plan guideline. "Fuel Modification Plan Guideline" means guidelines from a local fire authority to assist residents and businesses that are developing land or building structures in a fire hazard severity zone.

Garage. "Garage" means an accessory structure or a portion of a main structure, enclosed on three or more sides, designed for the storage of motor vehicles.

Garage, repair. "Repair garage" means a structure or part thereof where motor vehicles are repaired or painted.

Garage, storage. "Storage garage" means a structure or part thereof used for the storage, parking, or servicing of motor vehicles but not for the repair thereof.

General retail sales. "General retail sales" means the sale of various consumer goods and merchandise directly to the public for personal or household use. Such goods may include, but

are not limited to, clothing, accessories, electronics, home goods, appliances, groceries, toys, and books.

Graywater. "Graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

Group care and rehabilitation facilities. "Group care and rehabilitation facilities" means residential facilities which provide supervision, care and/or rehabilitation services to resident mentally disordered persons, resident persons who have suffered such problems or diseases as alcoholism, drug addiction, or the like or other handicapped resident persons.

Hardscapes. "Hardscapes" means any durable material (pervious and non-pervious).

Health care clinics, medical outpatient facilities, and medical and dental offices. "Health care clinics, medical outpatient facilities, and medical and dental offices" means facilities where medical and dental services are provided to patients on an outpatient basis. These establishments offer a range of medical and dental services, including consultations, examinations, diagnostics, treatments, and preventive care. They may include general medical clinics, specialized medical clinics, dental offices, diagnostic imaging centers, outpatient surgery centers, and similar facilities. These establishments are typically staffed by licensed medical and dental professionals, such as physicians, dentists, nurses, and technicians, and may also provide ancillary services such as laboratory testing and pharmacy services.

High technology. "High technology" means activities and processes that involve advanced scientific and technological knowledge with the purpose of producing cutting-edge products or services. Such activities may include research, development, design, testing, and production of technology-based goods or services. High Technology establishments may encompass industries such as electronics, biotechnology, information technology, aerospace, artificial intelligence, emerging technology, and other fields that heavily rely on innovation and scientific expertise.

Home occupation.

A. "Home occupation" means the conduct of an art or profession, the offering of a service or the conduct of a business, or the handcraft manufacture of products, but not including any of the following:

1. Appliance repair, other than repair of small household appliances;
2. Motorized garden tool repair such as, but not limited to, lawnmowers;
3. Massage business, as defined in Chapter 5.58;
4. Pest control;
5. Vehicle production and services such as, but not limited to, the following: cleaning, dismantling, embellishment, installation, manufacture, repair or service, sale, lease or rental, and towing, excluding the dispatching of vehicles such as limousines, taxicabs, and ambulances;
6. Welding;

7. Any use which requires a hazardous materials permit from the Fire Department;
8. Commercial cannabis activity, as provided in Chapter 22.41;
9. Any other use which does not comply with any of the conditions listed in subsection B of this section.

B. All home occupations are subject to the following conditions:

1. The home occupation shall be conducted within a dwelling by an inhabitant thereof and shall be clearly incidental to the use of the structure as a dwelling;
2. There shall be no external alteration of the dwelling in which the home occupation is conducted;
3. No sign shall be displayed other than a nameplate in which the home occupation is conducted;
4. No one other than a resident of the dwelling shall be employed in the conduct of a home occupation, except that a doctor, dentist, osteopath, Microenterprise Home Kitchen Operation ("MEHKO"), Cottage Food Operation ("CFO"), or chiropractor may employ one assistant;
5. There shall be no machinery or equipment used in the conduct of the home occupation that exceeds the permitted levels as outlined in Chapter 8.34 (Noise Control);
6. There shall be no storage, keeping or display of equipment, supplies, or merchandise outside or in the vicinity of the dwelling. No goods, merchandise, or products shall be sold or offered for sale inside of, outside of, or in the vicinity of, the dwelling, except for products prepared by an approved MEHKO or CFO. As used in this subsection, vicinity includes any private property located in the same street block as the dwelling;
7. The conduct of the home occupation shall not create excessive pedestrian, automobile, or truck traffic in the vicinity or on the property of any other residence. Excessive traffic is defined as more than four vehicles or pedestrians per hour arriving at or departing from the residence, or more than a cumulative total of 20 vehicles or pedestrians per day. Approved MEHKOs and CFOs are exempt from this requirement and instead are subject to the limitations outlined in Section 22.040.240(B)(8).
8. MEHKOs and CFOs are further subject to the following requirements:
 - a. MEHKO and CFO owners must have a Food Protection Manager Certification and a MEHKO or CFO permit, as appropriate, as issued by the Contra Costa County Environmental Health Program.
 - b. MEHKO gross annual sales cannot exceed \$100,000.00 in 2023 dollars, as adjusted annually according to the California Consumer Price Index. CFO annual sales cannot exceed \$75,000.00 for a Class A CFO or \$150,000.00 for a Class B CFO.
 - c. MEHKOs cannot sell more than 30 meals or meal components per day, and/or more than 90 meals or meal components per week. A meal is defined as the amount or quantity of food that is intended to be consumed by one customer in one sitting. A meal may include one or more of any of the following: (1) a

main dish; (2) appetizers; (3) side dishes; (4) beverages; (5) baked goods; and (6) desserts. CFOs can only sell food items that are approved by the California Department of Public Health.

- d. MEHKOs and CFOs shall not use a third-party delivery service to deliver food, and must hand all food directly to any customers.

Homeless person(s). "Homeless person(s)" also referred to as "unhoused person(s)" means an individual who lacks a fixed, regular, and adequate nighttime residence; and/or an individual who has a primary nighttime residence that is:

- A. A supervised, publicly or privately operated shelter designed to provide temporary living accommodations, including but not limited to emergency shelters, congregate shelters, and transitional housing;
- B. An institution that provides a temporary residence for individuals intended to be institutionalized; or
- C. A public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.

Homeless shelter, emergency. "Emergency homeless shelter" means a temporary facility or designated area intended to provide short-term housing and supportive services to individuals or families experiencing homelessness or displacement due to natural disasters, emergencies, or other crises. "Short term" means a period not to exceed 180 days. Emergency shelters may be operated by governmental agencies, nonprofit organizations, religious institutions, or other entities authorized by the local jurisdiction. These shelters typically offer overnight accommodations, meals, hygiene facilities, and access to social services such as counseling, job assistance, and medical care. Emergency shelters include, but are not limited to, other interim interventions like navigation centers, bridge housing, and respite or recuperative care.

Homeless shelter, ongoing. "Homeless shelter, ongoing" means a program, operated by a religious or eleemosynary institution (with the intent of placing the homeless in permanent dwelling units within 90 days after first occupying the shelter) that provides overnight shelter, two meals a day and case management services for homeless persons, with no predetermined limitation to length of occupancy.

Hotel. "Hotel" means a structure or portion thereof in which there are 16 or more individual guest rooms or suites, usually occupied on a transient basis, where lodging, with or without meals is provided for compensation, and in which more than 50 percent of the individual guest rooms and suites are without kitchens.

Hydrozone. "Hydrozone" means an irrigated or non-irrigated portion of the landscaped area having plants with similar water needs and rooting depth.

Inclusionary Unit. "Inclusionary unit" is the on-site or off-site deed-restricted dwelling unit that is sold or rented at below-market rates to acutely low-, extremely low-, very low-, low-, or moderate-income households. These units are produced by Chapter 22.82 (Inclusionary Housing) or other obligation that aims to integrate affordable housing into above moderate-income projects.

Industry, heavy. "Heavy industry" means industrial activities involving large-scale manufacturing, processing, storage, or production that typically utilize heavy machinery, equipment, and raw materials. Heavy industry facilities are characterized by their large physical

footprint, high energy consumption, and potential to generate substantial noise, odor, vibration, illumination, emissions, waste byproducts, and truck traffic. These uses must conform to the Industrial Performance Standards of this Title.

Industry, light. "Light industry" means industrial activities involving manufacturing, processing, assembly, research and development and storage uses conducted indoors; accessory restaurant and retail sales to serve the industrial area only; construction trades such as contracting, plumbing, and electrical; food and beverage production; and other uses determined to be substantially similar to the above by the Community and Economic Development Director or designee. Light industry is oriented towards the production of consumer goods for end users rather than for intermediate use by other industries. Light industry does not generate substantial noise, odor, vibration, illumination, emissions, waste byproducts, or truck traffic.

Infiltration rate. "Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

Invasive plant species. "Invasive plant species" means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Lists of invasive plants are maintained at the California Invasive Plant Inventory and the United States Department of Agriculture's invasive and noxious weeds database.

Irrigation audit. "Irrigation audit" means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association's Landscape Irrigation Auditor Certification program or other United States Environmental Protection Agency "WaterSense" labeled auditing program.

Irrigation efficiency (IE). "Irrigation efficiency" or "IE" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices.

Irrigation emitter. "Irrigation Emitter" means a drip irrigation emission device that delivers water slowly from the system to the soil.

Irrigation survey. "Irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

Irrigation water use analysis. "Irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

Junkyard. "Junkyard" means a site or portion of a site on which waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including used furniture and household equipment yards, house wrecking yards, used lumber yards and the like excepting a site on which such uses are conducted within a completely enclosed structure and excepting motor vehicle wrecking yards as defined in this Chapter. An establishment for the sale, purchase or storage of used cars or salvaging machinery in operable condition, and the processing of used or salvaged materials as part of a manufacturing operation shall not be deemed a junkyard.

Kitchen. "Kitchen" shall mean an area designed to be used for the preparation of food and equipped with all of the following:

- A. A sink and/or other device for dishwashing;
- B. A stove, microwave, or other device for cooking or heating food;
- C. A refrigerator or other device for cool storage of food;
- D. Cabinets, shelves, or counters for storage of equipment and utensils for food preparation.

Kitchen, efficiency. "Efficiency Kitchen" means a room or part of a room that is designated for food preparation and includes a sink, a refrigerator, a stove/range, a food preparation counter of at least three linear feet and no more than eight linear feet, and storage cabinets of at least three linear feet and no more than 15 linear feet.

Landscape architect. "Landscape architect" means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code Section 5615.

Landscape area. "Landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

Landscape contractor. "Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

Landscape documentation package. "Landscape Documentation Package" means the documents required under Section 22.73.060.

Landscape project. "Landscape project" means total area of landscape in a project as defined in "landscape area".

Landscape water meter. "Landscape water meter" means an inline device installed at the irrigation supply point that measures the flow of water into the irrigation system and is connected to a totalizer to record water use.

Lateral irrigation line. "Lateral irrigation line" means the water delivery pipeline that supplies water to the irrigation emitters or sprinklers from the valve.

Legal religious institution. "Legal Religious Institution" means an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operated as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 91010), or as a corporation sole pursuant to Part 6 (commencing with Section 10000), of Division 2 of Title 1 of the Corporations Code.

Life sciences and biotechnology. "Life sciences and biotechnology" means establishments engaged in research, development, manufacturing, and commercialization activities related to biological and medical sciences, including, but not limited to, biopharmaceuticals, medical devices, diagnostics, genetic engineering, regenerative medicine, and agricultural biotechnology. These establishments may include laboratories, research facilities, manufacturing plants, and offices dedicated to advancing scientific knowledge, developing innovative products, and improving human and environmental health. Life sciences and biotechnology facilities may also encompass ancillary uses such as conference centers, training facilities, and support services essential to the operation of these establishments.

Lintel. "Lintel" means a horizontal architectural member supporting the weight above an opening, such as a window or a door, or having the appearance of supporting the weight above an opening by having a height not less than one-twelfth of its length or eight inches, whichever is greater.

Lodging house. "Lodging house" means a dwelling in which lodging or lodgings and meals are provided for compensation for more than six but not more than 15 persons other than members of the resident family, excepting a nursing home.

Lot. "Lot" means a parcel of subdivided land which is shown on a duly approved and recorded subdivision map.

Lot, corner. "Corner lot" means a site bounded by two or more adjacent street lines which have an angle of intersection of not more than 135 degrees.

Lot, corridor access. "Corridor access lot" means a site with access to a street by means of a corridor having not less than 20 feet of frontage and a width less than the required site width but not less than 20 feet. The area of an access corridor shall not be included in determining site area.

Lot, double frontage. "Double frontage lot" means an interior lot having frontage on two parallel or approximately parallel streets.

Lot, interior. "Interior lot" means a lot other than a corner lot.

Lot, key. "Key lot" means the first interior lot to the rear of a reversed corner lot.

Lot line, front. "Front lot line" means a line separating an interior lot from a street, or a line separating the narrower street frontage of a corner lot from a street.

Lot, reversed corner. "Reversed corner lot" means a corner lot where the side line is substantially a continuation of the front property line of the first lot to the rear.

Low-barrier navigation center. "Low-Barrier Navigation Center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. "Low-barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- A. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- B. Pets.
- C. The storage of possessions.
- D. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

Low volume irrigation. "Low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral irrigation lines and low-volume irrigation emitters such as drip, drip lines, and bubblers. Low-volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

Lunch wagon. A cart or motor vehicle from which beverages and ready-to-eat food items are sold.

Machinery and equipment manufacturing, sales, and repair. "Machinery and equipment manufacturing, sales, and repair" means a business involved in the production, distribution, and

maintenance of machinery and equipment used in various industries. This category encompasses establishments engaged in the manufacturing of machinery and equipment, such as industrial machinery, agricultural equipment, construction machinery, and electronic equipment. It also includes businesses that sell or rent machinery and equipment to customers, as well as those offering repair and maintenance services for such machinery and equipment.

Main irrigation line. "Main irrigation line" means the pressurized pipeline that delivers water from the water source to the valve or outlet.

Major thoroughfare. "Major thoroughfare" means a major street having two or more lanes for each direction of travel, designated as a thoroughfare on the circulation element of the General Plan. For the purposes of this Title, this shall apply to all of Alhambra Avenue; Berrellesa Street; Escobar Street and Marina Vista from Berrellesa Street easterly; Pine Street from Jones Street northerly; and Pacheco Boulevard.

Major transit stop. "Major transit stop" means a site containing any of the following:

- A. An existing rail or bus rapid transit station.
- B. A ferry terminal served by either a bus or rail transit service.
- C. The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods.

Manufacturer—Cannabis. "Manufacturer" means a business that holds a valid state license and conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

Manufacturing, advanced. "Advanced manufacturing" means the use of cutting-edge and innovative processes in the production of goods. Examples include, but are not limited to, 3D printing, biotechnology, nanotechnology, robotics, precision machining, advanced pharmaceuticals, and automation. Advanced manufacturing facilities are characterized by their emphasis on the use of high technology and highly specialized production methods.

Marina, harbor, and boatbuilding facility. "Marina, harbor, and boatbuilding facility" means a facility designated for the docking, mooring, and storage of watercraft; fishing piers and related facilities; and the construction, repair, and maintenance of boats and vessels. These facilities typically include docks, piers, wharves, slips, boat ramps, and storage areas for boats, yachts, and other watercraft. Boatbuilding facilities may also feature workshops, warehouses, and equipment for the construction, assembly, and outfitting of boats. Marinas and harbors serve as hubs for recreational boating activities, such as sailing, fishing, and cruising, while also supporting commercial and industrial maritime operations.

Massage business. "Massage business" means an establishment engaged in the purpose of massage treatments by one or more therapists. This category does not include day spas.

Master irrigation shut-off valve. "Master irrigation shut-off valve" means an automatic valve installed at the irrigation supply point that controls water flow into the irrigation system to prevent water loss due to uncontrolled flow or leakage.

Maximum applied water allowance ("MAWA"). "Maximum applied water allowance" or "MAWA" means the upper limit of annual applied water for the established landscaped area as specified in Section 22.73.040.

Media production. "Media production" means a business involved in the creation, development, and distribution of various forms of media content, including, but not limited to, audiovisual productions, digital media, print media, and multimedia projects. This category includes businesses engaged in producing films, television shows, commercials, documentaries, music videos, podcasts, radio programs, web series, digital advertisements, graphic design, publishing, and other similar endeavors. Media production facilities may include studios, editing suites, sound stages, recording booths, post-production facilities, and equipment rental services.

Median. "Median" is an area separating traffic lanes or providing refuge to pedestrians, whether planted or paved.

Micro unit. A "micro unit" is a dwelling unit that is typically smaller than a normal studio or one-bedroom unit that still provides all residential amenities including a kitchen, living space, closet/storage space, and a bathroom.

Microclimate. "Microclimate" means the climate of a small, specific area that may contrast with the climate of the overall landscaped area due to factors such as wind, sun exposure, or the presence of buildings or other structures.

Mined-land reclamation projects. "Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

Mobile storage container. "Mobile storage container" means any enclosed or partially enclosed storage structure, including, but not limited to, cargo or shipping containers, "POD" units, and other pre-fabricated structures intended for the storage or transport of goods.

Mobile vendor. "Mobile vendor" means a vehicle or trailer that is equipped to prepare, serve, and sell food, beverages, and other retail items.

Motel. "Motel" means a structure, or portion thereof, or a group of attached or detached structures containing individual guest rooms or suites, usually occupied on a transient basis and usually with a garage attached or parking space located in proximity to each unit, where lodging is provided for compensation.

Motor vehicle wrecking yard. "Motor vehicle wrecking yard" means a site, or portion of a site, on which the dismantling or wrecking of used vehicles, whether self-propelled or not, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts is conducted. The presence on a site of three or more motor vehicles which have not been capable of operating under their own power for 30 days or more or, in the case of vehicles not self-propelled, which have not been towable or from which parts have been removed for reuse or sale, shall constitute prima facie evidence of a motor vehicle wrecking yard.

Mulch. "Mulch" means any organic material, such as leaves, bark, straw, or inorganic material such as rocks, gravel, or decomposed granite, left loose and applied to the soil surface to reduce evaporation, suppress weeds, moderate soil temperature, or prevent soil erosion.

Multiple dwelling. "Multiple dwelling" means a structure containing more than one dwelling unit, designed for occupancy or occupied by more than one family and not occupied on a transient basis. A structure with an attached ADU or JADU does not qualify as a multiple dwelling.

Natural resource extraction. "Natural resource extraction" means the process of extracting or harvesting naturally occurring resources from the earth or its atmosphere for commercial purposes. This includes activities such as mining, logging, fishing, and hunting.

Neighborhood plan. "Neighborhood plan" means an adopted specific plan, area plan, precise plan, urban village plan, or master plan.

Net lot area. "Net lot area" means total parcel area excluding street rights-of-way including but not limited to streets, alleys and access corridors, and creek setbacks.

Nightclub. "Nightclub" means an establishment primarily engaged in providing entertainment, music, and dancing, often accompanied by the sale of alcoholic beverages. Nightclubs typically operate late into the night. They may feature DJs, live bands, or other forms of entertainment. The primary focus of a nightclub is on providing a venue for socializing and entertainment, with alcoholic beverages being a significant component of their offerings.

Non-residential landscape. "Non-residential landscape" means landscapes in commercial, institutional, industrial, and public places.

Non-storefront retail business—Cannabis. "Non-storefront retail business" means a non-storefront cannabis business that sells and delivers cannabis or cannabis products to customers without a premises that is not open to the public. While the business shall have a physical location within the City of Martinez, all sales are conducted exclusively by delivery.

Non-taxable merchandise. "Non-taxable merchandise" means products, commodities, or items the sale of which is not subject to California State sales tax.

Nursery and garden supply store. "Nursery and garden supply store" means a commercial establishment primarily engaged in the retail sale of plants, trees, shrubs, flowers, gardening supplies, farming supplies, and related products for landscaping, gardening, agriculture, and outdoor decoration purposes, not including the sale of animals. These establishments may also provide gardening advice, landscaping services, and delivery options for large items.

Nursery school. "Nursery school" means a school for 13 or more pre-elementary school age children (including those residing on the site), or use of a site, or portion of a site, for a group day care program.

Nursing home. "Nursing home" means a structure operated as a lodging house in which nursing, dietary and other personal services are rendered to convalescents, invalids and aged persons not including persons suffering from contagious or mental diseases, alcoholism, or drug addiction, and in which surgery is not performed and primary treatment, such as customarily is given in hospitals and sanitariums, is not provided. A convalescent home or a rest home shall be deemed a nursing home.

Off-street loading facilities. "Off-street loading facilities" means a site, or a portion of a site, devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives and landscaped areas.

Off-street parking facilities. "Off-street parking facilities" means a site, or portion of a site, devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives and landscaped areas.

Operating irrigation system pressure. "Operating irrigation system pressure" means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

Outdoor advertising structure. "Outdoor advertising structure" means any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, located on a site other than the site on which the advertised use is located or on which the advertised product is produced.

Overhead sprinkler irrigation systems. "Overhead sprinkler irrigation systems" or "overhead spray irrigation systems" means systems that deliver water through the air (e.g., spray heads and rotors).

Overspray. "Overspray" means the irrigation water applied outside the targeted area, wetting pavements, walks, structures, or other non-landscaped areas.

Packing and shipping establishment. "Packing and shipping establishment" means a business involved in the packaging, crating, and transportation of goods. These services typically include packing items securely for shipment, constructing crates or pallets as needed, and arranging for the delivery or shipping of packages to their destination. They may cater to residential or commercial clients and handle a variety of items, ranging from household goods to industrial equipment. Additionally, these businesses may offer ancillary services such as storage, logistics management, and insurance coverage for transported items.

Parkway. "Parkway" means the area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.

Paseo. "Paseo" means a pedestrian passage flanked by landscaping that provides an internal walking connection to adjacent parcels, sidewalks, walkways, or other paseos. Paseos are not accompanied by space for motor vehicles.

Pawnshops. "Pawnshop" means an establishment engaged in retail sales of new or secondhand merchandise and offering loans secured by personal property.

Personal services. "Personal services" means an establishment or entity providing services primarily for individual or household needs, including, but not limited to, beauty salons, barber shops, nail salons, spas, dry cleaners, laundromats, tailors, and pet grooming services. This category may also include similar businesses offering personal care, hygiene, or maintenance services.

Pervious. "Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

Physical fitness facility. "Physical fitness facility" means an establishment or facility primarily engaged in providing physical fitness services, exercise equipment, and related activities for the improvement or maintenance of physical health and well-being. This includes gyms, health clubs, fitness centers, yoga studios, Pilates studios, martial arts studios, and similar establishments offering exercise classes, personal training, cardiovascular equipment, weight training equipment, and other fitness-related services.

Plant factor or plant water use factor. "Plant factor" or "plant water use factor" is a factor, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this ordinance, the plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the publication "Water Use Classification of Landscape Species". Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources ("DWR").

Plaza. "Plaza" means outdoor space that accessible to the public. A plaza shall be comprised of some combination of landscaping, decorative pavers, seating, and landscape, and shall not provide space for motor vehicles except for emergency access.

Porch. "Porch" means an outside landing immediately adjacent to a building entrance and sheltered by a roof.

Private clubs, lounges, and lodges. "Private clubs, lounges, and lodges" means an establishment that provides social, recreational, or leisure facilities exclusively for members and their guests. These establishments may offer amenities such as dining, entertainment, recreational activities, and meeting spaces. Private clubs, lounges, and lodges often require membership fees or dues for access and may have specific membership criteria or eligibility requirements. Examples include, but are not limited to, country clubs and fraternal organization.

Private outdoor space. "Private outdoor space" means the outdoor area required for each residential dwelling unit for exclusive use by the occupants of the dwelling, which may be provided in patios, decks, balconies, and fenced yard areas, but excluding stairs, entrance decks, and landings.

Professional and administrative offices. "Professional and administrative offices" means commercial spaces primarily utilized for administrative, managerial, or professional purposes, typically not involving regular in-person services to clients or customers. These establishments primarily serve as workplaces for tasks such as clerical work, data analysis, project management, administrative support, financial operations, and other similar functions. Professional and administrative offices may include individual offices, cubicles, conference rooms, common areas, and related facilities necessary for conducting administrative or professional tasks. These spaces are distinct from establishments offering professional services where clients or customers regularly visit the premises for in-person consultations or services, such as law firms, accounting offices, medical clinics, or consulting firms.

Professional services. "Professional services" means a business or establishment primarily engaged in providing specialized services that require advanced education, training, or expertise in a specific field, including but not limited to legal, accounting, engineering, architecture, consulting, counseling, and medical services. This category may also include other similar services deemed to require professional qualifications by the Planning Division.

Public and private philanthropic institution. "Public and private philanthropic institution" means an organization dedicated to promoting the public good, welfare, or charitable activities. These institutions may include foundations, trusts, non-profit organizations, or charitable associations that provide financial support, resources, or services for humanitarian, educational, cultural, environmental, or social causes.

Public entertainment venue. "Public entertainment venue" means a commercial establishment designed and operated for the primary purpose of providing entertainment to the public, including, but not limited to, bowling alleys, movie theaters, concert halls, ice skating rinks, miniature golf, ax throwing venues, experiential venues like escape rooms, arcades, and similar spaces where individuals gather to engage in recreational or cultural activities.

Public utility structure and installation. "Public utility structure and installation" means a facility, equipment, or structure owned or operated by public utility companies or agencies that provide essential services to the community. These may include facilities related to the generation, transmission, distribution, and provision of electricity, gas, water, sewage, telecommunications, and other essential utilities. Public utility structures and installations encompass a wide range of infrastructure, including power plants, substations, transformers, distribution lines, water treatment plants, pumping stations, sewage treatment facilities, telecommunications towers, and related equipment.

Rain sensor or rain sensing shutoff device. "Rain sensor" or "rain sensing shutoff device" means

a component which automatically suspends an irrigation event when it rains.

Reasonable accommodation. "Reasonable accommodation" means providing disabled persons flexibility or removal of constraints in the application of land use and zoning regulations and procedures, or even waiving certain requirements, when necessary to eliminate barriers to housing opportunities. It may include such things as yard area modifications for ramps, handrails, or other such accessibility improvements; hardscape additions, such as widened driveways, parking areas or walkways; building additions for accessibility; tree removal; or reduced off-street parking where the disability clearly limits the number of people operating vehicles. Reasonable accommodation does not include an accommodation which would impose an undue financial or administrative burden on the City, or require a fundamental alteration in the nature of the City's land use and zoning program.

Recess. A "recess" means a visible and recessed niche within a building volume.

Record drawing or as-builts. "Record drawing" or "as-builts" means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

Recreational area. "Recreational area" means areas, excluding private single-family residential areas, designated for active play, recreation, or public assembly in parks, sports fields, picnic grounds, amphitheaters, golf course tees, fairways, roughs, surrounds, and greens.

Recreational vehicle.

A. "Recreational vehicle" means each of the following as defined in the California Vehicle Code, as the same may be amended from time to time:

1. All-terrain vehicle;
2. Bus;
3. Camp trailer;
4. Camper;
5. Fifth-wheel travel trailer;
6. Golf cart;
7. House car;
8. Motor truck;
9. School bus;
10. Semitrailer;
11. Snowmobile;
12. Tow truck;
13. Trailer;
14. Trailer coach;
15. Trailer bus;

16. Truck tractor;
17. Utility trailer;
18. Youth bus.

B. Recreational vehicle also means any of the following:

1. Horse trailer;
2. Off-road motorcycle;
3. Boat;
4. Jet ski or other watercraft.

Recreational vehicle, oversized. "Oversized recreational vehicle" means any recreational vehicle, as defined in Section 22.04.442, that exceeds either: a height of 12 feet or a length of 35 feet.

Recycled water, reclaimed water, or treated sewage effluent water. "Recycled water," "reclaimed water," or "treated sewage effluent water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

Reference evapotranspiration or ETo. "Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of four-to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances so that regional differences in climate can be accommodated.

Rehabilitated landscape. "Rehabilitated landscape" means any relandscaping project that requires a permit, plan check, or design review, meets the requirements of Chapter 22.73 (Water Efficient Landscape), and the modified landscape area is equal to or greater than 2,500 square feet.

Religious institution. "Religious institution" means a facility or place of worship that is primarily used for religious gatherings, ceremonies, worship services, and related activities conducted by a recognized religious organization. Such institutions may include churches, mosques, synagogues, temples, chapels, and similar places of religious assembly. Religious institutions may also encompass ancillary uses such as administrative offices, classrooms, meeting rooms, fellowship halls, libraries, recreational areas, and emergency shelters, provided that these facilities are directly associated with the religious activities of the organization. Additionally, religious institutions may engage in charitable, educational, and community outreach programs consistent with their religious mission.

Renewable energy operation. "Renewable energy operation" means a business involved in the generation, transmission, distribution, and storage of energy derived from renewable sources such as solar, wind, hydroelectric, geothermal, biomass, and alternative fuels. This category encompasses facilities and installations involved in harnessing renewable energy resources to produce electricity, heat, or fuel for various purposes, including residential, commercial, industrial, and municipal applications. Renewable energy operations may include solar farms, battery production, wind farms, hydroelectric power plants, geothermal facilities, biomass processing facilities, alternative fuels refining, and energy storage facilities such as battery

storage systems.

Research laboratory. "Research laboratory" means a facility dedicated to scientific investigation and experimentation aimed at advancing knowledge and understanding in various fields. These facilities typically house specialized equipment and infrastructure to conduct experiments, analyze data, and develop innovative solutions. Research laboratories may focus on a wide range of disciplines, including but not limited to, biology, chemistry, physics, engineering, medicine, environmental science, and technology.

Residential care facility. "Residential care facility" means a facility operated by a person with all required state and local agency approvals or licenses, where not more than six persons reside or receive care, not including the licensee or members of the licensee's family or persons employed as facility staff, or as defined and regulated by the California Health and Safety Code. Residential care facilities are intended to serve as a residence for individuals in need of assistance with daily living activities.

Residential landscape. "Residential landscape" means landscapes surrounding single-family or multifamily homes.

Restaurant and other food and beverage service establishment. "Restaurant and other food and beverage service establishment" means an eating and drinking establishment, including, but not limited to, a bona-fide public eating place, sandwich shop, café, coffee shop, catering operation, beer garden, or wine bar, but not including a bar or drive-through restaurant. Restaurants and other food and beverage service establishments are distinguished from bars and nightclubs by their focus on food service as the primary offering, or by only offering beer and wine.

Run off. "Run off" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, run off may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

Sales floor area. "Sales floor area" means only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space.

Seasonal sales. "Seasonal sales" means temporary retail activities conducted on a short-term basis, typically associated with specific seasons or holidays, such as Halloween, Christmas, or Easter. These sales may include the offering of seasonal goods or services, such as pumpkins, Christmas trees, wreaths, decorations, and related items. Seasonal sales activities are generally limited to a specific time period within the corresponding season and may be conducted in designated areas, such as parking lots or open fields.

Secondhand stores. "Secondhand stores" means the retail sale of used appliances, clothing, and miscellaneous household or personal items. This classification excludes antique shops primarily engaged in the sale of used furniture and accessories other than appliances.

Sensitive retail uses. "Sensitive retail uses" means retail establishments that offer goods or services which may have specific regulatory or social considerations due to their potential impact on public health, safety, or welfare. These uses include tobacco shops, adult-oriented businesses, firearm dealers, and pawnshops.

Service station. "Service station" means a place where gasoline or any other motor fuel, lubricating oil or grease for the operation of passenger vehicles is offered for sale to the public and deliveries are made directly into the vehicle, including lubrication on the site and the washing of automobiles where no chain conveyor, blower or steam cleaning device is used.

Shall. The word "shall" is mandatory and not directory.

Single-room occupancy. "Single-Room Occupancy," also referred to as an SRO, means a facility providing six or more dwelling units where each unit has a minimum floor area of 150 square feet and a maximum floor area of 400 square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered monthly or longer. Units exceeding 250 square feet shall provide full individual bathroom facilities. Otherwise, common bathroom facilities shall be provided in accordance with the California Building Code. Each unit shall have a separate closet. If individual kitchen facilities are not provided, common kitchen facilities shall be provided with at least one kitchen per floor. Two hundred square feet of common space shall be provided per floor. Laundry facilities shall be provided in a separate room at the ratio of one washer and dryer for every ten units, with at least one washer and dryer per floor. A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor of the SRO facility. An SRO facility with ten or more units shall have an on-site manager.

Site. "Site" means a parcel of land, subdivided or unsubdivided, occupied or to be occupied by a use or structure.

Site area. "Site area" means the total horizontal area included within the property lines of a site.

Site area coverage. "Site area coverage" means the proportion of the site area that is covered by structures.

Small animal farming. "Small animal farming" means the raising of chickens, rabbits and other grain-fed rodents and birds.

Soil moisture sensing device or soil moisture sensor. "Soil moisture sensing device" or "soil moisture sensor" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

Soil texture. "Soil texture" means the classification of soil based on its percentage of sand, silt, and clay.

Special landscape area. "Special Landscape Area" or "SLA" means an area of the landscape dedicated solely to edible plants, recreational areas, areas irrigated with recycled water, or water features using recycled water.

Sprinkler head or spray head. "Sprinkler head" or "spray head" means a device which delivers water through a nozzle.

Stable. "Stable" means a structure accessory to a dwelling, used or designed to be used to shelter horses, including a corral or paddock.

State licensed transitional housing. "State Licensed Transitional Housing" and "State Licensed Transitional Housing Development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, per subdivision (h) of Section 50675.2 of the California Health and Safety Code.

Static water pressure. "Static water pressure" means the pipeline or municipal water supply pressure when water is not flowing.

Station. "Station," in the context of Water Efficient Landscape, means an area served by one valve or by a set of valves that operate simultaneously.

Stoop. "Stoop" means the landing at the entrance of a building, which is sheltered by a canopy

or roof, and generally accompanied by stairs.

Story. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than six feet above the ground adjacent to the building for more than 50 percent of the total perimeter or is more than 12 feet above ground at any point, such basement, cellar, or unused under-floor space shall be considered a story.

Story, half. "Half story" means that portion of a building under a gable, hip or gambrel roof, the top wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such building portion.

Street. "Street" means a thoroughfare, dedicated as such or acquired for public use as such, other than an alley, which affords the principal means of access to abutting land.

Street intersection. "Street intersection" means the intersection of the right-of-way or side lines of the street at a corner, or the intersection of a straight line extension of such right-of-way or side lines thereof.

Structure. "Structure" means anything constructed or erected which requires a location on the ground, including a building but not including a fence or a wall used as a fence.

Structure, accessory. "Accessory structure" means an attached or detached subordinate structure, which is, subordinate in size and incidental to the use of the main structure or the main use of the land, and which is located on the same site with the main structure or use. Examples of attached accessory structures include, but are not limited to, unenclosed structures and unconditioned enclosed structures such as: decks that are 18 inches or more above grade, trellises, and patio covers/enclosures. Examples of detached accessory structures include, but are not limited to, those features permitted as attached accessory structures, as well as: garages, carports, storage sheds, greenhouses, and gazebos. The size of an enclosed accessory structure is defined as the floor area within the structure. The size of an unclosed accessory structure, such as a carport, gazebo, or deck, is defined as the structure's projected roof or deck area. In-ground swimming pools where no part of the pool and/or ancillary features is more than 18 inches above grade, are not defined as accessory structures for purposes of height, minimum yard and/or maximum coverage limitations.

Structure, main. "Main structure" means a structure housing the principal use of a site or functioning on the principal use.

Submeter. "Submeter" means a metering device to measure water applied to the landscape that is installed after the primary utility water meter.

Supportive housing. "Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population (such as, veterans, persons with disabilities, and other vulnerable populations) as defined in subdivision (d) of Section 53260 and as per subdivision (b) of Section 50675.14 of the California Health and Safety Code, and that is linked to on-or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Swing joint. "Swing joint" means an irrigation component that provides a flexible, leak-free connection between the emission device and lateral irrigation pipeline to allow movement in any direction and to prevent equipment damage.

Tasting room. "Tasting room" means a room, facility, or outlet for the promotion of a farm's products by providing samples of such products to the public and for the sale of such products at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of products can be given complimentary or for a fee.

Tattoo parlors. Establishments specializing in providing tattoos, body piercing or other similar service involving permanent coloring or adorning of skin or body parts.

Testing laboratory—Cannabis. "Testing laboratory" means a business that holds a valid state license that offers or performs tests of cannabis or cannabis products and that is both of the following:

- A. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- B. Licensed by the bureau of cannabis control.

Textured surface. "Textured surface" means that a material has a raised pattern that can be distinguished from a surface that is smooth.

Tobacco-related products. "Tobacco-related products" are any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco; cigarette papers; or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco and products prepared from tobacco.

Transit stop. "Transit stop" means a regularly scheduled bus stop, as posted in a transit agency's most current publication of routes and stops, including but not limited to Central Contra Costa Transit Authority's ("CCCTA") "County Connection" bus service.

Transitional housing. "Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, per subdivision (h) of Section 50675.2 of the California Health and Safety Code.

Transmission line. "Transmission line" means a system designed to impart direction to any energy, force, material, or substance for the purpose of conveying said items from one location to another location without the lines' output content being reduced, in comparison to line input content, by direct distribution to consumers.

Tripartite composition. "Tripartite composition" means an architectural arrangement that organizes a building facade into a base, middle, or top, by varying facade texture, color, and/or materials, and separating these expressions by a sill or cornice.

Turf. "Turf" means a ground cover surface of mowed grass.

Usable open space. "Usable open space" means outdoor area on ground, roof, balcony, deck, or porch which is designed and accessible for outdoor living, recreation, utility space, pedestrian access, or landscaping. Such areas:

- A. Shall not include off-street parking space or driveways;
- B. Shall not include the required front yard nor the street side yard of any corner lot, except that any portion of such yard which is located beyond the first 16 feet may be included if it meets all other qualifications of usable open space;

- C. Shall have a minimum dimension of 12 feet in any direction and a minimum area of 200 square feet, provided:
1. Balconies may be included if they have a minimum dimension of seven feet and a minimum area of 80 square feet; and
 2. Roof, deck and/or porch areas may be included if they have a minimum dimension of ten feet and a minimum area of 120 square feet and are designed to be accessible to and usable by the occupants of the building(s).

Usable outdoor space. "Usable outdoor space" means outdoor area on ground, roof, balcony, deck, or porch which is designed and accessible for outdoor living, recreation, utility space, pedestrian access, or landscaping. Such areas:

- A. Shall not include off-street parking space or driveways;
- B. Shall not include the required front yard nor the street side yard of any corner lot, except any portion of such yard which is located beyond the required minimum setback or 16 feet, whichever is less, if it meets all other qualifications of usable outdoor space;
- C. Shall have a minimum dimension of 12 feet in any direction and a minimum area of 200 square feet, except:
1. Balconies may be included if they have a minimum dimension of seven feet and a minimum area of 80 square feet;
 2. For projects with fewer than four residential dwelling units, roof, deck, stoop, and/or porch areas may be included if they have a minimum dimension of 10 feet and a minimum area of 120 square feet; and
 3. For projects with four or more residential dwelling units, deck, stoop, and/or porch areas may be included if they have a minimum dimension of seven feet and a minimum area of 80 square feet;
- D. Usable outdoor space shall be designed to be accessible to and usable by the occupants of the building(s).

Use. "Use" means the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged, or for which either a site or a structure is or may be occupied or maintained.

Use by right. "Use by right" means a development project that satisfies both of the following conditions:

- A. The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review.
- B. The development project is not a project for the purposes of the California Environmental Quality Act (Division 13 [commencing with Section 10000] of the Public Resources Code).

Valve. "Valve" means a device used to control the flow of water in the irrigation system.

Vehicle and vehicle accessory sales and services. "[Vehicle and vehicle accessory sales and services]" means a commercial establishment primarily engaged in the sale, lease, rental, or service of motor vehicles, including automobiles, trucks, motorcycles, and recreational vehicles

("RVs"). This category also includes the sale of vehicle accessories, parts, and related products. Vehicle sales and service establishments may offer a range of services, such as vehicle maintenance, repair, customization, and installation of accessories. Additionally, these establishments may provide financing, insurance, and other related services to support vehicle ownership and operation.

Waiver, state density bonus law. "Waiver" means modification(s) to City development standards that would physically prevent the construction of a State Density Bonus Law housing project at the density permitted with a bonus and any concessions, except where the waiver would cause a public health or safety concern, adverse impact on property listed in the California Register of Historical Resources, or would be contrary to the law. Waivers may include: decreased setbacks and/or increased floor area ratio and/or waiver of hillside regulations. Waivers cannot generally be denied unless the reduction/modification of the development standard would cause an adverse impact on the health, safety, or physical environment that cannot be mitigated.

Warehouse and storage. "Warehouse and storage" means a facility involved in the storage, handling, and distribution of goods, materials, or merchandise. These establishments typically include buildings, structures, or outdoor spaces equipped with shelving, racks, containers, or other storage equipment. Warehouse and storage may also feature loading docks, truck bays, and administrative offices for managing inventory and logistics operations.

Waste storage, processing, and disposal. "Waste storage, processing, and disposal" means a facility or operation that involves the collection, temporary storage, sorting, treatment, recycling, and final disposal of solid waste, hazardous waste, recyclable materials, and other waste streams. This includes but is not limited to landfills, transfer stations, composting facilities, recycling centers, waste-to-energy plants, incinerators, and any other facilities or activities involved in the management of waste materials.

Water conserving plant species. "Water conserving plant species" means a plant species identified as having a very low or low plant factor.

Water feature. "Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high-water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

Water use classification of landscape species ("WUCOLS"). "Water Use Classification of Landscape Species" or "WUCOLS" means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources 2014.

Watering window. "Watering window" means the time of day irrigation is allowed.

Width. "Width" means the horizontal distance between the side property lines of a site measured at right angles to the depth at a point midway between the front and rear property lines.

Wholesale establishment. "Wholesale establishment" means a business that primarily sells goods or merchandise to retailers, industrial users, commercial entities, institutions, or other wholesalers. These businesses may include warehouses, distribution centers, or similar facilities where goods are stored, sorted, or processed for wholesale distribution. They typically engage in bulk sales, offering products in large quantities or at discounted prices.

Wind generator. "Wind generator" means the equipment used to convert wind energy into electrical power, including a rotor (e.g., propeller), support pole and/or wires, and all interconnection and auxiliary equipment.

Yard. "Yard" means an open space on the same site as a structure unoccupied and unobstructed from the ground upward, including a front yard, side yard, rear yard or space between structures.

Yard, front. "Front yard" means a yard extending across the full width of a site, the depth of which contains all areas between the front property line back to the wall(s) of the building which are parallel or generally face the front property line. The minimum required front yard is an area extending across the full width of the lot between the front property line and the minimum required setback distance, as required by the applicable zoning district standards.

Yard, rear. "Rear yard" means a yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the rear property line and line parallel thereto on the site.

Yard, side. "Side yard" means a yard extending from the rear line of the required front yard, or the front property line of the site where no front yard is required, to the front line of the required rear yard, to the rear property line of the site when no rear yard is required, the depth of which is the minimum horizontal distance between the side property line and a line parallel thereto on the site.

Yard, street-side side. "Street-side side yard" means a yard extending from the front yard to the rear property line, the depth of which contains all areas between the side property line of a corner lot back to the wall(s) of the building which are parallel or generally face the side property line. The minimum required side yard on the street side of a corner lot is an area extending across the full length of the lot between the street side property line and the minimum required street-side yard setback distance, as required by the applicable zoning district standards.

(Ord. No. 1458, § VII, 5/15/2024; Ord. No. 1459, § III, 6/26/2024; Ord. No. 1463, § III, 10/23/2024; Ord. No. 1464, § VIII, 10/23/2024; Ord. No. 1468, § VI, 1/15/2025; Ord. No. 1469, § VI, 4/2/2025; Ord. No. 1471, 6/4/2025; Ord. No. 1473, 6/25/2025; Ord. No. 1474, 7/16/2025; Ord. No. 1480, 12/10/2025; Ord. No. 1485, 3/18/2026)

CHAPTER 22.06
ADMINISTRATION AND ENFORCEMENT

§ 22.06.010. Planning Commission.

The Planning Commission shall be established and have the duties and powers prescribed for it as provided in Section 2.24.010 of this Code.

(Prior code § 10,101.0; Ord. 822 C.S. § 2, 1975)

§ 22.06.020. Board of Adjustments.

- A. The duties of the Board of Adjustments shall be performed by the Zoning Administrator, or the Planning Commission, as directed by the Planning and Building Director in accordance with current application levels.
- B. The Board of Adjustments shall hear and decide upon all requests for the following actions when the preparation of an Environmental Impact Report has not been required:
 - 1. Variances;
 - 2. Sign permits;
 - 3. Divisions of land into four or less parcels;
 - 4. Such other matters as may be specifically assigned by ordinance, order or referred by the City Planning Commission or City Council.
- C. The Zoning Administrator may render a decision on the request or may refer the matter to the Planning Commission. The Zoning Administrator shall not act on any proposal or request for which an Environmental Impact Report is required.

(Prior codes 10,101.1; Ord. 822 C.S. § 2, 1975; Ord. 1041 C.S. § 2, 1985)

§ 22.06.030. Board of Appeals.

The Board of Appeals shall be comprised of the voting members of the Planning Commission. The Board of Appeals shall have the power to hear and decide all appeals from decisions of the Board of Adjustments.

(Prior code § 10,101.2; Ord. 822 C.S. § 2, 1975)

§ 22.06.040. Application.

Applications for rezoning, zoning amendments, conditional use permits, variances, divisions of land, subdivisions, design review, sign permits or any other matter designated to come before the planning agency shall be made to the Planning Department. The Planning Department shall collect fees upon receipt of an application in an amount specified by resolution of the City Council. The application forms shall specify exhibits, documents and information required to be filed with the application.

(Prior code § 10,101.3; Ord. 822 C.S. § 2, 1975)

§ 22.06.050. Review by Council or Commission, appeals.

Any member of the Council shall have the authority to request the Council to review any

decision of the Board of Appeals or the Planning Commission by either making such request orally at a Council meeting following the Commission meeting at which such decision was made or by filing a written request with the City Clerk, provided that the oral or written request is made prior to the expiration of the time during which an appeal can be made. Any member of the Planning Commission shall have the same right to request review of a Zoning Administrator decision. When such review is requested, the decision shall be considered as appealed. However the person requesting the review shall have full participation rights in the second hearing.

Appeals of administrative decisions by City Planning Director or City Building Official may be made to the Board of Adjustments. Appeals of decisions of the Board of Adjustments may be made to the Board of Appeals, or City Planning Commission. Appeals of decisions by the Board of Appeals or Planning Commission may be made to the City Council. Appeals shall be made within ten (10) calendar days of the date a decision was rendered and shall be made in the manner specified in this Chapter.

(Prior code § 10,101.4; Ord. 822 C.S. § 2, 1975; Ord. 987 C.S., 1983; Ord. 1041 C.S. § 2, 1985)

§ 22.06.060. Final determination.

In the absence of appeals, the decision of the City Planning Director City Building Official, Board of Adjustments, Board of Appeals and City Planning Commission shall be final. When appealed to the City Council the decision of the City Council shall be final.

(Prior code § 10,101.5; Ord. 822 C.S. § 2, 1975)

§ 22.06.070. Permits, certificates and licenses.

All officials, departments and employees of the City vested with the authority or duty to issue permits, certificates or licenses shall comply with the provisions of this Title and shall issue no permit, certificate or license which conflicts with the provisions of this Title. Any permit, certificate or license issued in conflict with the provisions of this Title shall be null and void.

(Prior code § 10,122.0; Ord. 822 C.S. § 2, 1975)

§ 22.06.080. Duties of Building Inspector.

The Building Inspector shall be the official responsible for the enforcement of this Title. In the discharge of this duty the Building Inspector shall have the right to enter on any site or to enter any structure for the purpose of investigation and inspection, provided that the right of entry shall be exercised only at reasonable hours and that in no case shall any structure be entered in the absence of the owner or tenant without the written order of a court of competent jurisdiction. The Building Inspector may serve notice requiring the removal of any structure or use in violation of this Title on the owner or his authorized agent, on a tenant, or on an architect, builder, contractor or other person who commits or participates in any violation. The Building Inspector may call upon the City Attorney to institute necessary legal proceedings to enforce the provisions of this Title and the City Attorney is authorized to institute appropriate actions to that end. The Building Inspector may call upon the Chief of Police and his authorized agents to assist in the enforcement of this Title.

(Prior code § 10,122.1; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.08
DISTRICT DESIGNATIONS

§ 22.08.010. Zoning districts.

The districts established by this title shall be designated as follows:

R-1.5 Multifamily Residential District

R-2.5 Multifamily Residential District

R-3.5 Multifamily Residential District

R-6.0 One Family Residential District

R-7.0 One Family Residential District

R-7.5 One Family Residential District

R-10.0 One Family Residential District

R-15 One Family Residential District

R-20 One Family Residential District

R-40 One Family Residential District

R-65 One Family Residential District

R-80 One Family Residential District

R-100 One Family Residential District

RR One Family Rural Residential District

A Agricultural District

DO Downtown Overlay District

DT Downtown Transition District

PA Professional and Administrative Office District

RD Research and Development District

NC Neighborhood Commercial District

CC Central Commercial District

SC Service Commercial District

LI Light Industrial District

HI Heavy Industrial District

C Civic District

GF Governmental Facilities District

PUD Planned Unit Development District

RF Recreational Facilities District

DS Downtown Shoreline District

ECD Environmental Conservation District

MHO Mobile Home Overlay District

DHO Downtown Historic Overlay District

OS Open Space District

AAO Alhambra Avenue Overlay District

AHO Affordable Housing Overlay District

CSO Community Services Overlay District

MUO Mixed-Use/Housing Overlay District

AV Alhambra Valley Districts

"M" Mixed Use District: Two or more zoning districts may be combined and overlaid to form a mixed use district. The designation shall be "M" followed by the appropriate zoning classifications; for example, "M — CC/R-1.5," an "R-1.5 Multifamily Residential District" overlaying a "CC Central Commercial District," permitting all the uses of both zoning districts, but meeting the yard requirements and landscaping coverage and height restrictions of the more restrictive of the combined districts.

"P" Pre-zoned District: A special zoning designation used in conjunction with a specific zoning district designation (i.e., "R-7.5-P") indicates properties outside the corporate limits of the City which have been pre-zoned in accordance with the requirements of law; the zoning automatically changes to the base specific zoning (i.e., "R-7.5" in the case noted) upon annexation to the City. (Prior code § 10,102.5; Ord. 822 C.S. § 2, 1975; Ord. No. 1458, § XI, 5/15/2024; Ord. No. 1473, 6/25/2025)

CHAPTER 22.09
DISTRICT BOUNDARIES

§ 22.09.010. Designating boundary lines.

Wherever any uncertainty exists as to the boundary of a district as shown on the zoning map, the following regulations shall control:

- A. Where a boundary line is indicated as following a street or alley, it shall be construed as following the right-of-way line (i.e., the property line adjoining the street);
- B. Where a boundary line follows or coincides approximately with a lot line or a property ownership line, it shall be construed as following the lot line or property ownership line;
- C. Where a boundary line is not indicated as following a street or alley and does not follow or coincide approximately with a lot line or property ownership line, the boundary line shall be determined by the use of the scale designated on the zoning map;
- D. Where further uncertainty exists, the Planning Commission, upon written application or on its own motion, shall determine the location of the boundary in question, giving due consideration to the location indicated on the zoning map and the objectives of this Title and the purposes set forth in the district regulations.

(Prior code § 10,102.6; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 5, 9/27/2023)

CHAPTER 22.10
AGRICULTURAL DISTRICTS³⁶

§ 22.10.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Ord. No. 1448, § 6, 9/27/2023)

§ 22.10.020. Purposes.

In addition to the objectives prescribed in Section 22.02.010 of this Title, the A Agricultural District is intended to achieve the following purposes:

A. To permit reasonable use and to encourage the preservation of agricultural land; and

B. To provide agricultural employment opportunities for residents of the City.

(Ord. No. 1448, § 6, 9/27/2023)

§ 22.10.030. Permitted uses.

Permitted uses: The following uses shall be permitted in all Agricultural Districts:

A. Agriculture—small scale;

B. Agriculture—large scale;

C. Agricultural accessory structures;

D. Single-family dwelling;

E. Accessory dwelling units, per Section 22.43.020;

F. Residential accessory structures;

G. Farm worker and employee housing;

H. Stable;

I. Tasting rooms;

J. Home occupations; and

K. Conservation area.

(Ord. No. 1448, § 6, 9/27/2023)

§ 22.10.040. Conditional uses.

Conditional uses: The following conditional uses shall be permitted upon the granting of a conditional use permit by the Zoning Administrator, in accord with the provisions of Chapter 22.40 of this Title:

A. Agricultural produce/product processing or retail of agricultural products grown on the

³⁶. Editor's note: Former Ch. 22.10 was renumbered as Ch. 22.09 by Ord. No 1448.

premises;

- B. Campground;
- C. Outdoor recreation;
- D. Animal boarding;
- E. Bed and breakfast inn; and
- F. Any other compatible or appropriate use as determined by the Planning Commission.
(Ord. No. 1448, § 6, 9/27/2023)

§ 22.10.050. Required conditions.

The following conditions shall apply for all uses within the A Agricultural District:

- A. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the Planning Manager, Zoning Administrator, or Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, fumes, dust, smoke, cinders, refuse, dirt, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic or to involve a hazard of fire or explosion.
- B. Any agricultural produce/product processing which is not conducted within a completely enclosed structure and which is located on a site abutting on or across a street or alley from property in an R, PA, NC, or CC District, shall be required to be screened either by a solid masonry wall, board fence, or compact evergreen hedge not less than six feet in height if found by the Planning Manager, Zoning Administrator, or their designee to be unsightly.
(Ord. No. 1448, § 6, 9/27/2023)

§ 22.10.060. Development standards.

- A. Site area. The minimum site area shall comply with the requirements listed in Table 22.10.060(A).

Table 22.10.060(A)	
Zoning District	Minimum Site Area
A-1	One-half acre
A-2	Five acres
A-5	Five acres

- B. Density.
 - 1. In the A-1 and A-2 districts, the maximum density shall be 0.2 dwelling units per acre, rounded up to the nearest whole number. Each legally-established parcel shall be permitted a minimum of one dwelling unit.
 - 2. In the A-5 district, the maximum density shall be 0.15 dwelling units per acre, rounded up to the nearest whole number. Each legally-established parcel shall be permitted a minimum of one dwelling unit.

- C. Front yards. The minimum front yard shall be 20 feet.
 - D. Side yards.
 - 1. The minimum side yard for residential structures shall be ten feet.
 - 2. The minimum side yard for agricultural accessory structures, except for those listed in Chapter 22.58 (Small Animals), shall be 20 feet.
 - E. Rear yards. The minimum rear yard shall be 20 feet.
 - F. Height of structures.
 - 1. No structure shall exceed 30 feet in height.
 - 2. No agricultural accessory structure shall exceed 25 feet in height.
 - 3. No agricultural accessory structure within 100 feet of a public roadway shall exceed 20 feet in height.
 - G. Site coverage.
 - 1. The maximum gross site area to be covered by structures in the A-1 district shall be 15 percent of the total site area.
 - 2. The maximum gross site area to be covered by structures in the A-2 and A-5 districts shall be five percent of the total site area.
 - H. Floor area ratio. The maximum floor area ratio ("FAR") in the A-1, A-2, and A-5 districts shall be 0.2.
 - I. Off-street parking and loading facilities.
 - 1. Off-street parking and loading facilities shall be provided in accordance with the requirements specified in Chapter 22.36.
- (Ord. No. 1448, § 6, 9/27/2023; Ord. No. 1463, § IV, 10/23/2024)

CHAPTER 22.11
MIXED-USE/HOUSING OVERLAY DISTRICT (MUO)

§ 22.11.010. Purpose.

The purpose of the Mixed-Use/Housing Overlay District ("MUO") is to encourage multifamily residential development in addition to the uses allowed in the underlying zoning district(s), particularly affordable housing, on certain vacant and underdeveloped sites. The MUO, as shown on the Zoning Map, encourages residential development by allowing increased residential densities and by right development processing in exchange for the provision of at least 20 percent very low- and low-income or 30 percent moderate-income housing units.
(Ord. No. 1472, 6/4/2025)

§ 22.11.020. Uses and Density.

Permitted and conditional uses, allowable density, and development standards shall be the same as is required for the underlying zone district(s) except where multifamily residential projects are proposed that comply with the MUO District provisions for affordable housing units as described in subsection (A) of this section.

- A. Housing development projects that provide at least 20 percent very low- and low-income housing units shall be constructed at a density between 21.5 and 43 units per acre. Housing development projects proposed on Housing Element Opportunity Sites shall be consistent with the minimum density of the overlay district, or the underlying zoning district, whichever is greater. This residential density requirement is in addition to the development permitted for the existing use.
- B. All affordable units, exclusive of any manager unit or units, shall be subject to a recorded deed restriction, in a form and manner approved by the Planning Manager or designee for at least the following periods of time:
 - 1. Fifty-five years for units that are rented.
 - 2. Forty-five years for units that are owner-occupied.
- C. Housing development projects constructed pursuant to this chapter shall also be eligible for a density bonus, incentives, concession, waivers, or reductions of development standards and parking ratios, pursuant to Government Code Section 65915, Chapter 22.80 (Density Bonus), or Chapter 22.81 (Development Incentives and Community Benefit Program).

(Ord. No. 1472, 6/4/2025)

§ 22.11.030. Development Processed as a Use by Right.

A housing development project that complies with all requirements of this chapter shall be processed as a "use by right."
(Ord. No. 1472, 6/4/2025)

§ 22.11.040. Objective Development Standards.

The required distances between structures, and minimum site area, frontage, width and depth of the site, usable outdoor space; maximum site area coverage; front yards, side yards, rear yards, and accessory structures shall comply with requirements for the R-1.5 Residential District,

as outlined in Chapter 22.12 (Residential Districts); the objective design and development standards in Chapter 22.51B (Objective Design and Development Standards for Qualified Multifamily Development Projects) and Chapter 22.51C (Objective Design and Development Standards for Qualified Mixed-Use Development Projects); other applicable objective development standards in this title, and any other objective development standard in an adopted Specific Plan.

(Ord. No. 1472, 6/4/2025)

§ 22.11.050. Height of Structures.

The maximum allowable height of structures shall be based on residential density, as outlined in Table 22.11.050.

Table 22.11.050	
Residential Density	Maximum Height
21.5 — 29.5 du/ac	Two and a half stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater
30.0 — 39.5 du/ac	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater
40.0 — 43.0 du/ac	Four stories or a maximum of 48 feet above the 100-year flood plain, whichever is greater

(Ord. No. 1472, 6/4/2025)

§ 22.11.060. Off-Street Parking and Loading.

A. Off-Street Parking.

1. Off-street parking for housing development projects that comply with the requirements of this chapter shall provide a minimum of one parking stall per affordable dwelling unit.
2. Dwelling units that are not affordable shall provide off-street parking that complies with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts).

B. Loading. In addition to the minimum required off-street parking stalls, the housing development project shall provide the off-street loading facilities for trucks outlined in Sections 22.36.100 and 22.36.110.

C. Parking Exceptions. Off-street parking shall not be required for a housing development project in any of the following instances:

1. The housing development project is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in Public Resources Code Section 21155(b).
2. There is a designated pick-up or drop-off location for a car share vehicle located within one block of the housing development project.

(Ord. No. 1472, 6/4/2025)

§ 22.11.070. Ancillary Uses.

Notwithstanding any other provision of this chapter, a housing development project eligible for approval by right may include the following ancillary uses, provided that those uses are limited to the ground floor of the development:

- A. In a single-family residential zoning district, ancillary uses shall be limited to childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and other Martinez residents.
- B. In all other zones, the housing development project may include ancillary commercial uses that are permitted in the underlying zoning district without approval of a conditional use permit.

(Ord. No. 1472, 6/4/2025)

§ 22.11.080. General Requirements and Exceptions.

All uses shall be subject to the general requirements and exceptions prescribed in Chapter 22.34 (General Requirements and Exceptions).

(Ord. No. 1472, 6/4/2025)

§ 22.11.090. Application.

- A. Submittal Requirements. Filed applications shall include the information identified in the checklist on file with the Planning Division, and all applicable fees in accordance with the currently adopted User Fee Schedule.
- B. Density Bonus. If an application includes a density bonus, incentive, concession, waivers, or reductions of development standards and parking ratios, then it shall be submitted and processed concurrently with any other application(s) required for the housing development project.
- C. Completeness Review. Following receipt of an application, the City shall provide to the applicant a letter which identifies project issues of concern and the procedures for compliance with this chapter and other applicable objective standards.
- D. Public Notification. A Notice of Decision shall be given not less than ten days before the date of a scheduled decision to owners of real property within 300 feet of the subject property. Contents of the notice shall include the date and time on or after which a decision will be made, place of the decision, review authority, a general explanation of the matter to be considered, and the project location. Final approval or disapproval shall be made by the review authority specified in Section 22.11.100.

(Ord. No. 1472, 6/4/2025)

§ 22.11.100. Review Authority.

The Community and Economic Development Director, Planning Manager, or designee(s) shall be the review authority for housing development projects pursuant to this chapter, except for the specific decision regarding the application for a minor or major subdivision map, which shall be decided by the review authority identified in Title 21 (Subdivisions).

(Ord. No. 1472, 6/4/2025)

§ 22.11.110. Relationship with Subdivision Regulations.

Housing development projects requesting a major or minor subdivision are subject to the Subdivision Map Act and the applicable provisions of Title 21 (Subdivisions). Where a potential conflict between the AHO District and the provisions of Title 21 (Subdivisions) exists, the provisions of Title 21 (Subdivisions) shall govern.

(Ord. No. 1472, 6/4/2025)

§ 22.11.120. Conflicts Between Regulations.

Notwithstanding the regulations set forth in this chapter, if any section of this chapter conflicts with Government Code Section 65915 or other applicable State law, then State law shall supersede this chapter. Where there is a conflict between the MUO District and any other section of this title or any applicable provision of the Municipal Code, then the review authority of this chapter shall determine which regulation prevails.

(Ord. No. 1472, 6/4/2025)

§ 22.11.130. Appeal.

Within ten days following the date of a decision of the review authority, the decision may be appealed to the Planning Commission by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1472, 6/4/2025)

CHAPTER 22.12 RESIDENTIAL DISTRICTS

§ 22.12.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Prior code § 10,103.17; Ord. 822 C.S. § 2, 1975)

§ 22.12.020. Purposes.

In addition to the objectives prescribed in Section 22.02.010 of this Title the R Residential Districts are included in the zoning regulations to achieve the following purposes:

- A. Reserve appropriately located areas for residential living in a variety of types of dwellings, at a reasonable range of population densities consistent with sound standards of public health and safety;
 - B. Ensure adequate light, air and privacy for each dwelling unit;
 - C. Provide adequate amounts of private open space in proximity to each dwelling unit;
 - D. Provide space for community facilities needed to complement urban residential areas;
 - E. Provide space for institutions which require a residential environment;
 - F. Minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them;
 - G. Provide necessary space for off-street parking of automobiles and, where appropriate for off-street loading of trucks;
 - H. Protect residential properties from the hazards, noise and congestion created by commercial and industrial traffic;
 - I. Protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare and other objectionable influences;
 - J. Protect residential properties from fire, explosion, noxious fumes and other hazards.
- (Prior code § 10,103.0; Ord. 822 C.S. § 2, 1975)

§ 22.12.030. RR Rural Residential District—Purpose.

In addition to the purposes prescribed in Sections 22.02.010 and 22.12.020 of this Title, the RR Rural Residential Districts are included in the zoning regulations to achieve the following.

- A. Promote the stability of existing residential neighborhoods of a generally rural nature, which are unique within the community;
- B. Avoid the overloading of existing streets and utilities by preventing the construction of buildings of excessive size and population density in relation to the land around them.

(Prior code § 10,103.1(a); Ord. 822 C.S. § 2, 1975)

§ 22.12.040. RR Rural Residential District—Boundaries.

- A. The Rural Residential District recognizes that each rural residential neighborhood has distinct, definable boundaries, within which a uniform level of zoning standards must be maintained for the benefit and preservation of the entire neighborhood. For each Rural Residential District, a zoning district exhibit map shall be prepared clearly showing the district boundary and incorporated into the zoning ordinance.
- B. Following the procedures as outlined in Chapter 22.46 of this Title, the district boundaries and regulations will be established following a public hearing for which notices of hearing are to be mailed to each owner of real property within the proposed boundary, as indicated by the last equalized assessment roll.
- C. Amendments to district boundaries and/or regulations may be considered following the same procedures for hearing and notice as provided in Subsection B for the establishment of the Rural Residential District. An evaluation shall be made of the potential impact on the entire Rural Residential District in question prior to approving any revision in the boundary of a particular Rural Residential District or of the zoning densities within the boundary.

(Prior code § 10,103.1(b); Ord. 822 C.S. § 2, 1975)

§ 22.12.050. RR Rural Residential District—Zoning and prezoning.

Upon the effective date of the ordinance establishing a Rural Residential District, those portions of the district lying outside the incorporated limits of the City are "prezoned" as indicated in Section 22.46.110 of this Title and in accordance with the provisions of the California Government Code, Section 65859. For such properties the zoning will become effective when the annexation becomes effective. The boundaries of the entire Rural Residential Zoning District shall be indicated on the zoning map.

(Prior code § 10,103.1(c); Ord. 822 C.S. § 2, 1975)

§ 22.12.060. RR Rural Residential District—Conflicts.

Conflicts occurring between Sections 22.12.030 through 22.12.070 and other provisions of the zoning regulations codified in this Title and provisions of the subdivision regulations (Title 21) shall be resolved in favor of Sections 22.12.030 through 22.12.070.

(Prior code § 10,103.1(d); Ord. 822 C.S. § 2, 1975)

§ 22.12.070. RR Rural Residential District—Street standards.

One of the principal features of the rural appearance of existing rural neighborhoods is the manner of existing street improvements; relatively narrow streets, without curbs, gutters or sidewalks and, generally, without piped drainage systems. Preservation of this type and level of street standards appears to be an essential element in the stabilization of rural residential neighborhoods. Therefore, within the boundaries of a Rural Residential District, property owners are exempted from the requirement of the subdivision section for streets and related improvements (Sections 21.08.010 through 21.08.160). In case the public health, safety or welfare of residents of either the Rural Residential District or the community at large should require street improvements beyond those envisioned in this Section and Sections 22.12.030 through 22.12.060, a public hearing shall be held, following the same procedures for notification as specified in Section 22.12.040(B) herein, at which the need for improvements, their potential impact on the entire Rural Residential District in question, and the appropriateness of continuing the Rural Residential Zoning District in question are to be discussed.

(Prior code § 10,103.1(e); Ord. 822 C.S. § 2, 1975)

§ 22.12.080. Permitted uses.

The following uses shall be permitted:

- A. Single-family dwellings;
- B. In the R-1.5, R-2.5, and R-3.5 district, multifamily dwellings, as follows:

Table 22.12.080B – Permitted Multifamily Uses	
Zoning District	Maximum Building Size (i.e., maximum number of dwelling units permitted in 1 building)
R-3.5	2 dwelling units per building
R-2.5	8 dwelling units per building
R-1.5	24 dwelling units per building

- C. Accessory dwelling units that comply with Chapter 22.43 (Accessory Dwelling Units and Junior Accessory Dwelling Units);
- D. Accessory structures and uses located on the same site with and necessary for or incidental to the operation of a permitted use;
- E. Home occupations;
- F. Raising of fruit and nut trees, vegetables, and horticultural specialties;
- G. Except for the R-1.5, R-2.5, and R-3.5 districts, the raising of small animals, subject to the provisions of Chapter 22.58 (Small Animals);
- H. Except in the R-1.5, R-2.5, R-3.5, and all RR districts, private stables for the keeping of not more than three horses on a site of not less than 80,000 square feet in area, provided that one additional horse may be kept for each additional 40,000 square feet of the site, and provided that no stable shall be located closer than 50 feet to any property line, closer than 50 feet to any dwelling on the site, or closer than 100 feet to any other dwelling;
- I. In the RR districts, private stables for the keeping of not more than two horses on a site of not less than 40,000 square feet in area, provided one additional horse may be kept for each additional 20,000 square feet of the site, and provided that any stable meets the conditions of subsection H of this section;
- J. In the R-1.5 district only, lodging houses and apartment hotels which are occupied for a period of 31 days or more;
- K. State authorized, certified, or licensed family care, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons;
- L. State authorized, certified and licensed family day care homes;
- M. Micro Units in the R-1.5 district that comply with Chapter 22.57 (Micro Units);
- N. Religious institutions;
- O. Transitional housing. Transitional housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential uses and

dwelling types of the same type and in the same zone (e.g., permits single-family dwellings within a single-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc., applicable to a single-family dwelling. Also permits multifamily dwellings within a multifamily zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc., applicable to a multifamily dwelling. Does not permit single-family zoning requirements to be applied to multifamily residential units and vice versa);

- P. Supportive housing. Supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential uses and dwellings of the same type and in the same zone (e.g., permits single-family dwellings within a single-family zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc., applicable to a single-family dwelling. Also permits multifamily dwellings within a multifamily zoning district and subject to the same maximum density, minimum lot size and maximum lot coverage, etc., applicable to a multifamily dwelling. Does not permit single-family zoning requirements to be applied to multifamily residential units and vice versa);

- Q. State authorized, certified and licensed residential care facilities, serving six or fewer persons.

(Prior code § 10,103.2; Ord. 822 C.S., § 2, 1975; Ord. 963 C.S., § 2, 1982; Ord. 1027 C.S., § 1, 1984; Ord. 1055 C.S., § 3, 1985; Ord. 1096 C.S., § II, 1987; Ord. 1312 C.S., § III, 2004; Ord. No. 1379 C.S., § 15, 2/19/2014; Ord. No. 1448, § 7, 9/27/2023; Ord. No. 1450, § VI, 12/20/2023; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1471, 6/4/2025; Ord. No. 1473, 6/25/2025; Ord. No. 1474, 7/16/2025)

§ 22.12.084. (Reserved)³⁷

§ 22.12.085. (Reserved)³⁸

§ 22.12.090. Conditional uses.

The following uses shall be permitted upon the granting of a conditional use permit in accord with the provisions of Chapter 22.40 of this Title:

- A. Temporary real estate offices, construction yards and sheds;
- B. Colleges; nursery schools; private nonprofit schools and colleges, not including art, craft, music or dancing schools or business, professional or trade schools and colleges; churches, parsonages parish houses, monasteries, convents and other religious institutions; public and private philanthropic and eleemosynary institutions, sanitariums and nursing homes; private noncommercial clubs and lodges; golf courses; cemeteries, columbariums and crematories;
- C. Pumping stations, power stations, drainage ways and structures, storage tanks, and transmission lines found by the City Planning Commission to be necessary for the public health, safety or welfare;

37. Editor's note: Former § 22.12.084, which pertained to purpose and derived from Ord. 1312 C.S., 2004, was repealed 7/19/2023 by Ord. No. 1447.

38. Editor's note: Former § 22.12.085, which pertained to secondary housing units as permitted use and derived from Ord. 1335 C.S. 2007 and Ord. 1312 C.S., 2004, was repealed 7/19/2023 by Ord. No. 1447.

- D. Accessory structures and uses located on the same site as a conditional use;
- E. In the R-1.5 district, mobile home parks;
- F. In the R-1.5, R-2.5, and R-3.5 districts, state authorized or certified or licensed small group homes (serving seven to 15 mentally disordered or otherwise handicapped persons);
- G. In the R-1.5 and R-2.5 districts, in the proximity of the Contra Costa County Hospital, group care and rehabilitation facilities (other than state authorized, certified or licensed homes serving mentally disordered or otherwise handicapped persons) serving up to 15 persons;
- H. In the R-1.5, R-2.5, and R-3.5 districts, on sites adjoining major thoroughfares, residential office facilities in existing residential structures or newly constructed compatible structures of residential appearance for the following activities:
 - 1. Professional offices including accountants, architects, artists, attorneys, authors, engineers, dentists, doctors;
 - 2. Real estate offices;
 - 3. Antiques, arts, and crafts sales.

Size and staff of residential office activities shall be limited in scope as appropriate for the residential district in which it is located. Signs shall be limited in size to four square feet maximum size and one sign per site. The Zoning Administrator or Planning Commission shall make the following findings in granting a use permit under this subsection that:

- 1. Approval of this use permit will be consistent with objectives of the General Plan;
 - 2. The construction and/or use proposed will be consistent with and compatible with existing structures and uses on adjoining sites and in the immediate neighborhood;
 - 3. Approval of this use permit will not result in any adverse environmental impact;
- I. Except in the R-1.5 and R-2.5 districts, dog fancier's permits on sites of 20,000 square feet or more;
- J. Planned unit developments in accord with the provisions of Chapter 22.42 of this Title;
- K. In the R-1.5, R-2.5, and R-3.5 districts only, multiple-family residential structures on sites up to 9,999 square feet in area adjoining, on one or both sides, sites with existing multiple-family residential structures, subject to the following conditions that:
 - 1. The maximum density shall be the average density (rounded down to a whole unit) of the improved sites adjoining the side lines of the site; however, in no case shall there be less than 1,500 square feet of site area per living unit. Density for corner lots shall be the average of the adjoining lots in the same block on each street frontage;
 - 2. The architectural and site design of the improvements shall be compatible with existing structures in the neighborhood, and shall be similar in appearance to structures designed to comply with the basic requirements of the zoning district;
 - 3. A use permit for multiple-family residential structures on sites up to 9,999 square feet shall be granted only upon a minimum of $\frac{2}{3}$ vote of the Planning Commission;
 - 4. The Zoning Administrator or Planning Commission shall make the following findings

in granting a use permit under this subsection that:

- a. Specific adjoining and/or surrounding structures and improvements detrimentally affect the site, and that unnecessary hardship, inconsistent with the objectives of this Title, would result from a strict enforcement of the zoning regulations, absent a conditional use permit under this subsection;
- b. The structures and improvements detrimentally affecting the site have an apparent remaining usefulness indicating their continued presence and effect on the site for the foreseeable future;
- c. Approval of this use permit will be consistent with the objectives of the General Plan;
- d. Approval of this use permit will not result in any adverse environmental impact.

5. In granting of a conditional use permit under this subsection, no condition to this subsection shall be subject to variance.

This subsection is incorporated into the zoning title in recognition of the fact that scattered multiple residential development has occurred over the years within some of the areas zoned R-1.5, R-2.5, and R-3.5 and that some of this existing development can have adverse effects on adjoining or nearby sites. It is the intent of this subsection to provide a mechanism for relief from unnecessary hardships imposed by a combination of the basic zoning provisions and existing developments by providing a means for accomplishing a transition between existing nonconforming multiple residential densities and the planned densities of the zoning district.

- L. "Bed and breakfast inns" operated in conjunction with the provisions of Section 22.04.051, subject to the design review approval of exterior improvements and/or alterations pursuant to Sections 22.34.040 through 22.34.070.
- M. Emergency response residential facilities, such as fire stations and ambulance facilities, where staff live on-site.
- N. Wind generator, subject to the conditions listed below:
 1. A use permit may only be considered for generators serving as an accessory use to a primary residential use. The use of a generator as a business is prohibited (only the sale of surplus power back to the utility that serves the primary residential use is permitted).
 2. A wind generator may not be located in any minimum required yard.
 3. The maximum permitted height, measured as the distance from the maximum height reached by the rotor or tip of the propeller blade down to the grade directly below the blade, is 25 feet.
 4. The colors and materials of the system shall be of muted earthtones, to the extent practical, to minimize the visual intrusion of the equipment into its residential setting.
 5. Noise from the system shall not exceed the requirements of Chapter 8.34, Noise Control.
- O. Homeless shelters, ongoing. Homeless shelters, ongoing, within permitted religious or

eleemosynary institutions. In addition to the applicable conditions of use permit approval pursuant to 22.40.070, Homeless Shelters, Ongoing, within permitted religious or eleemosynary institution, are subject to the development and operational standards of Section 22.34.230, Homeless Shelters.

(Prior code § 10,103.3; Ord. 822 C.S., § 2, 1975; Ord. 1027 C.S., § 3, 1984; Ord. 1066 C.S., § I, 1986; Ord. 1323 C.S., § II, 2005; Ord. No. 1379 C.S., § 16, 2/19/2014; Ord. No. 1448, § 7, 9/27/2023)

§ 22.12.100. Distances between structures.

- A. Garages, carports and other accessory structures may be attached to and have a common wall with the main structure on a site or may be connected with the main structure by a breezeway.
- B. When there is more than one structure on a site, the minimum distance between a structure used for human habitation and another structure shall be 10 feet unless otherwise approved through a variance granted by the Zoning Administrator.

(Prior code § 10,103.4; Ord. 822 C.S. § 2, 1975; Ord. 965 C.S. § 5, 1985; Ord. No. 1448, § 7, 9/27/2023)

§ 22.12.110. Minimum site area.

The minimum site area for residential districts shall comply with the requirements listed in Table 22.12.110.

Table 22.12.110 – Minimum Site Area	
District	Minimum Site Area
R-1.5*	5,000 square feet
R-2.5	3,500 square feet
R-3.5	4,000 square feet
R-6.0	6,000 square feet
R-7.0	7,000 square feet
R-7.5	7,500 square feet
R-10.0	10,000 square feet
R-15.0	15,000 square feet
R-20.0 and RR-20.0	20,000 square feet
R-40.0 and RR-40.0	40,000 square feet
R-65.0 and RR-65.0	65,000 square feet
R-80.0 and RR-80.0	80,000 square feet
R-100.0 and RR-100.0	100,000 square feet

Note: *R-3.5 and R-2.5 existing sites with less than the required minimum site area shall be considered in accordance with the provisions of Section 22.12.120.

(Prior code § 10,103.5; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 7, 9/27/2023; Ord. No. 1463,

§ V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.120. Site area per dwelling unit.

- A. Each site shall have an area of not less than that specified in Table 22.12.120.

Table 22.12.120 – Site Area Per Dwelling Unit	
District	Minimum Site Area Per Dwelling Unit
R-1.5	1,500 square feet except that special consideration may be given by the Zoning Administrator or Planning Commission to reduce the minimum site area per dwelling unit to not less than 1,250 square feet for good site planning, architectural design and landscaping
R-2.5	2,500 square feet
R-3.5	3,500 square feet
Remaining R and RR districts	Minimum site area specified in Table 22.12.110, for permitted uses

Note: For all zoning districts above, the minimum site area per dwelling unit specified is only for land lying at slopes of 10 percent or flatter. For land steeper than 10 percent in slope, adjustments must be made to the minimum site area per dwelling unit in accordance with the provisions of Chapter 22.33 (Hillside Development Regulations).

- B. For sites within half a mile of the Martinez Amtrak Station, as defined by the Metropolitan Transportation Commission, the maximum density shall be not more than 35.0 dwelling units per acre and the minimum density shall be not less than 25.0 dwelling units per acre. (Prior code § 10,103.6; Ord. 822 C.S. § 2, 1975; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.190. Frontage, width and depth of site.

- A. Each site shall have not less than 40 feet of frontage on a public street, except that a corridor access lot having not less than 15,000 square feet of area, exclusive of corridor area, may not have less than 20 feet of frontage.
- B. Each site shall have a depth of not less than 100 feet and shall be of width not less than prescribed in Table 22.12.190.

Table 22.12.190 – Lot Width		
District	Minimum Width	Minimum Width Corner Lot
R-1.5	60 feet	50 feet
R-2.5	35 feet	60 feet
R-3.5	40 feet	50 feet
R-6.0	60 feet	50 feet
R-7.0	65 feet	75 feet
R-7.5	70 feet	80 feet
R-10.0	80 feet	90 feet

Table 22.12.190 – Lot Width		
District	Minimum Width	Minimum Width Corner Lot
R-15.0	100 feet	110 feet
R-20.0 and RR-20.0	100 feet	110 feet
R-40.0 and RR-40.0	150 feet	150 feet
R-65.0 and RR-65.0	150 feet	150 feet
R-80.0 and RR-80.0	150 feet	150 feet
R-100.0 and RR-100.0	150 feet	150 feet

(Prior code § 10,103.8; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 7, 9/27/2023; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.200. Dwelling units per site.

Except as provided herein for the R-1.5, R-2.5 and R-3.5 districts not more than one dwelling unit shall be located on a site.

(Prior code § 10,103.9; Ord. 822 C.S. § 2, 1975)

§ 22.12.210. Maximum site area coverage.

The minimum site area for residential districts shall comply with the requirements listed in Table 22.12.210.

Table 22.12.210 – Maximum Site Area Coverage		
District	Maximum Coverage	Maximum Coverage (with development incentive pursuant to Chapter 22.81)
R-1.5	75 percent	90 percent
R-2.5	65 percent	75 percent
R-3.5	50 percent	60 percent
R-6.0	40 percent	50 percent
R-7.0	35 percent	45 percent
R-7.5	35 percent	45 percent
R-10.0	30 percent	40 percent
R-15.0	30 percent	40 percent
R-20.0 and RR-20.0	25 percent	35 percent
R-40.0 and RR-40.0	20 percent	30 percent
R-65.0 and RR-65.0	15 percent	20 percent
R-80.0 and RR-80.0	10 percent	15 percent
R-100.0 and RR-100.0	5 percent	10 percent

(Prior code § 10,103.10; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 7, 9/27/2023; Ord. No.

1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.215. Floor area ratio.

The maximum floor area ratio ("FAR") shall comply with the requirements listed in Table 22.12.215.

Table 22.12.215 - Floor Area Ratio		
District	Maximum FAR	Maximum FAR (with development incentive pursuant to Chapter 22.81)
R-1.5	2.0	2.5
R-2.5	1.5	2.0
R-3.5	1.0	1.5
R-6.0	0.5	1.0
R-7.0	0.5	1.0
R-7.5	0.5	1.0
R-10.0	0.4	0.9
R-15.0	0.3	0.8
R-20.0 and RR-20.0	0.2	0.6
R-40.0 and RR-40.0	0.2	0.6
R-65.0 and RR-65.0	0.2	0.6
R-80.0 and RR-80.0	0.2	0.6
R-100.0 and RR-100.0	0.2	0.6

(Ord. No. 1463, § V, 10/23/2024)

§ 22.12.220. Front yards.

- A. The minimum front yard shall comply with the requirements listed in Table 22.12.220 subject to the exceptions listed in subsection B.

Table 22.12.220 - Front Yards		
District	Minimum Front Yard	Minimum Front Yard (with development incentive pursuant to Chapter 22.81)
R-1.5	10 feet	0 feet
R-2.5	20 feet	10 feet
R-3.5	20 feet	10 feet
R-6.0	20 feet	10 feet
R-7.0	20 feet	10 feet
R-7.5	20 feet	10 feet

Table 22.12.220 - Front Yards		
District	Minimum Front Yard	Minimum Front Yard (with development incentive pursuant to Chapter 22.81)
R-10.0	25 feet	15 feet
R-15.0	25 feet	15 feet
R-20.0 and RR-20.0	25 feet	15 feet
R-40.0 and RR-40.0	25 feet	15 feet
R-65.0 and RR-65.0	40 feet	20 feet
R-80.0 and RR-80.0	50 feet	40 feet
R-100.0 and RR-100.0	50 feet	40 feet

B. Exceptions.

1. On a site having an average natural slope of 30 percent or more measured from the established grade of the street at the edge of the existing or proposed pavement to the rear line of the required front yard, a garage or carport may be constructed not less than 15 feet from the edge of the pavement, provided that in no case shall a garage or carport have a front yard of less than three feet.
2. On corner lots in the R-6.0, R-7.0, and R-7.5 districts, the front yard may be reduced to 15 feet minimum if the structure fronts upon the longer street frontage, provided there is 20 feet between the front of the garage or carport and the front property line. On corner lots in the R-10.0, R-20.0, RR-20.0, R-40.0, and RR-40.0 districts, the front yard may be reduced to 20 feet if the structure fronts upon the longer street frontage.

(Prior code § 10,103.11; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 7, 9/27/2023; Ord. No. 1463, § V, 10/23/2024)

§ 22.12.230. Side yards.

The minimum side yard shall comply with the requirements listed in Table 22.12.230.

Table 22.12.230 - Side Yards				
District	Minimum Side Yard	Minimum Side Yard (with Development Incentive Bonus pursuant to Chapter 22.81)	Minimum Side Yard (Second Story)	Minimum Side Yard (Second Story with development incentive pursuant to Chapter 22.81)
R-1.5	5 feet	5 feet	10 feet	5 feet
R-2.5	5 feet	5 feet	10 feet	5 feet
R-3.5	5 feet	5 feet	10 feet	5 feet
R-6.0	5 feet	5 feet	10 feet	5 feet
R-7.0	5 feet	5 feet	10 feet	5 feet
R-7.5	5 feet	5 feet	10 feet	5 feet

Table 22.12.230 - Side Yards

District	Minimum Side Yard	Minimum Side Yard (with Development Incentive Bonus pursuant to Chapter 22.81)	Minimum Side Yard (Second Story)	Minimum Side Yard (Second Story with development incentive pursuant to Chapter 22.81)
R-10.0	5 feet	5 feet	12 feet	5 feet
R-15.0	10 feet	5 feet	15 feet	8 feet
R-20.0 and RR-20.0	10 feet	5 feet	15 feet	8 feet
R-40.0 and RR-40.0	15 feet	5 feet	25 feet	15 feet
R-65.0 and RR-65.0	20 feet	10 feet	30 feet	20 feet
R-80.0 and RR-80.0	25 feet	15 feet	35 feet	25 feet
R-100.0 and RR-100.0	30 feet	20 feet	40 feet	30 feet

(Prior code § 10,103.12; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 7, 9/27/2023; Ord. No. 1463, § V, 10/23/2024)

§ 22.12.235. Corner lots.

- A. In the R-1.5 and R-2.5 districts, on the street side of a corner lot the side yard shall be not less than 15 percent of the average width of the site, provided that a side yard of more than 20 feet shall not be required, and a side yard of less than 7½ feet shall not be permitted.
- B. Except in the R-1.5 and R-2.5 districts, on the street side of a corner lot the side yard shall be not less than 20 percent of the average width of the site, provided that a side yard less than twice the minimum required interior side yard shall not be permitted and a side yard of more than twice the maximum required interior side yard shall not be required.

(Ord. No. 1448, § 7, 9/27/2023)

§ 22.12.240. Rear yards.

- A. Except for the R-1.5 and R-2.5 districts, the minimum rear yard shall be 25 feet for the principal building (reduced to 15 feet with development incentive pursuant to Chapter 22.81), and five feet for a garage structure.
- B. In the R-1.5 district, the minimum rear yard shall be 20 feet for the principal building structure (reduced to 10 feet with development incentive pursuant to Chapter 22.81) subject to the following exceptions. In the R-2.5 district, the minimum rear yard shall be 25 feet for the principal building structure (or 15 feet with development incentive pursuant to Chapter 22.81) subject to the following exceptions:
 1. In the R-1.5 district, the rear yard may be reduced to 10 feet provided that one side yard at least 20 feet.
 2. In the R-2.5 district, the rear yard may be reduced to not less than 15 feet provided one side yard is at least 25 feet.
 3. In the R-1.5, R-2.5, and R-3.5 districts, the minimum rear yard shall be five feet for

parking garages and structures.

(Prior code § 10,103.13; Ord. 822 C.S. § 2, 1975; Ord. 1335 C.S. § 2, 2007; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.250. Usable outdoor space.

The minimum usable outdoor space per dwelling unit for multifamily residential structures in residential districts shall comply with the provisions in Table 22.12.250.

Table 22.12.250 – Usable Outdoor Space		
District	Minimum Usable Outdoor Space Per Dwelling Unit	Minimum Usable Outdoor Space (with development incentive pursuant to Chapter 22.81)
R-1.5	400 square feet	100 square feet
R-2.5	450 square feet	200 square feet
R-3.5	500 square feet	200 square feet

(Prior code § 10,103.14; Ord. 822 C.S. § 2, 1975; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.260. Height of structures.

- A. Except in the R-1.5, R-2.5, and R-3.5 districts, the maximum height of structures shall be two stories or a maximum of 25 feet (increased to three stories or 36 feet with development incentive pursuant to Chapter 22.81), whichever is less.
- B. The maximum allowable height of structures for all other residential zones shall be based on residential density, as shown in Table 22.12.260:

Table 22.12.260 – Maximum Height		
Residential Density	Maximum Height	Maximum Height (with development incentive pursuant to Chapter 22.81)
Up to 29.5 du/acre	2.5 stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater. For structures with above-grade parking the maximum height shall be 2.5 stories or a maximum of 30 feet, whichever is less.	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater
30.0 to 39.5 du/acre	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater	Four stories or a maximum of 48 feet above the 100-year flood plain, whichever is greater

Table 22.12.260 – Maximum Height		
Residential Density	Maximum Height	Maximum Height (with development incentive pursuant to Chapter 22.81)
40.0 to 50.0 du/acre	Four stories or a maximum of 48 feet above the 100-year flood plain, whichever is greater	Five stories or a maximum of 60 feet above the 100-year flood plain, whichever is greater

(Prior code 10,103.15; Ord. 822 C.S. § 2, 1975; Ord. No. 1463, § V, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.12.265. Accessory structures.

- A. Intent. These specific limitations as to the height, number or size of accessory structures are intended to ensure adequate light, air and privacy for residential properties, balancing the appropriateness of the accessory structures' design to preserving the residential character and neighbor's privacy with the applicant's ability to fully utilize the property in accordance with all applicable standards of the City's zoning regulations.
- B. Size and location limitations. Accessory structures shall conform to the maximum coverage, and minimum yard requirements of the applicable zoning district, subject to the following special limitations and exceptions:
 1. Maximum size. The maximum size of any 1 accessory structure is 1,000 square feet; and the total size of all accessory structures on a lot cannot exceed 50% of the main structure's gross floor area. Exceptions to these maximum size limitations may be granted with approval of a use permit.
 2. Maximum height. The height of an accessory structure may not exceed one story or 15 feet. Exceptions to exceed either the 1 story, or 15 feet maximum, or both, may be granted with approval of a use permit.
 3. Exceptions to Minimum Yard Requirements for Accessory Structures Within Minimum Required Rear Yards. Provided that the accessory structure(s) do not cover more than 25% of the minimum rear yard otherwise required by Section 22.12.240 Rear Yards, accessory structure(s) may be placed, or partially placed, within such minimum required rear yards, subject to the following requirements:
 - a. A minimum setback of 5 feet shall be maintained from the rear and interior side property lines that are adjacent to the otherwise required minimum rear yard.
 - b. Accessory structures in the minimum required rear yards of corner lots shall be no closer to the street-side side property line than the minimum street-side side yard required by Section 22.12.230, Side Yards.
 - c. Accessory structures in the minimum required rear yards of reverse corner lots shall be no closer to the rear property line than the minimum permitted side yard of the adjoining key lot as required by Section 22.12.230(A), Table H, Side Yards.

4. Special limitations for keeping of animals. Accessory structures, where permitted for the housing of animals, such as horse stables and paddocks, chicken coops, rabbit hitches and similar structures, shall maintain the minimum setbacks from property lines and dwelling as prescribed in Section 22.12.080, Permitted Uses in R-Residential Districts. Other accessory structures which, in the option of the Community Development Director, are not customarily or incidental to the main residential use of the property, require use permit approval.

(Ord. 1335 C.S. § 3, 2007)

§ 22.12.270. Off-street parking and loading facilities.

- A. Off-street parking shall be provided for residential development in accordance with the requirements of Section 22.36.030 of this title.
- B. Parking and loading facility requirements for nonresidential uses and loading facility requirements for apartment hotels in excess of 5,000 square feet of gross floor area, shall comply with the regulations prescribed in Chapter 22.36 of this title.

(Prior code § 10,103.16; Ord. 822 C.S. § 2, 1975)

§ 22.12.300. Amnesty for unpermitted dwelling units.

See Chapter 15.55 (Residential Amnesty Program for Unpermitted Dwelling Units) for regulations related to legalizing unpermitted dwelling units.

(Ord. No. 1469, § VIII, 4/2/2025)

§ 22.12.400. Affordable housing requirement.

Any rental or ownership residential project of which any combination of 11 or more dwelling units is created, including, but not limited to, planned unit developments, condominium or subdivision maps, condominium conversions, multifamily developments, mixed-use developments, conditional use permits, design review, or other ministerial or discretionary City land use approvals, shall be subject to the regulations provided in Chapter 22.82 (Inclusionary Housing).

(Ord. No. 1480, 12/10/2025)

CHAPTER 22.13
DOWNTOWN OVERLAY DISTRICT (D)

§ 22.13.010. Purposes.

In addition to the purposes prescribed in Sections 22.02.010, 22.12.020 and 22.12.320 of this title, the D Overlay District (Exhibit "A") is included in the zoning regulations to achieve the following purposes:

- A. To recognize the existing higher density development of detached and attached units, duplexes, triplexes and multifamily units on lots generally ranging from 4,000 to 6,000 square feet in some areas of the downtown residential district and that single family development in these areas may be inappropriate;
- B. To provide a transition between these higher density developments and adjacent single family residences;
- C. To promote the stability and viability of existing residential neighborhoods in the downtown area and maintain the small town, character and historic setting of Downtown Martinez;
- D. To encourage future infill development of vacant and under utilized land that reinforces existing architectural styles and at a density to support higher quality development;
- E. To encourage the renovation and rehabilitation of existing housing that will enhance the existing downtown neighborhoods;
- F. To encourage the consolidation of lots to provide flexibility and innovative design solutions that improve the use of space to accommodate a variety of dwelling options near the downtown commercial district.

(Ord. 1230 C.S. § 1, 1996)

§ 22.13.020. Permitted uses.

The permitted uses in the D District shall be the permitted uses of each individual residential zone district which has been combined with the overlay zone.

(Ord. 1230 C.S. § 1, 1996)

§ 22.13.030. Conditional uses.

The conditional uses in the D District shall be the conditional uses of each individual residential zone district which has been combined with the overlay zone. In addition, with a use permit, the following increases in density from the individual residential zone or exceptions from the zoning requirements may be permitted:

- A. Properties may be developed to meet the R-1.5 density standards in the R-2.5 District and the R-2.5 density standards in the R-3.5 District;
- B. Properties.
 - 1. Adjoining, on one or both sides, parcels with existing multiple family residential structures; or

2. With multiple family residential structures across the street for more than one half of the entire block frontage;
may be developed as multi-family projects at the average density (rounded off to the nearest whole unit) of the two adjoining properties or the average density (rounded off to the nearest whole unit) of the properties across the street and adjoining properties together, whichever is greater.
- C. A front yard setback of 10 feet may be permitted for the main structure, if the Planning Commission can make the finding that it would be consistent with and not detrimental to the existing development in the neighborhood.
- D. A minimum of one covered parking space per unit may be approved with a use permit, if the Planning Commission can make the findings that:
 1. One parking space per unit would be sufficient for the proposed development;
 2. There would be sufficient overflow street parking; and
 3. Reducing the parking standards would not be detrimental to the neighborhood.
- E. The Planning Commission shall make the following additional findings in granting a use permit under this section:
 1. That the residential development will complement and be compatible with the existing residential community and reflect the historic ambiance of the downtown residential district,
 2. That the architecture, landscaping and site plan of the residential development will result in a significantly better environment than otherwise would have occurred under the existing zone district requirements.

(Ord. 1230 C.S. § 1, 1996)

§ 22.13.040. Distances between structures; minimum site area; frontage, width and depth of site; usable open space.

The required distances between structures, minimum site area, frontage, width and depth of the site, usable open space shall be those of the R Residential zone with which the D overlay district is combined, namely those specified in Section 22.12.100, 22.12.110, 22.12.190, 22.12.230, 22.33.050, 22.12.250 stat.

(Ord. 1230 C.S. § 1; 1996; Ord. 1247 C.S. § 1, 1997)

§ 22.13.050. Site area per dwelling unit.

With a use permit, the following increases in density of the individual residential zone district specified below with which the D Overlay District is combined may be permitted:

Table 22.13.050 – Site Area Per Dwelling Unit	
District	Minimum Site Area Per Dwelling Unit
R-1.5	1,250 square feet
R-2.5	1,500 square feet
R-3.5	2,500 square feet

Averaging the Number of Allowed Units—A fraction of a unit shall be rounded up so it equals one unit.

(Ord. 1247 C.S. § 1, 1997; Ord. No. 1473, 6/25/2025)

§ 22.13.060. Maximum site area coverage.

The maximum site area covered by structures shall be 50 percent or the maximum percent of the underlying zoning district, whichever is greater.

(Ord. 1230 C.S. § 1, 1996; Ord. No. 1473, 6/25/2025)

§ 22.13.070. Front yards.

A. The minimum front yard shall be the average of the two sides adjoining properties to a maximum required of 20 feet except, as permitted with a use permit (see 22.13.030 C.).

B. The minimum distance between garage door (roll-up door required) and the sidewalk shall be 15 feet or the average of the existing garages adjacent to the property. A carport may be 10 feet behind the sidewalk.

C. Exceptions:

1. All exceptions noted in Section 22.12.220.

(Ord. 1230 C.S. § 1, 1996)

§ 22.13.080. Side yards.

The minimum side yard shall be 5 feet for a one-story structure up to 12 feet high, 10 feet for a two-story structure and one-story structure over 12 feet high. On a corner lot, the minimum street side yard setback shall be 10 feet.

(Ord. 1230 C.S. § 1, 1996)

§ 22.13.090. Rear yards.

A. The minimum rear yard shall be 15 feet for the principal building subject to the following exception:

Rear yard areas may be averaged on a single site to obtain the required 15-foot rear yard; not more than 50 percent of the width of the structure may extend closer than 15 feet to the rear property line, nor shall any portion of the structure extend closer than 10 feet to the rear property.

B. The minimum rear yard shall be five feet for detached and attached garage structures.

(Ord. 1230 C.S. § 1, 1996; Ord. No. 1473, 6/25/2025)

§ 22.13.100. Height of structures.

A. Except in the R-1.5 and R-2.5 districts, the maximum height of structures shall be two stories or a maximum of 25 feet, whichever is less.

B. In the R-1.5 and R-2.5 districts, the maximum height of structures shall be 2.5 stories or a maximum of 30 feet, whichever is less.

(Ord. 1230 C.S. § 1, 1996; Ord. No. 1473, 6/25/2025)

CHAPTER 22.14
PROFESSIONAL AND ADMINISTRATIVE OFFICE DISTRICTS (PA)³⁹

§ 22.14.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34.
(Ord. No. 1458, § III, 5/15/2024)

§ 22.14.020. Purpose.

In addition to the objectives prescribed in Section 22.02.010, the purpose of the PA Professional and Administrative Office District is to:

- A. Reserve appropriately located areas for harmonious transitional uses to serve as buffers between residential districts and central commercial or industrial districts;
- B. Create a suitable environment for public buildings and for community facilities and institutions;
- C. Provide adequate space to meet the needs of professional and administrative offices, including off-street parking and loading areas;
- D. Minimize traffic congestion and to avoid overloading of utilities by preventing the construction of oversized buildings;
- E. Protect professional and administrative offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to commercial uses, and from the noise, odor, dust, dirt, smoke, vibration, heat, glare, and truck traffic incidental to industrial use.

(Ord. No. 1458, § III, 5/15/2024)

§ 22.14.030. Permitted uses.

The following uses shall be permitted:

- A. Accessory structures and uses located on the same site with and necessary for or incidental to the operation of a permitted use;
- B. All uses permitted in an R-1.5 district;
- C. Health care clinics, medical outpatient facilities, and medical and dental offices;
- D. Hospitals, sanitariums, and nursing homes;
- E. Housing development projects that comply with Chapter 22.75 (Residential Development in Commercial Districts);
- F. Low-barrier navigation centers;
- G. Physical fitness facilities;

³⁹. Editor's note: Prior history: Prior code §§ 10,104.0—10,104.15; Ord. 822 C.S., 1975; Ord. 1115 C.S., 1988; Ord. 1245 C.S., 1997; Ord. 1274 C.S., 2000; and Ord. No. 1448, 9/27/2023.

- H. Private, clubs, lounges, and lodges;
 - I. Professional and administrative offices;
 - J. Public administration buildings and grounds, excepting schools;
 - K. Public and private libraries, museums, and art galleries;
 - L. Public and private philanthropic institutions;
 - M. Religious institutions;
 - N. Supportive housing;
 - O. Union halls.
- (Ord. No. 1458, § III, 5/15/2024; Ord. No. 1474, 7/16/2025)

§ 22.14.040. Conditional uses.

The following conditional uses shall be permitted upon the granting of a use permit, in accord with the provisions of Chapter 22.40:

- A. Public and private schools and colleges;
 - B. Pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines found by the Planning Commission to be necessary for the public health, safety, or welfare;
 - C. Group care and rehabilitation facilities (other than State authorized, certified or licensed family care, foster home or group home serving six or fewer mentally disabled or otherwise handicapped persons);
 - D. Child daycare facilities;
 - E. Veterinary offices and animal hospitals including short-term boarding of animals and incidental care such as bathing and trimming, provided that all operations are conducted entirely within a completely enclosed building;
 - F. General retail sales;
 - G. Restaurants and other food and beverage service establishments, not including restaurants serving alcoholic beverages, except beer and/or wine only;
 - H. Parking lots and garages improved in conformity with the standards prescribed for required off-street parking facilities in Section 22.36.020;
 - I. Accessory structures and uses located on the same site with and necessary for or incidental to the operation of a conditional use;
 - J. Other similar uses as determined by the Planning Commission, Zoning Administrator, Community and Economic Development Director, Planning Manager, or designee.
- (Ord. No. 1458, § III, 5/15/2024)

§ 22.14.050. Required conditions.

The following conditions shall be required of all uses in the PA district:

- A. All professional pursuits and administrative enterprises shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas;
- B. No sales, production, repair or processing shall be permitted except in a medical or dental laboratory accessory to a professional office or permitted upon the granting of a use permit;
- C. No use shall be permitted and no process equipment materials shall be employed which are found by the Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness or truck traffic, or to involve any hazard of fire or explosion.

(Ord. No. 1458, § III, 5/15/2024)

§ 22.14.060. Distances between structures.

- A. Garages, carports, and other accessory structures may be attached to and have a common wall with the main structure on a site or may be connected with the main structure by a breezeway;
- B. Where there is more than one detached structure on a site, the minimum distance between a structure used for human habitation and another structure shall be ten feet.

(Ord. No. 1458, § III, 5/15/2024)

§ 22.14.070. Site area.

The minimum site area shall be 5,000 square feet.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1473, 6/25/2025)

§ 22.14.080. Frontage and width of site.

Each site shall have not less than 40 feet of frontage on a public street and shall have a width of not less than 60 feet subject to the exception that the width of a corner lot shall not be less than 70 feet.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1473, 6/25/2025)

§ 22.14.090. Maximum site coverage.

The maximum site area covered by structures shall be 75 percent (increased to 90 percent with development incentive pursuant to Chapter 22.81) of the total gross area of the site.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.14.095. Floor area ratio.

The maximum floor area ratio shall be 2.0 (increased to 2.5 with development incentive pursuant to Chapter 22.81).

(Ord. No. 1463, § VI, 10/23/2024)

§ 22.14.100. Front yard.

The minimum front yard shall be ten feet (reduced to zero feet with development incentive pursuant to Chapter 22.81).

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024)

§ 22.14.110. Side yard.

The minimum side yard shall be five feet (reduced to two feet with development incentive pursuant to Chapter 22.81), subject to the following exceptions:

- A. On the street side of a corner lot the side yard shall not be less than 10 feet;
- B. Where the side property line of a site of a professional office or an administrative office adjoins property in a residential district, the side yard adjoining the residential district shall be not less than 10 feet and a solid masonry wall or board fence six feet in height shall be located on the property line. In addition, the five feet adjoining the property line shall be landscaped with plant materials and permanently maintained.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.14.120. Rear yard.

The minimum rear yard shall be ten feet (reduced to five feet with development incentive pursuant to Chapter 22.81) subject to the following exceptions:

- A. Where the rear property line of a site of a professional office or an administrative office adjoins property in a residential district, the rear yard shall be not less than 20 feet (reduced to ten feet with development incentive pursuant to Chapter 22.81) and a solid masonry wall or board fence six feet in height shall be located on the property line. In addition, the five feet adjoining the property line shall be landscaped with plant materials and permanently maintained by the property owner(s) when such landscaping is necessary to ensure privacy, to screen unsightliness, or to insulate adjoining dwellings against noise.
- B. A minimum setback of five feet shall be maintained from the rear property lines for accessory structures not exceeding 12 feet in height, including garages and carports, garden structures, greenhouses, and storage buildings, except on a reversed corner lot. Accessory structures exceeding 12 feet in height are subject to the setback requirements shall comply with the minimum rear yard of ten feet.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024)

§ 22.14.125. Site area per dwelling unit.

The minimum site area per dwelling unit shall be 1,500 square feet. For sites within half a mile of the Martinez Amtrak Station, as defined by the Metropolitan Transportation Commission, the maximum density shall be not more than 35.0 dwelling units per acre and the minimum density shall be not less than 25.0 dwelling units per acre.

(Ord. No. 1473, 6/25/2025)

§ 22.14.130. Private outdoor space.

The minimum private outdoor space in the PA district shall be 400 square feet per residential dwelling unit (reduced to 100 square feet with development incentive pursuant to Chapter

22.81).

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024)

§ 22.14.140. Height of structures.

No structures shall exceed 30 feet in height (increased to 40 feet with development incentive pursuant to Chapter 22.81). Taller structures may be permitted if, upon submission of an application an exception is granted pursuant to Chapter 22.45.

(Ord. No. 1458, § III, 5/15/2024; Ord. No. 1463, § VI, 10/23/2024)

§ 22.14.150. Landscaped areas.

The required front yard, the required rear yard of a lot whose front and rear yards both front on a public street, and not less than five feet of the required side yard adjoining the side lot line on the street side of a corner lot shall be landscaped and permanently maintained.

(Ord. No. 1458, § III, 5/15/2024)

§ 22.14.160. Off-street parking and loading facilities.

Off-street parking and loading facilities shall conform to the regulations prescribed Chapter 22.36.

(Ord. No. 1458, § III, 5/15/2024)

CHAPTER 22.15
RD RESEARCH AND DEVELOPMENT DISTRICTS⁴⁰

§ 22.15.010. Purpose.

The Research and Development ("R & D") District is designed to create and maintain sites for a limited group of research and development uses.

- A. The intent of said District is to establish a high standard of development which emphasizes quality design in a campus environment. Uses within the Research and Development District shall be technology-oriented and compatible with adjoining uses;
- B. A campus design shall be generally defined as one which utilizes a superior landscape plan, considers pedestrian orientation within the project, and physical amenities such as paths, trails, and quality architectural design;

(Ord. No. 1458, § IV, 5/15/2024)

§ 22.15.020. Permitted uses.

The following uses shall be permitted:

- A. Accessory facilities and activities customarily associated with or essential to permitted uses;
- B. Advanced manufacturing;
- C. Facilities used for the research or development of high technology products or applications.
- D. Housing development projects that comply with Chapter 22.75 (Residential Development in Commercial Districts);
- E. Life sciences and biotechnology;
- F. Manufacturing, assembly, and packaging of electric and electronic instruments and devices;
- G. Professional and administrative offices;
- H. Research laboratories;
- I. Testing laboratory—cannabis; subject to Chapter 5.29, Commercial Cannabis.

(Ord. No. 1458, § IV, 5/15/2024; Ord. No. 1474, 7/16/2025)

§ 22.15.030. Conditional uses.

The following conditional uses shall be permitted upon the granting of a use permit, in accord with the provisions of Chapter 22.40:

- A. Limited commercial facilities which are incidental to and primarily serve R & D, such as restaurants copying services, and business supplies, provided the Planning Commission or Zoning Administrator finds the proposed use will:

40. Editor's note: Prior history: Ord. 992 C.S., 1983; Ord. 1053 C.S., 1985; Ord. 1161 C.S., 1991; and Ord. No. 1422, adopted 4/3/2019.

1. Be oriented to, incidental to, and serve, an R & D development;
 2. Be a use not able to be located (or already found) on nearby existing commercially-zoned property;
- B. Private clubs, lounges, or lodges;
- C. Other manufacturing, assembly, and packaging uses;
- D. Public and private schools, colleges, and related facilities;
- E. Physical fitness facilities;
- F. Other similar uses as determined by the Planning Commission, Zoning Administrator, Community and Economic Development Director, Planning Manager, or designee.
- (Ord. No. 1458, § IV, 5/15/2024)

§ 22.15.040. Development standards.

The following site development regulations shall apply in the R & D district:

- A. Site area. Minimum site area shall be one acre;
- B. Site width. Minimum site width shall be 100 feet;
- C. Site depth. Minimum site depth shall be 150 feet;
- D. Front yard. Minimum front yard shall be ten feet (reduced to five feet with development incentive pursuant to Chapter 22.81);
- E. Side and rear yards. The minimum side yard shall be zero feet. The minimum rear yard shall be zero feet. Where the lot has its side or rear yard adjacent to any residential district, the side yard shall be ten feet and the rear yard shall be 25 feet, and a solid masonry wall or board fence six feet in height shall be located on the property line. Additionally, five feet adjoining the property line shall be landscaped with plant materials and permanently maintained by the property owner(s);
- F. Height of buildings. A structure shall not exceed a height of 50 feet (increased to 60 feet with development incentive pursuant to Chapter 22.81). Taller structures may be permitted if, upon submission of an application, an exception is granted pursuant to Chapter 22.45.
- G. Floor area ratio. The maximum floor area ratio in the PA district shall be 2.0 (increased to 2.5 with development incentive pursuant to Chapter 22.81).
- H. Landscaping. Landscaping shall be considered as an integral part of any development plan. All landscape plans shall be subject to design review and shall be reviewed and approved by the Community and Economic Development Director, Planning Manager, or designee.
- I. Parking. Parking shall be provided at a ratio established by Chapter 22.36 for the proposed use. The Planning Commission or Zoning Administrator may require fewer parking spaces when it can be adequately demonstrated through preparation of a parking study prepared by an independent consultant selected by the City and paid for by the applicant that the proposal will demand less parking than required by Code.
- J. Design review. Design review is required for all new construction, exterior alterations, and/

or site improvements such as landscaping.
(Ord. No. 1458, § IV, 5/15/2024; Ord. No. 1463, § VII, 10/23/2024)

§ 22.15.050. Required conditions.

- A. When a project within the District involves the use, manufacturing, or disposal of toxic, hazardous, or otherwise dangerous materials and by-products, the project shall be reviewed by the State Department of Health, Department of Resources, Contra Costa County Environmental Health, or other applicable body for requirements pertaining to the safe handling of such materials.
- B. All uses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas and outdoor dining areas, and other uses specifically approved by permit.
(Ord. No. 1458, § IV, 5/15/2024)

§ 22.15.060. Performance standards.

All R & D land uses shall conform to the following standards:

- A. Noise or vibration. No noise or vibration, other than related to transportation activities and temporary construction work, shall be discernible without instruments at any point from a lot line of the building site or off-site.
- B. Radioactivity. No activity, including storage or dumping, shall result in the emission of radioactivity in dangerous amounts. A dangerous amount is defined as any level exceeding ten millisieverts.
- C. Electrical disturbance. No activity shall cause electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- D. Explosive materials. No explosive materials shall be produced, used, stored, or handled unless provided at all points with adequate safety devices and procedures against hazards of explosion and all equipment and devices for fire prevention and firefighting approved by the Contra Costa County Fire Protection District.
- E. Air pollution. No air pollution or smoke shall be produced which is in violation of the requirements of the Bay Area Air Pollution Quality Management District.
- F. Glare or heat. No direct or sky-reflected glare or heat shall be produced which is discernible without instruments at any point from a lot line of the building site or off-site.
- G. Odorous gases. No emission of any odorous gases or matter shall occur in quantities which are discernible without instruments at any point from a lot line of the building site or off-site.
- H. Dust, dirt, or particulate matter. No discharge into the air of any dust, dirt, or particulate matter shall occur from any activity or from any products stored on the building site which is discernible without instruments at any point from a lot line of the building site or off-site.
- I. Liquid contaminants. No discharge into any public sewer, private sewage disposal system approved by the County Department of Environmental Health, stream, or into the ground of any liquid contaminants or materials of such nature or temperature which contaminates

any water supply, interferes with bacterial processes and sewage treatment, or in any way causes the emission of dangerous or offensive materials shall occur.
(Ord. No. 1458, § IV, 5/15/2024)

CHAPTER 22.16
COMMERCIAL DISTRICTS (C)

§ 22.16.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34.
(Ord. No. 1458, § V, 5/15/2024)

§ 22.16.020. Purpose.

In addition to the objectives prescribed in Section 22.02.010, the purpose of the C Commercial Districts is to:

- A. Provide appropriately located areas for retail stores, offices, service establishments, cultural and entertainment establishments and wholesale businesses offering various ranges of commodities and services scaled to meet the needs of the different geographical areas and various categories of patrons they serve;
- B. Provide opportunities for retail stores, offices, service establishments and wholesale businesses to concentrate for the convenience of the public and in a mutually beneficial relationship;
- C. Provide space for community facilities and institutions which appropriately may be located in commercial areas;
- D. Provide adequate space to meet the needs of commercial development, including off-street parking and truck loading areas;
- E. Minimize traffic congestion and to avoid the overloading of utilities;
- F. Protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, fire, explosion, noxious fumes and other objectionable influences and hazards incidental to industrial uses;
- G. Provide activated ground-floor commercial areas, particularly in the Downtown area.
- H. Encourage economic development in a way that attracts investment, fosters entrepreneurship, and supports the long-term sustainability of commercial enterprises in commercial areas.

(Ord. No. 1458, § V, 5/15/2024)

§ 22.16.040. Permitted uses—Neighborhood Commercial District (NC).

The following uses shall be permitted:

- A. Accessory structures and uses, not including warehouses, on the same site with and necessary for or incidental to the operation of a permitted use;
- B. Dispensary—cannabis; subject to Chapter 5.29, Commercial Cannabis;
- C. Dwelling units located above the ground floor of a building;
- D. Educational institutions;

- E. Event rental businesses;
- F. Financial institutions;
- G. General retail sales, except for sensitive retail uses;
- H. Health care clinics, medical outpatient facilities, and medical and dental offices;
- I. Hotels and motels;
- J. Housing development projects that comply with Chapter 22.75 (Residential Development in Commercial Districts);
- K. Low-barrier navigation centers;
- L. Micro units that comply with Chapter 22.57 (Micro Units);
- M. Nurseries and garden supply stores, provided that all equipment, supplies, and merchandise other than plants shall be kept within a completely enclosed building and that fertilizer of any type shall be stored and sold in packaged form only;
- N. Personal services including, but not limited to, hair salons, laundering services, and pet grooming;
- O. Physical fitness facilities;
- P. Professional and administrative offices;
- Q. Professional services;
- R. Religious institutions;
- S. Restaurants and other food and beverage service establishments, including restaurants serving wine and beer only, but not including restaurants serving liquor;
- T. Supportive housing;
- U. Along major thoroughfares, the following uses:
 - 1. Mortuaries;
 - 2. Vehicle and vehicle accessory sales and services;
 - 3. Public entertainment venues;
 - 4. Veterinarians' offices and animal hospitals including short-term boarding of animals and incidental care such as bathing and trimming, providing all operations are conducted within a completely enclosed building.

(Ord. No. 1458, § V, 5/15/2024; Ord. No. 1471, 6/4/2025; Ord. No. 1474, 7/16/2025)

§ 22.16.050. Permitted uses—Central Commercial District (CC).

The following uses shall be permitted:

- A. Accessory structures and uses, not including warehouses, on the same site with and necessary for or incidental to the operation of a permitted use;

- B. Bars and nightclubs;
 - C. Dispensary—cannabis; subject to Chapter 5.29, Commercial Cannabis;
 - D. Dwelling units located above the ground floor of a building;
 - E. Educational institutions;
 - F. Financial institutions;
 - G. General retail sales, except for sensitive retail uses;
 - H. Health care clinics, medical outpatient facilities, and medical and dental offices;
 - I. Hotels;
 - J. Housing development projects that comply with Chapter 22.75 (Residential Development in Commercial Districts);
 - K. Low-barrier navigation centers;
 - L. Micro units that comply with Chapter 22.57 (Micro Units);
 - M. Nurseries, and garden supply stores, provided all equipment, supplies and merchandise other than plants shall be kept within a completely enclosed building and fertilizer of any type shall be stored and sold in packaged form only;
 - N. Personal services;
 - O. Physical fitness facilities;
 - P. Private clubs, lounges, and lodges,
 - Q. Professional and administrative offices;
 - R. Professional services;
 - S. Public entertainment venues;
 - T. Public and private libraries, art galleries, and museums;
 - U. Public and private philanthropic institutions;
 - V. Religious institutions;
 - W. Restaurants and other food and beverage service establishments, including restaurants serving wine, beer, and/or liquor;
 - X. Supportive housing;
 - Y. Wholesale establishments without stocks.
- (Ord. No. 1458, § V, 5/15/2024; Ord. No. 1471, 6/4/2025; Ord. No. 1474, 7/16/2025)

§ 22.16.070. Permitted uses—Service Commercial District (SC).

The following uses shall be permitted:

- A. Accessory structures and uses on the same site with and necessary for or incidental to the operation of a permitted use;
- B. Agricultural product processing;
- C. Contracting and construction establishments;
- D. Craftsmanship establishments;
- E. Dispensary — cannabis; subject to Chapter 5.29 (Commercial Cannabis);
- F. Dwelling units located above the ground floor of a building;
- G. Educational institutions;
- H. Establishments for the care of domestic animals, including, but not limited to, veterinarian clinics, animal hospitals, animal boarding, and animal grooming;
- I. Event rental businesses;
- J. Financial institutions;
- K. Freight and transportation stations;
- L. General retail sales, except for sensitive retail uses;
- M. Homeless shelters, emergency, subject to the development and operational standards of Section 22.34.230 (Homeless Shelters).
- N. Hotels and motels;
- O. Housing development projects that comply with Chapter 22.75 (Residential Development in Commercial Districts);
- P. Low-barrier navigation centers;
- Q. Machinery and equipment manufacturing, sales, and repair;
- R. Micro Units that comply with Chapter 22.57 (Micro Units);
- S. Nurseries and garden supply stores, provided all equipment, supplies and merchandise other than plants shall be kept within a completely enclosed building and fertilizer of any type shall be stored and sold in packaged form only;
- T. Packing and shipping establishments;
- U. Personal services including, but not limited to, hair salons, laundering services, and pet grooming;
- V. Physical fitness facilities;
- W. Professional and administrative offices;
- X. Professional services;
- Y. Public entertainment venues;

- Z. Public utility structures and installations;
 - AA. Religious institutions;
 - BB. Restaurants and other food and beverage service establishments, not including restaurants serving alcoholic beverages, except beer and/or wine only;
 - CC. Supportive housing;
 - DD. Vehicle and vehicle accessory sales and services;
 - EE. Warehouses and storage;
 - FF. Wholesale establishments.
- (Ord. No. 1458, § V, 5/15/2024; Ord. No. 1471, 6/4/2025; Ord. No. 1474, 7/16/2025)

§ 22.16.080. Conditional uses.

The following conditional uses shall be permitted upon the granting of a conditional use permit, in accord with the provisions of Chapter 22.40.

- A. Pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines found by the Planning Commission to be necessary for the public health, safety, or welfare.
- B. Gasoline service stations, except as follows:
 - 1. The NC and CC Districts shall not include automotive repair services; all operations except the sale of gasoline and oil shall be conducted within a building enclosed on at least three sides;
 - 2. A gasoline filling station-may be permitted on a corner provided that all signs, gasoline filling pumps, and other equipment, including vehicles tending to obstruct the sight distance, shall be located at least 25 feet from the street line and side property line;
 - 3. Any existing gasoline service station which-provides automotive service, repair, maintenance, accessory sales, and installation, and/or other related services or products-or maintains the availability of air and water for tires, batteries, and radiators, shall not discontinue such services, product availability or maintenance without first receiving approval of a conditional use permit.
- C. Accessory structures and uses located on the same site with and necessary for or incidental to the operation of a conditional use.
- D. (Reserved)
- E. Dog fanciers;
- F. Except as provided in the SC District pursuant to Section 22.16.070, Homeless shelters, ongoing, within permitted religious or philanthropic institutions. In addition to the applicable conditions of use permit approval pursuant to Section 22.40.070, Homeless Shelters, Ongoing, within permitted religious or philanthropic institution, are subject to the development and operational standards of Section 22.34.230, Homeless Shelters;

G. Parking lots and garages improved in conformity with the standards prescribed for required off-street parking facilities in Chapter 22.36;

H. Massage businesses;

Provided on the basis of the conditional use permit application and the evidence submitted, in addition to the findings required pursuant to Section 22.40.070, a conditional use permit shall be granted only if the Zoning Administrator, or the Planning Commission makes all the following additional findings of fact:

1. The use will not be detrimental to other businesses in the area.
2. The use as proposed and at the location requested will not create a potentially adverse impact on surrounding uses.
3. Approval of the use will not constitute an over-concentration of this use within a given commercial area. An over-concentration is defined as greater than one massage business per acre.
4. The operation of the use will not be a nuisance to neighboring properties or businesses.

I. Drive-through restaurants;

J. In the NC Neighborhood Commercial District:

1. Private clubs, lounges, and lodges;
2. Public and private philanthropic institutions;
3. Public and private libraries, art galleries, and museums;
4. Public entertainment venues not along major thoroughfares;
5. Group care and rehabilitation facilities;
6. Clinics;
7. Liquor stores;
8. Bars and nightclubs, provided on the basis of the conditional use permit application and the evidence submitted, in addition to the findings required pursuant to Section 22.40.070, a conditional use permit shall be granted only if the Zoning Administrator, or the Planning Commission makes all the following additional findings of fact:
 - a. The proposed use will not adversely affect the welfare of the area residents, or result in an undue concentration of establishments dispensing alcoholic beverages in the area.
 - b. The proposed use is located at an appropriate distance from religious facilities, schools, public parks and playgrounds, and other similar uses.
 - c. The applicant has committed to employing only bartenders who have been certified through the responsible beverage service training program, pursuant to State law;

9. Restaurants serving liquor, but not including restaurants serving beer and/or wine only;
 10. Packing and shipping establishments.
- K. In the CC Central Commercial District:
1. Retail firearm, firearm services, and firearm accessories;
 2. Pawnshops;
 3. Bail bond shops (on or above the second floor, not on sites with frontage on Main Street or Ferry Street);
 4. Check cashing shops;
 5. Group care and rehabilitation facilities;
 6. Clinics;
 7. Liquor stores;
 8. Event rental businesses.
 9. Packing and shipping establishments;
 10. Storage buildings for household goods (including mini-storage and self-storage facilities);
 11. Storage garages;
 12. Dwelling units located on the ground floor of a building.
- L. In the SC Service Commercial District:
1. Retail firearm, firearm services, and firearm accessories;
 2. Pawnshops;
 3. Bail bond shops (on or above the second floor, not on sites with frontage on Main Street or Ferry Street);
 4. Check cashing shops;
 5. Group care and rehabilitation facilities;
 6. Private clubs, lounges, and lodges;
 7. Public and private philanthropic institutions;
 8. Public and private libraries, art galleries, and museums;
 9. Group care and rehabilitation facilities;
 10. Clinics;
 11. Liquor stores;

12. Hotels and motels;
 13. Light manufacturing uses involving only the assembly, packaging, repairing or processing of previously prepared material;
 14. Mortuaries.
 15. Bars and nightclubs, provided on the basis of the conditional use permit application and the evidence submitted, in addition to the findings required pursuant to Section 22.40.070, a conditional use permit shall be granted only if the Zoning Administrator, or the Planning Commission makes all the following additional findings of fact:
 - a. The proposed use will not adversely affect the welfare of the area residents, or result in an undue concentration of establishments dispensing alcoholic beverages in the area.
 - b. The proposed use is located at an appropriate distance from religious facilities, schools, public parks and playgrounds, and other similar uses.
 - c. The applicant has committed to employing only bartenders who have been certified through the responsible beverage service training program, pursuant to State law.
 16. Restaurants serving liquor, but not including restaurants serving beer and/or wine only.
- M. Other similar uses as determined by the Planning Commission, Zoning Administrator, Community and Economic Development Director, Planning Manager, or designee.
(Ord. No. 1458, § V, 5/15/2024)

§ 22.16.160. Enclosure, fencing, and frontage requirements.

- A. In the NC and CC districts, all business, services, and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas, gasoline service stations, outdoor dining areas, nurseries, and garden shops.
- B. In all districts, any use not conducted entirely within an enclosed structure, on a site abutting or across a street or alley from the R, PA, NC, or CC district, shall be screened by a solid masonry wall, board fence, or compact evergreen hedge not less than six feet in height, if found by the Planning Commission or Zoning Administrator to be unsightly.
- C. In all districts, where the property line of a site adjoins property in the R or PA district, a solid masonry wall or board fence six feet in height shall be located on the property line.
- D. In the SC district, open storage of materials and equipment shall be permitted within an enclosed area bordered by a solid masonry wall, fence, or evergreen hedge, at least six feet tall. This storage area cannot be in the front or side yard facing the street on a corner lot, and materials or equipment cannot be stored higher than the wall, fence, or hedge.
- E. In the CC District, applicants for a planning entitlement shall demonstrate that any ground floor frontage includes some form of activation by means of window displays, product displays, public art, or other pedestrian-oriented visual display. For non-retail uses, full transparency where pedestrians can clearly view the interior of the building shall qualify as

activation.
(Ord. No. 1458, § V, 5/15/2024)

§ 22.16.170. Front yards.

- A. The minimum front yard setback shall be as prescribed in Table 22.16.170, subject to the exceptions listed below:

Table 22.16.170 - Front Yard		
District	Minimum Front Yard Setback	Minimum Front Yard Setback (with development incentive pursuant to Chapter 22.81)
Neighborhood Commercial	15 feet	5 feet
Central Commercial	5 feet	2 feet
Service Commercial	5 feet	2 feet

B. Exceptions.

1. In the NC district, on a site abutting on property in a residential district and fronting on the same street, the minimum front yard setback shall be not less than the required front yard setback of the adjoining site in the residential district.
 2. In the CC and SC districts, no structure shall be closer than 15 feet to a street intersection, except portions of a structure which are less than three and one-half feet or more than eight feet above sidewalk grade and one column, not exceeding one foot in any horizontal dimension shall not be subject to this requirement.
 3. In the CC and SC districts, on a site abutting on property a residential district and fronting on the same street, the minimum front yard setback shall be not less than one-half the required front yard setback on the adjoining site in the residential district.
- (Ord. No. 1458, § V, 5/15/2024; Ord. No. 1463, § VIII, 10/23/2024)

§ 22.16.180. Side yards.

- A. The minimum side yard setback shall be as prescribed in Table 22.16.180, subject to the exceptions listed below:

Table 22.16.180 - Side Yard		
District	Minimum Side Yard Setback	Minimum Side Yard Setback (with development incentive pursuant to Chapter 22.81)
Neighborhood Commercial	15 feet	8 feet
Central Commercial	0 feet	—
Service Commercial	0 feet	—

B. Exceptions.

1. In the NC district, on a site abutting on property in a residential district and fronting on the same street, the minimum side yard setback shall be not less than the required side yard setback with development incentive bonus of the adjoining site in the residential district.
2. In the CC and SC districts, no structure shall be closer than 15 feet to a street intersection, except portions of a structure which are less than three and one-half feet or more than eight feet above sidewalk grade and one column, not exceeding one foot in any horizontal dimension shall not be subject to this requirement.
3. In the CC and SC districts, on a site abutting on property in a residential district and fronting on the same street, the minimum side yard shall be not less than one-half the required side yard on the adjoining site in the residential district.

(Ord. No. 1458, § V, 5/15/2024; Ord. No. 1463, § VIII, 10/23/2024)

§ 22.16.190. Rear yards.

- A. The minimum rear yard setback shall be as prescribed in Table 22.16.190, subject to the exceptions listed below:

Table 22.16.190 - Rear Yard		
District	Minimum Rear Yard Setback	Minimum Rear Yard Setback (with development incentive pursuant to Chapter 22.81)
Neighborhood Commercial	15 feet	8 feet
Central Commercial	0 feet	—
Service Commercial	0 feet	—

- B. Exceptions.

1. In the CC and SC districts, where the rear property line of a site adjoins property in a residential district or a PA district, the minimum rear yard setback shall be ten feet.

(Ord. No. 1458, § V, 5/15/2024; Ord. No. 1463, § VIII, 10/23/2024)

§ 22.16.195. Floor area ratio.

- A. The maximum floor area ratio ("FAR") shall comply with the requirements listed in Table 22.16.195.

Table 22.16.195 – Floor Area Ratio		
District	Maximum FAR	Maximum FAR (with development incentive pursuant to Chapter 22.81)
Neighborhood Commercial	1.5	2.0
Central Commercial	3.0	3.5
Service Commercial	1.0	1.5

- B. For sites within half a mile of the Martinez Amtrak Station, as defined by the Metropolitan Transportation Commission, the minimum floor area ratio shall be 1.0 and the maximum shall be 3.5.

(Ord. No. 1463, § VIII, 10/23/2024; Ord. No. 1473, 6/25/2025)

§ 22.16.200. Height of structures.

No structure shall exceed 30 feet in height (increased to 40 feet with development incentive pursuant to Chapter 22.81) in the NC or SC districts. In the CC district, the height of structures shall not exceed 40 feet, or three stories (increased to 50 feet or four stories with development incentive pursuant to Chapter 22.81). Taller structures may be permitted if, upon submission of an application, an exception is granted pursuant to Chapter 22.45.

(Ord. No. 1458, § V, 5/15/2024; Ord. No. 1463, § VIII, 10/23/2024)

§ 22.16.205. Site area per dwelling unit.

- A. The minimum site area per residential unit shall comply with the requirements listed in Table 22.16.205.

Table 22.16.205 – Site Area Per Dwelling Unit	
District	Minimum Site Area Per Dwelling Unit
Neighborhood Commercial	1,500 square feet
Central Commercial	1,250 square feet
Service Commercial	1,500 square feet

- B. For sites within half a mile of the Martinez Amtrak Station, as defined by the Metropolitan Transportation Commission, the maximum density shall be not more than 35.0 dwelling units per acre and the minimum density shall be not less than 25.0 dwelling units per acre.

(Ord. No. 1473, 6/25/2025)

§ 22.16.210. Landscaped areas.

Areas between the property line and structures or off-street parking or loading facilities shall be landscaped with plant material and permanently maintained.

(Ord. No. 1458, § V, 5/15/2024)

§ 22.16.220. Off-street parking and loading facilities.

Off-street parking and loading facilities shall be provided in accordance with the requirements of Chapter 22.36.

(Ord. No. 1458, § V, 5/15/2024)

CHAPTER 22.17
AFFORDABLE HOUSING OVERLAY DISTRICT (AHO)

§ 22.17.010. Purpose.

In accordance with Government Code Section 65583.2(c), the purpose of the Affordable Housing Overlay ("AHO") District, as shown on the Zoning Map, is to provide an alternative review process for housing developments in which at least 20 percent of the units are affordable to lower-income households for: 1) lower-income sites that are vacant and have been included in the inventory from two or more consecutive Housing Element planning periods; and 2) lower-income sites that are underutilized and have been included in the inventory from a prior Housing Element planning period.

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.020. Uses and density.

Permitted and conditionally-permitted uses, allowable density, and development standards shall be the same as is required for the underlying zoning district(s) except where housing development projects are proposed that comply with the AHO District provisions for affordable housing units as described in subsection (A) of this section. Housing development projects proposed on Housing Element Opportunity Sites shall be consistent with the minimum density of the overlay district, or the underlying zoning district, whichever is greater. Housing development projects pursuant to this chapter must be entirely on a parcel or parcels as those parcels were constituted and identified at the time of adoption of the Housing Element, which is reflected as the AHO District on the Zoning Map, and shall comply with the following:

- A. Affordable Units. Housing development projects shall provide at least 20 percent of the units affordable to very low- and low-income households. Any fractional unit shall be rounded up to the nearest whole unit.
- B. Deed Restriction. All affordable units, exclusive of any manager unit or units, shall be subject to a recorded deed restriction, in a form and manner approved by the Planning Manager or designee for at least the following periods of time:
 - 1. Fifty-five years for units that are rented.
 - 2. Forty-five years for units that are owner occupied.
- C. Density Bonus. Housing development projects constructed pursuant to this chapter shall also be eligible for a density bonus, incentive, concession, waivers, or reductions of development standards and parking ratios, pursuant to Government Code Section 65915, Chapter 22.80 (Density Bonus), or Chapter 22.81 (Development Incentives and Community Benefit Program).

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1463, § IX, 10/23/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.030. Development proposed as a use by right.

A housing development project that complies with all requirements of this chapter shall be processed as a "use by right."

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.040. Objective development standards.

The required distances between structures, and minimum site area, frontage, width and depth of the site, usable outdoor space; maximum site area coverage; floor area ratio; front yards, side yards, rear yards, and accessory structures shall comply with the requirements of the underlying zoning district(s); the objective design and development standards in Chapter 22.51B (Objective Design and Development Standards for Qualified Multifamily Development Projects) and Chapter 22.51C (Objective Design and Development Standards for Qualified Mixed-Use Development Projects); other applicable development standards in this title, and any other objective standard in an adopted Specific Plan. Housing development projects that do not conform with objective development standards shall not be subject to this chapter (Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.050. Height of structures.

The maximum allowable height of structures shall be based on the permitted residential density in the underlying zoning district, as outlined in Table 22.17.050.

Table 22.17.050	
Residential Density	Maximum Height
21.5—29.5 du/ac	Two and a half stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater
30.0—32 du/ac	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.060. Off-street parking and loading.**A. Off-Street Parking.**

1. Off-street parking for housing development projects that comply with the requirements of this chapter shall provide a minimum of one parking stall per dwelling unit.
2. Dwelling units that are not affordable shall provide off-street parking that complies with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts).

B. Loading. In addition to the minimum required off-street parking stalls, the housing development project shall provide the off-street loading facilities for trucks outlined in Sections 22.36.100 and 22.36.110.**C. Parking Exceptions.** Off-street parking shall not be required for a housing development project in any of the following instances:

1. The housing development project is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in Public Resources Code Section 21155(b).
2. There is a designated pick-up or drop-off location for a carshare vehicle located

within one block of the housing development project.
(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.070. Ancillary uses.

Notwithstanding any other provision of this chapter, a housing development project that is eligible for approval by right may include the following ancillary uses, provided those uses are limited to the ground floor of the development:

- A. In a single-family residential zoning district, ancillary uses shall be limited to childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and other Martinez residents.
- B. In all other zones, the housing development project may include ancillary commercial uses that are permitted in the underlying zoning district without approval of a conditional use permit.

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.080. General requirements and exceptions.

All uses shall be subject to the general requirements and exceptions prescribed in Chapter 22.34 (General Requirements and Exceptions).

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.090. Application.

- A. Submittal Requirements. Filed applications shall include the information identified in the checklist on file with the Planning Division, and all applicable fees in accordance with the currently adopted User Fee Schedule.
- B. Density Bonus. If an application includes a density bonus, incentive, concession, waivers, or reductions of development standards and parking ratios, then it shall be submitted and processed concurrently with any other application(s) required for the housing development project.
- C. Completeness Review. Following receipt of an application, the City shall provide to the applicant a letter which identifies project issues of concern and the procedures for compliance with this chapter and other applicable objective standards.
- D. Public Notification. A Notice of Decision shall be given not less than 10 days before the date of a scheduled decision to owners of real property within 300 feet of the subject property. Contents of the notice shall include the date and time on or after which a decision will be made, place of the decision, review authority, a general explanation of the matter to be considered, and the project location. Final approval or disapproval shall be made by the review authority specified in Section 22.17.100.

(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.100. Review authority.

The Community and Economic Development Director, Planning Manager, or designee(s) shall be the review authority for housing development projects pursuant to this chapter, except for the

specific decision regarding the application for a minor or major subdivision map, which shall be decided by the review authority identified in Title 21 (Subdivisions).
(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.110. Relationship with subdivision regulations.

Housing development projects requesting a major or minor subdivision are subject to the Subdivision Map Act and the applicable provisions of Title 21 (Subdivisions). Where a potential conflict between the AHO District and the provisions of Title 21 (Subdivisions) exists, the provisions of Title 21 (Subdivisions) shall govern.
(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.120. Conflicts between regulations.

Notwithstanding the regulations set forth in this chapter, if any section of this chapter conflicts with Government Code Section 65915 or other applicable State law, then State law shall supersede this chapter. Where there is a conflict between the AHO District and any other section of this title or any applicable provision of the Municipal Code, then the review authority of this chapter shall determine which regulation prevails.
(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

§ 22.17.130. Appeal.

Within 10 days following the date of a decision of the review authority, the decision may be appealed to the Planning Commission by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.
(Ord. No. 1457, § III, 5/1/2024; Ord. No. 1472, 6/4/2025)

CHAPTER 22.18
I INDUSTRIAL DISTRICTS⁴¹

§ 22.18.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.020. Purpose.

In addition to the objectives prescribed in Section 22.02.010, the purpose of the I Industrial Districts is:

- A. To provide appropriate buffers between industrial and residential uses to preserve the feasibility of industrial operations as well as residential quality. To protect surrounding properties from noise, odor, dust, dirt, smoke, vibration, heat, glare and other objectionable influences and from fire, explosion, noxious fumes and other hazards incidental to certain industrial uses by restricting such uses to appropriately located areas;
- B. To provide a range of employment opportunities to meet the needs of current and future residents and take advantage of the City's location relative to regional roadway and transit systems;
- C. To diversify the City's economic base by providing sites for technology-based businesses, research and development, manufacturing, and similar uses;
- D. To provide areas for a wide range of manufacturing, industrial, general service, warehousing, storage and distribution, and service commercial uses and to protect areas where such uses now exist.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.030. LI Light Industrial District—Permitted uses.

The following uses shall be permitted:

- A. Advanced manufacturing;
- B. Agricultural product processing;
- C. Clean technology;
- D. Craftsmanship establishments;
- E. High technology;
- F. Homeless shelters, emergency, subject to the development and operational standards of Section 22.34.230, Homeless Shelters;
- G. Incidental and accessory uses on the same site with and necessary for the operation of a

41. Editor's note: Prior history: Prior code §§ 10,104.2, 10,106.0, 10,106.1, 10,106.3—10,106.10, 10,106.11; Ord. 822 C.S., 1975; Ord. 1118 C.S., 1988; Ord. 1245 C.S., 1997; Ord. No. 1364 C.S., 9/21/2011; Ord. No. 1379 C.S., 2/19/2014; and Ord. No. 1422, 4/3/2019.

permitted use, including, but not limited to, living quarters;

- H. Industry, light;
 - I. Life sciences and biotechnology;
 - J. Machinery and equipment manufacturing, sales, and repair;
 - K. Marinas, harbors, and boatbuilding facilities;
 - L. Media production;
 - M. Offices and retail stores incidental to and on the same site with a light industrial or related use;
 - N. Packing and shipping establishments;
 - O. Public utility structures and installations;
 - P. Renewable energy operations;
 - Q. Research laboratories;
 - R. Wholesale establishments.
- (Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.040. HI Heavy Industrial District—Permitted uses.

- A. Advanced manufacturing;
- B. Agricultural product processing;
- C. Clean technology;
- D. Craftsmanship establishments;
- E. High technology;
- F. Incidental and accessory uses on the same site with and necessary for the operation of a permitted use;
- G. Industry, heavy, except for the uses listed in Section 22.18.060;
- H. Industry, light;
- I. Life sciences and biotechnology;
- J. Machinery and equipment manufacturing, sales, and repair;
- K. Marinas, harbors, and boatbuilding facilities;
- L. Media production;
- M. Offices, retail stores, and watchmen's living quarters incidental to and on the same site with an industrial or related use;
- N. Packing and shipping establishments;

- O. Public utility structures and installations;
 - P. Renewable energy operations;
 - Q. Research laboratories;
 - R. Wholesale establishments.
- (Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.060. Conditional uses.

The following conditional uses shall be permitted upon the granting of a conditional use permit, in accord with the provisions of Chapter 22.40:

- A. Airports and heliports;
 - B. Agricultural product processing;
 - C. Dog fancier;
 - D. Freight and transportation stations;
 - E. Industry, heavy, in the LI Light Industrial district;
 - F. Natural resource extraction;
 - G. Parking lots and garages improved in conformity with the standards prescribed for required off-street parking facilities in Chapter 22.36;
 - H. Private clubs, lounges, and lodges;
 - I. Pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines;
 - J. Refining, smelting, and alloying of raw materials;
 - K. Warehouses and storage;
 - L. Waste storage, processing, and disposal;
 - M. [Reserved;]
 - N. Other similar uses as determined by the Planning Commission, Zoning Administrator, Community and Economic Development Director, Planning Manager, or designee.
- (Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.065. Industrial performance standards.

All industrial land uses shall conform to the following performance standards:

- A. Noise or vibration. Except for the Heavy Industrial zoning district, no noise or vibration, other than related to transportation activities and temporary construction work, shall be discernible without instruments at any point from a lot line of the building site or off-site.
- B. Radioactivity. No activity, including storage or dumping, shall result in the emission of radioactivity in dangerous amounts. A dangerous amount is defined as any level exceeding

ten millisieverts.

- C. Electrical disturbance. No activity shall cause electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- D. Explosive materials. No explosive materials shall be produced, used, stored, or handled unless provided at all points with adequate safety devices and procedures against hazards of explosion and all equipment and devices for fire prevention and firefighting approved by the Contra Costa County Fire Protection District.
- E. Air pollution. No air pollution or smoke shall be produced in violation of the requirements of the Bay Area Air Quality Management District.
- F. Glare or heat. No direct or sky-reflected glare or heat shall be produced which is discernible without instruments at any point from a lot line of the building site or off-site.
- G. Odorous gases. No emission of any odorous gases or matter shall occur in quantities which are discernible without instruments at any point from a lot line of the building site or off-site.
- H. Dust, dirt, or particulate matter. No discharge into the air of any dust, dirt or particulate matter shall occur from any activity or from any products stored on the building site which is discernible without instruments at any point from a lot line of the building site or off-site.
- I. Liquid contaminants. No discharge into any public sewer, private sewage disposal system approved by the County Department of Environmental Health, stream, or into the ground of any liquid contaminants or materials of such nature or temperature which contaminates any water supply, interferes with bacterial processes and sewage treatment, or in any way causes the emission of dangerous or offensive materials shall occur.
- J. Hazardous materials. Industrial activities involving the production, use, storage, or handling of hazardous materials shall comply with all applicable federal, state, and local regulations, including but not limited to those outlined by the Occupational Safety and Health Administration ("OSHA") and the Environmental Protection Agency (EPA). Adequate safety measures and procedures shall be implemented to prevent accidents, spills, or releases of hazardous substances that could pose risks to public health, safety, or the environment. Storage facilities for hazardous materials must be equipped with appropriate containment measures, leak detection systems, and emergency response protocols to minimize the potential for contamination or harm. Compliance with these standards shall be subject to inspection and verification by relevant regulatory agencies.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.070. I Industrial Districts—Required conditions.

The following conditions shall be required of uses in the I Industrial Districts:

- A. A business, service, or process which is not conducted within a completely enclosed structure and which is located on a site abutting on or across a street or alley from property in a Residential, Professional and Administrative, Neighborhood Commercial, or Central Commercial District shall be required to be screened either by a solid masonry wall, board fence, or compact evergreen hedge not less than six feet in height if found by Planning Commission or Zoning Administrator to be unsightly.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.080. LI Light Industrial District—Required conditions.

In the LI Light Industrial District, the following conditions are required:

- A. Open storage of materials and equipment shall be permitted only within an area surrounded by a solid masonry wall, board fence or compact evergreen hedge (with solid gates where necessary) not less than six feet in height, provided that neither the area nor the wall, fence, or hedge shall be located in any required yard or any required side yard on the street side of a corner lot, and provided further that no materials or equipment shall be stored to a height greater than that of the wall, fence, or hedge.
- B. No use shall be permitted and no process, equipment, or materials shall be employed which are objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy vehicular traffic, or to involve any hazard of fire or explosion.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.100. Site area.

The minimum site area shall be 10,000 square feet.

(Ord. No. 1458, § VI, 5/15/2024)

§ 22.18.110. Front yard.

The minimum front yard setback shall be ten feet (reduced to five feet with development incentive pursuant to Chapter 22.81); 50 percent of the front yard area shall be landscaped and no portion of the front yard area may be used for parking or loading.

(Ord. No. 1458, § VI, 5/15/2024; Ord. No. 1463, § X, 10/23/2024)

§ 22.18.120. Side yards.

The minimum side yard setback shall be zero feet. When abutting any zoning district that allows for residential uses, the minimum side yard setback shall be ten feet.

(Ord. No. 1458, § VI, 5/15/2024; Ord. No. 1463, § X, 10/23/2024)

§ 22.18.130. Rear yards.

The minimum rear yard setback shall be zero feet. When abutting any zoning district that allows for residential uses, the minimum rear yard setback shall be 25 feet.

(Ord. No. 1458, § VI, 5/15/2024; Ord. No. 1463, § X, 10/23/2024)

§ 22.18.135. Floor area ratio.

The maximum floor area ratio ("FAR") shall comply with the requirements listed in Table 22.18.135.

Table 22.16.135 - Floor Area Ratio

District	Maximum FAR	Maximum FAR (with development incentive pursuant to Chapter 22.81)
Light Industrial	2.0	3.0
Heavy Industrial	2.0	3.0

(Ord. No. 1463, § X, 10/23/2024)

§ 22.18.140. Height of structures.

No structure shall exceed 50 feet in height (increased to 60 feet with development incentive pursuant to Chapter 22.81). Taller structures may be permitted if, upon submission of an application, an exception is granted pursuant to Chapter 22.45.

(Ord. No. 1458, § VI, 5/15/2024; Ord. No. 1463, § X, 10/23/2024)

§ 22.18.160. Off-street parking and loading facilities.

Off-street parking and loading facilities shall be provided for industrial development in accordance with the requirements specified in Chapter 22.36.

(Ord. No. 1458, § VI, 5/15/2024)

**CHAPTER 22.19
CIVIC DISTRICT**

§ 22.19.010. Purpose.

The intent of the Civic District is to provide a center for the existing functions and future expansion of the Contra Costa County government, including administrative, judicial and correctional facilities, and for Federal, State and local civic facilities. Commercial and service uses are intended to be limited to those that are incidental to, and for the convenience of, the governmental and judicial uses.

(Ord. 1328 C.S. § 3, 2006)

§ 22.19.020. Permitted uses.

The following uses are permitted in the Civic District:

- A. All facilities owned, leased or operated by the City, the County, the State, the Government of the United States, the Martinez Unified School District, or the Mt. Diablo Unified School District;
 - B. Public or private colleges and universities and facilities incidental or appurtenant thereto;
 - C. Banking establishments;
 - D. Business supply retail uses such as, but not limited to, office supplies, equipment rental and repair, photocopy shops, etc.;
 - E. Courts;
 - F. Libraries;
 - G. Museums;
 - H. Offices, including but not limited to administrative, general, government and professional;
 - I. Parks and open spaces;
 - J. Personal service establishments, such as, but not limited to, barber or beauty shops, tailors, shoe repairs, etc.;
 - K. Post offices;
 - L. Restaurants and cafeterias, including outdoor dining, that are 1,500 square feet or less in size, or within lease space 1,500 square feet or less in size;
 - M. Temporary uses, pursuant to the standards established in the zoning code and consistent with the purposes of this district;
 - N. Wireless telecommunication facilities, pursuant to the zoning code;
 - O. Accessory uses, incidental and subordinate to the principal permitted use.
- (Ord. 1328 C.S. § 3, 2006)

§ 22.19.030. Conditionally permitted uses.

The following uses may be allowed, subject to the issuance of a conditional use permit, in the Civic District:

- A. Bail bonds, on or above the second floor;
 - B. Hotels;
 - C. Outdoor food preparation;
 - D. Parking structures and facilities.
- (Ord. 1328 C.S. § 3, 2006)

§ 22.19.040. Prohibited uses.

The following uses are prohibited in the Civic District:

- A. Car washes;
 - B. Drive-through establishments;
 - C. Motels;
 - D. Vehicle repair;
 - E. Vehicle sales and vehicle parts sales;
 - F. Any use not specifically authorized.
- (Ord. 1328 C.S. § 3, 2006)

§ 22.19.050. Development standards for the Civic District.

All property in the Civic district shall be developed in accordance with the following standards.

- A. Maximum floor area ratio. The maximum floor area ratio in the Civic district shall be 3.0 (increased to 4.0 with development incentive pursuant to Chapter 22.81).
- B. Maximum height. The maximum building height in the Civic district shall be 40 feet, or three stories (increased to 50 feet or four stories with development incentive pursuant to Chapter 22.81). Taller buildings may be approved by exception pursuant to Chapter 22.45.
- C. Minimum lot size. The minimum lot size for new development or for the creation of new parcels shall be 20,000 square feet.
- D. Front yard setback. The maximum front yard setback shall be 30 feet (decreased to 15 feet with development incentive pursuant to Chapter 22.81). No parking is permitted in the front yard setback area. The front yard setback shall also apply to side and rear yards adjacent to a public street. For parcels that have frontage on Willow Street, the minimum front yard setback shall be 15 feet.
- E. Rear yard setback. No minimum rear yard setback is required, except where the rear parcel line abuts a residential zone district, the minimum rear yard setback shall be 25 feet (decreased to 15 feet with development incentive pursuant to Chapter 22.81).

- F. Interior side yard setback. No minimum interior side yard setback is required, except where the rear parcel line abuts a residential district, the minimum interior side yard setback shall be 15 feet (decreased to ten feet with development incentive pursuant to Chapter 22.81).
- G. Parking. Refer to Chapter 22.36 for off-street parking requirements and standards.
(Ord. 1328 C.S. § 3, 2006; Ord. No. 1463, § XI, 10/23/2024)

§ 22.19.060. Design standards and guidelines for the Civic District.

The design guidelines are found in the downtown specific plan, Section 5.6.
(Ord. 1328 C.S. § 3, 2006)

CHAPTER 22.20
GF GOVERNMENTAL FACILITIES DISTRICTS

§ 22.20.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Prior code § 10,107.7; Ord. 822 C.S. § 2, 1975)

§ 22.20.020. Purposes.

In addition to the objectives prescribed in Section 22.02.010 of this Title, the GF Governmental Facilities Districts are included in the zoning regulations to accommodate governmental, public utility and educational facilities in a planned and orderly manner.

(Prior code § 10,107.0; Ord. 822 C.S. § 2, 1975)

§ 22.20.030. Permitted uses.

The following uses shall be permitted:

A. All facilities owned, leased or operated by the City, the County, the State, the Government of the United States, the Martinez Unified School District, the Mt. Diablo Unified School District and any other district;

B. Public or private colleges and universities and facilities incidental or appurtenant thereto.

(Prior code § 10,107.1; Ord. 822 C.S. § 2, 1975)

§ 22.20.040. Conditional use.

The following conditional uses shall be permitted upon the granting of a conditional use permit in accord with the provisions of Chapter 22.40 of this Title:

A. Facilities of public utilities as defined by the Public Utilities Code of the State and corporations or other organizations whose activities are under the jurisdiction of the Federal Communications Commission or the Interstate Commerce Commission.

(Prior code § 10,107.2; Ord. 822 C.S. § 2, 1975)

§ 22.20.050. Minimum site area.

The area and frontage of the site shall be sufficient for the specific intended use as set forth in the application for rezoning.

(Prior code § 10,107.3; Ord. 822 C.S. § 2, 1975)

§ 22.20.060. Minima yard requirements.

The minimum front, side and rear yards required in this district shall be equal to those required in the most restrictive abutting district. One-half foot shall be added to each yard requirement for each 1 foot that the building exceeds the maximum height allowed in the most restrictive abutting district.

(Prior code § 10,107.4; Ord. 822 C.S. § 2, 1975)

§ 22.20.065. Floor area ratio.

The maximum floor area ratio shall be 3.0.
(Ord. No. 1463, § XII, 10/23/2024)

§ 22.20.070. Height of structures.

Building height and coverage must such that the total floor area does not exceed that allowed in the most restrictive abutting district.
(Prior code § 10,107.5; Ord. 822 C.S. § 2, 1975)

§ 22.20.080. Off-street parking and loading facilities.

Off-street parking and off-street loading facilities shall be provided on the site of each use as prescribed in the provisions of Chapter 22.36 of this Title.
(Prior code § 10,107.6; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.21
PLANNED UNIT DISTRICT

§ 22.21.010. Applicability.

In addition to the purposes prescribed in Sections 22.02.010 of this Title, the Planned Unit District is included in the zoning regulations to allow the completion and continuing conforming status of developments that were approved by Contra Costa County, pursuant to its Planned Unit District regulations prior to annexation by the City. This District is not intended to allow for new developments, or for major modifications to previously approved yet uncompleted developments.

(Ord. No. 1361 C.S., § 1, 2/2/2011)

§ 22.21.020. Establishment and purpose.

The P-1; Planned Development District, is hereby established in order to recognize those existing and permitted large-scale integrated developments, where flexible regulations had been applied to individual developments, as such were designated by the County within its Planned Unit Districts.

(Ord. No. 1361 C.S., § 1, 2/2/2011)

§ 22.21.030. Use regulations.

Residential uses that have been approved by Contra Costa County, as part of a Final Development Plan within the applicable Planned Development District.

(Ord. No. 1361 C.S., § 1, 2/2/2011)

§ 22.21.040. Development standards.

All development standards, including but not limited to: maximum density, minimum lot size, minimum required yards, maximum height, maximum floor area ratio and/or minimum required parking shall be as approved by Contra Costa County, as part of a Final Development Plan within the applicable Planned Development District.

(Ord. No. 1361 C.S., § 1, 2/2/2011)

§ 22.21.050. Process to modify approved final development plans.

- A. Minor changes. Minor changes, including but not limited to individual unit floor plans and/or Design Review approvals, shall not be considered be an abandonment of the Final Development Plan, and shall be reviewed as prescribed by the Final Development Plan, or if no process is therein specified, as directed by the Community Development Director. The Director may defer such requests to the Design Review Committee and/or Planning Commission.
- B. Major changes. Major changes, including but not limited to project's land uses, maximum development density and/or maximum number of units per building shall be considered an abandonment of the Final Development Plan and cannot be approved within the P-1 Planned Development District. Approval of such changes require approval of a Planned Unit Development pursuant to Chapter 22.42; Planned Unit Developments.
- C. Projects for which tentative maps have expired. Unless major changes to a previously

approved Final Development Plan are requested (pursuant to subsection B. above), projects within a P-1 Planned Development District with expired tentative maps may reapply for new tentative map pursuant to Title 21; Subdivisions without approval of a new Planned Unit Development pursuant to Chapter 22.42.

(Ord. No. 1361 C.S., § 1, 2/2/2011)

CHAPTER 22.22
RI RECREATIONAL FACILITIES DISTRICTS

§ 22.22.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Prior code § 10,108.7; Ord. 822 C.S. § 2, 1975)

§ 22.22.020. Purposes.

The addition to the objectives prescribed in Section 22.02.010 of this Title the RF Recreational Facilities, Districts are included in the zoning regulations to accommodate public and private recreational facilities in a planned and orderly manner.

(Prior code § 10,108.0; Ord. 822 C.S. § 2, 1975)

§ 22.22.030. Permitted uses.

The following uses shall be permitted:

- A. Parks, playgrounds, playfields, picnic areas, golf courses;
- B. Small craft harbor, fishing pier and related facilities;
- C. Parking facilities for permitted and conditional uses;
- D. Minor buildings incidental to the primary use, including offices and storage for the administration, operation and maintenance of a recreational facility and restrooms;
- E. Grazing of livestock on suitable sites.

(Prior code § 10,108.1; Ord. 822 C.S. § 2, 1975)

§ 22.22.040. Conditional uses.

The following conditional uses shall be permitted upon the granting of a conditional use permit in accord with the provisions of Chapter 22.40 of this Title. Commercial uses which are compatible to and supportive of the primary recreational use(s) of the site, for example:

- A. Concessionaire structures in parks;
- B. Pro shop, clubhouse, bar and/or restaurant at a golf course;
- C. Restaurants, coffee shops, marine fueling station, bait and tackle, locker rooms, boat sales, boat brokerage, boat chandlery, boat ways, boat building and repair, boat storage, motor repair, motel, seafood cookeries, on-sale liquor (when operated with a bona fide eating establishment) at a small craft harbor;
- D. Other uses compatible to and supportive of the primary recreation use(s) and function of the site as may be added to this list by the City Planning Commission.

(Prior code § 10,108.2; Ord. 822 C.S. § 2, 1975)

§ 22.22.050. Minimum site area.

The area and frontage of the site shall be sufficient for the specific intended use as set forth in the application for rezoning.

(Prior code § 10,108.3; Ord. 822 C.S. § 2, 1975)

§ 22.22.060. Minimum yard requirements.

The minimum front, side and rear yards required in this district shall be equal to those required in the most restrictive abutting district. On a large site, yard requirements for proposed structures located in excess of 100 feet from the nearest abutting district shall be established by the City Planning Commission.

(Prior code § 10,108.4; Ord. 822 C.S. § 2, 1975)

§ 22.22.065. Floor area ratio.

The maximum floor area ratio shall be 1.0.

(Ord. No. 1463, § XIII, 10/23/2024)

§ 22.22.070. Height of structures.

Building height and coverage requirements shall be equal to those required in the most restrictive abutting district.

(Prior code § 10,108.5; Ord. 822 C.S. § 2, 1975)

§ 22.22.080. Off-street parking and loading facilities.

Off-street parking and loading facilities shall be provided on the site of each use as prescribed in the provisions of Chapter 22.36 of this Title.

(Prior code § 10,108.6; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.23
DOWNTOWN SHORELINE DISTRICT

§ 22.23.010. Purpose.

The intent of the Downtown Shoreline District is to provide for a variety of residential uses in an environment that is transitioning from industrial to residential uses. This district serves as a transition area between the urbanized portion of the downtown and the open space of the Martinez Regional Shoreline to the north. The standards and guidelines for this district are intended to protect and enhance the environmentally sensitive areas of the Shoreline, to respect and complement the existing primarily single-family neighborhood immediately to the south, and to contribute to the economic revitalization of downtown, by permitting a sufficient intensity of development to provide an economic incentive for industrial uses to relocate.
(Ord. 1328 C.S. § 4, 2006)

§ 22.23.020. Permitted uses.

The following uses are permitted in the Downtown Shoreline District:

- A. Single-family dwelling units, including semi-attached (duplex) and fully-attached (townhouse) units.
- B. Accessory dwelling units, per Section 22.43.020.
- C. Multi-family residential structures.
- D. Home occupations pursuant to the definition established in Section 22.40.240.
- E. State authorized, certified or licensed family care, foster care or group home serving six or fewer mentally disordered or otherwise handicapped persons.
- F. Parks and open spaces.
- G. Accessory uses, incidental and subordinate to the principal permitted use, pursuant to the requirements of the zoning code.

(Ord. 1328 C.S. § 4, 2006; Ord. No. 1447, § 6, 7/19/2023)

§ 22.23.030. Conditionally permitted uses.

The following uses may be allowed, subject to the issuance of a conditional use permit, in the Downtown Shoreline District:

- A. Childcare facilities;
- B. Clubs and lodges;
- C. Live/work units;
- D. Bed and breakfast inns;
- E. Coin-operated laundries;
- F. Churches and other religious institutions and related facilities;

- G. Hotels, lodging houses and apartment hotels;
- H. Parking structures and facilities;
- I. Public utilities or installations;
- J. Smaller, self-contained service commercial uses;
- K. Theaters and community centers.
(Ord. 1328 C.S. § 4, 2006)

§ 22.23.040. Prohibited uses.

Any use not specifically authorized is prohibited in the Downtown Shoreline District.
(Ord. 1328 C.S. § 4, 2006)

§ 22.23.050. Development standards for the downtown shoreline district.

- A. General. All new multiple residential development in this district shall be processed concurrently with a subdivision map, so that individual units can be offered for sale, and shall meet the requirements for new condominium units as contained in Chapter 21.54.
- B. Maximum Height. The maximum building height in the Downtown Shoreline District shall be 40 feet, or 3 stories, for developments approved for a density of 35 units per acre (see below); otherwise the height limit shall be 30 feet, or 2 stories. In some areas, such as transition areas near existing single-family residential areas, a 2-story maximum height may be determined to be appropriate by the Planning Commission. The Planning Commission may approve taller buildings by use permit.
- C. Density. The minimum site area per residential unit shall be 2,100 square feet (20 units per acre). The Planning Commission may approve a reduced site area per unit, down to a minimum of 1,250 square feet per unit (35 units per acre), by use permit. In order to approve a density above the lower end of the density range, the Planning Commission would need to find that in addition to meeting the above minimum requirements, the proposal is superior in terms of two or more of the following criteria:
 - 1. Assembling all or most of the contiguous parcels into one project, and designing the project as a new neighborhood;
 - 2. Design and appearance;
 - 3. Minimizing impacts on adjacent public lands;
 - 4. Providing on-site amenities for the future residents;
 - 5. Preserving or creating view corridors from public streets such as Talbart, Buckley, Marina Vista, Carquinez Scenic Drive, Castro and Berrellesa;
 - 6. Utilizing green building practices to the maximum extent possible;
 - 7. Providing a variety of housing types, including detached single-family residential, where feasible, as a transition in areas near existing single-family neighborhoods;
 - 8. Providing a new public street system that improves access to the Regional Shoreline

and Alhambra Creek, potentially by extending Alhambra Avenue along the creek, and vacating Berrellesa. In order to approve a density at or near the upper end of the density range, the Planning Commission would need to find that the proposal is superior in terms of all or almost all the above criteria.

D. Other Development Standards. Setbacks, lot standards, coverage, etc., shall be as provided in the Downtown Overlay District, Sections 22.13.040 through 22.13.090, inclusive. (Ord. 1328 C.S. § 4, 2006; Ord. No. 1463, § XIV, 10/23/2024; Ord. No. 1472, 6/4/2025)

§ 22.23.060. Design standards and guidelines for the downtown shoreline district.

Design guidelines are found in Section 9.6 of the downtown specific plan. (Ord. 1328 C.S. § 4, 2006)

CHAPTER 22.24
ECD ENVIRONMENTAL CONSERVATION DISTRICTS

§ 22.24.010. General provisions and exceptions.

All uses shall be subject to the general provisions prescribed in Chapter 22.34 of this Title.
(Prior code § 10,109.5; Ord. 822 C.S. § 2, 1975)

§ 22.24.020. Purposes.

The Environmental Conservation Districts are established as companion districts, to be used in conjunction with residential, industrial or undesignated use districts. The combined ECD District shall be subject to the regulations of this Chapter and the regulations prescribed in this Title for the companion (residential or industrial or undesignated) district. In addition to the objectives prescribed in Section 22.02.010 of this Title, the ECD Environmental Conservation Districts are included in the zoning regulations to accomplish the following objectives:

- A. To implement the provisions of the open space, conservation, seismic safety and scenic roadway elements of the General Plan;
- B. To provide for the accommodation of a level of development consonant with the protection of environmental values in those portions of the City with high natural environmental qualities;
- C. To protect the health, safety and welfare of residents of the City through the protections and preservation of the community environment.

(Prior code § 10,109.0; Ord. 822 C.S. § 2, 1975)

§ 22.24.030. Permitted uses.

The following uses shall be permitted:

- A. Agricultural, including, horticulture, viticulture and the raising of crops and fruit or nut-bearing trees;
- B. One single family dwelling on sites up to 20 acres in area; two single family dwellings on sites larger than 20 acres;
- C. Parks and recreational facilities; trails; picnic areas.

(Prior code § 10,109.1; Ord. 822 C.S. § 2, 1975)

§ 22.24.040. Conditional uses.

Conditional use permits in the environmental conservation districts shall be granted only after preparation of an environmental impact report in accord with the provisions of Section 22.34.020 of this Title and Title 20, and only after the City Planning Commission and/or City Council has made a finding that "no significant adverse impact" will occur as a result of granting the conditional use permit; the following conditional uses may be permitted in the Environmental Conservation District, subject to the environmental impact report findings:

CONDITIONAL USES TABLE	
District	Uses Permitted Upon the Granting of a Conditional Use Permit
ECD-R-20 ECD-RR-20	Uses permitted conditionally permitted in comparable R Residential or RR Rural Residential Zone in accord with the provisions of Sections 22.12.080 and 22.12.090
ECD-R-40 ECD-RR-40	
ECD-R-65 ECD-RR-65	
ECD-R-80 ECD-RR-80	
ECD-R-100 ECD-RR-100	
ECD-LI	
ECD-HI	Uses permitted and conditionally permitted in comparable industrial zone in accord, with the provisions of Sections 22.18.030 through 22.18.060
ECD-CI	
ECD-U	No conditional uses

(Prior code § 10,109.2; Ord. 822 C.S. § 2, 1975)

§ 22.24.050. Environmental impact reports.

Environmental Conservation Districts are established only in areas of the community with significant environmental values, where change poses a threat of environmental damage. Environmental impact reports for proposed projects within an Environmental Conservation District shall be prepared in the context of comparing potential impacts of the project to the impacts of a "no project" alternative; i.e., to the existing conditions.

(Prior code § 10,109.3; Ord. 822 C.S. § 2, 1975)

§ 22.24.060. Other regulations.

Regulations pertaining to density, coverage, height of buildings and distance between buildings, yard spaces, open spaces, parking and loading, and any other aspect regulated in the zoning regulations shall be the same as those regulations prescribed for the companion residential, industrial or undesignated zone.

(Prior code § 10,109.4; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.25
MOBILE HOME (MH) OVERLAY ZONE

§ 22.25.010. General provisions and exceptions.

All manufactured housing/mobile homes constructed after 1976 and certified under the National Mobile Home Construction and Safety Standards Act of 1974 shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.
(Ord. 960 C.S., 1982)

§ 22.25.020. Purposes.

The Mobile Home Overlay Zone is established as a companion zone to be used in conjunction with specified residential zoning districts.

In addition to the objectives prescribed in Subsection 22.02.010 of this Title, the Mobile Home (MH) Overlay Zone is included in the zoning regulations to accomplish the following objectives:

- A. To implement the goals of the housing element by promoting affordable housing opportunities where appropriate.
- B. To preserve existing environmentally sensitive hillside areas.
- C. To insure that the architectural character and integrity of existing neighborhoods is preserved.

(Ord. 960 C.S., 1982)

§ 22.25.030. Permitted/conditionally permitted uses.

- A. All uses permitted and conditionally permitted in the underlying R-Residential or RR-Rural Residential zones in accord with the provisions or Subsections 22.12.080 and 22.12.090.
- B. Manufactured homes/mobile homes constructed after 1976 and certified under the National Mobile Home Construction and Safety Standards Act of 1974.

In addition to compliance with Chapter 22.34 of this Title, manufactured homes/mobile homes shall be determined to be compatible with existing residential structures in surrounding neighborhood through compliance with the following design review guidelines:

- 1. It is to be occupied only as a residence;
- 2. It meets all development standards of the applicable zoning district;
- 3. It is certified under the National Mobile Home Construction and Safety Act of 1974 and any subsequent revisions;
- 4. It is installed on a permanent foundation system approved by the Building Inspector of the City of Martinez;
- 5. Architectural design shall be compatible with residential structures in the surrounding area.
- 6. It is covered with an exterior material compatible with that used on residential

structures in the surrounding area;

7. The exterior covering material must extend to the ground consistent with the most recent City adopted Uniform Building Code. If a solid concrete or masonry perimeter foundation is used, the covering material need not extend below the top of the foundation. No conventional mobile home skirting shall be allowed;
8. The roofing material is of a material compatible with that used on residential structures in the surrounding area;
9. The roof has eave and gable overhangs;
10. The covering material of the garage is consistent with that used on the mobile home unit.

(Ord. 960 C.S., 1982)

CHAPTER 22.26
M MIXED USE DISTRICTS

§ 22.26.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Prior code § 10,110.3; Ord. 822 C.S. § 2, 1975)

§ 22.26.020. Purposes.

The M Mixed Use Districts are established as combining districts, enabling the combination of 2 or more use districts where such combination of districts would serve the objective of implementing the provisions of the General Plan in all its elements, as well as achieving the objectives as prescribed in Section 22.02.010 of this Title.

(Prior code § 10,110.0; Ord. 822 C.S. § 2, 1975)

§ 22.26.030. Permitted and conditional uses.

The permitted and conditional uses in the M districts shall be the permitted and conditional uses of each individual zoning district which has been combined into the Mixed Use District.

(Prior code § 10,110.1; Ord. 822 C.S. § 2, 1975)

§ 22.26.040. Other regulations.

Regulations pertaining to density, coverage, height and spacing of buildings, yard spaces, open spaces, parking and loading facilities and any other aspect regulation in this zoning title shall be those of the most restrictive zoning district in the combining district.

(Prior code § 10,110.2; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.27
DOWNTOWN HISTORIC OVERLAY DISTRICT

§ 22.27.010. Purpose.

The general purpose of the Downtown Historic Overlay District is to promote the preservation and rehabilitation of historic commercial, civic and mixed-use buildings in the Downtown Core and Civic Districts, and to provide for new infill construction consistent with the historic character of the district, consistent with the Downtown Specific Plan. In addition, the Historic Overlay District has 3 specific purposes:

- A. To establish mandatory provisions for the preservation of buildings individually listed on the National and/or State Register of Historic Places (referred to below as listed buildings), or buildings which become so listed in the future;
- B. To establish advisory design review guidelines for the rehabilitation of structures and new infill construction in the historic overlay district with particular focus on the 1982 City Historic Resource Inventory; and
- C. To provide a voluntary option to owners of qualified properties—the more flexible provisions of the State Historical Building Code. The presence of a local historic district also creates the possibility for the City to establish a Mills Act program, which could provide property tax relief for owners who restore and maintain historic properties.

(Ord. 1328 C.S. § 5, 2006)

§ 22.27.020. Uses, density and development standards.

Permitted and conditional uses, allowable density and development standards shall be the same as is required for the underlying zone district.

(Ord. 1328 C.S. § 5, 2006)

§ 22.27.030. Context.

See Section 6.1.3 of the Downtown Specific Plan for a discussion of the context of this district.

(Ord. 1328 C.S. § 5, 2006)

§ 22.27.040. Administration.

All proposals for building demolition, or substantial modification of listed buildings shall be subject to the mandatory criteria below—Section 6.3.1 Secretary of the Interior's Standards for Rehabilitation— in addition to the standards of the individual Specific Plan District and the City's standard design review process, as detailed in Chapter 22.34 of the Zoning Code; and the advisory guidelines of this overlay district.

All proposals for substantial modification or demolition of other structures, or new construction, in the Downtown Historic Overlay District shall be subject to the standards of the individual specific plan Chapter and the City's standard design review process, as detailed in Chapter 22.34 of the zoning code, and the advisory guidelines of this overlay district. All such proposals shall be referred to the Martinez Historic Society for comments as part of the design review process. Where appropriate, the City may use other resources, such as architectural historians, for supplemental advisory input to the design review process.

(Ord. 1328 C.S. § 5, 2006)

§ 22.27.050. Design standards and guidelines.

The design standards for listed buildings and advisory guidelines are found in Chapter 6 of the Downtown Martinez Specific Plan.

- A. Secretary of the interior's standards for rehabilitation. The Secretary of the Interior's Standards for Rehabilitation are 10 basic principles created to help preserve the distinctive character of a historic building and its site, while allowing for reasonable change to meet new needs. These standards are mandatory for listed buildings. These standards are found in Section 6.3.1 of the Downtown Specific Plan.
- B. State historical building code. The owner of a listed building, or other qualified structure, may voluntarily choose to utilize the provision of the State Historical Building Code. See Section 6.3.2 of the Downtown Specific Plan for a discussion of the State Historic Building Code.
- C. Design review considerations applicable to unlisted properties. For unlisted structures, as well as new construction, historic considerations will be integrated into the design review process on a case-by-case basis. See Chapter 6 of the Downtown Specific Plan for a summary of existing historic civic and commercial architectural styles in Downtown Martinez, and for the design guidelines of rehabilitation of historic commercial buildings or new construction of buildings in the Downtown Historic Overlay District.

(Ord. 1328 C.S. § 5, 2006)

CHAPTER 22.28
OS OPEN SPACE DISTRICTS

§ 22.28.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title.

(Prior code § 10,111.5; Ord. 822 C.S. § 2, 1975)

§ 22.28.020. Purpose.

The purpose of including the open space district in the zoning regulations is to provide an appropriate zoning district for public or privately held lands devoted to open space uses either permanently or by terms of a long-term contract. This zoning district may be distinguished from the recreational facilities district in that recreational facilities, while allowed in the open space district, are expected to be only incidental to the basic purpose of preserving open space areas for visual and aesthetic relief, conservation and preservation of wildlife habitats and environmental values within and adjacent to an essentially urban environment.

(Prior code § 10,111.0; Ord. 822 C.S. § 2, 1975)

§ 22.28.030. Permitted uses.

The following uses shall be permitted in this district:

A. Agricultural uses of all natures;

B. Park and recreational uses; trails.

(Prior code § 10,111.1; Ord. 822 C.S. § 2, 1975)

§ 22.28.040. Conditional uses.

The following uses shall be permitted subject to the granting of a conditional use permit:

A. Structures incidental to a permitted use, including one single-family dwelling on an existing parcel of land;

B. Public utility uses such as substations, water reservoirs, pumping stations, etc. which by the nature of their design requirements cannot practically be located on sites not in an Open Space Zone District.

(Prior code § 10,111.2; Ord. 822, C.S. § 2, 1975; Ord. 1045 C.S. § I, 1985)

§ 22.28.050. Division of land.

No division of land zoned for open space shall be permitted.

(Prior code § 10,111.3; Ord. 822 C.S. § 2, 1975)

§ 22.28.060. Other regulations.

All other regulations of the open space district shall be those of the most restrictive abutting zoning district.

(Prior code § 10,111.4; Ord. 822 C.S. § 2, 1975)

§ 22.28.070. No reduction, exchange, etc. of open space easement without vote of people or four-fifths vote of Council.

- A. As used herein, "open space easement" means (a) any right or interest in real property acquired by or dedicated to the City of Martinez (1) for the purpose of preserving for public use or enjoyment the natural, scenic or open character of such property or (2) for the purposes of preserving those uses described in California Government Code § 65560, or its successor provisions, or (b) any limitation of future use of real property by way of a deed, covenant, servitude, easement, or other property restriction imposed or required by the City of Martinez for the purpose of preserving the natural, scenic or open character of the property which limitation results from the City's (conditional) approval of a plan amendment, zoning change, use permit, subdivision or any other entitlement permit for development. Open space easement shall not include easements described above which have been acquired pursuant to certain specific statutory authorities which provide exclusive termination procedures for easements created pursuant to such authority.
- B. Open space easement. No open space easement be terminated, vacated, abandoned, released, reduced, exchanged, relocated or in any other way remitted, either in whole or in part, without either the affirmative vote of four of the members of the City Council or the affirmative vote of a majority of people of the City of Martinez voting at a regular or specially called election.

(Ord. 1075 C.S. § 2 1986)

CHAPTER 22.29
ALHAMBRA VALLEY DISTRICTS

§ 22.29.010. Purposes.

In addition to the purposes prescribed in Sections 22.02.010 and 22.12.020 of this Title, the Alhambra Valley (AV) Districts are included in the zoning regulations to achieve the following purposes:

- A. Preserve the semi-rural atmosphere and the balance of residential and agricultural land uses in Alhambra Valley.
- B. Allow development that is compatible with existing agricultural, residential and open space uses.
- C. Preserve and enhance both the natural and man-made environment in Alhambra Valley.
- D. Restrict development in environmentally sensitive areas.
- E. Enhance watercourses and associated riparian habitat to their natural state to restore water quality, wildlife diversity, aesthetic values and recreation opportunities.
- F. Minimize air, water, noise and soil pollution in Alhambra Valley.
- G. Minimize soil erosion and runoff throughout Alhambra Valley.
- H. Protect historical and archaeological resources.
- I. Provide adequate levels of public services within Alhambra Valley. Ensure new public facilities are sensitive to the natural setting.
- J. Encourage and enhance agriculture and maintain and promote a healthy and competitive agricultural economy in Alhambra Valley.
- K. Minimize and resolve conflicts between agricultural and urban uses.
- L. Preserve and protect areas of identified high scenic value including scenic ridgeways, scenic routes (Alhambra Valley Road, Reliez Valley Road and a portion of Vaca Creek Road), and valley gateways (intersection of Alhambra Valley Road and Vaca Creek Road and Reliez Valley Road and Alhambra Valley Road).

(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.020. Applicability.

This Chapter specifies the regulations that are applicable within the Alhambra Valley Districts.
(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.030. Establishment and purpose of Alhambra Valley Districts.

The Alhambra Valley Districts are hereby established as set forth below.

- A. AV/R-20 Single Family District. The purpose of the district is to reserve land for the construction, use and occupancy of detached single-family development. Minimum lot size is 20,000 square feet.

- B. AV/R-40 Single Family District. The purpose of the district is to reserve land for the construction, use and occupancy of detached single-family development. Minimum lot size is 40,000 square feet.
- C. AV/A-5 Agriculture District. The purpose of the district is to reserve land for agricultural uses and supporting operations, including detached single-family residential uses. Minimum lot size is 5 acres.
- D. AV/PD Planned Development District. The purpose of the district is to allow for large-scale integrated residential development with a cohesive design. The Planned Development District is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes and open space while insuring substantial compliance with the applicable standards and regulations.

(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.040. Use regulations.

- A. Permitted and conditional uses. The allowable land uses for the AV/R-20, AV/R-40 and AV/A-5 Districts shall be as specified in Table 1. Uses are designated in Table 1 as follows:

P Permitted land use

UP Subject to use permit as set forth in Chapter 22.40, Conditional Uses—Use Permits

— Not allowed in specified zoning district

Uses not listed in Table 1 are prohibited in all Alhambra Valley Districts.

In addition to the land use permit required by Table 1, special provisions related to certain land uses may apply, and Design Review may also be required for certain uses in compliance with Section 22.29.100, Alhambra Valley Districts—Design Review. Where the last column in Table 1 (Specific Use Regulations) includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this zoning ordinance may also apply.

Table 1: Permitted and Conditional Uses ⁽¹⁾				
Uses	Districts			Specific Use Regulations
	AV/R-20	AV/R-40	AV/A-5	
Residential Uses				
Accessory dwelling unit	P	P	P	§ 22.43.020
Family day care home	P	P	P	
Day care, general	UP	UP	UP	
Foster family home	P	P	P	
Residential congregate care facility	P	P	P	
One family dwelling	P	P	P	
Additional one family dwelling	UP	UP	UP	§ 22.29.050.A

Table 1: Permitted and Conditional Uses ⁽¹⁾				
Uses	Districts			Specific Use Regulations
	AV/R-20	AV/R-40	AV/A-5	
Free-standing exterior lighting over seven feet in height	UP	UP	—	§ 22.29.050.B
Home occupation	UP	UP	UP	
Wind generator	UP	UP	UP	§ 22.12.090.N
Agricultural Uses				
Agriculture— Large Scale	—	—	P	
Agriculture— Small Scale	P	P	P	
Aviaries	P	P	P	§ 22.29.050.C.1
Christmas tree farms	UP	UP	UP	§ 22.29.050.D
Dog kennels	—	—	UP	
Horse riding academies and horse riding instruction	UP	UP	UP	§ 22.29.050.C.3
Livestock	P	P	P	§ 22.29.050.C.2
Services incidental to agricultural uses	—	—	UP	
Small animal farming	P	P	P	§ 22.29.050.C.4
Institutional Uses				
Community recreation facilities, such as golf, tennis or swimming clubs	UP	UP	UP	
Museums in which objects of historical, artistic, scientific or cultural importance are preserved and displayed	—	—	UP	
Public and Recreational Uses				
Publicly owned buildings and structures	UP	UP	UP	
Publicly owned parks and playgrounds	P	P	P	
Other Uses				
Temporary real estate offices and construction yards	UP	UP	UP	

Table 1: Permitted and Conditional Uses ⁽¹⁾				
Uses	Districts			Specific Use Regulations
	AV/R-20	AV/R-40	AV/A-5	
Pumping stations, power stations, drainage ways and structures, storage tanks, and transmission lines found by the City Planning Commission to be necessary for the public health, safety or welfare	UP	UP	UP	

Notes:

⁽¹⁾ Allowed Uses within the Planned Development District. Those land uses permitted by an approved final development plan which are in harmony with each other, serve to fulfill the function of the Planned Development District, and are consistent with the General Plan; and a detached one family dwelling unit on each legally established lot and the accessory structures and uses normally accessory to it.

- B. Allowed uses within the AV/PD District. The following uses are allowed in the AV/PD District: those land uses permitted by an approved Planned Development Permit, which are in harmony with each other, serve to fulfill the function of the Planned Development District, and are consistent with the general plan; and a detached one family dwelling unit on each legally established lot and the accessory structures and uses normally accessory to it; provided, however, that no use, building or facility that has been authorized by and is consistent with a Planned Development Permit or associated approval, such as a use permit or subdivision map, shall be considered a non-conforming use.
- C. Prohibited uses. The following uses shall not be permitted within the Alhambra Valley Districts:
1. Commercial radio and television receiving and transmitting facilities other than broadcasting studios and business offices;
 2. Hospitals, philanthropic institutions, and convalescent homes;
 3. Churches and religious institutions and parochial and private schools;
 4. Medical and dental offices and medical clinics;
 5. Commercial nurseries, except for Christmas tree farms; and
 6. Commercial Greenhouses.

(Ord. No. 1359 C.S., § 14, 12/15/2010; Ord. No. 1447, § 7, 7/19/2023)

§ 22.29.050. Standards for specific land uses in Alhambra Valley Districts.

- A. Additional one family dwelling. An additional one family dwelling unit shall be allowed, subject to use permit approval and based upon net lot area requirements as follows:
1. AV/R-20 district: 20,000 square feet per dwelling unit;

2. AV/R-40 district: 40,000 square feet per dwelling unit; and
 3. AV/A-5 district: 5 acres per dwelling unit.
- B. Lighting. Installation of free standing exterior light fixtures with a height of seven feet or more above the finished grade of the parcel requires use permit approval, as set forth in Chapter 22.40, Conditional Uses—Use Permits. The following additional finding is required: glare and annoyance to adjacent property owners shall be minimized to the greatest degree possible by sensitive fixture placement, use of shielded and downcast lighting and low wattage lamps.
- C. Keeping of animals.
1. Aviaries. Aviaries shall be maintained in a sanitary manner as determined by the County Health Department and shall be subject to the setback requirements for Animal Structures within Section 22.29.060.G.1.a.
 2. Livestock. Livestock may be kept on lots of 40,000 or more square feet in area (with at least 40,000 square feet for each two head of livestock). To be counted in the aggregate minimum lot size requirement, lots must be contiguous and in one fee ownership.
 3. Horse riding academies. The requirements for the keeping of livestock must be met in order to submit an application for a use permit (see Section 22.29.050.C.2 above).
 4. Small animal farming. Within the AV/R-20 and AV/R-40 districts, small animal farming shall be allowed for the primary purpose of home consumption.
- D. Christmas tree farms. A use permit application for a Christmas tree farm shall include a site plan indicating parking areas and circulation, planting and landscaping areas, existing and proposed structures, and plans and elevations to indicate architectural type.
(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.060. Alhambra Valley Districts—General development standards.

- A. Minimum lot area. The minimum net lot area shall be as specified in Table 22.29.060.A.

Table 22.29.060.A - Minimum Lot Area	
Districts	Minimum Net Lot Area
AV/R-20.0	20,000 square feet
AV/R-40.0	40,000 square feet
AV/A-5	5 acres

- B. Minimum site area. The minimum site area per dwelling unit shall be as specified in Table 22.29.060.B, and as further regulated for sites of ten percent or greater slope, by Section 22.29.080, Hillside Development.

Table 22.29.060.B - Minimum Site Area

Districts	Minimum Site Area (per Dwelling Unit)
AV/R-20.0	20,000 square feet
AV/R-40.0	40,000 square feet
AV/A-5	5 acres

- C. Minimum lot depth and width. The minimum lot depth and minimum lot width (average) shall be as specified in Table 22.29.060.C.

Table 22.29.060.C - Minimum Lot Depth and Width

Districts	Minimum Lot Depth	Minimum Lot Width (Average) ¹
AV/R-20.0	120 feet	120 feet
AV/R-40.0	140 feet	140 feet
AV/A-5	200 feet	250 feet

Notes:

¹ Average lot width is calculated by dividing the total gross area of the lot by the depth of the lot.

- D. Minimum yards. The minimum front yards, side yards, and rear yards shall be as specified in Table 22.29.060.D. For setback requirements for animal structures, see Section 22.29.060.G, Animal Structures.

Table 22.29.060.D - Minimum Yards

Districts	Aggregate Minimum Side Yards	Minimum Side Yard Setback		Minimum Front Yard Setback	Minimum Rear Yard Setback
		Interior	Corner	Interior and Corner	
AV/R-20.0	35 feet	15 feet ¹	20 feet	25 feet	15 feet ²
AV/R-40.0	40 feet	20 feet ³	20 feet	25 feet	15 feet ⁴
AV/A-5	40 feet	20 feet	20 feet	25 feet	15 feet

Notes:

¹ Within the AV/R-20.0 district, the side yard minimum may be reduced to three feet for an accessory structure, which does not exceed 600 square feet floor area coverage or 15 feet in height, if it is set back at least 65 feet from the front property line.

² Within the AV/R-20.0 district, there shall be a rear yard for accessory structures of at least three feet.

Notes:

³ Within the AV/R-40.0 district, this minimum may be reduced to three feet for an accessory structure, which does not exceed 600 square feet floor area coverage or 15 feet in height, if it is set back at least 75 feet from the front property line.

⁴ Within the AV/R-40.0 district, there shall be a rear yard for accessory structures of at least three feet.

- E. Floor area ratio. The maximum floor area ratio ("FAR") shall be as specified in Table 22.29.060.E.

Table 22.29.060.E - Floor Area Ratio	
Districts	Maximum FAR
AV/R-20.0	0.2
AV/R-40.0	0.2
AV/A-5	0.2

- F. Maximum height. No single-family dwelling or other structure permitted in the Alhambra Valley districts shall exceed two and one-half stories or 35 feet in height.
- G. Off-Street parking requirements. Chapter 22.36 (Off Street Parking and Loading Facilities) shall apply within the Alhambra Valley districts, excluding Sections 22.36.082 and 22.36.084, which shall not apply within the Alhambra Valley districts. Parking requirements for the AV/A-5 district shall be the same as the R-40.0 district. Each parking space shall be entirely outside the required setbacks of the primary structure.
- H. Animal structures.
1. Aviaries shall not be over 12 feet in height nor exceed one square foot in area for each 50 square feet of net lot area per parcel and shall not exceed 1,600 total square feet. Aviaries shall be set back at least 25 feet from the front property line or any street or limit of right-of-way and at least ten feet from any side or rear property line, and shall be maintained in a sanitary manner as determined by the County Health Department.
 2. Small animal structures shall be set back not less than 60 feet from the front property line or any street or limit of right-of-way, and shall be not less than 40 feet from any side or rear property line.
 3. Large animal structures shall be set back not less than 100 feet from the front property line or any street or limit of right-of-way, and shall not be less than 50 feet from any side or rear property line.
 4. Fenced pasture, paddocks, or other enclosed livestock areas shall not be located nearer than ten feet to any property line.

(Ord. No. 1359 C.S., § 14, 12/15/2010; Ord. No. 1463, § XV, 10/23/2024)

§ 22.29.070. Alhambra Valley Districts—Street and subdivision standards.

- A. Purpose. In addition to the purposes prescribed in Section 22.29.010 for the creation of the Alhambra Valley Districts, the requirements of this Section are intended to promote the

stability of the Alhambra Valley's rural residential character by restricting the potential introduction of incongruous urban streets and subdivisions.

- B. Street standards. One of the principal features of the rural appearance of Alhambra Valley's existing rural neighborhoods is the manner of existing street improvements; which are generally relatively narrow streets, without curbs, gutters, sidewalks or subsurface storm drains. Retention and continuance of the rural street standards appears to be an essential element in the preservation of Alhambra Valley's rural residential character. Therefore, within the boundaries of the Alhambra Valley Districts, property owners are exempted from the otherwise normal requirement for street and related improvements as prescribed in Sections 21.08.010 through 21.08.180 and 21.08.200. Requirements for subdivisions and street improvements shall generally be limited to the preservation and continuance of the established infrastructure, as deemed necessary for the public health, safety or welfare by the City Engineer.
- C. Criteria and standards for subdivision approval. The review authority shall consider the Goals and Principals of the Alhambra Valley Design Guidelines, as adopted by separate Resolution of the City Council of the City of Martinez, as well as the criteria and guidelines listed below, in its consideration of a Subdivision application:
 - 1. Site planning and grading design.
 - a. In order to conserve the scenic beauty of Alhambra Valley, developers shall generally be required to restore the natural contours and vegetation of the land after grading and other land disturbances.
 - b. Public and private projects shall be designed to minimize damage to significant trees and other visual landmarks.
 - c. Extreme topographic modification, such as filing in canyons or removing hilltops shall be avoided. Clustering and planned development approaches to development shall be encouraged. All future development plans, whether large-scale or small-scale, shall be based on identifying safe and suitable sites for buildings, roads and driveways.
 - d. Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.
 - e. Development in flood inundation zones shall be avoided and development in Federal Emergency Management Act 100-year flood zones shall be prohibited.
 - 2. Public utilities.
 - a. All new utilities shall be placed underground. New residential development shall be connected to a public sewer or provide a septic system which meets the standards of the County Health Department. All new residential development shall also provide on-site storm drainage and shall pay a fee for off-site drainage improvements, if required.
 - b. Small community well water or septic systems shall not be established to serve proposed subdivisions.

3. Scenic tree planting.

- a. As a way to enhance the aesthetic and scenic qualities along the Alhambra Valley/Reliez Valley Road Scenic Corridor, new subdivisions shall be required to plant new specimen trees along their road frontage according to the following:
 - i. Beginning at either end of the parcel's frontage, trees shall be planted at minimum of 50-foot intervals;
 - ii. Trees shall be Live Oaks and shall be a minimum size of 24 inches; and
 - iii. Shall be located approximately 10 feet from the road shoulder area.

(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.080. Alhambra Valley Districts—Hillside development.

- A. Purpose. The purpose of this Section is to regulate development on hillside areas within the Alhambra Valley Districts, in order to avoid potential geotechnical hazards and to preserve the scenic view from the valley floor.
- B. Applicability. This Section shall apply to any residential development requiring Design Review or Subdivision approval on parcels with any areas of 10 percent slope or greater within the Alhambra Valley Districts, as determined by the applicant's preparation of a Slope and Hazard Area Map as described in Section 22.33.020, Hillside Development Regulations—Maximum Allowable Density Calculations.
- C. Maximum allowable density. The maximum allowable density of residential units on properties governed by this Section shall be as prescribed in Section 22.33.020, Hillside Development Regulations—Maximum Allowable Density Calculations, subject to the Exemptions, Exclusion and Conditions of Section 22.33.30, and the following:
 1. Residential density in the AV/R-20 district shall not exceed that prescribed in Section 22.33.020 for the R-20 zoning district;
 2. Residential density in the AV/R-40 district shall not exceed that prescribed in Section 22.33.020 for the R-40 zoning district; and
 3. Residential density in the AV/A-5 district shall not exceed that prescribed for each of the Slope and Hazard Area Map Site Categories as shown in Table 6.

Table 6: Allowable Density for AV/A-5 District	
Site Category	Maximum Units per Gross Acre
0—10%	0.20
10.01—30%	0.06
30.01% and over	0.00
Hazard Areas	0.00

4. The maximum allowable density for parcels within the AV/PD district shall be as specified in the approved final development plan.
- D. Criteria and guidelines for permit approval.

1. Any residential development requiring Design Review or Subdivision approval shall comply with the requirements of Hillside Development Regulations Sections 22.33.030 and 22.33.040.
2. The review authority shall also consider the Goals and Principals of the Alhambra Valley Design Guidelines, as well as the criteria and guidelines listed below, in its consideration of a Hillside Design Review or Subdivision application.
 - a. Slope stability shall be a primary consideration in the determination to develop land. Development in landslide areas shall not be allowed unless the area is stabilized through high-quality engineering design approved by the City and peer reviewed by a qualified structural and/or geotechnical engineer as determined by the City.
 - b. Structures shall be designed to blend into, rather than dominate the natural setting, especially on ridgelines. The massing of new dwellings shall be compatible with the natural setting.
 - c. The construction of new structures on the top of scenic ridges or within 50 feet of the ridgeline shall be discouraged.
 - d. When development is permitted to occur on hillsides, structures shall be located in a manner which is sensitive to available natural resources and constraints.
 - e. All new land uses which are to be located below a major scenic ridge shall be reviewed with an emphasis on protecting the visual qualities of the ridge.
 - f. Any new development shall be encouraged to generally conform to natural contours to avoid excessive grading.
 - g. New water tanks that would harm the visual quality of a scenic ridge shall be buried, camouflaged or screened to mitigate their impacts.
 - h. Visual analysis may be required as part of the permit approval process to better determine the effects of new development, grading and landscaping on the built and natural environment, including parklands.
 - i. Hilltops, ridges, rock outcroppings, mature stands of trees and other natural features shall be preserved to the greatest extent possible. Preservation of such features shall be considered at the time that any development applications are reviewed.
 - j. Any development on slopes which exceed 30 percent is prohibited, subject to the Exemptions, Exclusion and Conditions of Section 22.33.030.
 - k. The City shall not accept dedication of public roads in unstable hillside areas. Private roads which would require an excessive degree of maintenance and repair costs shall not be allowed.

(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.090. Alhambra Valley Districts—Creek protection and enhancement.

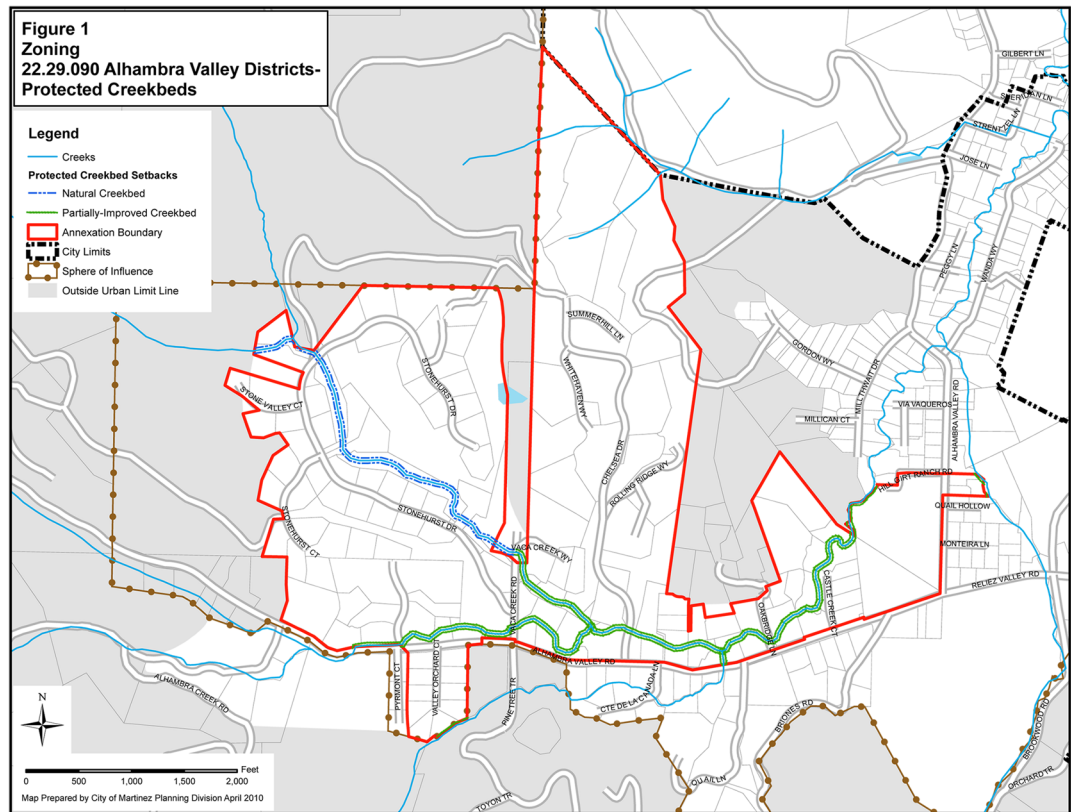
- A. Purpose. The purpose of this Section is to regulate activities within and adjacent to

Protected Creekbeds in order to:

1. Maintain the ecology and hydrology of creeks and streams and provide an amenity to the public, while at the same time preventing flooding, erosion and danger to life and property.
 2. Preserve and restore remaining natural waterways which have been identified as important and irreplaceable natural resources.
 3. Employ alternative drainage system improvements which rely on increased retention capacity to lessen or eliminate the need for structural modifications to watercourses, whenever economically possible.
 4. Enhance opportunities for public accessibility and recreational use of creeks, streams, drainage channels and other drainage system improvements.
- B. Applicability. This Section shall apply to any parcel with a Protected Creekbed or a creek setback, as shown on Figure 1 (see map following this section), Protected Creeks. Within the Alhambra Valley Districts, Protected Creekbeds are defined as follows:
1. Natural creekbed. A watercourse or waterway which can support its own environment of vegetation, fowl, fish and reptiles, and which appears natural. The intent of this designation is for the retention of exiting creekbed form and riparian habitat.
 2. Partially-improved creekbed. A watercourse whose natural form has been altered. Some creekbanks have been buttressed to prevent erosion, and in some cases, drop structures have been installed in the bottom of channels. Nevertheless, many of the natural riparian features and scenic qualities associated with natural creekbeds are still intact. The intent of this designation is to retain and enhance the riparian habitat and scenic qualities of these creeks consistent with prudent drainage controls and protection of exiting residential development.
- C. Creek setbacks.
1. Establishing creek setbacks. At the time of any permit application for approval to build structures or alter topography, including, but is not limited to, applications for Design Review, Subdivision or Grading Permit approval, the creek setback shall be determined as part of the permit review. The minimum width of the creek setback shall be 50 feet from the centerline of the creek, but as a condition of permit approval, a setback greater than 50 feet may be required to protect the creek or its adjacent riparian habitat, if such is deemed necessary by the City or any other agency with review authority.
 2. Creek setback and net lot area. The portion of a lot within a creek setback shall be excluded from the calculation of net lot area when determining conformance to any minimum net lot area requirement standards prescribed by this Chapter.
- D. Creek preservation and enhancement plan.
1. Submittal of plan required. In addition to the establishment of a creek setback as required by Section 22.29.090(C), a Creek Preservation and Enhancement Plan is required for all permit applications subject to this Section, and applicants shall provide as a part of permit application submittal, the following:

- a. Visual materials and a narrative which describes existing creek conditions;
 - b. A description of the methods of protecting and enhancing the creek resource;
 - c. Scaled drawings which show a cross-section of the existing creekbed and creekbank; and
 - d. A creek re-vegetation plan which shall use native riparian vegetation from the local seed stock, where feasible.
 2. Plan approval. The Creek Preservation and Enhancement Plan is subject to the approval by the City and or any other applicable agencies' reviewing authority. When alteration of streambanks or streambeds is proposed, the applicable agencies shall be notified in accordance with their authority under State law and/or when their assistance is needed.
 3. Erosion prevention and structural improvements. Erosion in natural watercourses shall be controlled where creek capacity and bank stability necessitate, while maintaining consistency with the Creek Preservation and Enhancement Plan for that development. Minor structural improvements, e.g. drop structures, may be allowed if consistent with the concepts of the Creek Preservation and Enhancement Plan.
- E. Criteria and guidelines for permit approval. The applicable review authority shall consider the criteria and guidelines listed below, in its consideration of an application regarding property subject to this Section.
1. Existing native riparian habitat shall be preserved and enhanced by new development unless public safety concerns require removal of habitat for flood control or other public purposes.
 2. Revegetation of a watercourse, if required as a part of the development, shall employ native vegetation, providing the type of vegetation is compatible with the watercourse's maintenance program and does not adversely alter channel capacity.
 3. Natural watercourses shall be integrated into new development in such a way that they are accessible and provide a positive visual element.
 4. Where feasible, existing natural waterways shall be protected and preserved in their natural state and channels, which are already modified, shall be restored.
 5. Proposed drainage discharges into the protected watercourses shall be reviewed to minimize erosion of creekbanks and visual impacts.
 6. New parcels which are created shall include adequate space outside of the creek setback for pools, patios, and appurtenant structures to ensure that property owners will not place improvements within the areas which require protection.
 7. Grading, filling and construction activity near watercourses shall be conducted in such a manner as to minimize impacts from increased runoff, erosion, sedimentation, biochemical degradation or thermal pollution.
 8. On-site water control shall be required of major new developments so that no increase in peak flows occurs relative to the site's pre-development condition, unless the City determines that off-site measures can be employed which are equally effective in

preventing adverse downstream impacts.



(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.100. Alhambra Valley Districts—Design review.

A. Applicability.

1. Design Review for non-residential properties. All applications made for a building permit to construct or alter the exterior of a commercial, recreational, institutional or public structure, or where proposed grading involves the movement of 1,000 cubic yards or more of soil material, shall be subject to the Design Review requirements of this Section, in addition to the Criteria and Standards of Section 22.34.045.
2. Design review for residential properties. All applications made for a building permit to build a new or enlarge an existing residential structure, including but not limited to single family residences, accessory buildings (for residential, utility, agricultural or animal use), arbors, pergolas or swimming pools shall be subject to the Design Review requirements of this Section. Building permits that do not involve enlarging a structure, such as siding and window replacement, shall be not subject to the requirements of this Section.

B. Application and approval required. Applications for Design Review pursuant to this Section shall be made as prescribed by Section 22.34.040, and may be appealed as prescribed by Sections 22.34.050-23.34.070.

- C. Criteria, standards and guidelines. The Design Review approval authority shall render a decision based upon the following Criteria and Standards and shall also consider the Goals and Principals of the Alhambra Valley Design Guidelines, as adopted by resolution of the City Council, in its consideration of a Design Review application.
1. Site plan and grading.
 - a. The natural contours and vegetation of the land shall generally be restored after grading and other land disturbances so that a naturalistic appearance is maintained.
 - b. Private projects shall be designed to minimize damage to significant trees and other visual landmarks.
 - c. Hilltops, ridges, rock outcroppings, mature stands of trees, and other natural features shall be considered for preservation, at the time that any development applications are reviewed.
 2. Home and landscape designs.
 - a. New home designs shall blend in with the semi-rural character of the area. Buildings on hillsides shall complement the topography of the site. Exterior building materials of wood, wood shingles and brick are preferred and exterior colors shall be earth tone colors. Bright colors shall be avoided.
 - b. New projects shall be designed to blend in with the rural setting of Alhambra Valley as much as possible. The use of fire resistant materials shall be encouraged.
 - c. New buildings which are proposed in highly visible areas, such as on hillsides, shall be sited, designed and landscaped so that supporting columns, piers and building undersides are not visually dominant.
 - d. Energy efficient features in new development shall be encouraged and new additions or remodeling projects shall conform with building code regulations related to energy conservation.
- D. Findings and decision. The review authority may approve a Design Review application only after making the following findings.
1. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines and all applicable provisions of this code, including this Title and any approved master plan and precise development plan.
 2. The proposed project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.
 3. The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future

developments and does not create potential traffic, pedestrian or bicycle hazards.
(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.110. Alhambra Valley Districts—General provisions and fences.

All uses and development applications within the Alhambra Valley Districts shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this Title, except for:

- A. Design review. Design Review shall be as prescribed in Section 22.29.100 of this Chapter; and
- B. Fences. Notwithstanding the requirements and limitations prescribed in Section 22.34.090, Fences Walls and Hedges, the following exceptions and design standards shall apply:
 - 1. Fences up to four feet in height are allowed at the front property boundary and within the front yard setback, but must be of an open-rail design.
 - 2. Solid board fences shall be prohibited along Alhambra Valley and Reliez Valley Roads. Only open rail fencing within the front yard setback shall be allowed on all properties fronting these roadways.
 - 3. Solid board fencing and walls along side and rear property boundaries are discouraged in or adjacent to agricultural areas. To minimize visual impacts of perimeter lot fencing, fencing on slopes greater than 15 percent shall be open rail or wire. Barbed wire may be used to keep grazing animals from wandering into residential areas.

(Ord. No. 1359 C.S., § 14, 12/15/2010)

§ 22.29.120. Alhambra Valley Districts—Residential and agricultural compatibility.

- A. Purpose. This Section is included in the zoning regulations to enhance and encourage agricultural operations within the Alhambra Valley Districts and provide residents with proper notification of such agricultural uses. Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations can be the subject of nuisance complaints, resulting in detrimental impacts on farming. However, it is intended that through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.
- B. Compatibility standards.
 - 1. Agriculture shall be protected from nuisance complaints from non-agricultural land uses.
 - 2. Where a discretionary development permit is sought within or adjacent to areas designated for agricultural use, natural or constructed buffers between the agricultural and urban use shall be required. A minimum 60-foot setback shall be required for non-agricultural structures located within or adjacent to cultivated agricultural areas. Such buffers must occur on the parcel for which the discretionary permit is sought.
 - 3. An agricultural or equestrian notification statement in the property deeds shall be required for all new residential lots created in or adjacent to planned agricultural districts. The statement shall inform owners regarding the nuisance and hazards

associated with nearby agricultural practices. Such concerns may include, but are not limited to, the noise, odors, dust, chemicals, smoke, and hours of operation that may accompany agricultural operations.

4. Where unmitigatable conflicts exist between agricultural and residential uses, priority shall generally be given to maintaining the agricultural use.

C. Agricultural standards.

1. Grazing areas shall include fencing to contain grazing animals, keep domestic dogs out of grazing areas and deter trespassing.
2. The use of toxic and nutritive chemicals by agricultural operators shall be minimized.
3. Both public and private infrastructure that supports agriculture shall be promoted.
4. Efforts to provide adequate, high quality and fairly-priced water supply for agricultural irrigation shall be supported.

(Ord. No. 1359 C.S., § 14, 12/15/2010)

CHAPTER 22.30
ALHAMBRA AVENUE OVERLAY DISTRICT (AAO)⁴²

§ 22.30.010. Purpose.

The purpose of this overlay zoning district is to revitalize the Alhambra Avenue corridor, spurring investment in underutilized properties and enlivening the area through introduction of housing opportunities. The Alhambra Avenue Overlay District ("AAO"), as shown on the Zoning Map, encourages residential development by allowing increased residential densities and by right development processing in exchange for the provision of at least 20 percent very low- and low-income housing units.

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.30.020. Uses and density.

Permitted and conditional uses, allowable density, and development standards shall be the same as is required for the underlying zone district(s) except where multifamily residential projects are proposed that comply with the AAO District provisions for affordable housing units as described in subsection (A) of this section.

- A. Housing development projects that provide at least 20 percent very low- and low-income housing units shall be constructed at a density between 21.5 and 43 units per acre. Housing development projects proposed on Housing Element Opportunity Sites shall be consistent with the minimum density of the overlay district, or the underlying zoning district, whichever is greater. This residential density requirement is in addition to the development permitted for the existing use.
- B. All affordable units, exclusive of any manager unit or units, shall be subject to a recorded deed restriction, in a form and manner approved by the Planning Manager or designee for at least the following periods of time:
 - 1. Fifty-five years for units that are rented.
 - 2. Forty-five years for units that are owner-occupied.
- C. Housing development projects constructed pursuant to this chapter shall also be eligible for a density bonus, incentives, concession, waivers, or reductions of development standards and parking ratios, pursuant to Government Code Section 65915, Chapter 22.80 (Density Bonus), or Chapter 22.81 (Development Incentives and Community Benefit Program).

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.30.030. Development processed as a use by right.

A housing development project that complies with all requirements of this chapter shall be processed as a "use by right."

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.040)

42. Editor's note: Former Ch. 22.30, U Undesignated Districts, which derived from prior code §§ 10,112.0—10,112.3 and Ord. 822 C.S., 1975, was repealed by Ord. No. 1458, 5/15/2024.

§ 22.30.040. Objective development standards.

The required distances between structures, and minimum site area, frontage, width and depth of the site, usable outdoor space; maximum site area coverage; front yards, side yards, rear yards, and accessory structures shall comply with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts); the objective design and development standards in Chapter 22.51B (Objective Design and Development Standards for Qualified Multifamily Development Projects) and Chapter 22.51C (Objective Design and Development Standards for Qualified Mixed-Use Development Projects); other applicable objective development standards in this title, and any other objective development standard in an adopted Specific Plan.

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.050)

§ 22.30.050. Height of structures.

The maximum allowable height of structures shall be based on residential density, as outlined in Table 22.30.050.

Table 22.30.050	
Residential Density	Maximum Height
21.5 — 29.5 du/ac	Two and a half stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater
30.0 — 39.5 du/ac	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater
40.0 — 43.0 du/ac	Four stories or a maximum of 48 feet above the 100-year flood plain, whichever is greater

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.060)

§ 22.30.060. Off-street parking and loading.**A. Off-Street Parking.**

1. Off-street parking for housing development projects that comply with the requirements of this chapter shall provide a minimum of one parking stall per affordable dwelling unit.
2. Dwelling units that are not affordable shall provide off-street parking that complies with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts).

B. Loading. In addition to the minimum required off-street parking stalls, the housing development project shall provide the off-street loading facilities for trucks outlined in Sections 22.36.100 and 22.36.110.**C. Parking Exceptions.** Off-street parking shall not be required for a housing development project in any of the following instances:

1. The housing development project is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in Public Resources Code Section 21155(b).

2. There is a designated pick-up or drop-off location for a car share vehicle located within one block of the housing development project.
(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.070)

§ 22.30.070. Ancillary uses.

- A. Notwithstanding any other provision of this chapter, a housing development project eligible for approval by right may include the following ancillary uses, provided that those uses are limited to the ground floor of the development:
 1. In a single-family residential zoning district, ancillary uses shall be limited to childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and other Martinez residents.
 2. In all other zones, the housing development project may include ancillary commercial uses that are permitted in the underlying zoning district without approval of a conditional use permit.

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.080)

§ 22.30.080. General requirements and exceptions.

All uses shall be subject to the general requirements and exceptions prescribed in Chapter 22.34 (General Requirements and Exceptions).

(Ord. No. 1452, § IV, 1/17/2024; Ord. No. 1472, 6/4/2025. Formerly 22.30.090)

§ 22.30.090. Application.

- A. Submittal Requirements. Filed applications shall include the information identified in the checklist on file with the Planning Division, and all applicable fees in accordance with the currently adopted User Fee Schedule.
- B. Density Bonus. If an application includes a density bonus, incentive, concession, waivers, or reductions of development standards and parking ratios, then it shall be submitted and processed concurrently with any other application(s) required for the housing development project.
- C. Completeness Review. Following receipt of an application, the City shall provide to the applicant a letter which identifies project issues of concern and the procedures for compliance with this chapter and other applicable objective standards.
- D. Public Notification. A Notice of Decision shall be given not less than ten days before the date of a scheduled decision to owners of real property within 300 feet of the subject property. Contents of the notice shall include the date and time on or after which a decision will be made, place of the decision, review authority, a general explanation of the matter to be considered, and the project location. Final approval or disapproval shall be made by the review authority specified in Section 22.30.100.

(Ord. No. 1472, 6/4/2025)

§ 22.30.100. Review Authority.

The Community and Economic Development Director, Planning Manager, or designee(s) shall

be the review authority for housing development projects pursuant to this chapter, except for the specific decision regarding the application for a minor or major subdivision map, which shall be decided by the review authority identified in Title 21 (Subdivisions).

(Ord. No. 1472, 6/4/2025)

§ 22.30.110. Relationship with Subdivision Regulations.

Housing development projects requesting a major or minor subdivision are subject to the Subdivision Map Act and the applicable provisions of Title 21 (Subdivisions). Where a potential conflict between the AHO District and the provisions of Title 21 (Subdivisions) exists, the provisions of Title 21 (Subdivisions) shall govern.

(Ord. No. 1472, 6/4/2025)

§ 22.30.120. Conflicts Between Regulations.

Notwithstanding the regulations set forth in this chapter, if any section of this chapter conflicts with Government Code Section 65915 or other applicable State law, then State law shall supersede this chapter. Where there is a conflict between the AAO District and any other section of this title or any applicable provision of the Municipal Code, then the review authority of this chapter shall determine which regulation prevails.

(Ord. No. 1472, 6/4/2025)

§ 22.30.130. Appeal.

Within ten days following the date of a decision of the review authority, the decision may be appealed to the Planning Commission by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1472, 6/4/2025)

CHAPTER 22.31
COMMUNITY SERVICES OVERLAY (CSO) DISTRICT

§ 22.31.010. Purpose.

The purpose of the Community Services Overlay District is to encourage multifamily residential development, particularly affordable housing, on lands owned by legal religious institutions and community-oriented non-profit organizations.

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.020. Application.

The Community Services Overlay (“CSO”) District shall be applied city-wide to any property owned on or before January 1, 2024, by a legal religious institution or other community-oriented non-profit organization, as defined in Chapter 22.04 (Definitions).

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.030. Uses and density.

Permitted and conditional uses, allowable density, and development standards shall be the same as is required for the underlying zoning district(s) except where housing development projects are proposed that comply with the CSO District criteria as described in subsection (A) of this section.

- A. Housing development projects that provide at least 20 percent very low- and low-income housing units shall be constructed at a density between 21 and 50 units per acre. Housing development projects proposed on Housing Element Opportunity Sites shall be consistent with the minimum density of the overlay district, or the underlying zoning district, whichever is greater. This residential density requirement is in addition to the development permitted for the existing use.
- B. All affordable units, exclusive of any manager unit or units, shall be subject to a recorded deed restriction, in a form and manner approved by the Planning Manager or designee for at least the following periods of time:
 - 1. Fifty-five years for units that are rented.
 - 2. Forty-five years for units that are owner-occupied.
- C. Housing development projects constructed pursuant to this chapter shall also be eligible for a density bonus, incentives, concession, waivers, or reductions of development standards and parking ratios, pursuant to Government Code Section 65915, Chapter 22.80 (Density Bonus), or Chapter 22.81 (Development Incentives and Community Benefit Program).

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.040. Development processed as a use by right.

A housing development project that complies with all requirements of this chapter shall be processed as a "use by right".

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.050. Objective development standards.

The required distances between structures, and minimum site area, frontage, width and depth of the site, usable outdoor space; maximum site area coverage; front yards, side yards, rear yards, and accessory structures shall comply with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts); the objective design and development standards in Chapter 22.51B (Objective Design and Development Standards for Qualified Multifamily Development Projects) and Chapter 22.51C (Objective Design and Development Standards for Qualified Mixed-Use Development Projects); other applicable objective development standards in this title, and any other objective development standard in an adopted Specific Plan.

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.060. Height of structures.

The maximum allowable height of structures shall be based on residential density, as outlined in Table 22.31.060.

Table 22.31.060	
Residential Density	Maximum Height
21 — 29.5 du/ac	Two and a half stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater
30.0 — 39.5 du/ac	Three stories or a maximum of 36 feet above the 100-year flood plain, whichever is greater
40.0 — 50.0 du/ac	Four stories or a maximum of 48 feet above the 100-year flood plain, whichever is greater

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.070. Off-street parking and loading.**A. Off-Street Parking.**

1. Off-street parking for housing development projects that comply with the requirements of this chapter shall provide a minimum of one parking stall per dwelling unit.
2. Dwelling units that are not affordable shall provide off-street parking that complies with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts).

B. Loading. In addition to the minimum required off-street parking stalls, the housing development project shall provide the off-street loading facilities for trucks outlined in Sections 22.36.100 and 22.36.110.**C. Parking Exceptions.** Off-street parking shall not be required for a housing development project in any of the following instances:

1. The housing development project is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in Public Resources Code Section 21155(b).

2. There is a designated pick-up or drop-off location for a car share vehicle located within one block of the housing development project.
(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.080. Ancillary uses.

- A. Notwithstanding any other provision of this chapter, a housing development project that is eligible for approval by right may include the following ancillary uses, provided that those uses are limited to the ground floor of the development:
 1. In a single-family residential zoning district, ancillary uses shall be limited to childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and other Martinez residents.
 2. In all other zones, the housing development project may include ancillary commercial uses that are permitted in the underlying zoning district without approval of a conditional use permit.

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.090. General requirements and exceptions.

All uses shall be subject to the general requirements and exceptions prescribed in Chapter 22.34 (General Requirements and Exceptions).

(Ord. No. 1451, § III, 1/17/2024; Ord. No. 1472, 6/4/2025)

§ 22.31.100. Application.

- A. Submittal Requirements. Filed applications shall include the information identified in the checklist on file with the Planning Division, and all applicable fees in accordance with the currently adopted User Fee Schedule.
- B. Density Bonus. If an application includes a density bonus, incentive, concession, waivers, or reductions of development standards and parking ratios, then it shall be submitted and processed concurrently with any other application(s) required for the housing development project.
- C. Completeness Review. Following receipt of an application, the City shall provide to the applicant a letter which identifies project issues of concern and the procedures for compliance with this chapter and other applicable objective standards.
- D. Public Notification. A Notice of Decision shall be given not less than ten days before the date of a scheduled decision to owners of real property within 300 feet of the subject property. Contents of the notice shall include the date and time on or after which a decision will be made, place of the decision, review authority, a general explanation of the matter to be considered, and the project location. Final approval or disapproval shall be made by the review authority specified in Section 22.31.100.

(Ord. No. 1472, 6/4/2025)

§ 22.31.110. Review Authority.

The Community and Economic Development Director, Planning Manager, or designee(s) shall

be the review authority for housing development projects pursuant to this chapter, except for the specific decision regarding the application for a minor or major subdivision map, which shall be decided by the review authority identified in Title 21 (Subdivisions).

(Ord. No. 1472, 6/4/2025)

§ 22.31.120. Relationship with Subdivision Regulations.

Housing development projects requesting a major or minor subdivision are subject to the Subdivision Map Act and the applicable provisions of Title 21 (Subdivisions). Where a potential conflict between the AHO District and the provisions of Title 21 (Subdivisions) exists, the provisions of Title 21 (Subdivisions) shall govern.

(Ord. No. 1472, 6/4/2025)

§ 22.31.130. Conflicts Between Regulations.

Notwithstanding the regulations set forth in this chapter, if any section of this chapter conflicts with Government Code Section 65915 or other applicable State law, then State law shall supersede this chapter. Where there is a conflict between the CSO District and any other section of this title or any applicable provision of the Municipal Code, then the review authority of this chapter shall determine which regulation prevails.

(Ord. No. 1472, 6/4/2025)

§ 22.31.140. Appeal.

Within 10 days following the date of a decision of the review authority, the decision may be appealed to the Planning Commission by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1472, 6/4/2025)

CHAPTER 22.32
AGRICULTURAL LAND CONSERVATION

§ 22.32.010. Purpose.

The purpose of the agricultural land conservation provisions of this Title is to provide enabling provisions to allow the City to enter into agricultural land preservation contracts permitted by the California Land Conservation Act.

(Prior code § 10,113.0; Ord. 822 C.S. § 2, 1975)

§ 22.32.020. Establishment.

Agricultural preserves may be established within any area of the City designated on its General Plan as being planned for open space used and within any area of the City within the areas identified on the General Plan as "conservation zones." All land within an agricultural preserve shall be subject to a land conservation contract or agreement.

(Prior code § 10,113.1; Ord. 822 C.S. § 2, 1975)

§ 22.32.030. Standards.

There shall no minimum size for agricultural preserves in the City provided, however, that the use of the land shall be devoted to agricultural uses as defined in the California Land Conservation Act (Government Code Section 51200 ff. as amended).

(Prior code § 10,113.2; Ord. 822 C.S. § 2, 1975)

§ 22.32.040. Contracts.

Land conservation contracts shall be for a minimum term of ten years, renewable annually in the manner provided in Government Code Section 51244. Land conservation contracts shall include the following:

- A. Landowner promises to restrict the use of the land to those agricultural and compatible uses allowed by terms of the contract;
- B. Provisions that, if the landowner fails to comply with the agreement's terms and conditions so as to render the land or portion thereof unfit for further agricultural use, the owner shall pay as liquidated damages to the City a sum equal to the equalized assessment value of the property as established by the County Assessor on the lien date next following the date of breach. This provision shall not be deemed a waiver of other legal or equitable remedies for enforcement of the terms of the contracts;
- C. Provisions that the contract may be cancelled only by the mutual agreement of the owner and the City pursuant to the provisions of Government Code Sections 51282, 51283(a) and (b), and 51283.3, provided, however, that under no circumstances shall the payment of a cancellation fee provided therein be waived, deferred or made subject to any contingency whatever;
- D. Provisions that division of the property subject to the agreement into two or more parcels may be construed by the City as a notice of nonrenewal by the property owner upon a finding by the Board of Adjustments that the effect of the division is detrimental to the ultimate preservation of the property for exclusively agricultural use.

(Prior code § 10,113.3; Ord. 822 C.S. § 2, 1975)

§ 22.32.050. Zoning.

Land subject to an agricultural land conservation agreement or contract shall be zoned to RF Recreational Facilities District, OS Open Space District or U Undesignated District.

(Prior code § 10,113.4; Ord. 822 C.S. § 2, 1975)

§ 22.32.060. Application.

The City Council shall, by resolution, establish rules and procedures for submitting applications for land conservation contracts and for review of the applications by the appropriate City agencies.

(Prior code § 10,113.5; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.33
HILLSIDE DEVELOPMENT REGULATIONS

§ 22.33.010. Hillside development regulations—Purpose.

- A. The hills of Martinez are a highly valued natural feature of the community. The Martinez General Plan recognizes the intrinsic value and sensitive nature of the hills and sets as policies and goals the preservation of the hills from overbuilding and visually intrusive development. It is the intent of this Chapter to implement the aims of the General Plan Land Use Element, Hill Residential Areas and the Environmental Goals and Policies of the Open Space Element, by:
1. Relating the intensity of development to the limitations imposed by topography, hydrology and geology and avoiding development in areas prone to erosion, flooding and landsliding; and
 2. Ensuring that the level of development is consistent with the level of services which reasonably can be provided in hill areas; and
 3. Preserving the natural features, environmental quality and scenic character of the hills while providing creative, innovative and safe residential development with a variety of housing types.
- B. The provisions of this Chapter shall apply to any form of residential development including all sites to be developed as a subdivision or as a planned unit development on properties with any areas of 10% and/or above slope as shown on the Slope Analysis or Seismic and Geologic Hazards Maps of the Open Space, Conservation, Seismic Safety, Scenic Roadway Element of the General Plan or as determined by a slope and hazard area map as described in Section 22.33.020.
- (Ord. 1211 C.S. § II, 1994)

§ 22.33.020. Maximum allowable density calculations.

The maximum allowable density of residential units on properties governed by these sections is calculated by using a slope and hazard area map and the following Table No. 1. The maximum allowable density shall only be permitted where the property design Standards set forth in Section 22.33.040 of this Chapter are met; provided however that the City may determine that a lower density is required to meet the findings, objectives and other criteria as established in this Chapter or that a lower density is required due to the topography, hydrology, geology and/or other physical limitations.

As part of a complete application for development of property governed by this Chapter, the applicant shall submit a slope and hazard area map of the site upon which development is proposed at a minimum scale of 1 inch per 100 feet, with a minimum contour interval of 10 feet. Percent slope shall be shown on the map as described in the following information. Percent slope is determined by dividing the change in elevation between contours by the horizontal distance between the respective contours. The map shall show site areas of slope in the categories of 1-10 percent, to 10.01-15 percent, 15.01-20 percent, 20.01-30 percent and over 30 percent. The map shall also show Hazardous Areas as discussed in Section 22.33.030C. A tabulation of the site area in acres in each of these slope range categories shall be included.

See the following sample, Figure 1 which shall be used in showing the information required

by this section. Use the following Table No. 1 to find the maximum allowable density. Take each category and move horizontally to the number listed under the zoning designation of the property. This is the maximum number of units per acre allowed in the corresponding zone designation. Multiply this number by the acres of the site (as shown on the map) in this category. Do this for each category. Add up the total allowed in each category for the maximum allowable density.

Table No. 1
TABLE OF ALLOWABLE DENSITY (MAXIMUM UNITS PER GROSS ACRE)

Site Category	Zoning Districts										
	R-1.5	R-2.5	R-3.5	R-6.0	R-7.5	R-10	R-15	R-20	R-40	R-80	R-100
0-10%	29.0	17.4	12.4	7.3	5.8	4.3	2.9	2.0	1.0	0.5	0.4
10-15%	4.3	2.6	2.3	1.3	1.3	1.3	0.8	0.5	0.3	0.15	0.12
15-20%	0.9	0.9	0.9	0.8	0.8	0.8	0.8	0.5	0.3	0.15	0.12
20-30%	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.5	0.3	0.15	0.12
30% and over	0	0	0	0	0	0	0	0	0	0	0
Hazard areas	0	0	0	0	0	0	0	0	0	0	0

(Ord. 1211 C.S. § II, 1994)

§ 22.33.030. Density calculations—Exemptions, exclusions, conditions.

- A. These regulations are not intended to preclude development on lawfully existing parcels. A parcel of land, lawfully in existence on March 19, 1915, shall be exempted only from the hillside development calculations set forth in Chapter 22.33, when proposed for only one dwelling unit. Notwithstanding anything to the contrary stated herein, such parcel will still be required to meet the Development Standards, set forth in Section 22.33.040, and the Maximum Floor Area Ratio Standards for Hillside Lots, set forth in Section 22.33.060 of this Chapter.
- B. Construction in areas of over 30% slope requires such extreme alteration of the topography as to severely and unalterably depreciate the scenic quality of the natural landform. Therefore, except as provided below, site areas of greater than 30% slope shall be excluded from development. These areas shall not be developed, except as follows:
 - 1. On an existing lot of record development of only one single family house is permitted on slopes of greater than 30% as long as there is no building site for that house on 30% or under slope.
 - 2. Roads connecting development areas may pass over areas of over 30% slope, only where such roads cannot be located on 30% or less slopes and such roads are approved by the Planning Commission. Grading shall be limited to that necessary for the road or the minimum amount which will create the most natural appearing contours.
 - 3. In either case (B.1. and B.2.), development shall only be allowed if it can be demonstrated that significant alteration of the topography will be minimized and that hazards to public safety will not be incurred.
- C. All land areas, regardless of slope, which are hazardous to life and/or property due to soils, geological, seismic or hydrological factors shall be excluded for the purposes of calculating the permitted density of development. Repair of these areas shall not allow them to be counted in the maximum density calculation. Any area of the site which has been excluded from density calculations under this subsection C shall be precluded from further development by a scenic easement, dedication of open space, deed of development rights, or other appropriate method approved by the City.
- D. No development shall be approved on a visually significant hillside or ridgeline as depicted on the Visual Environment Map in the Open Space Conservation Element of the General Plan. An exception may be granted by the Planning Commission if it makes all the following findings:
 - 1. Due to the application of this Chapter and specifically this subsection D, a structure could not otherwise be constructed on the parcel;
 - 2. Development is designed to take place is far beneath the visually significant ridge as practicable or in the least visible portion of the visible hillside; and
 - 3. The proposed siting, grading, landscaping and architecture are such that the development will not conflict with the standards set forth in Section 22.33.040.

(Ord. 1211, C.S. § II, 1994)

§ 22.33.040. Development standards.

- A. The proposed grading of the property shall be designed to minimize disruption of the natural topography. Grading shall be limited to roads, driveways, garage pads, cuts under the house and cuts on the uphill side of the house which are screened from public view by the house or existing vegetation or as required by sight distance requirements, drainage, and slope stability purposes. All grading shall be designed in such a manner that it presents a finished look of rounded slopes. All exposed graded areas shall be hydroseeded/re-landscaped to minimize erosion. All proposed roads shall follow contour lines, where feasible, to minimize grading.
- B. Areas of slope instability due to slides, drainage or other geologic hazards shall not be developed. Where these conditions cannot be mitigated by locating development away from the hazard, they shall be repaired as required for the protection of public safety.
- C. The proposed development shall preserve the appearance of scenic ridgelines and protect natural features on the site in their natural state such as trees, creeks, riparian corridors, stock ponds, hill slopes, knolls, ridgelines, outcroppings and natural habitat areas. Natural features of the site such as trees and rock or land formations shall be used to reduce the development's visibility.
- D. The proposed development shall maintain a high quality residential design while reflecting any existing residential patterns and character. It shall minimize the impact of new residential development, to the extent feasible, upon existing residents' views and minimize shadows on adjacent properties. The design of the homes including massing, roof lines, exterior materials, colors, and decking shall be designed to complement the terrain.
- E. The minimum lot area shall not be less than that prescribed by the applicable land use district. However, the required lot areas may be increased above the minimum when the Planning Commission finds that it is necessary to do so because of the physical terrain in order to ensure that there will be a suitable building site for the approved use. In determining whether it is necessary to increase the lot area, the reviewing body shall apply the standards set forth in this section.
- F. Open space lands within the proposed development shall be left in private ownership with scenic easements restricting development unless public ownership or access is desirable or necessary.
- G. The character of the natural setting shall be enhanced with natural landscape designs emphasizing native species and retaining existing vegetation. Plant species shall be selected which are drought tolerant and minimize erosion and fire hazard risks to persons and property.

(Ord. 1211 C.S. § 11, 1994)

§ 22.33.050. Maximum floor area ratio for existing hillside lots.

- A. This regulation is included in this Chapter to limit the size of structures on substandard size hillside lots and to encourage the consolidation of substandard size hillside lots into larger building sites and encourage compatibility with existing homes in the neighborhood, terrain and lot size.

- B. Where the natural slope of the site under the proposed structure exceeds 20% and the site area is substandard in terms of current zoning and/or slope density site area requirements (Section 22.12.150), a maximum floor area ratio (FAR) of .30 shall be allowed for all structures on the site.
- C. To calculate the allowable floor area for a site subject to FAR regulation, the site area is multiplied by the FAR. The resulting floor area is the maximum gross floor area allowable on the site except in the following instances:
1. The floor area of a garage or carport shall be allowed in addition to the maximum floor area resulting from the FAR.
 2. On a site situated between substandard size sites improved with buildings, the maximum FAR shall be the average FAR on the improved sites adjoining the sidelines of the site, or that of paragraph B above (whichever is greater).
 3. Where a site is not situated between substandard size sites improved with buildings and where substandard size sites comprising 40% of the frontage on a block are improved with buildings, the maximum FAR shall be the average of the FAR's of existing substandard size sites in the block or that of paragraph B above (whichever is greater).
 4. The Planning Commission may consider requests for additional floor area beyond that permitted under this section by use permit (Section 22.40 et seq.).

(Ord. 1211 C.S. § II 1974; Ord. 1100 C.S. § 11, 1987)

§ 22.33.060. Definitions.

- A. "Substandard size hillside lot" means an existing lot which does not meet the site area requirements of the current zoning and/or hillside density calculations set forth in this Chapter.
- B. "Visually significant hillside or ridgeline" means topographical features which dominate the visual field from both near and far views as shown on the Visual Environmental Map of the Open Space, Conservation, Seismic Safety, Scenic Roadways Element of the Martinez General Plan.

(Ord. 1211 C.S. § II, 1994)

CHAPTER 22.34
GENERAL REQUIREMENTS AND EXCEPTIONS

§ 22.34.010. Purpose.

The general provisions and exceptions are incorporated into the zoning title to provide a listing and explanation of provisions and exceptions which are common to more than one or, all zoning districts. The provisions contained herein are to be considered applicable to all zoning districts unless otherwise indicated, the same as if they were separately included under each zoning district.

(Ord. 1328 C.S., § 4, 2006; Ord. No. 1379 C.S., § 20, 2/19/2014)

§ 22.34.020. Environmental impact.

In addition to the requirements of this Title all proposed use changes and/or construction shall be subject to the provisions of Title 20 of this code. As provided therein, the potential environment impact of a proposed use change and/or construction project is required to be evaluated prior to a final determination as to the acceptability of a proposed use, whether listed as a permitted or conditional use in the zoning regulations or not. A decision must be reached as to the applicability of the Environmental Quality Act to a proposed use change and/or construction project and, if applicable, as to the potential environmental impacts of the proposed use change and/or construction project prior to any decisions as to the acceptability of the proposed use change and/or construction project.

(Prior code § 10,114.1; Ord. 822 C.S. § 2, 1975)

§ 22.34.030. Design review—Applicability.

Each application made for a building permit to construct or alter the exterior of a structure shall be subject to architectural and site design review by the Planning Division prior to issuance of the permit, except for Accessory Dwelling Units consistent with Chapter 22.43 or as provided below relative to the R and RR Single-Family Residential Districts.

This section and Sections 22.34.040 through 22.34.070 shall apply to applications for building permits in the R and RR districts only when one or more of the following conditions exist:

- A. The permit site is an undeveloped parcel adjoining one or more additional undeveloped parcels under the same ownership, as shown on the current Tax Assessor's rolls. "Adjoining" for purposes of this section and Sections 22.34.030 through 22.34.070 includes parcels separated by public rights-of-way, including streets and nonexclusive easements.
- B. The permit site is located in a visually significant area. "Visually significant" areas are those labeled as "visually significant hilltops and ridges," "visually significant hillsides," "visually significant riparian vegetation" and "visually significant skyline vegetation" on the map entitled "visual environment" within the open space and conservation element of the 1973 General Plan, as amended.
- C. The permit site is located within a seismic or geologic hazard area. A permit site shall be considered as located within a seismic or geologic hazard area if it appears to lie on a fault trace or on "slopes, 20 to 30 percent having high landslide susceptibility" or on "slopes over 30 percent in grade" as identified on the map entitled seismic and geologic hazards within the open space and conservation element of the General Plan.

- D. The natural grade of the permit site under the proposed structure has an average slope of ten percent or greater. The method for computing slope shall be specified in Section 22.12.170.

(Prior code § 10,114.2(a); Ord. 822 C.S. § 2, 1975; Ord. 845 C.S., 1976; Ord. No. 1447, § 8, 7/19/2023)

§ 22.34.040. Design review—Plan submittal—Action by Planning Director.

Complete site plans and elevations shall be submitted to the Planning Department showing all proposed structural development, the relationship of existing structures and all other proposed improvements. Such drawings shall be considered by the Planning Director in an endeavor to insure that the architecture and general appearance of the site, structures and grounds will be in keeping with the character of the neighborhood, will not be detrimental to the orderly and harmonious development of the City, and reflect City development policies and goals. The Planning Director may, at any time, withhold action and refer the matter directly to the Board of Adjustments.

(Prior code § 10,114.2(b); Ord. 822 C.S. § 2, 1975)

§ 22.34.045. Criteria and standards.

The Community Development Director shall not approve any Design Review application unless the proposed design and use conforms with the following criteria and standards by:

- A. Complying with all other applicable provisions of the Martinez Municipal Code involving the physical development of buildings, structures and property, including use restrictions;
- B. Providing desirable surroundings for occupants as well as for neighbors. Emphasis is placed upon exterior design with regard to height, bulk, and area openings; breaks in the facade facing on a public or private street; line and pitch of the roof; and arrangement of structures on the parcel;
- C. Having a harmonious relationship with existing and proposed neighboring developments avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted;
- D. Using a limited palette of exterior colors; those colors must be harmonious and architecturally compatible with their surrounding environment;
- E. Using a limited number of materials on the exterior face of the building or structure. In addition, all interior surfaces normally visible from public property shall be finished;
- F. Having exterior lighting appropriately designed with respect to convenience, safety, and effect on occupants as well as neighbors;
- G. Effectively concealing work areas, both inside and outside of buildings, in the case of non-residential facilities;
- H. Undergrounding all utility boxes unless it can be shown that they can be effectively screened from the view of the general public;
- I. Designing the type and location of planting with respect to the preservation of specimen and landmark trees, water conservation as set forth in Chapter 22.35, and maintenance of all planting;

- J. Establishing a circulation pattern, parking layout and points of ingress and egress (both vehicular and pedestrian), designed to maximize pedestrian safety and convenience and to minimize traffic congestion resulting from the impediment of vehicular movement. When applicable, access for handicapped individuals should be considered;
- K. Ensuring that all signs be designed so that they are in scale with the subject development, and will not create a traffic hazard. Emphasis is placed upon the identification of the use or building rather than the advertising of same;
- L. Substantially preserving views from nearby properties where this can be done without severe or undue restrictions on the use of the site, balancing the property rights of the applicant and the affected property owner(s).

The Community Development Director may attach conditions, including requirements for dedications and offsite improvements, to the approval of any Design Review application when necessary to assure compliance with this section. Approval of Design Review shall expire in one year, in the same manner as set forth in Section 22.40.120 for use permits.

(Ord. 1043 C.S. § I, 1985; Ord. 1195 C.S. § 1, 1993; Ord. 1208 C.S. § 1, 1993;)

§ 22.34.050. Design review—Appeal to Board of Adjustments.

The applicant may appeal a decision of the Planning Director to the Board of Adjustments in writing, within 10 days of the rendering of the decision. The Board of Adjustments shall review the staff decision within 45 days of receipt of said appeal and may affirm, modify or reverse the findings of the Planning Director.

(Prior code § 10,114.2(c).0; Ord. 822 C.S. § 2, 1975)

§ 22.34.060. Design review—Appeal to Planning Commission.

- A. Within 10 days of an action taken by the Board of Adjustments, the applicant may appeal the decision in writing to the Planning Commission. The appeal shall be made in a form prescribed by the Planning Commission and filed with the Planning Department. The Planning Commission may affirm, modify or reverse a decision of the Board of Adjustments.

- B. The Planning Commission shall hear the matter de novo. Design review approval shall require a majority vote of the members of the Planning Commission voting on the matter. A tie vote shall have the legal effect of denying design review approval.

(Prior code § 10,114.2(d); Ord. 822 C.S. § 2, 1975; Ord. 1275 C.S. § 1, 2000)

§ 22.34.070. Design review—Appeal to City Council.

- A. Within 10 days of an action taken by the Planning Commission, the applicant may appeal the decision in writing to the City Council. The appeal shall be made in a form prescribed by the Council and filed with the City Clerk. The City Council may affirm, modify or reverse a decision of the Planning Commission.

- B. The City Council shall hear the matter de novo. Design review approval shall require a majority vote of the members of the City Council voting on the matter. A tie vote shall have the legal effect of denying design review approval.

(Prior code § 10,114.2(e); Ord. 822 C.S. § 2, 1975; Ord. 1275 C.S. § 2, 2000)

§ 22.34.080. Signs.

Sign regulations for all zoning districts in the City shall be as prescribed in Title 16 of this Code. (Prior code § 10,114.3; Ord. 822 C.S. § 2, 1975)

§ 22.34.090. Fences, walls, and hedges.

Fences, walls and hedges not exceeding six feet in height shall be permitted, except that they may not exceed three and a half feet in height within a required front yard area, with the following exceptions:

- A. In the R Residential districts, on a site having a natural downslope of 20 percent or more in the required front yard, a fence, wall or hedge not exceeding six feet in height shall be permitted in the front yard;
- B. In the R, I, and PA districts, fences, walls and hedges shall not exceed three and a half feet in height anywhere within 50 feet within a street intersection;
- C. In the C Commercial districts, fences, walls and hedges shall not exceed three and a half feet anywhere within 15 feet of a street intersection.
- D. The following fence and wall materials shall be prohibited: barbed wire, razor wire, chain link, corrugated metal, and unfaced concrete block or cinder block, except that chain link fences shall be permitted in the HI district, except as provided for by a variance granted administratively without a public hearing. The variance shall be granted if Staff makes the variance findings provided in Section 22.44.070(A).
- E. Fences and walls placed directly on or adjacent to one or more other fences and walls shall not exceed a combined height of six feet. Fences and walls are considered separate structures and may each be up to six feet tall provided that a minimum separation distance equal to or greater than the height of the shorter structure exists.
- F. In all C Commercial districts, where the property line of a site adjoins property in a R Residential or PA Professional and Administrative Office district, a solid masonry wall or board fence six feet in height shall be located on the property line.

(Prior code § 10,114.4; Ord. 822 C.S. § 2, 1975; Ord. No. 1448, § 10, 9/27/2023; Ord. No. 1473, 6/25/2025)

§ 22.34.100. Addition of permitted uses.

Upon application, or on its own initiation, the City Planning Commission may add a use to the list of permitted uses prescribed in Sections 22.16.040 through 22.16.070, 22.18.030 and 22.18.040 of this Title if the Commission makes the following findings that:

- A. The addition of the use to the list of permitted uses will be in accord with the purposes of the district in which the use is proposed;
- B. The use will be an appropriate addition to the list of permitted uses because the use has the same basic characteristics as the uses permitted in the district;
- C. The use will not be detrimental to the public health, safety or welfare;
- D. The use will not adversely affect the character of any district in which it is proposed to be

permitted;

- E. The use will not create more vehicular traffic than the volume normally created by any of the uses permitted in the district;
- F. The use will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness or any other objectionable influence than the amount normally created by any of the uses permitted in the district.

When a use has been added to a list of permitted uses in accord with the procedures prescribed in this section, the use shall be deemed to be listed as a permitted use in the appropriate section, and shall be added to the text of this section of this Title when it is next published.

(Prior code § 10,114.5; Ord. 822 C.S. § 2, 1975)

§ 22.34.110. Conformity with district regulations.

- A. No site or structure shall be used or designated for use for any purpose or in any manner other than in conformity with regulations for the district in which the site or structure is located.
- B. No structure are shall be erected and no existing structure or use shall be moved, altered or, enlarged except in conformity with the regulations for the district in which the structure or use is located.
- C. No yard or other open space surrounding any structure or use shall be used, encroached upon or reduced in any manner except in conformity with the regulation for the district in which the yard or open space is located.
- D. No site held in one ownership at that time of the adoption of this Title or at any time thereafter shall be reduced in any manner below the minimum area, frontage, width or depth prescribed for the district in which the site is located.

(Prior code § 10,114.6; Ord. 822, C.S. § 2, 1975)

§ 22.34.130. Yard spaces.

No yard space provided about any structure in compliance with the regulation for the district in which it is located shall be deemed to provide a yard space for any other structure, and no yard on one site shall be deemed to provide a yard space for a structure on any other site.

(Prior code § 10,114.8; Ord. 822 C.S. § 2, 1975)

§ 22.34.140. (Reserved)⁴³

§ 22.34.150. Yard requirements—Measurement.

- A. Required yards shall be measured as the minimum horizontal distance from the property line of the site or street line to a line parallel thereto on the site; provided, that where an official plan line has been set by action of the City Council or any other duly authorized agency or official, required yards shall be measured from the official plan line, and no provision of this Title shall be construed to permit a structure or use to extend beyond such line; and provided further, that where a site abuts on a street having only a portion of its

43. Editor's note: Former § 22.34.140, which pertained to coverage—measurement and derived from Ord. 822 C.S., 1975, and prior code § 10,114.9, was repealed 4/2/2025 by Ord. No. 1469.

required width dedicated or reserved for street purposes, required yards shall be measured from a line drawn on the boundary of the additional width required for street purposes abutting the site.

- B. On a site which is not rectangular or approximately rectangular in shape, required yards shall be measured in the manner prescribed by the Board of Adjustments.

(Prior code § 10,114.10; Ord. 822 C.S. § 2, 1975)

§ 22.34.160. Yard requirements—Exceptions.

Building projections that conform to the following standards shall be allowed in required yards, but shall not project into a public right-of-way without first obtaining an encroachment permit or written intention to issue an encroachment permit from the Department of Public Works:

- A. Sills, chimneys, cornices and eaves, planter boxes and wall-mounted lighting may extend into a required side yard or a space between buildings not more than 24 inches.
- B. Bay windows and balconies at any vertical elevation may extend 30 inches or less inches into a required yard or space between buildings.
- C. Open, unenclosed, uncovered balconies, porches, platforms, stairways and landings placed, no part of which is more than six feet above the surface of the ground, may extend into a required yard or space between buildings not more than six feet.
- D. Open, unenclosed, covered porches and architectural arcades, if adjacent to building entry and if no part of which is more than 15 feet above finished grade, may extend six feet or less into a required yard or space between buildings.
- E. Open, unenclosed, uncovered metal fire escapes may project into any required yard or space between buildings not more than three feet.
- F. Swimming pools shall be permitted in any yard except a required front yard. No pump or filter installation shall be located less than five feet from a side property line or the rear property line of a reversed corner lot.
- G. Fences, walls, hedges, walks, driveways and retaining walls may occupy any required yard or other open space, subject to the limitation prescribed in the district regulation.
- H. Ground-mounted mechanical equipment, including, but not limited to, HVAC units, generators, and other similar structures, may project into a required side or rear yard setback provided it does not exceed four feet in height and is located no closer than three feet from any rear or side property line. All ground-mounted mechanical equipment shall be subject to the provisions set forth in Chapter 8.34 (Noise Control). All ground-mounted equipment shall be located closer to the primary structure on the subject property than to the property line.

(Prior code § 10,114.11; Ord. 822 C.S. § 2, 1975; Ord. No. 1473, 6/25/2025; Ord. No. 1480, 12/10/2025)

§ 22.34.170. Height limitations—Measurement and exceptions.

- A. Method of measurement. To limit the height of structures and to encourage conformity with the natural grade upon which they are placed, the height of a structure shall be measured vertically from any point of the surface of the ground covered by the structure directly over

said point. For residential sites (and other sites at the option of the Planning Commission) exceeding 10% existing natural slope for the portion of the site covered by the proposed structure, height shall be measured from the original natural grade.

B. Exceptions to maximum height limitations.

1. The Planning Commission may consider requests for exceptions to a zoning district's maximum height limitation by use permit (Chapter 22.40 et seq.).
2. Towers, spires, cupolas, chimneys, penthouses, water tanks, flagpoles, monuments, scenery lofts, transmission towers, fire towers and similar structures and necessary mechanical appurtenances covering not more than 10% of the ground area covered by the structure, may be erected to a height not more than 25 feet above the height limit prescribed by the regulations for the district in which the site is located. Utility poles and towers shall not be subject to the height limits prescribed in the district regulations. Radio and television aerials may be erected to a height not more than 50 feet above the height limit prescribed by the regulations for the district in which the site is located.

(Prior code § 10,114.12; Ord. 1335 C.S. § 4, 2007; Ord. 822 C.S. § 2, 1975)

§ 22.34.180. Installation and maintenance of landscaped areas.

All landscaped areas or nonstructural site development elements other than parking, required under use permits, variances or PUD permits, shall be subject to the provisions of this section.

Nonstructural site development elements shall include but are not limited to: lighting needed for safety purposes, sprinkler systems, walkways, stairs, ramps, benches, screens, fences, walls or any structure for which a building permit is not required.

- A. Installation performance bond. When landscaping and/or nonstructural site development elements, other than parking are required as a condition of approval, as prescribed in this title, a performance bond, surety bond or cash deposit, in the amount of 100 percent of the estimated cost of materials and installation, shall be posted prior to the issuance of any building permit.
- B. Maintenance of landscaped areas. A landscaped area provided in compliance with the regulations prescribed in this title shall be planted with materials suitable for screening and enhancement of the facility, and plant materials shall be replaced as needed to maintain the site in at least the condition shown on the approved landscape plan. Landscaped areas shall be watered, weeded, pruned, fertilized, sprayed and/or otherwise maintained as may be prescribed by the Planning Department. Performance bonds in the amount of one hundred percent (100%) of the replacement cost of the landscaping may be required to be posted to guarantee the continued maintenance of required landscaping, for up to a 10-year period, when determined by the Board of Adjustments or Planning Commission to be appropriate or necessary because of the important role of landscaping as a part of the approved overall design concept.

(Prior code § 10,114.13; Ord. 822 C.S. § 2, 1975)

§ 22.34.190. Dog fanciers' conditional use permit.

- A. A dog fanciers' dog license shall be obtained from Contra Costa County animal control only after issuance of a conditional use permit and only in the following land use districts:

Residential Districts, except R-1.5 and R-2.5; Commercial Districts; Industrial Districts; Environmental Conservation Districts. Dog fancier's conditional use permits shall not be granted on sites of less than 20,000 square feet. Dog fancier's permits shall limit the number of dogs over six months of age permitted on the site to 4, except that in Residential Districts requiring 20,000 square feet or more minimum lot sizes, the maximum number of dogs permitted shall be fixed by the Board of Adjustments as a condition in granting of a conditional use permit. All dogs maintained by dog fanciers shall be confined on the premises or trained and exercised under the owner's control and shall be enclosed in a building during the hours of darkness.

B. Compliance. All dog fanciers within the City shall comply with the regulations of this section within 12 months of the effective date of the ordinance codified herein by the following means:

1. Dog fanciers who cannot comply with these provisions due to inadequate site area, improper zoning or other reasons shall not be permitted to renew their yearly dog fanciers' license through Contra Costa County animal control at the expiration of the current license, and the use shall be abandoned thereon.
2. Dog fanciers who can comply with these provisions shall do so through the obtaining of a conditional use permit prior to renewal of their yearly dog fanciers' license through Contra Costa County animal control at the expiration of the current license.

(Prior code § 10,114.14; Ord. 822 C.S. § 2, 1975)

§ 22.34.200. Quarries and crushing plants.

- A. No person shall establish, maintain or operate in the City any rock quarry, sand or gravel pit, rock crushing plant, or any apparatus for the manufacture or production of rock, sand or gravel or for the exportation or importation, or sale of earth fill without first obtaining a land use permit from the Board of Adjustments after due notice and hearing under the procedures set forth in Chapter 22.40 of this Title.
- B. The Board of Adjustments may approve an application for a quarry or a crushing plant if, on the basis of the application and the evidence submitted, the use will not be nor is likely to become a public nuisance, or will be dangerous or detrimental to the public peace, health, safety or general welfare.

(Prior code § 10,114.15; Ord. 822 C.S. § 2, 1975)

§ 22.34.210. Conditional zoning.

On the Planning Commission's recommendation, the City Council may impose conditions on the zoning reclassification of property. These conditions shall be those only which the Council determines, after considering the Commission's recommendations, to be necessary to avoid circumstances inimical to the public health, safety or general welfare, or to fulfill public needs reasonably expected to result from the allowable uses and/or development; and the conditions shall be reasonably related to the necessities of each case considering all the relevant facts.

Further, these conditions shall relate to special problems of the property if rezoned, such as water supply, sewers, utilities, drainage, grading or topography, access, pedestrian or vehicular traffic, or proposed physical developments affecting nearby properties.

The ordinance reclassifying the property shall not be operative until the conditions have been

satisfied, or assurance provided by way of contract (with adequate surety), as found and declared by Council resolution.

(Prior code § 10,114.16; Ord. 822 C.S. § 2, 1975)

§ 22.34.220. Limits on large-scale retail stores.

For retail stores exceeding 90,000 square feet of gross floor area, no more than 5% of the total sales floor shall be devoted to the sale of non-taxable merchandise.

(Ord. 1296 § I, 2002)

§ 22.34.230. Homeless shelters.

A. Homeless shelters, emergency may be located within areas of the SC—Service Commercial District or the LI—Light Industrial District, and with the following development and performance standards:

1. On-site management and on-site security shall be provided during all hours when the emergency shelter is in operation at a ratio of 1 staff member for every 15 persons utilizing the shelter. One office or cubicle intake area per 10 clients shall be maintained. An indoor onsite waiting area of no less than 275 square feet shall be provided.
2. External lighting shall be provided for security purposes as a minimum average of 3 foot candles at ground level. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the surrounding area.
3. The development may provide 1 or more of the following specific common facilities for the exclusive use of the residents and staff:
 - a. Central cooking and dining room(s).
 - b. Recreation room.
 - c. Counseling center.
 - d. Child care facilities.
 - e. Other support services.
4. Parking and outdoor facilities shall be designed to provide security for residents, visitors, employees and the surrounding area. On-site parking spaces shall be provided as required by Section 22.36.070.A.11, Parking—Miscellaneous Use Table.
5. A refuse storage area shall be provided that is completely enclosed with masonry walls not less than 5 feet high with a solid-gated opening and that is large enough to accommodate a standard-sized trash bin adequate for use on the parcel. The refuse enclosure shall be accessible to refuse collection vehicles.
6. The agency or organization operating the shelter shall comply with the following requirements:
 - a. Temporary shelter shall be available to residents for no more than 180 days in a calendar year. No individual or household may be denied emergency shelter

because of an inability to pay.

- b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
 - c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
7. No emergency homeless shelter shall be located within 300 feet of another emergency homeless shelter site.
 8. The facility shall obtain and shall at all times maintain good standing with any and all Federal, State, County and City licenses as required by each such agencies for the owner(s), operator(s), and/or staff on the proposed facility.
 9. The maximum number of beds or clients permitted to be served (eating, showering and/or spending the night) shall not exceed 30 persons.
- B. Homeless shelters, ongoing are subject to the same requirements for emergency homeless shelters in Subsection A above, with the exception of 22.34.230.A.9, as maximum occupancy is to be established by use permit.
- (Ord. No. 1379 C.S., § 21, 2/19/2014)

§ 22.34.240. Reasonable accommodation.

- A. Application. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. Requests for reasonable accommodation shall be submitted with the planning application form (no fee) and with a letter to the Planning Division Director and shall contain the following information:
1. The applicant's name, address and telephone numbers.
 2. Address of the property for which the request is being made.
 3. The name of the property owner and owner's written consent or signature on planning application form.
 4. The current actual use of the property.
 5. The basis for the claim that the person(s) is considered disabled under the fair housing laws.
 6. The zoning code ordinance provision, regulation or policy from which reasonable accommodation is being requested.
 7. Why the reasonable accommodation is necessary to make the specific property accessible to the person(s).
 8. Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the reasonable

accommodation.

9. Other relevant supportive information as requested by the Planning Division Director or his or her designee, consistent with fair housing laws.
 - B. Decision. Planning Division Director or his or her designee shall render a decision in writing within 30 days after the application is complete, and shall approve, approve with conditions or deny the application based on the findings in Subsection C.
 - C. Findings. The Planning Division Director or his or her designee shall approve the application, with or without conditions, if the following findings are made:
 1. The housing will be used by a disabled person;
 2. The requested accommodation is necessary to make specific housing available a disabled person;
 3. The requested accommodation would not impose an undue financial or administrative burden on the City; and
 4. The requested accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
 - D. Appeal. An appeal of the decision by the Planning Division Director or his or her designee may be made pursuant to the appeal procedures in Section 22.06.050.
 - E. Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires other discretionary approval (including but not limited to: design review, variance, conditional use permit, rezoning, general plan amendment, etc.), then the applicant shall file the information required by Subsection A together for concurrent review with the application for discretionary approval.
- (Ord. No. 1379 C.S., § 22, 2/19/2014)

CHAPTER 22.35
WATER CONSERVATION IN LANDSCAPE⁴⁴

44. Editor's note: Former Ch. 22.35, Water Conservation in Landscape, which derived from Ord. No. 1195, was repealed by Ord. No. 1473, 6/25/2025.

CHAPTER 22.36
OFF-STREET PARKING AND LOADING FACILITIES

§ 22.36.010. Purpose.

To alleviate progressively or to prevent traffic congestion and shortage of curb spaces, off-street parking and loading facilities are required to be provided incidental to new land uses and enlargements of existing land uses. The number of parking spaces and loading berths prescribed in this Title or to be prescribed by the Planning Commission shall be in proportion to the need for such facilities created by the particular type of land use. Off-street parking and loading areas are to be laid out in a manner which will ensure their usefulness, protect the public safety and, where appropriate, insulate surrounding land uses from their impact.

(Prior code § 10,115.0; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.020. Off-street parking facilities required.

- A. At the time of initial occupancy of a site or of construction of a structure or enlargement of a site or structure, or whenever a change in use creates an increase in the number of parking spaces, there shall be provided off-street parking facilities for automobiles in accord with the regulations prescribed in this section.
- B. If, in the application of the requirements of this chapter, a fractional number is obtained, one parking space shall be provided for a fraction of one-half or more, and no parking space shall be required for a fraction of less than one-half.
- C. If more than one use is allocated on a site, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this chapter for each use.
- D. Sites and structures located in Martinez Parking District No. 1 shall not be subject to off-street parking facilities' requirements, excepting residential uses, which shall comply with the requirements prescribed in this chapter. The facilities of the municipal parking lots shall not be deemed acceptable in meeting said requirements for residences.
- E. All required parking shall be located on the lot containing the use itself, with the following exceptions:
 - 1. Eligible properties enter into a Shared Parking Agreement, consistent with Section 22.36.230 (Shared Parking Regulations).
 - 2. In unusual or extraordinary circumstances, the Planning Commission may grant approval through Design Review, pursuant to Section 22.34.040, to allow a portion of all the required spaces to be located on a lot which is adjacent to the lot containing the use itself. Approval by the Planning Commission shall be based on accessibility and the reasonableness of not requiring all or a portion of the required parking spaces to be provided on the lot containing the use itself. To merit favorable consideration by the Planning Commission, the applicant must provide evidence that a suitable long-term lease or legal agreement, in a form approved by the City Attorney or designee, can be executed and recorded which would guarantee that the lot containing the use has the irrevocable right to utilize the adjacent lot for off-street parking purposes.
- F. Parking spaces provided to meet the requirement of this chapter shall not be reduced in size

or number, modified, eliminated, or transferred to another use without City approval.

G. Bicycle parking facilities shall be provided in addition to the requirement for automobile parking, as provided below.

1. Residential uses. Secure and covered long-term bicycle parking shall be provided on-site at not less than one bicycle parking space per dwelling unit, including studio units. Short-term bicycle parking shall be provided on-site at not less than one bicycle parking space per 10 bedrooms with a minimum of two spaces per multifamily residential or mixed-use project.
2. Professional and administrative office uses. On-site secure and covered long-term bicycle parking shall be provided at a ratio of not less than one space per 5,000 square feet of occupied floor area for new professional and administrative office developments.
3. General. Bicycle racks that are located adjacent to a public sidewalk or on-street daylighting spaces may be counted towards these requirements. Short-term bicycle parking facilities shall be located adjacent to circulation routes.

H. Handicapped parking spaces shall be required as follows:

0—20 spaces:	None required.
21—50 spaces:	One handicapped space.
51—100 space:	Two handicapped spaces.

One handicapped parking space shall be provided for each additional 100 parking spaces.

- I. For any off-street parking lot or parking area, a maximum of 30% of the required parking may be in compact parking spaces. If fewer than 10 parking spaces are required, then all the spaces shall be full-size automobile spaces.
- J. Design Review approval as provided in Section 22.34.040 shall be required for any construction, modification, or elimination of any parking lots or parking areas.
- K. Unbundled parking: Parking spaces shall be permitted to be leased separately from the sale or rental price of residential and commercial uses.

(Prior code § 10,115.1; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980; Ord. No. 1473, 6/25/2025; Ord. No. 1480, 12/10/2025)

§ 22.36.030. Parking—Residential uses.

- A. Residential Parking Requirements (Projects Not Within a Half-Mile of a Major Transit Stop). Parking shall be provided for residential development in accordance with the following table:

Table 22.36.030 – Residential Parking Standards			
Dwelling Type	Zoning Districts	Required Parking Spaces Per Dwelling Unit (Covered)	Required Parking Spaces Per Dwelling Unit (Open)
Single family	All districts except R-1.5, R-2.5, and R-3.5	2	0
Single family	R-1.5, R-2.5 and R-3.5	1	1
Multiple family	All districts	0	1 space for first bedroom plus 0.5 spaces for each additional bedroom
Lodging houses, apartment hotels, motels and private clubs providing sleeping accommodations	All districts	The greater of one space per guest room or one space per 2 beds.	
Subsidized or assisted senior living facilities	All districts	0.35 spaces per dwelling unit	
ADUs and JADUs	All districts	Refer to Section 22.43.080.	
Micro units	All districts	Refer to Section 22.57.070.	
Multiple family – studio and 1 bedroom	Projects requesting parking reductions as a development incentive provided in Chapter 22.81	1	
Multiple family – 2 to 3 bedrooms	Projects requesting parking reductions as a development incentive provided in Chapter 22.81	1.5	
Multiple family – 4+ bedrooms	Projects requesting parking reductions as a development incentive provided in Chapter 22.81	2.5	

- B. Residential Parking Requirements (Projects Within a Half-Mile of a Major Transit Stop). On-site parking shall not be required and shall not exceed a maximum of 1.5 spaces per dwelling unit, but in no case shall limitations apply to parking for persons with disabilities as required by law.

- C. Guest Parking. Additional required guest parking spaces shall be 0.25 space if there are over four units and not located within a half-mile of a major transit stop. The required guest spaces shall be additive and rounded up to the higher number. The Planning Commission or Zoning Administrator may approve tandem guest spaces if it can be found that residents will not be inconvenienced by this arrangement. No guest parking is required for housing development projects as defined by Cal. Gov't. Code § 65589.5 which provide at least 15% of their units for acutely low-, extremely low-, very low-, low-, or moderate-income households as defined by Cal. Gov't. Code § 65589.5(h)(3).
- D. Driveways. Driveways shall not be counted as part of any required parking, except when approved as tandem parking.
- E. Garages. Garages shall not be used for storage by any outside party nor used for habitation by any party, unless converted to an ADU or JADU consistent with Chapter 22.43 (Accessory Dwelling Units and Junior Accessory Dwelling Units). Where applicable, there shall be at all times in every garage in the City sufficient space to park at least one automobile.

(Prior code § 10,115.2; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980; Ord. 1230 C.S., § 1, 1996; Ord. No. 1447, § 9, 7/19/2023; Ord. No. 1463, § XVI, 10/23/2024; Ord. No. 1473, 6/25/2025; Ord. No. 1480, 12/10/2025)

§ 22.36.040. Parking—Office uses.

- A. Office Parking Requirements (Projects Not Within a Half-Mile of a Major Transit Stop). Parking shall be provided for residential development in accordance with the following Table:

Table 22.36.040 - Parking — Office Uses	
Use	Required Parking
Professional offices, excluding medical/dental	One space per 200 square feet
Public and private administrative offices	One space per 400 square feet
Medical/dental offices	Five spaces per full-time doctor or dentist

- B. Office Parking Requirements (Projects Within a Half-Mile of a Major Transit Stop). On-site parking for office uses shall not be required and shall not exceed a maximum of four spaces per 1,000 square feet of office space, but in no case shall limitations apply to parking for persons with disabilities as required by law.
- C. For the purposes of this section, gross floor area shall be used in all calculations, except any floor area used exclusively for storage or loading.

(Prior code § 10,115.3; Ord. 822 C.S. § 2, 1975; Ord. No. 1473, 6/25/2025; Ord. No. 1480, 12/10/2025)

§ 22.36.050. Parking—Commercial uses.

- A. Commercial Parking Requirements (Projects Not Within a Half-Mile of a Major Transit Stop). Parking shall be provided for commercial development in accordance with the following Table:

Table 22.36.050 — Parking — Commercial Uses	
Use	Required Parking
Retail stores, offices, service establishments	One space per 200 square feet
Commercial service establishments, wholesale establishments, vehicle sales and repair, appliance sales and repair, furniture sales	One space per 500 square feet
Restaurants	One space per 100 square feet
Establishments whose sales are conducted primarily outside the building	One space per three employees, plus such additional spaces as may be prescribed by the Planning Commission or Zoning Administrator
Retail complexes/shopping centers	One space for each 225 square feet for complexes of up to and including 50,000 square feet; or One space for each 250 square feet for complexes over 50,000 square feet

- B. Commercial Parking Requirements (Projects Within a Half-Mile of a Major Transit Stop). On-site parking for commercial uses shall not be required and shall not exceed a maximum of four spaces per 1,000 square feet of commercial space, but in no case shall limitations apply to parking for persons with disabilities as required by law.
- C. For the purposes of this section, gross floor area shall be used in all calculations, except any floor area used exclusively for storage or loading.
(Prior code § 10,115.5; Ord. 822 C.S. § 2, 1975; Ord. No. 1464, § V, 10/23/2024; Ord. No. 1473, 6/25/2025; Ord. No. 1480, 12/10/2025)

§ 22.36.060. Parking—Industrial uses.

Parking shall be provided for industrial uses in accordance with the following table:

INDUSTRIAL USES TABLE	
Industrial Use and Required Parking Space (per gross floor area*).	
A. Warehouse and storage buildings	One per 1,000 square feet except for areas used exclusively for truck loading
B. Manufacturing plants and other industrial uses	One per 1,000 square feet except for floor areas used exclusively for storage or truck loading, plus one space per 300 square feet of office area

Notes:

* Except for floor area used exclusively for storage or truck loading.

(Prior code § 10,115.5; Ord. 822 C.S. § 2, 1975; Ord. No. 1458, § X, 5/15/2024)

§ 22.36.070. Parking—Miscellaneous uses.

- A. For uses other than those listed previously, parking shall be provided in accordance with the following table:

PARKING—MISCELLANEOUS USE TABLE	
Use and Required Parking Spaces.	
1. Parks, playgrounds and other	1 per 3 employees plus additional as prescribed by the Planning Commission
2. Churches, community centers, private clubs and lodges, auditoriums (including school and college auditoriums), theaters, mortuaries and similar places of public assembly	One per each 4 seats; if no fixed seats, 1 space for each 40 square feet
3. Nursing homes, philanthropic and eleemosynary institutions; religious institutions providing sleeping accommodations	1 per 5 beds
4. Hospitals and sanitariums	1 per 3 beds
5. Libraries, museums, art galleries, etc.	1 per 3 employees plus additional as prescribed by the Planning Commission
6. Colleges, for art, craft, music and dancing schools, business, professional, trade schools and colleges	1 per 3 employees plus 1 additional per 5 students
7. Public buildings and grounds other than administrative, offices	1 per 3 employees plus additional as prescribed by the Planning Commission
8. Public utility structures and installations	1 per 3 employees plus additional as prescribed by the Planning Commission
9. Bus depots, transit stations, railroad stations, railroad freight stations and yards, airports and heliports	1 per 3 employees plus additional as prescribed by the Planning Commission
10. Cemeteries, columbariums and crematories	1 per 3 employees plus additional as prescribed by the Planning Commission
11. Homeless Shelters	1 parking space for every 5 beds
12. Other uses not specifically listed above or specific uses which need more parking than the categories listed above, shall furnish parking as required by the Planning Director. In determining the off-street parking requirements for said uses, the Planning Director shall use the above requirements as a general guide and shall determine the minimum number of parking spaces.	

- B. The off-street parking facilities requirements of this Chapter shall be satisfied by the

permanent allocation of the prescribed number of spaces for each use in common parking facilities, provided however, that the total number of spaces shall be not less than the sum of the individual requirements and provided further that an attested copy of a contract between the parties concerned setting forth the agreement to joint use of a common parking facility is filed with the application for a certificate of occupancy.

(Prior code § 10,115.6; Ord. 822 C.S., § 2, 1975; Ord. 930 C.S., 1980; Ord. No. 1379 C.S., § 23, 2/19/2014)

§ 22.36.080. Parking—Design criteria.

- A. Off-street parking facilities provided in compliance with this chapter shall meet the following design and dimension criteria:
1. Each parking space shall be not less than 20 feet in length and nine feet in width exclusive of aisles and access drives, exclusive of utility areas.
 2. Each parking space shall be accessible from a street or alley.
 3. Vehicle site access locations shall conform to the following standards:
 - a. Project sites with alley access shall take parking and service access through the alley, and direct access from a street to the project site shall not be permitted.
 - b. On corner lots without alley access, parking and service access shall not be accessed from streets designated as scenic roadways; in all other cases access shall be obtained from the street with the lowest functional classification as defined by the General Plan's hierarchy of streets.
 - c. Entrances and exits shall be provided at locations approved by the City Traffic Engineer and the Planning Manager or designee(s).
 4. The parking area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained as to dispose of surface water.
 5. A curb or wheel stops shall be provided not less than two feet from buildings, landscaping, and pedestrian paths of travel.
 6. Lighting provided in off-street parking areas shall be shielded so as to not cast direct light on adjoining properties and streets, based on fixture specifications, location, and height.
 7. Where an off-street parking area is within 20 feet of a property line, a landscaped strip of not less than five feet in depth shall be planted with plant materials not less than five feet in height and permanently maintained, except that within 50 feet of a street intersection, the height of plant materials including earth berms, other than trees shall be not more than three feet above the curb elevation.
 8. Parking areas shall be restricted as set forth in subsections (A)(8)(a) and (A)(8)(b) of this section:
 - a. Restrictions for Nonresidential Properties. For properties in all zoning districts, other than R and RR residential districts, no ungaraged parking area shall be located in a minimum required front yard or minimum required street-side side

yard.

- b. Restrictions for Residential Properties. For properties within R and RR residential districts, and for any property not in an R and RR district with residential use, no parking area may be located within a front yard, or street-side yard, with the following exceptions and restrictions:
 - i. Driveways. A residential driveway conforming to the requirements of Section 22.36.090 shall not exceed a width of 24 feet and the combined width of all driveways shall not exceed 30 percent of the width of any lot; and subject to the limitations prescribed in Section 22.36.082;
 - ii. Parking Pads. A paved area or "pad" parallel to a driveway; and subject to the limitations prescribed in Section 22.36.082. A front yard parking pad may only be located between the driveway and the nearest interior side property line. A parking pad may not be located between the driveway and the secondary street of a corner lot, or between the driveway and the farther of the two interior side property lines; and may not exceed a width of 12 feet;
 - iii. Street-Side Side Yards. A paved area or "pad" may be permitted within street-side side yard of a lot, subject to the screening requirements and limitations of Section 22.36.082(C)(1)(c);
 - iv. Deep Front Yards. Notwithstanding the limitation prescribed for parking pads in subsection (A)(8)(b)(ii) of this section, a parking area or "pad" may be located in front yard areas that are 50 feet, or more, behind the property line;
 - v. Paving Surfaces. For parking areas and pads other than driveways, permitted surfaces may include gravel and/or decomposed granite in addition to concrete and asphalt surfaces.
9. No repair work or servicing of vehicles shall be conducted in a parking area.
10. Driveways in all residential districts shall have a minimum length of 20 feet (as measured from the property line unless otherwise approved by the Planning Manager and the City Traffic Engineer or designee(s)). Driveway elevation differentials between the garage floor and the street gutter shall not exceed three feet in 20 feet without prior approval of the building official.
11. Where a driveway adjoins an alley, access easement or undedicated right-of-way, the driveway shall not be less than that distance which, together with the alley width, totals 25 feet.
12. On-site driveways to single-family residences shall have a minimum width of eight feet.
13. Except as provided in the parking space dimension chart in subsection (A)(23) of this section, the minimum width of a one-way drive shall be 12 feet. No more than four parking spaces may be served with a single-exit, one-way drive.
14. Except as provided in the parking space dimension chart in subsection (A)(23) of this

section, the minimum width of a two-way drive shall be 18 feet.

15. Where parking is designed adjacent to a landscaped area, parking stalls shall be reduced by two feet, allowing for vehicular overhang into the landscaped area.
16. Parking stalls for the handicapped shall be clearly marked and shall have a minimum width of 12 feet by 20 feet in length. Handicapped parking shall be located as near as possible to the primary entrance of the building and shall be so located that a handicapped individual is not compelled to wheel or walk behind parked vehicles other than his or her own vehicle; and provided further that in all cases, said spaces shall comply with all applicable laws and/or administrative regulations of the State of California.
17. Parking stalls for compact automobiles shall be clearly marked and shall have a minimum width of eight feet by 16 feet in length.
18. Bicycle parking facilities shall be located adjacent to on-site pedestrian circulation routes.
19. Pavement, landscaping, luminaries, and all other parking area components shall be maintained to prevent deterioration and safety hazards.
20. Luminaries shall be installed and operated at times in accordance with a schedule approved by the Planning Manager.
21. No parking space shall be located closer than 20 feet of the right-of-way line of a driveway opening.
22. For residential projects with four or more dwelling units, mechanical parking lifts for designated use by residents shall be allowed within an enclosed garage, except for parking designated for use by persons with disabilities.
 - a. Mechanical lifts shall be accompanied by an on-site battery or electrical generator to provide sufficient power to clear the lift of all vehicles, or shall be capable of manually clearing the lift without power.
 - b. The maximum allowable height of enclosed garages shall be increased to 20 feet to allow use of mechanical lifts.
23. Parking shall conform to the following layout criteria:
 - a. Stall width, parallel to aisle;
 - b. Stall length of line;
 - c. Stall depth;
 - d. Aisle width between stalls;
 - e. Module, interlocking;
 - f. Module, wall-to-wall.

MINIMUM DIMENSIONS BASED ON 9' × 20' PARKING STALL (EXCEPT FOR 0 DEGREES PARKING ANGLE)						
(degree)	A (feet)	B (feet)	C (feet)	D (feet)	E (feet)	F (feet)
0	22.5	22.5	8.5	12.0	29.0	29.0
30	18.0	20.0	17.5	12.0	39.5	47.0
45	12.5	20.0	20.0	12.0	46.0	52.0
60	10.5	20.0	21.5	18.0	56.0	60.0
75	9.5	20.0	21.5	22.0	63.0	66.0
90	9.0	20.0	20.0	25.0	65.0	65.0

B. Landscaping.

1. Landscaping shall comprise not less than five percent of all parking lots or parking areas.
2. All landscaped areas shall be provided with an approved irrigation system.
3. Trees shall include a mixture of five-gallon and 15-gallon size trees to be installed in the following manner:
 - a. One tree per four spaces for parking along the perimeter of a site;
 - b. Parking not located along the perimeter of the site, one tree per 10 spaces.
4. Open or carport parking areas shall be divided into areas including no more than 10 abutting spaces with intervening areas landscaped with trees and ground cover.
5. When abutting an R district or institutional premises, off-street parking shall be effectively screened by a solid masonry wall or fence of a height within 12 inches of the maximum permitted.
6. Every off-street parking area shall be surfaced with asphaltic or concrete and shall be so graded that it will dispose of all surface water within the area. Design of the pavement section shall be determined on the basis of "R" value and traffic indices as determined by the City Engineer or designee.

(Prior code § 10,115.7; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980; Ord. 994 C.S., 1983; Ord. 1135 C.S. § 1, 1989; Ord. 1147 C.S. §§ I & II, 1990; Ord. 1342 C.S. § 7, 2008; Ord. No. 1473, 6/25/2025)

§ 22.36.082. Parking—Where permitted on residential property.

- A.** Parking of licensed and operable vehicles permitted. Except as limited in subsections B and C below, licensed and operable motor vehicles may be parked in the following areas:
1. Driveways. On any approved residential driveway;
 2. Parking pads. On a paved area or "pad" parallel to a driveway. Vehicles on such a pad must be parked perpendicular to the street, and such vehicles may not block access to garage;

3. Street-side side yards. On a paved area or "pad" within street-side side yard of a lot, subject to the screening requirements and limitations of subsection (C)(1)(c) of this Section;
 4. Deep front yards. On a paved area or "pad" in front yard areas that are 50 feet, or more, behind the property line.
- B. Parking on nonpaved surfaces is prohibited. Notwithstanding any provision hereof, the parking of vehicles on unpaved surfaces is prohibited.
- C. Limitations on parking of recreational and commercial vehicles.
1. Front yards and street-side side yards. No recreational vehicle or commercial vehicle shall be parked within the front yard or street-side yard of any property zoned R or RR or upon any property with a residential use for more than a 72-hour period, with the following exceptions and restrictions:
 - a. Parking pads. A single recreational vehicle as defined in Section 22.04.442, may be parked adjacent to the driveway on a permitted paved area or pad, provided that the recreational vehicle is parked a minimum of 5 feet behind the back of sidewalk, or 5 feet behind the front property line in cases where there is no sidewalk.
 - b. Parking in R-1.5, R-2.5 and R-3.5 Zoning Districts. In addition to parking on parking pads, a single recreational vehicle may be parked on the driveway of a 2-car garage of a residence in the R-1.5, R-2.5 and R-3.5 zoning district, provided that: (i) such a recreational vehicle does not block access to the 1 required covered parking space within the garage; and (ii) the vehicles meet the setback requirements prescribed above for parking pad use.
 - c. Street-side side yards. Recreational vehicles may be parked within a street-side side yard provided such vehicles are behind a 6-foot-tall solid fence, in locations where such required screening is permitted by Section 22.34.090, "Fences, Walls and Hedges."
 - d. Deep front yards. Notwithstanding the limitations set forth herein, recreational vehicles and commercial vehicles may be parked on paved surfaces in front yards areas that are 50 feet, or more, behind the front property line.
 2. Side and rear yards. Recreational vehicles and commercial vehicles may be parked on an approved paved surface or "pad" within side and rear yards.
 3. Oversized recreational vehicles. Notwithstanding any provision hereof to the contrary, oversized recreational vehicle, as defined in Section 22.04.443, may be not parked within any front yard, or any minimum required side or street-side side yard, nor may an oversized recreational vehicle be parked within 5 feet of a rear property line.
 4. Unmounted camper shells. Notwithstanding any provision hereof to the contrary, unmounted camper shells, including but not limited to cab-over campers not mounted within pickup truck bed, may be not parked within any front yard, or any minimum required, side or street-side side yard.

5. Vehicles for the transportation of horses. Notwithstanding any provision hereof to the contrary, recreational vehicles used for the transportation of horses may be parked on any portion of a residential property in the RR rural residential zoning districts, provided however, that they shall not be parked in such a manner as to result in a safety hazard or which impedes the site distance of vehicles traveling on public or private streets.
6. Occupancy of recreational vehicle. No recreational vehicle may be occupied for living, sleeping or any other purposes while parked per the limitations listed above, other than a visitors' recreational vehicle which may be used for the guest's accommodations for not more than one week.

(Ord. 1342 C.S. § 8, 2008)

§ 22.36.084. Parking—72-hour time limit.

For the purposes of Chapter 22.36, "Off-Street Parking and Loading Facilities," a "72-hour time period" shall mean a distinct 72-hour time period, separated by not less than 10 calendar days, in which a recreation vehicle that otherwise could not be parked within a front yard, may be parked within such yard for the purpose of loading and unloading and similar staging activities before or after use of such vehicle.

(Ord. 1342 C.S. § 9, 2008)

§ 22.36.086. Amortization of legal nonconforming uses.

- A. In cases where a lawfully issued parking pad permit was issued by the City of Martinez prior to May 2003, the parking of a recreational vehicle regulated under the provisions of this Chapter, pursuant to that lawfully issued parking pad permit shall be considered a legal nonconforming use, subject to the amortization provisions of subsection (B) below.
- B. Any parking of a recreational vehicle regulated under the provisions of this Chapter, which is a legal nonconforming use, pursuant to subsection (A) above, shall be subject to an amortization period expiring upon the occurrence of either of the following:
 1. The original permit holder sells, transfers, or vacates the subject property; or
 2. The original permit holder increases the size (length or height) of the originally permitted recreational vehicle.

Upon the occurrence of subsections (B)(1) or (2) above, any recreational vehicle parked upon the property shall fully comply with all of the parking regulations of this Chapter.

(Ord. 1342 C.S. § 10, 2008)

§ 22.36.090. Regulation of driveways.

Placement of curb cuts shall be regulated as follows:

- A. Width of driveways in a residential district shall be a minimum of 12 feet and a maximum of 24 feet. Within a P-A, Commercial or Industrial District, the width of driveways shall be a minimum of 15 feet and a maximum of 35 feet. Measurements to determine compliance with this subsection shall be made at the low point of the driveway, excluding the flare.
- B. Not more than 30 percent of the width of any lot face shall be utilized for driveways. However, not more than one driveway shall be allowed per 100 feet of frontage, or portion

of 20 feet or more thereof. In determining compliance with this provision, the full width of the driveway, including flares shall be considered.

- C. Driveways shall be located not closer than five feet from a curb return on a corner lot, nor closer than 25 feet to the intersection of the curb lines of two intersecting streets.
- D. A full six inches of a curb height shall be maintained for a distance of not less than three feet from a side property line.
- E. The distance between driveways whether of the same parcel or on adjacent lots, shall provide a minimum of 22 feet of full curb height in residential districts. In P-A, Commercial or Industrial Districts, the minimum length at full curb height shall be 35 feet. Communal driveways, not exceeding the dimensions specified in Subsection A may be used to serve two parcels in any district.
- F. Driveway flare, transition from full curb height to driveway depression, shall be a minimum of three feet in width.
- G. Maximum driveway width shall be used where a street has a travel lane immediately adjacent to the curb, or for driveways where the City Traffic Engineer has determined that heavy two-way traffic may be expected.
- H. Driveways for rights-of-way easements shall be subject to all provisions of this section, and shall apply towards corporations under subsection (E) for the parcel which the easement traverses.
- I. Variances from all of the above subsections may be granted by joint approval of the Planning Director and the Traffic Engineer.

(Prior code § 10,115.9; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.100. Off-street loading facilities required.

- A. At the time of initial occupancy of a site or of construction of a structure or enlargement of a site or structure, or whenever a change in use creates an increase in the number of parking spaces, there shall be provided off-street loading facilities for trucks in accordance with the regulations prescribed in this Chapter.
- B. Off-street loading berths in addition to those prescribed in this Chapter shall be provided if the Planning Commission finds that such additional berths are necessary to ensure that trucks will not be loaded, unloaded or stored on public streets. A finding of the Planning Commission shall be based on an investigation of the anticipated frequency of truck pickups and deliveries and of the truck storage requirements of the use for which the off-street loading berths are required.
- C. If, in the application of the requirements of this Chapter, a fractional number is obtained, one loading berth shall be provided for a fraction of $\frac{1}{2}$ or more, and no loading berth shall be required for a fraction of less than $\frac{1}{2}$.
- D. If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this section for each use.

(Prior code § 10,115.10; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.110. Loading—Residential uses.

Gross Floor Area	Number of Loading Berths Required
5,000 to 50,000 sq. ft.	1
50,001 to 150,000 sq. ft.	2 + 1 addition berth for each additional 150,000 sq. ft. of gross floor area.

§ 22.36.120. Loading—Office.

- A. Public or private administrative offices and business offices:

Gross Floor Area	Number of Loading Berths Required
5,000 to 50,000 sq. ft.	1
50,001 to 150,000 sq. ft.	2 + 1 addition berth for each additional 150,000 sq. ft. of gross floor area.

- B. For professional offices and public buildings other than administrative offices, one off-street loading berth shall be provided plus such additional berths as may be prescribed by the Planning Commission.

(Prior code § 10,115.12; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.130. Loading—Commercial and industrial uses.

- A. Off-street loading berths shall be provided for retail stores, commercial enterprises, repair shops, wholesale establishments, storage facilities, manufacturing plants and other industrial uses, if the gross floor area exceeds 5,000 square feet in accordance with the following table:

COMMERCIAL AND INDUSTRIAL USES TABLE	
Gross Floor Area	Number of Loading Berths Required
5,000 to 12,500 sq. ft.	1
12,501 to 20,000 sq. ft.	2
20,001 to 30,000 sq. ft.	3
30,001 to 50,000 sq. ft.	4
50,001 to 75,000 sq. ft.	5
75,001 and greater	5 plus 1 for each additional 75,000 square feet of gross floor area

(Prior code § 10,115.13; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.140. Loading—Miscellaneous uses.

Loading facilities shall be provided in accordance with the following table:

LOADING—MISCELLANEOUS USES TABLE

A.	For religious, philanthropic and eleemosynary institutions and clubs used for human habitation, nursing homes, hospitals and sanitariums, in addition to spaces for ambulances, one off-street loading berth shall be provided if the gross floor area exceeds 5,000 square feet, but is not more than 50,000 square feet. Two berths shall be provided if the gross floor area exceeds 50,000 square feet, and one additional berth shall be provided for each additional 150,000 square feet of gross floor area.
B.	For schools, colleges, libraries, museums, art galleries and places of public assembly which require the recurring delivery of goods or equipment by trucks, one off-street loading berth shall be provided plus such additional berths as may be prescribed by the Planning Commission.
C.	For public utility and public service structures and installations, bus depots and transit stations which require the recurring receipt or distribution of goods or equipment by truck, one off-street loading berth shall be provided plus such additional berths as may be prescribed by the Planning Commission.
D.	For railroad stations, railroad freight stations and yard, airports and heliports, three off-street loading berths shall be provided plus such additional berths as may be prescribed by the Planning Commission.
E.	For mortuaries, one off-street loading berth shall be provided if the gross floor area is less than 5,000 square feet, and one additional berth shall be provided for each additional 5,000 square feet of gross floor area.
F.	For cemeteries, columbariums and crematories, one off-street loading berth shall be provided plus such additional berths as may be prescribed by the Planning Commission.
G.	For any other use which requires the recurring receipt or distribution of goods or equipment by truck, one off-street loading berth shall be provided plus such additional berths as may be prescribed by the Planning Commission.

(Prior code § 10,115.14; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.150. Loading—Standards.

- A. Off-street loading facilities provided in compliance with Section 22.36.100 of this Chapter shall meet the following standards, except when the berths are located in a structure:
1. Each loading berth shall be not less than 45 feet in length and 12 feet in width and shall have an overhead clearance of not less than 14 feet, except that for mortuaries, cemeteries, columbariums and crematories, a loading berth used exclusively for hearses shall be not less than 24 feet in length and 10 feet in width and shall have an overhead clearance of not less than 8 feet.
 2. Sufficient room for turning and maneuvering vehicles shall be provided on the site.
 3. Each loading berth shall be accessible from a street or alley.
 4. Entrances and exits shall be provided at locations approved by the City Engineer and the Planning Department.
 5. The loading area, aisles and access drives shall be paved so as to provide a durable,

dustless surface and shall be so graded and drained as to dispose of surface water.

6. Water stops shall be provided where needed for safety or to protect property.
 7. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.
 8. Where a loading area adjoins a street or another site, a landscaped strip not less than 5 feet in depth shall be planted with plant materials not less than 5 feet in height and permanently maintained, except that within 50 ft. of a street intersection the height of plant materials other than trees shall be not more than 3 ½ feet.
 9. A loading area shall not be located in a required front, side or rear yard in any district. A loading area may be located in a front, side or rear yard other than a required front, side or rear yard provided that the loading area is screened by a solid masonry wall or board fence not less than 6 feet in height, except that in an SC, LI or HI District, a wall or fence, shall not be required.
 10. No repair work or servicing of vehicles shall be conducted in a loading area.
- B. Off-street loading berths located in a structure, provided in compliance with Section 22.36.110 of this Chapter shall comply with the standards prescribed in Subsections 1, 3, 4, 5 and 10 of this section.
- (Prior code § 10,515.15; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.160. Loading—Location.

Off-street loading facilities prescribed in Section 22.36.110 of this Chapter shall be located on the same site with the use for which the berths are required or on an adjoining site.

(Prior code § 10,115.16; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.170. Existing uses.

- A. No existing use of land or structure shall be deemed to be a nonconforming use or a nonconforming structure solely because of the lack of off-street parking facilities or off-street loading facilities prescribed in this Title or reduced in area to less than the minimum standards prescribed in this Title.
 - B. Off-street parking facilities and off-street loading facilities shall be provided for a change in use or enlargement of a site or structure, as prescribed in Sections 22.36.020 and 22.36.100 of this Chapter. The number of parking spaces or loading berths provided for a change in use or enlargement of a site or structure shall be in addition to the number existing prior to the change in use or enlargement, unless the preexisting number is greater than the number prescribed in Sections 22.36.020 and 22.36.100 of this Chapter, in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the change in use.
- (Prior code § 10,115.17; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.180. Reduction of facilities.

No off-street parking facility or off-street loading facility provided for a use of land or structure in compliance with Sections 22.36.020 and 22.36.100 of this Chapter shall be reduced in

capacity or in area without sufficient additional capacity or additional area being provided to comply with these regulations.

(Prior code § 10,115.18; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.190. Facilities to serve one use.

No off-street parking space or off-street loading berth provided for a use of land or a structure in compliance with the requirements of this Chapter shall be deemed to provide an off-street parking space or an off-street loading berth for a use of a structure on another site, except as otherwise provided in Sections 22.36.020 and 22.36.100 of this Chapter.

(Prior code § 10,115.19; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.200. Safety features.

- A. Safety barriers, protective bumpers or curbing, and directional markers shall be provided to assure safety, efficient utilization, protection to landscaping, and to prevent encroachment onto adjoining public or private property.
- B. Visibility of and between pedestrians, bicyclists and motorists shall be assured when entering individual parking spaces, when circulating within a parking facility, and when entering and exiting a parking facility.
- C. Internal circulation patterns, and the location and traffic direction of all access drives, shall be designed and maintained in accord with accepted principles of traffic engineering and traffic safety.

(Prior code § 10,115.20; Ord. 822 C.S. § 2, 1975; Ord. 930 C.S., 1980)

§ 22.36.210. Deferral of required parking.

Where the expected need for off-street parking for a particular use is uncertain, due to unknown or unusual operating characteristics of the use and unavailability of comparable data to establish need, the Planning Commission may authorize that construction and provision of not more than 25% of the required spaces be deferred, and may set such conditions as necessary to guarantee provision of such deferred spaces whenever the Planning Director shall determine the need to exist. Land area required for provision of deferred parking spaces shall be maintained in reserve and shall be landscaped pursuant to a plan approved by the Planning Commission demonstrating that ultimate provisions of the deferred spaces will meet all requirements of this section.

(Ord. 930 C.S., 1980)

§ 22.36.215. Parking not required.

Parking is not required when a residential, commercial, or other development project is located within one-half mile of a major transit stop, except for event centers, hotels, motels, bed and breakfast inns, other transient lodging, or as provided in Cal. Gov't. Code § 65863.2. The distance shall be measured in a straight-line distance.

(Ord. No. 1464, § VI, 10/23/2024; Ord. No. 1474, 7/16/2025)

§ 22.36.220. Parking—Mobile storage containers.

- A. Except as provided in subsection B, below, no mobile storage container shall be placed or parked on any property located in an R or RR zoning district or upon property upon which

is located a residential use for more than a 72-hour period. A mobile storage container may be not placed upon or parked on a residential property more than 4 times in a calendar year.

- B. Storage may be permitted within side and rear yards, subject limitations prescribed in Section 22.12.265, "Accessory Structures."
(Ord. 1342 C.S. § 11, 2008)

§ 22.36.230. Shared parking regulations.

- A. Shared parking agreements. An entity with underutilized parking, as defined in California Government Code Section 65863.1(a)(4), may enter into a shared parking agreement to share their underutilized parking spaces with the public, the City, or other entities, provided the entities submit a shared parking agreement and information identifying the benefits of the proposed shared parking agreement.
- B. Shared parking agreement application and approval. In cases where an entity is entering into a shared parking agreement and proposes to use the shared parking spaces to meet local agency vehicle parking requirements, the following shall apply:
1. The City shall approve a shared parking agreement if, upon submission of an application and payment of any relevant fees, it:
 - a. Includes a parking analysis using peer-reviewed methodologies developed by a professional planning association; and
 - b. Secures long-term provision of parking spaces or affords the opportunity for periodic review and approval by the City.
 2. The City shall allow parking spaces identified in a shared parking agreement to count toward meeting any vehicle parking requirement for a new or existing development or use, under specified conditions.
 3. The City may require that shared parking agreements be recorded against the parcels that are part of the agreement.
- C. Conditions of approval. The following Conditions of Approval shall apply to all shared parking agreements:
1. The City shall not require the curing of any preexisting deficit of the number of parking spaces as a condition of approval of the shared parking agreement.
 2. The City shall not withhold approval of a shared parking agreement between entities solely on the basis that it will temporarily reduce or eliminate the availability of parking spaces for the original proposed uses. Other conditions of approval may be imposed at the discretion of the Planning Manager or designee.
- D. Special provisions.
1. For a development project in which a designated historical resource on a federal, state, or local register of historic places is being converted or adapted, the City shall allow the project applicant to meet minimum parking requirements through the use of offsite shared parking, as specified in California Government Code Section 65863.1.
 2. This section shall not reduce the percentage of parking spaces that are designated for

electric vehicles or accessible to persons with disabilities.

- E. Consideration of shared parking feasibility. The City, private landowner, or lessor shall consider the feasibility of shared parking agreements to replace new parking construction or limit the number of new parking spaces that will be constructed when state or public funds are being used on a proposed new development, as specified in California Government Code Section 65863.1.
(Ord. No. 1464, § VII, 10/23/2024)

CHAPTER 22.37
RECYCLING FACILITIES

§ 22.37.010. General provisions and exceptions.

All uses shall be subject to the general provisions and exceptions prescribed in Chapter 22.34 of this title.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.020. Purpose.

This section establishes regulations governing recycling consistent with the requirements of Government Code Section 66787.6 and the California Beverage Container Recycling and Litter Reduction Act of 1986, Public Resources Section 14500, et seq.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.030. Definitions.

- A. "Recyclable material" is reusable material including, but not limited to metals, glass, plastic and paper which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials, but may include used motor oil collected and transported in accordance with the California Health and Safety Code.
- B. "Recycling facility" is a center for the collection of recyclable materials.
 - 1. "Small recycling facilities" occupy less than 500 square feet and may include:
 - a. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
 - b. Kiosk-type units;
 - c. Unattended containers placed for the donation of recyclable materials.
 - 2. "Large recycling facilities" occupy more than 500 square feet and may include permanent structures as well as mobile units, bulk reverse vending machines, and Kiosk-type units.
 - 3. "Private on-site recycling facilities" are used solely by a business or other organization for purposes of recycling on-site generated materials; are not located within the public view and are not available for public use. Administrative design review shall be required for facilities not located within an enclosed structure.
- C. "Mobile recycling unit" means an automobile, truck, trailer or van, licensed by the department of motor vehicles which is used for the collection of recyclable materials, including the bins, boxes, or containers transported by trucks, vans or trailers and used for the collection of recyclable materials. (Does not include vehicles used by the City's franchised recycler.)
- D. "Reverse vending machine" is an automated mechanical device that accepts at least one or more types of empty beverage containers including aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine

may sort and process containers mechanically, provided that the entire process is enclosed within the machine.

1. A single-feed revenue vending machine is designed to accept individual containers one at a time.
2. A bulk reverse vending machine is designed to accept more than one container at a time and to compute the refund or credit due on the basis of weight.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.040. Permits—Required.

No person shall place or permit the placement, construction or operation of any recycling facility, including a reverse vending machine, recycling facility or processing facility, without first obtaining a permit pursuant to the Table presented below.

Type of Facility	Zones Permitted	Permits Required
Reverse vending machine	NC, CC, TC, CR, SC LI, HI	Interior-none Exterior-administrative design review
Mobile recycling unit	NC, CC, TC, CR, SC LI, HI	Interior-none Exterior-administrative design review
Small Recycling facility	NC, CC, TC, SC	Conditional Use Permit, Design Review
	LI, HI	Design Review
Large Recycling facility	NC, CC, TC, SC	Conditional Use Permit, Design Review
	LI, HI	Design Review

(Ord. 1149 C.S. § I, 1990)

§ 22.37.050. Approval of administrative permit.

The Community Development Director may administratively approve a permit under the following conditions: applicant shall declare, under penalty of perjury, that a recycling use subject to an administrative permit is and at all times will be maintained to conform with each and every one of the applicable criteria and standards set forth in section 22.37.080 and has been referred to design review.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.060. Appeal of decision on administrative permit.

Appeals may be filed after any decision of the Community Development Director regarding the issuance or denial of an administrative permit. Appeals shall follow the procedure set forth in Section 22.34.060 of the Municipal Code.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.070. Appeal of Planning Commission decision.

Appeals of Planning Commission decisions shall follow established procedure set forth in

Sections 22.34.070 and/or 22.40.100 of the Municipal Code.
(Ord. 1149 C.S. § I, 1990)

§ 22.37.080. Criteria and standards.

Recycling facilities approved under an Administrative Permit shall meet all of the applicable criteria and standards listed below and are subject to design review. Recycling facilities permitted with a Conditional Use Permit shall meet the applicable criteria and standards listed below, provided that the Community Development Director, Planning Commission, or City Council, may modify such standards as an exercise of discretion, upon a finding that such modifications are reasonable and necessary in order to implement the general intent of this Part and the purposes of this Chapter. The criteria and standards for recycling facilities are as follows:

A. Reverse Vending Machines:

1. Shall only be established as an accessory use for which the primary use is in compliance with the zoning and building codes of the City of Martinez;
2. Shall be located within 30 feet of the entrance of the business and shall not obstruct pedestrian or vehicular circulation;
3. Shall be constructed and maintained with durable waterproof and rustproof material and shall be protected by a roof;
4. Shall be clearly marked to identify the type of material to be deposited, operating instructions and the identity and phone number of the operator or person responsible if the machine is inoperative;
5. Shall have a maximum sign area of four square feet per machine;
6. Shall be limited to no more than three machines and one recycling center per business;
7. Shall be no more than 50 cubic feet in bulk per machine and not more than 8 feet in height;
8. Shall be compatible with adjacent residential uses and other businesses on the site;
9. Shall be maintained in a dust-free, litter-free and spill-free condition on a daily basis.

B. Recycling facilities.

1. Shall only be established as an accessory use for which the primary use is in compliance with the zoning and building codes of the City of Martinez. The Community Development Director may consider an exception for the placement of newspaper bins or other recycling facilities operated in conjunction with a non-profit institution such as a school or church.
2. Shall have containers constructed and maintained with durable, waterproof and rustproof material and shall be covered, secured and maintained in good condition;
3. Shall have containers clearly marked to identify the type of recyclable or recyclables which may be deposited;
4. Shall be clearly marked to identify the name and telephone number of the facility

- operator, the hours of operation and display a notice indicating that no materials shall be left outside the recycling enclosure or containers;
5. Shall be maintained in a dust-free, litter-free and spill-free condition on a daily basis;
 6. Shall be placed on a site so as not to obstruct on-site or off-site pedestrian or vehicular circulation;
 7. Shall be setback at least 20 feet from any street property line and 15 feet from a side or rear property line. The setbacks may be modified upon review and approval of the Planning Commission if there are mitigating circumstances, such as existing landscape screening, which meet the intent of this ordinance;
 8. Shall not reduce or impair the landscaping or parking spaces required for the site and uses in conformance with the Municipal Code or any permit issued thereto;
 9. Shall not include power-driven processing equipment except for bulk reverse vending machines;
 10. Shall conform to the following sign standards:
 - a. Unattended container not over 50 cubic feet in bulk and not over 8 feet in height may have a maximum sign area of 20% of the surface of the side of the container or six square feet whichever is greater;
 - b. Other containers or units may have one flat-mounted sign per side of container or wall of enclosure of 20% of the surface of the side or six square feet, whichever is greater;
 11. Shall have minimum average site illumination of ½ foot candle during business hours;
 12. Shall not be used at any time for collection of refuse or hazardous waste unless specifically approved by the Planning Commission;
 13. Shall operate attended facilities only during the hours of operation of the primary business;
 14. Shall conform to all development regulations for the zoning district of the property; for an attended facility, a minimum of one parking space per attendant shall be provided;
 15. Shall have an area clearly marked to prohibit other vehicular parking when mobile recycling facilities are used;
 16. Shall utilize design and colors which are compatible with other businesses on the site. Improvements which may be required to ensure compatibility, include but are not limited to landscaping, screening, trailer skirting and parking lot repairs;
 17. A large recycling facility may accept used motor oil for recycling from the generator in accordance with the California Health and Safety Code;
 18. Such other relevant facts as the Planning Commission and/or City Council may be determined prior to filing of an application, by resolution as advisable or necessary.
 19. Shall be appropriately screened as determined by the Community Development

Director.
(Ord. 1149 C.S. § I, 1990)

§ 22.37.090. Adhering to criteria and standards and denial of permit.

The criteria and standards provided herein shall be deemed conditions of approval for the appropriate type of recycling facility. It shall be unlawful to violate said criteria and standards and shall be grounds for revocation. Any permit may also be denied or revoked if it is found that the individual facility would be detrimental to the public health, safety and well being of the citizens of Martinez.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.100. Site clean-up required.

The operator and host business of any recycling facility shall, on a daily basis, remove any and all recyclable materials or refuse which has accumulated or is deposited outside the containers, bins or enclosures intended as receptacles for such materials. Failure to remove such materials or refuse after notice by the City shall constitute grounds for permit revocation in accordance with Chapter 1.12 and 22.06.080 of the Municipal Code.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.110. Non-conforming uses.

A non-conforming use which does not occupy a permanent structure and is accessory to a primary use shall be discontinued within 90 days from the effective date of this Title.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.120. Annual report.

All recycling operators shall submit an annual report to the City Manager or his or her authorized representative on the amount, by category, of recyclables collected.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.130. Fees.

Fees for this ordinance shall be set by City Council resolution.

(Ord. 1149 C.S. § I, 1990)

§ 22.37.140. Business license required.

Operators of recycling facilities shall obtain a City business license in accord with Title 5 of the Municipal Code.

(Ord. 1149 C.S. § I, 1990)

CHAPTER 22.38
NONCONFORMING USES, STRUCTURES AND LOTS

§ 22.38.010. Purpose—Nonconforming use and structure defined.

- A. "Nonconforming use" is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Title, but which, under this Title, does not conform with the use regulations for the district in which it is located. While permitting the continuation of nonconforming uses, subject to certain exceptions, this Title is intended to limit the number and extent of nonconforming uses by prohibiting their enlargement and their reestablishment after abandonment and by prohibiting the alteration of the structures they occupy and their restoration after destruction.
- B. "Nonconforming structure" is a structure which was lawfully erected prior to the adoption of this Title, but which, under this Title, does not conform with the standards of coverage, yard spaces, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. While permitting the use and maintenance of nonconforming structures, this Chapter is intended to limit the number and extent of nonconforming structures by prohibiting their being moved, altered or enlarged so as to increase the discrepancy between existing conditions and the standards prescribed in this Title and by prohibiting their restoration after destruction.
- C. "Non-conforming lot" is a site or lot having an area, frontage, width or depth less than the minimum prescribed for the district in which the site is located, which is shown on a duly approved and recorded subdivision map, or for which a deed or valid contract of sale was of record prior to the adoption of the provision of this Title which made the lot nonconforming, which had a legal area, frontage, width and depth at the time that the subdivision map, deed, or contract of sale was recorded, and which has not been changed since its creation in any way which would increase the degree of non-conformity or decrease the usable site area (such as granting an access easement across the lot). The provisions of this Chapter are intended to allow the reasonable use of these lots while protecting the public health, safety, and welfare by reasonable restrictions.
(Prior code § 10,116.0; Ord. 822 C.S. § 2, 1975; Ord. 1106 C.S. § 4, 1987)

§ 22.38.020. Use and structure deemed nonconforming when.

- A. A use lawfully occupying a structure or a site on the effective date of this Title or of amendments thereto, which does not conform with the use regulations for the district in which the use is located shall be deemed to be a nonconforming use and may be continued, except as otherwise provided herein.
- B. A structure lawfully occupying a site on the effective date of this Title or of amendments thereto which does not conform with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located shall be deemed to be a nonconforming structure and may be used and maintained except as otherwise provided herein.
- C. Routine maintenance and repairs may be performed on a structure or site, the use of which is nonconforming, and on a nonconforming structure.
(Prior code § 10,116.1; Ord. 822 C.S. § 2, 1975)

§ 22.38.030. Alterations and additions to nonconforming uses.

- A. No structure, the use of which is nonconforming, shall be moved, altered or enlarged unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use, except that a structure housing a nonconforming residential use located in a R or a PA District may be moved, altered or enlarged, provided that the number of dwelling units is not increased.
- B. The Board of Adjustments is empowered to impose conditions requiring exterior painting, repair, landscaping and other improvements as may be necessary or appropriate to the building or property as a condition of approval of a new nonconforming use of an existing structure.

(Prior code § 10,116.6; Ord. 822 C.S. § 2, 1975)

§ 22.38.040. Alterations and additions to nonconforming structures.

No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located.

(Prior code § 10,116.3; Ord. 822 C.S. § 2, 1975)

§ 22.38.050. Change of use.

The nonconforming use of a structure or site shall not be changed to another nonconforming use, without prior approval of the Planning Commission.

(Prior code § 10,116.4; Ord. 822 C.S. § 2, 1975)

§ 22.38.060. Abandonment of nonconforming use.

Whenever a nonconforming use has been abandoned, discontinued or changed to a conforming use for a continuous period of 1 year, the nonconforming use shall not be reestablished without prior approval of the Planning Commission.

(Prior code § 10,116.5; Ord. 822 C.S. § 2, 1975)

§ 22.38.070. Institution of new nonconforming uses.

- A. The Board of Adjustments is empowered to approve by conditional use permit, the institution of new nonconforming uses in existing structures when it is found that:
 - 1. The existing structure has a useful remaining life;
 - 2. The new use would not require exterior alterations or major interior alterations;
 - 3. The new use will be compatible with and not a burden to the neighborhood in which it is located.
- B. The Board of Adjustments is empowered to impose conditions requiring exterior painting, repair, landscaping and other improvements as may be necessary or appropriate to the building or property as a condition of approval of a new nonconforming use of an existing structure.

(Prior code § 10,116.6; Ord. 822 C.S. § 2, 1975)

§ 22.38.080. Restoration of a damaged structure.

- A. Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located, shall be destroyed by fire or other calamity or by act of God or by the public enemy to the extent of fifty percent (50%) or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion.
- B. Whenever a structure, the use of which does not conform with the regulations for the district in which it is located, or a structure which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structures or distances between structures prescribed in the regulations for the district in which it is located, shall be destroyed by fire or other calamity or by act of God or by the public enemy to a greater extent than fifty percent (50%), or shall be voluntarily razed or shall be required by law to be razed, the structure shall not be restored except in full conformity with the regulations for the district in which it is located and the nonconforming use shall not be resumed.
- C. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Inspector.

(Prior code § 10,116.7; Ord. 822 C.S. § 2, 1975)

§ 22.38.090. Elimination of nonconforming uses.

The following nonconforming uses and structures shall be discontinued and removed from their sites within three years from the effective date of this Title:

- A. A nonconforming use which does not occupy a structure;
- B. A nonconforming use occupying a structure having an assessed valuation of less than \$500.00.

(Prior code § 10,116.5; Ord. 822 C.S. § 2, 1975)

§ 22.38.100. Elimination of nonconforming structures.

A structure having an assessed valuation of less than \$500.00 which does not comply with the standards of coverage, front yard, side yard, rear yard, height of structure or distances between structures prescribed in the regulations for the district in which the structure is located shall be removed from its site within three years from the effective date of this Title, except that if the structure is altered to comply with such standards, the provision shall not apply.

(Prior code § 10,116.9; Ord. 822 C.S. § 2, 1975)

§ 22.38.110. Time when use of structure becomes nonconforming.

Whenever a use or a structure becomes nonconforming because of a change in zoning district boundaries or a change of regulations for the district in which the site is located, the period of time prescribed in Section 22.38.090 and 22.38.100 for the elimination of the use or the removal

of the structure shall be computed from the effective date for the change of district or regulations. (Prior code § 10,116.10; Ord. 822 C.S. 2, 1975)

§ 22.38.120. Keeping of animals.

The keeping of livestock or other animals shall not be considered a nonconforming use except that in RR (Rural Residential) Districts the keeping of up to five horses or split hooved animals shall be considered a nonconforming use.

(Ord. 1096 C.S. § I, 1987; Ord. 1207 C.S. § I, 1993)

§ 22.38.130. Use of non-conforming lots.

Non-conforming lots shall be governed by the following regulations:

- A. A non-conforming lot may be used for any permitted use but shall be subject to all other regulations of the district in which the site is located and all other development requirements specified by law.
- B. A non-conforming lot to be used for residential purposes shall be subject to the density requirements of the zoning district and General Plan designation in which it is located. However, one single-family dwelling and customary accessory building may be permitted on any non-conforming lot in any zone district in which a single-family dwelling is permitted, provided the single-family dwelling shall conform to the design standards and regulations of the zoning district in which it is located, the provisions of this Chapter, and all other development requirements specified by law.
- C. Lots or sites which do not meet the requirements of this Title for non-conforming lots, such as lots which did not meet legal requirements when created, or lots which have been changed since they were created, may not be used unless consolidated with other lots to meet the current requirements of this Title.

(Ord. 1106 C.S. § 5, 1987)

§ 22.38.140. Enlargement of non-conforming lots.

A non-conforming lot may be enlarged by lot line adjustment or subdivision, even though the requirements of Section 22.12.120 et seq. (Slope Density) are not met, provided that the Planning Commission grants a use permit for the proposal under Chapter 22.40.

(Ord. 1106 C.S. § 6, 1987)

CHAPTER 22.39
WIRELESS TELECOMMUNICATIONS FACILITIES⁴⁵

§ 22.39.010. Purpose.

- A. The purpose and intent of this Chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the City of Martinez. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This Chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the general plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.
- B. This Chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.020. Definitions.

For the purposes of this Chapter, the following defined terms shall have the meaning set forth in this Section unless the context clearly indicates or requires a different meaning.

- A. "Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.
- B. "Antenna" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use,

45. Editor's note: Prior history: Ord. 1244 C.S., 1997.

or satellite dishes designed for residential or household purposes.

- C. "Base station" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(1), as may be amended, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. § 1.40001(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under this Section, supports or houses equipment described in 47 C.F.R. § 1.40001(b)(1)(i)—(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the state or local government under this Section, does not support or house equipment described in 47 C.F.R. § 1.40001(b)(1)(i)—(ii).
- D. "Building-mounted" means mounted to the side or facade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.
- E. "Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.
- F. "Collocation" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC's definition effectively means "to add" and does not necessarily refer to more than one wireless telecommunication facility installed at a single site.
- G. "Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.
- H. "Eligible support structure" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which defines that term as any tower or base station as defined in this Section, provided that it is existing at the time the relevant application is filed with the state or local government under this Section.
- I. "Existing" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(4), as may be amended, which provides that a constructed tower or base station is existing for purposes of the FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review

process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

- J. "FCC" means the Federal Communications Commission or its duly appointed successor agency.
- K. "Modification" means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.
- L. "Monopole" means a structure consisting of a single pole used to support antennas or related equipment and includes a mono pine, monored wood, and similar monopoles camouflaged to resemble trees or other objects.
- M. "Personal wireless services" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- N. "Personal wireless service facilities" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal wireless services.
- O. "Community and economic development director" means the Community and Economic Development Director or designee.
- P. "Pole" means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Martinez Municipal Code. "Pole" does not include a City-owned pole with one or more streetlights and related equipment mounted on it that is solely operated by the City.
- Q. "Public right-of-way" or "right-of-way" means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the City.
- R. "Reviewing authority" means the person or body who has the authority to review and either grant or deny a wireless telecommunications facility permit pursuant to this Chapter.
- S. "RF" means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.
- T. "Roof-mounted" means mounted directly on the roof of any building or structure, above the eave line of such building or structure.
- U. "Section 6409(a)" means Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as such law may be amended from time to time.

- V. "Section 6409(a) approval" means the approval required by Section 6409(a).
- W. "Site" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- X. "Substantial change" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(7), as may be amended, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC's criteria and thresholds for a substantial change according to the wireless facility type and location.
1. For towers outside the public rights-of-way, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than ten percent or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 - b. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 - c. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - d. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
 2. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than ten percent or ten feet (whichever is greater); or
 - b. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
 - c. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 - d. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent larger in height or volume than any existing ground-mounted equipment cabinets; or
 - e. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

3. In addition, for all towers and base stations wherever located, a substantial change occurs when:

- a. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Community and Economic Development Director; or the proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this Section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

- Y. "Telecommunications tower" or "tower" means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.
- Z. "Transmission equipment" means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(8), as may be amended, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- AA. "Utility pole" means a pole or tower owned by any utility company, joint pole association, or other entity acting on behalf of one or more utility companies, that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.
- BB. "Wireless services" means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.
- CC. "Wireless telecommunications facility" or "facility" means any facility constructed, installed, or operated for wireless service. "Wireless telecommunications facility" or "facility" includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. "Wireless telecommunications facility" or "facility" does not mean any of the following:
 1. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.

2. An antenna facility that is subject to the FCC over-the-air-receiving devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
 3. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the Community and Economic Development Director.
 4. Telecommunications facilities owned and operated by any government agency.
 5. Telecommunications facilities owned and operated by any emergency medical care provider.
 6. Mobile services providing public information coverage of news events of a temporary nature.
 7. Any wireless telecommunications facilities exempted from the Martinez Municipal Code by federal law or state law.
- (Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.030. Applicability.

- A. This Chapter applies to all wireless telecommunications facilities as follows:
1. All facilities for which applications are submitted after the effective date of the ordinance from which this Chapter derived shall be subject to and comply with all provisions of this Chapter.
 2. All facilities, notwithstanding the date approved, shall be subject to the provisions of this Chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this Chapter, the condition of approval shall control unless and until the permit is amended or revoked.
- B. Notwithstanding any provision of the Martinez Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities. This Chapter shall govern all applications for wireless telecommunications facilities in accordance with this Section.
- (Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.040. Wireless telecommunications facility permit required.

- A. Conditional use permit required. A conditional use permit shall be required to locate or modify any wireless telecommunications facility in any zone within the City, including the public right-of-way, except that no conditional use permit shall be required for any wireless telecommunications facility to be located or modified on property belonging to the City. No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as

required by this Chapter. The conditional use permit procedures in Chapter 22.40 of this Code shall be applicable to conditional use permits under this Chapter. Such permit shall be in addition to any other permit required pursuant to the Martinez Municipal Code, including encroachment permits that may be required under Title 12.

- B. Non-exclusive grant. No approval granted under this Chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.050. Application for permit.

- A. Application content. All applications for a permit required by this Chapter and all required submittals must be made in writing by the applicant or the applicant's authorized agent on such form as the Community and Economic Development Director may prescribe, which shall include the following information, in addition to all other information determined necessary by the Community and Economic Development Director as well as all other information required by the City as part of an application for a conditional use permit:
1. Full name and contact information for the facility owner, facility operator, agent (if any), and property owner, and related letter(s) of authorization of facility and/or property owner.
 2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
 3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the Community and Economic Development Director.
 4. Photographs of facility equipment and an accurate visual impact analysis with photo simulations, including reasonable line-of-sight locations from public streets or other adjacent viewpoints, and a map that shows the photo location of each view angle.
 5. Building elevations and roof plan (for building- and/or rooftop-mounted facilities) indicating exact location and dimensions of equipment proposed. For freestanding facilities, indicate surrounding grades, structures, and landscaping from all sides.
 6. Proposed landscaping and/or nonvegetative screening (including required safety fencing) plan for all aspects of the facility.
 7. Written documentation demonstrating a good faith effort to locate the proposed facility in the least intrusive location and screened to the greatest extent feasible in accordance with the site selection and visual impact criteria of this Chapter.
 8. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.

9. A written description identifying the geographic service area for the subject installation, accompanied by a plan and maps showing anticipated future installations and modifications for the following two years, in addition to the master plan described by this Section.
10. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including without limitation all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with ordinance 9.56 (Noise). The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the noise contours for the proposed equipment relative to all adjacent property lines. In lieu of a written report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
11. If the applicant claims it requires an exception to the requirements of this Chapter, all information and studies necessary for the City to evaluate that claim.
12. An administrative review fee established by resolution of the City Council shall be charged per application, in the form of an advance reimbursable initial deposit within the range established by the City Council to fully recover the estimated cost of the City, including staff time, a consultant review as set forth in paragraph (B) of this Section, other legal and third party services, and all other costs of whatever type or variety, incurred for the processing, review, commenting upon, evaluation, hearing, and consideration of the application. The Community and Economic Development Director shall establish a reasonable deposit amount for each application that is no greater than the maximum established by the City Council in accordance with this provision. In addition, the applicant shall submit a fully executed cost recovery or letter agreement in the form provided by the City wherein the applicant agrees to replenish the deposited amount in full and fully reimburse the City otherwise where the advance deposit is insufficient to cover all of the City's costs related to the application. Where the advance deposit is insufficient to pay for the costs incurred by the City, the Community and Economic Development Director shall invoice the applicant who shall pay the invoice in full within ten calendar days after receipt of the invoice. No permit shall be issued to an applicant where that applicant has not timely paid a required fee, provided any required deposit or paid any invoice as required by this Code. A "reasonable deposit" under this paragraph shall take into consideration the scope and scale of the proposal being made by the application, the City's prior costs incurred with like or similar applications, and whether one or more exceptions are being requested by the applicant. Any portion of the deposit that is not expended by the City shall be reimbursed to the applicant upon the completion of the application and determination process.
13. An agreement in the form provided by the City that applicant agrees to defend, hold harmless and fully indemnify [the] City, its officers, employees, agents, attorneys, and volunteers, from any claim, action or proceeding brought against the City or its officers, employees, agents, or attorneys to attack, set aside, void, or annul any such approval of the City; and/or (b) an action taken to provide environmental clearance under the California Environmental Quality Act (CEQA) by its advisory agencies,

appeal boards, or City Council. This indemnification agreement shall be in a form acceptable to the City Attorney and shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. The agreement shall also include a provision obligating the applicant to indemnify the City for all of the City's costs, fees and damages which the City incurs in enforcing the indemnification provisions of this Section. Also at the time of submitting an application, the applicant shall agree, as part of the application, to defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the applicant desires to pursue securing such approvals and/or clearances, after initiation of the proceeding, which are conditioned on the approval of these documents. In the event that a proceeding described by this Section is brought, the City shall promptly notify the applicant of the existence of the proceeding and the City will cooperate fully in the defense of the proceeding. Nothing in this Section shall prohibit the City from participating in the defense of any proceeding. In the event that the applicant is required to defend the City in connection with any proceeding described in this Section, the City shall retain the right to approve: (a) the counsel to so defend the City; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld.

14. A master plan which identifies the location of the proposed facility in relation to all existing and potential locations in the City that are reasonably anticipated for construction within two years of submittal of the application. Applicants may not file, and the City shall not accept, applications that are not consistent with the master plan for a period of two years from approval of a wireless facility conditional use permit unless: (a) the applicant demonstrates materially changed conditions which could not have been reasonably anticipated to justify the need for a wireless telecommunications facility site not shown on a master plan submitted to the City within the prior two years; (b) the applicant establishes that the application is needed to prevent the actual or effective prohibition of the provision of telecommunications wireless services under the Telecommunications Act of 1996.
15. A siting analysis which identifies a minimum of five other feasible locations within or outside the City which could serve the area intended to be served by the facility, unless the applicant provides compelling technical reasons for fewer than the minimum. The alternative site analysis should include at least one collocation site, if feasible.
16. Any request for exceptions to be made to the provisions of this Chapter shall be submitted at the time of the application. The request shall include an analysis as to the availability and feasibility of other alternatives to the exception(s) that are being requested and a description of the need for the exception and analysis of how the need would be met by the exception being requested.
17. An RF exposure compliance report prepared and certified by an RF engineer licensed by the State of California that certifies that the proposed facility, as well as any

collocated facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power (ERP)) for all existing and proposed antennas at the site and exhibits and show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.

18. Every applicant applying for authorization to construct, modify, or remove a wireless communications facility located on private or public property must include with its application a written authorization signed by the property owner.
19. Any other studies or information as determined to be necessary by the Community and Economic Development Director in order to consider an application for a wireless telecommunications facility may be required.
20. In addition to any other action otherwise required by law pertaining to the process of a conditional wireless facility permit application that requires Planning Commission review, the applicant for which such review is being sought shall take all of the following actions:
 - a. Send written notice to both the owner(s) of real property, as shown on the latest equalized assessment roll, within 500 feet of the proposed wireless telecommunications facility, and the City Community and Economic Development Department, of the pendency of the filing of such an application, including with such notice copies of preliminary drawings of the proposed project at a scale no smaller than one inch equals 16 feet. No application for neighborhood review will be accepted as complete unless it contains evidence acceptable to the director that such notice has been sent or such determination would otherwise be in conflict with federal or state law.
 - b. Hold a community meeting at least two weeks before the date of the Planning Commission meeting at which the application will be heard, and invite the persons entitled to notice pursuant to subparagraph (a) to attend such meeting to discuss the proposed application. The community meeting shall be held at a location within the City. One meeting that includes all of the applications submitted on the same day shall be sufficient to satisfy this paragraph. The mock-up of the proposed project shall be erected at the subject site before the meeting. The primary location and all alternative sites shall be presented to the community as well as the reasons for the selection of the primary location. Notice of the date, time and place of such meeting shall be sent at least seven days before the meeting and shall be filed with the Community and Economic Development Department.
 - c. If the hearing on the application is continued by the Planning Commission, the applicant is encouraged, but not required, to hold a further meeting with the persons entitled to notice pursuant to subparagraph a. at least one week prior to the continued hearing.
 - d. If a meeting pursuant to subparagraph b. results in any modifications to the project prior to the Planning Commission hearing on the project, the applicant

shall (1) notify the Community and Economic Development Director of the proposed modifications, and (2) explain to the Planning Commission at the hearing on the matter any discrepancy between the project as proposed in the notice sent pursuant to subparagraph a. and the project as presented to the Planning Commission.

- e. A community meeting may be required at the discretion of the Community and Economic Development Director for an application for a wireless telecommunications collocation facility or an eligible facility permit.

- 21. All submittals required for a wireless telecommunications collocation facility.
- 22. In the event a subsequent state or federal law prohibits the collection of any information described herein, the director is authorized to omit, modify, or add to that request from the City's application form.

B. Independent expert.

- 1. The Community and Economic Development Director is authorized to retain on behalf of the City any one or more independent, qualified consultants to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including but not limited to the following matters:
 - a. The accuracy, adequacy, and completeness of submissions,
 - b. Compliance with applicable radio frequency emission standards,
 - c. Whether any requested exception is necessary to avoid actual or effective prohibition of provision of wireless telecommunications services or use of the public right-of-way on a non-discriminatory basis, which may include a determination as to whether the requested exception would close a significant gap in coverage and is the least intrusive means of doing so,
 - d. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis,
 - e. The applicability, reliability and sufficiency of analyses or methodologies used by the applicant and the validity of conclusions reached or claims made by applicant, and
 - f. Any other application issue or element that requires expert or specialized knowledge.
- 2. The applicant must pay for the cost of any review required under this Section and for the technical consultant's testimony in any hearing as requested by the director and must provide a reasonable advance deposit of the estimated cost of such review with the City prior to the commencement of any work. The cost of this review shall be paid by the applicant through a deposit and cost recovery agreement pursuant to the application requirements stated within subsection A above.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.060. Notice of hearing.

Notwithstanding the notice of hearing provisions elsewhere in this Chapter, notice of a public hearing before the Planning Commission or an appeal of a Planning Commission determination before the City Council of a conditional use permit shall be published at least once in a newspaper of general circulation in the City and mailed or delivered in accordance with Section 22.40.040 no less than ten days prior to the date of the hearing.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.070. Design and development standards for all facilities.

- A. Basic requirements. The design and development standards set forth in this Section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this Section.
- B. No speculative facilities. A wireless telecommunications facility, wireless telecommunications collocation facility, or a telecommunications tower, which is built on speculation and for which there is no wireless tenant is prohibited within the City.
- C. General guidelines. The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
- D. Traffic safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
- E. Antennas. The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.
- F. Landscaping. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses.
- G. Signage. Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.
- H. Lighting. No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on City or school property. Lightning arresters and beacon lights are not permitted unless required by the Federal

Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.

I. Noise.

1. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.
2. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 8:00 a.m.
3. At no time shall equipment noise from any facility exceed 65 dbA intermittent or 55 dbA constant (Ldn or CNEL) for installations within the public right-of-way or an exterior noise level of 60 Ldn 50 dbA at the facility's property line if the facility is located within 100 feet of a residential dwelling unit.
4. Any equipment, including but not limited to air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right-of-way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Martinez Municipal Code.

J. Security. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.

K. Modification. At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

L. Pole standards. All poles, and equipment attached or mounted to poles shall comply with the standards approved by the City Engineer for poles and equipment placed within the public right-of-way, in addition to all other applicable requirements of this Chapter. No poles or equipment attached or mounted to poles within a public right-of-way shall be installed without an encroachment permit issued under Title 12.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.080. Additional design and development standards for facilities outside the public right-of-way.

A. Basic requirements. Facilities located outside the public right-of-way are subject to the design and development standards set forth in this Section in addition to all design and

development standards that apply to all facilities.

- B. No parking interference. In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.
- C. Roof-mounted facilities. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.
- D. Facilities mounted to a telecommunications tower. Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.
 - 1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the Community and Economic Development Director establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
 - 2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
 - 3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
 - 4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
 - 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - 6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.
 - 7. Wireless telecommunications facilities requiring permits under this Chapter shall not

be located within any required yard setback area of the zoning district in which they are located with the exception of possible encroachment of the antenna array into airspace over said setback.

E. Accessory equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:

1. Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities shall be of a quality and design that is architecturally integrated with the design of the building or structure.
2. To preserve community aesthetics, all accessory equipment, excluding antennas, aboveground vents and the smallest possible electrical meter boxes, shall, to the greatest extent possible, be required to be located underground, flush to the finished grade, shall be fully enclosed, and not cross property lines. Equipment may include, but is not limited to, the following: meter pedestals, fiber optic nodes, radio remote units or heads, power filters, cables, cabinets, vaults, junction or power boxes, and gas generators. Wherever possible, electrical meter boxes related to wireless communications facilities shall be appropriately screened, not visible to the general public, and located in less prominent areas on public property and private property. Where it can be demonstrated that undergrounding of equipment is infeasible due to conflict with other utilities the reviewing authority may approve alternative above-grade equipment mounting when adequately screened in accordance with the following: facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.090. Additional design and development standards for facilities in the public right-of-way.

- A. Basic requirements. Facilities located in the public right-of-way are subject to the design and development standards set forth in this Section in addition to all design and development standards that apply to all facilities.
- B. Right-of-way authority. An encroachment permit under Title 12 must be obtained for any work in the public right-of-way. Only applicants authorized to enter the public right-of-way pursuant to state or federal law or a franchise or other agreement with the City shall be eligible for a permit to install or modify a wireless telecommunications facility in the public

right-of-way.

C. Antennas.

1. Utility poles. The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.

D. Poles.

1. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.
2. Pole Height and Width Limitations:
 - a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - b. Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 50 feet in height, including, but not limited to the pole and any antenna that protrudes above the pole.
 - c. Pole mounted equipment shall not exceed six cubic feet in dimension.
3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this Section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.
4. If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this Section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.

E. Space occupied. Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.

F. Location.

1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.
2. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground

vaults, valve housing structures, or any other vital public health and safety facility.

3. Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet.
 4. All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if not infeasible as described within subsection H.
 5. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
- G. Americans with disabilities act compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA).
- H. Accessory equipment. To preserve community aesthetics, all accessory equipment (with the exception of the smallest possible electrical meter boxes and any other equipment that may not be so placed) shall be placed within an underground vault whenever there are no physical or site constraints to make an underground vault infeasible, except as may be determined by the reviewing authority. Equipment which may not be placed in an underground vault shall be pole mounted to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged. Infeasibility under this paragraph shall not be demonstrated by mere cost to construct an underground vault or place the equipment within the vault.
- I. Documentation. The applicant shall provide documentation satisfactory to the Community and Economic Development Director establishing compliance with this Section.
(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.100. Conditions of approval for all facilities.

- A. In addition to compliance with the requirements of this Chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:
1. Before the permittee submits any application for a building permit or other permits required by the Martinez Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this Chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
 2. Where feasible, as new technology becomes available, the permittee shall:

- a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and
 - b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Martinez Municipal Code.
3. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - a. Identity, including the name, address and 24-hour local or toll-free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.
4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the City reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration.
7. Every five years a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility follows the radio frequency emissions guidelines or standards of the FCC shall be submitted to the Community and Economic Development Director. Additionally, if at any time while the permit is in effect the Community and Economic Development Director determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the Community and Economic Development Director may require the permittee to submit a report described by this Section. Failure to comply with this Section shall be grounds for revocation of the conditional use permit. The report shall also include an acoustical analysis that demonstrates compliance with the noise requirements herein.

8. Indemnification shall be made a condition of approval and shall include the following responsibilities: permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceedings against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense. The indemnification responsibilities in a condition of approval shall also be inclusive of claims related to, connected with, or arising out of the construction, maintenance, operation, repair, alteration, or improvement of the wireless telecommunications facility if located within a public right-of-way.
 9. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
 10. A condition setting forth the permit expiration date in accordance with this Chapter shall be included in the conditions of approval.
 11. A condition setting forth the modification requirement stated in accordance with this Chapter shall be included in the conditions of approval.
- (Ord. No. 1424-B, § 2(Exh. A), 4/3/2019; Ord. No. 1448, § 11, 9/27/2023)

§ 22.39.110. Additional conditions of approval for facilities in the public right-of-way.

- A. In addition to compliance with the requirements of this Chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth above, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:
 1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City engineer for the purpose of: (a) protecting the public health, safety, and welfare, (b) preventing interference with pedestrian and vehicular traffic, and (c) preventing damage to the public right-of-way or any property adjacent to it. The City may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.
 2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the

owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
4. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the Community and Economic Development Director, the Community and Economic Development Director shall cause such repair to be completed at permittee's sole cost and expense.
5. Prior to issuance of a building permit, the applicant shall obtain the Community and Economic Development Director's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a ten-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than ten feet may be required by the Community and Economic Development Director.
6. Should any utility company offer electrical service that does not require the use of a meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within 30 days of such service being offered and reasonably restore the area to its prior condition.
7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to City, if and when made necessary by:
 - a. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by City or any other public agency;
 - b. Any abandonment of any street, sidewalk, or other public facility;

- c. Any change of grade, alignment or width of any street, sidewalk or other public facility; or
 - d. A determination by the Community and Economic Development Director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.
8. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Martinez Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Martinez Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Martinez Municipal Code, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.
9. The permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Martinez Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the Community and Economic Development Director in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.
- (Ord. No. 1424-B, § 2(Exh. A), 4/3/2019; Ord. No. 1448, § 11, 9/27/2023)

§ 22.39.120. Findings.

- A. Where a wireless telecommunication facility requires a conditional use permit under this Chapter, the reviewing authority shall not approve any application unless, in addition to the findings generally applicable to all conditional use permits, all of the following additional findings are made:
- 1. The proposed facility complies with all applicable provisions of this Chapter.
 - 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
 - 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
 - 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this Chapter.

- B. In addition to the findings in paragraph (A) above, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the reviewing authority:
1. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.
 2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.130. Exceptions.

- A. Exceptions pertaining to any provision of this Chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the reviewing authority if the reviewing authority makes the finding that:
1. Denial of the facility as proposed would violate federal law, state law, or both; or
 2. A provision of this Chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.
- B. An applicant may request an exception only at the time of applying for a wireless telecommunications facility permit and not at any time thereafter. The request must include both the specific provision(s) of this Chapter from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.
- C. Notwithstanding any other provision of this Chapter, a conditional use permit shall be required for a facility when an exception is requested.
- D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this Chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue. The City shall have the right to hire one or more independent consultants, at the applicant's expense in accordance with the deposit and cost recovery agreement requirements of this Chapter, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.140. Wireless telecommunications facilities covered under section 6409(a) of the middle-class tax relief and job creation act of 2012.

- A. Purpose. Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. § 1455(a), generally requires that state and local governments "may not deny, and shall approve" requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission regulations interpret this statute and create procedural rules for local review,

which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential "deemed granted" remedy when the State or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. § 332, applies to only "personal wireless service facilities" (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all "wireless" facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

The overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential confusion, streamline local review and preserve the City's land-use authority to the maximum extent possible.

- B. **Applicability.** This Section applies to all collocations or modifications to an existing wireless tower or base station submitted with a written request for approval pursuant to Section 6409(a).
- C. **Approval required.** Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for a 6409(a) approval shall be subject to the Community and Economic Development Director's approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this Chapter.
- D. **Other regulatory approvals.** No collocation or modification approved under any Section 6409(a) approval may occur unless the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any Section 6409(a) approval granted under this Chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.
- E. **Application requirement.** The City shall not approve any wireless facility subject to this Section except upon a duly filed application consistent with this Section and any other written rules the City or the Community and Economic Development Director may establish from time to time. An application must include the information required by this Chapter and the following additional information:
 - 1. A title report prepared within the six months prior to the application filing date in order for the City to verify the property owner's identity. If the applicant does not own the subject property, the application must include a written authorization signed by the property owner that empowers the applicant to file the application and perform all wireless facility construction, installation, operation and maintenance to the extent described in the application.
 - 2. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. § 1.40001 et seq. require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has

been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include (i) whether and why the support structure qualifies as an existing tower or existing base station; and (ii) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

F. Procedures for a duly filed application. The City shall not review any application unless duly filed in accordance with this Section, as follows:

1. Pre-submittal conference. Before application submittal, applicants must schedule and attend a pre-application meeting with the Community and Economic Development Director for all proposed modifications submitted for approval pursuant to Section 6409(a). The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with the existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable. The Community and Economic Development Director may, in the Community and Economic Development Director's discretion, grant a written exemption to the submittal appointment under this Chapter or for a specific requirement for a complete application to any applicant who (i) schedules, attends and fully participates in any pre-submittal conference and (ii) shows to the Community and Economic Development Director's satisfaction that such specific requirement duplicates information already provided in other materials to be submitted or is otherwise unnecessary to the City's review under facts and circumstances in that particular case. Any written exemption will be limited to the project discussed at the pre-submittal conference and will not be extended to any other project.
2. Submittal appointment. All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Community and Economic Development Director at a pre-submittal conference.
3. Appointment scheduling procedures. For any event in the submittal process that requires an appointment, applicants must submit a written request to the Community and Economic Development Director. The Community and Economic Development Director shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.
4. Applications deemed withdrawn. To promote efficient review and timely decisions, an application will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the City within 90 calendar days after the City deems the application incomplete in a written notice to the applicant.

The Community and Economic Development Director may, in the Community and Economic Development Director's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

5. Departmental forms, rules and other regulations. The City Council authorizes the Community and Economic Development Director to develop and publish permit application forms, checklists, informational handouts and other related materials that the Community and Economic Development Director finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the Community and Economic Development Director may from time-to-time update and alter any such permit application forms, checklists, informational handouts and other related materials as the Community and Economic Development Director deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this Chapter. The City Council authorizes the Community and Economic Development Director to establish other reasonable rules and regulations, which may include without limitation regular hours for appointments with applicants, as the Community and Economic Development Director deems necessary or appropriate to organize, document and manage the application intake process.
- G. Administrative review; decision notices. The Community and Economic Development Director shall administratively review an application for a Section 6409(a) approval and act on such an application without prior notice or a public hearing. Within five working days after the Community and Economic Development Director conditionally approves or denies an application submitted for Section 6409(a) approval or before the FCC timeframe for review expires (whichever occurs first), the Community and Economic Development Director shall send a written notice to the applicant. In the event that the Community and Economic Development Director determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the Community and Economic Development Director will send written notice to the applicant that includes the reasons to support the review authority's decision and states that the application will be automatically denied without prejudice on the 60th day after the date the application was filed unless the applicant withdraws the application.
- H. Required findings for 6409(a) approval. The Community and Economic Development Director may approve or conditionally approve an application submitted for Section 6409(a) approval when the Community and Economic Development Director finds that the proposed project:
 1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
 2. Does not substantially change the physical dimensions of the existing wireless tower or base station.
- I. Criteria for denial without prejudice. Notwithstanding any other provisions in this Chapter, and consistent with all applicable federal laws and regulations, the Community and Economic Development Director may deny without prejudice an application submitted for

approval pursuant to Section 6409(a) when it finds that the proposed project:

1. Does not satisfy the criteria for approval;
 2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety then in effect; or
 3. Involves the replacement of the entire support structure.
- J. Conditional 6409(a) approvals. Subject to any applicable limitations in federal or state law, nothing in this Chapter is intended to limit the City's authority to conditionally approve an application for a Section 6409(a) approval to protect and promote the public health, safety and welfare.
- K. Appeals. Notwithstanding any provision of the Martinez Municipal Code to the contrary, an applicant may appeal a decision by the Community and Economic Development Director to deny without prejudice a Section 6409(a) application. The appeal must be filed within ten days from the Community and Economic Development Director's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager shall serve as the appellate authority for all appeals of all actions of the Community and Economic Development Director taken pursuant to this Section. The City shall provide notice for an administrative hearing by the City Manager. The City Manager shall limit its review to whether the project should be approved or denied in accordance with the provisions in paragraphs (H) and (I) of this Section. The decision of the City Manager shall be final and not subject to any further administrative appeals.
- L. Standard conditions of approval. In addition to all other conditions adopted by the Community and Economic Development Director, all Section 6409(a) approvals, whether approved by the Community and Economic Development Director or deemed approved by the operation of law, shall be automatically subject to the following conditions in this Section; provided, however, that the Community and Economic Development Director shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:
1. Approved plans. Before the permittee submits any application for a building permit or other permits required by the Martinez Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this Section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
 2. Permit term. The City's grant or grant by operation of law of a Section 6409(a) approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any conditional use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.

3. Accelerated permit terms due to invalidation. In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) approvals or the Community and Economic Development Director grants an extension upon written request from the permittee that shows good cause for the extension, which includes without limitation extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Community and Economic Development Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has applied for a conditional use permit for those improvements before the one-year period ends.
4. No waiver of standing. The City's grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) approval.
5. Build-out period. The Section 6409(a) approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Community and Economic Development Director may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition. Any further extensions may be granted by the Planning Commission.
6. Maintenance obligations; vandalism. The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
7. Compliance with laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Section 6409(a) approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.
8. Adverse impacts on other properties. The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that

may arise from the permittee's construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Martinez Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The Community and Economic Development Director may issue a stop work order for any work that violates this condition.

9. Noise complaints. The permittee shall conduct all activities on the site in compliance with the noise standards listed in this Chapter. In the event that any person files a noise complaint and the City verifies that such complaint is valid, the permittee must remedy the violation within ten days after notice from the City, which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee's personnel rather than the permittee's equipment.
10. Inspections; emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.
11. Contact information. The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.
12. Indemnification. The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this Section 6409(a) approval, and (2) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Section 6409(a) approval or the wireless facility. In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse City for any

costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this Section 6409(a) approval, and that such indemnification obligations will survive the expiration or revocation of this Section 6409(a) approval.

13. Performance bond. For wireless facilities in the public right-of-way, before the City issues any construction permit in connection with the wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings, and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code § 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.
14. Record retention. The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
15. Compliance obligations. An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Martinez Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019; Ord. No. 1448, § 11, 9/27/2023)

§ 22.39.150. Wireless telecommunications collocation facilities covered under California Government Code Section 65850.6.

- A. Purpose. The purpose of this Section is to comply with an application for a wireless telecommunications collocation facility under California Government Code Section 65850.6, for which a 6409(a) approval is not being requested. This Section provides the requirements, standards and regulations for a wireless telecommunications collocation facility for which subsequent collocation is a permitted use pursuant to California law. Only those facilities that fully comply with the eligibility requirements set forth in California Government Code Section 65850.6, or its successor provision, and which strictly adhere to the requirements and regulations set forth in this Section shall qualify as a wireless telecommunications collocation facility.

- B. Definitions. For the purposes of this Section, the following terms are defined as follows:
1. "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.
 2. "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.
 3. "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.
- C. Procedures. An application for a wireless telecommunications collocation facility under California Government Code Section 65850.6 shall be processed in the same manner as an application for 6409(a) approval is processed, except that where the process requires justification for the 6409(a) approval, the applicant shall instead provide the justification for a wireless telecommunications collocation facility under California Government Code Section 65850.6.
- D. Requirements. All requirements, regulations, and standards set forth in this Chapter for a wireless telecommunications facility shall apply to a wireless telecommunications collocation facility; provided, however, the following shall also apply to a wireless telecommunications collocation facility:
1. The applicant for a wireless telecommunications collocation facility permit shall describe or depict:
 - a. The wireless telecommunications collocation facility as it will be initially built; and
 - b. All collocations at full build-out, including, but not limited to, all antennas, antenna support structures, and accessory equipment.
 2. Any collocation shall use screening methods substantially similar to those used on the existing wireless telecommunications facilities unless other optional screening methods are specified in the conditions of approval.
 3. A wireless telecommunications collocation facility permit shall not be approved unless an environmental impact report, negative declaration, or mitigated negative declaration was prepared and approved for the wireless telecommunications collocation facility.
- E. Permitted use. Notwithstanding any other provision of this Chapter, a subsequent collocation on a wireless telecommunications collocation facility shall be a permitted use only if all of the following requirements are satisfied:
1. The wireless telecommunications collocation facility:
 - a. Was approved after January 1, 2007, by discretionary permit;
 - b. Was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and

- c. Otherwise complies with the requirements of California Government Code Section 65850.6(b), or its successor provision, for addition of a collocation facility to a wireless telecommunications collocation facility, including, but not limited to, compliance with all performance and maintenance requirements, regulations and standards in this Chapter and the conditions of approval in the wireless telecommunications collocation facility permit; and
 2. The collocations were specifically considered when the relevant environmental document was prepared for the wireless telecommunications collocation facility.
 3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-discretionary permits, as required pursuant to the Martinez Municipal Code.
- F. New or amended permit. Except as otherwise provided above, approval of a new or amended permit shall be required when the facility is modified other than by collocation in accordance with this Section, or the proposed collocation:
 1. Increases the height of the existing permitted telecommunications tower or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted wireless telecommunications collocation facility unless specifically permitted under the conditions of approval applicable to such wireless telecommunications collocation facility; or
 2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by the conditions of approval.
- G. Appeals. Notwithstanding any provision of the Martinez Municipal Code to the contrary, any applicant may appeal a decision by the Community and Economic Development Director. The appeal must be filed within ten days from the Community and Economic Development Director's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager shall serve as the appellate authority for all appeals of all actions of the Community and Economic Development Director taken pursuant to this Section. The City shall provide notice for an administrative hearing by the City Manager. The City Manager shall limit its review to whether the project should be approved or denied in accordance with the provisions in this Section. The decision of the City Manager shall be final and not subject to any further administrative appeals.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.160. Business license.

A permit issued pursuant to this Chapter shall not be a substitute for any business license otherwise required under the Martinez Municipal Code.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.170. Emergency deployment.

In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the Community and Economic Development Director deems to constitute an emergency, the Community and Economic Development Director may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable conditions that the Community and Economic

Development Director deems necessary.
(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.180. Operation and maintenance standards.

- A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:
 - 1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
 - 2. After permittee, owner, operator, or any designated maintenance agent receives notification from a resident or the Community and Economic Development Director.
- B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
 - 1. General dirt and grease;
 - 2. Chipped, faded, peeling, and cracked paint;
 - 3. Rust and corrosion;
 - 4. Cracks, dents, and discoloration;
 - 5. Missing, discolored, or damaged artificial foliage or other camouflage;
 - 6. Graffiti, bills, stickers, advertisements, litter and debris;
 - 7. Broken and misshapen structural parts; and
 - 8. Any damage from any cause.
- C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Community and Economic Development Director.
- D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.
- F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this Chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday, excluding

holidays, unless alternative hours are approved by the Community and Economic Development Director. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.

- G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.
- H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this Section and the conditions of approval.
(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.190. No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.200. Permit expiration.

- A. A permit for any wireless telecommunications facility shall be valid for a period of ten years, unless the Planning Commission authorizes a longer period or pursuant to another provision of the Martinez Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.
- B. A permittee may apply for extensions of its permit in increments of no more than ten years and no sooner than 12 months prior to expiration of the permit.
- C. If a permit has not expired at the time an application is made for an extension, the Community and Economic Development Director may administratively extend the term of the permit for subsequent ten-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other applicable provisions of the Martinez Municipal Code that are in effect at the time the permit extension is granted.
 - 1. At the Community and Economic Development Director's discretion, additional studies and information may be required of the applicant.
 - 2. If the Community and Economic Development Director determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Martinez Municipal Code that are then in effect at the time of permit expiration, the Community and Economic Development Director shall refer the extension request to the Planning Commission.
- D. The request for an extension shall be decided by the Planning Commission if the permit expired before the application is made for an extension or if the Community and Economic

Development Director refers the matter to the Planning Commission. After notice and a public hearing, the Planning Commission may approve, conditionally approve, or deny the extension.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.210. Cessation of use or abandonment.

- A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the Community and Economic Development Director of any discontinuation of operations of 30 days or more.
- C. Failure to inform the Community and Economic Development Director of cessation or discontinuation of operations of any existing facility as required by this Section shall constitute a violation of any approvals and be grounds for:
 - 1. Prosecution;
 - 2. Revocation or modification of the permit;
 - 3. Calling of any bond or other assurance required by this Chapter or conditions of approval of the permit;
 - 4. Removal of the facilities by the City in accordance with the procedures established under the Martinez Municipal Code for abatement of a public nuisance at the owner's expense; and
 - 5. Any other remedies permitted under the Martinez Municipal Code.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.220. Revocation.

- A. Grounds for revocation. A permit granted under this Chapter may be revoked for noncompliance with any enforceable permit, permit condition or legal provision applicable to the facility.
- B. Revocation procedures.
 - 1. When the Community and Economic Development Director finds reason to believe that grounds for permit revocation exist, the Community and Economic Development Director shall send written notice by certified U.S. mail, return receipt requested, to the permittee at the permittee's last known address that states the nature of the noncompliance as grounds for permit revocation. The permittee shall have a reasonable time from the date of the notice, but no more than 30 days unless authorized by the Community and Economic Development Director, to cure the noncompliance or show that no noncompliance ever occurred.

2. If after notice and opportunity to show that no noncompliance ever occurred or to cure the noncompliance, the permittee fails to cure the noncompliance, the City Council shall conduct a noticed public hearing to determine whether to revoke the permit for uncured noncompliance. The permittee shall be afforded an opportunity to be heard and may speak and submit written materials to the City Council. After the noticed public hearing, the City Council may revoke or suspend the permit when it finds that the permittee had notice of the noncompliance and remained in noncompliance with an enforceable permit, permit condition or law applicable to the facility. Written notice of the City Council's determination and the reasons therefor shall be dispatched by certified U.S. mail, return receipt requested, to the permittee's last known address. Upon revocation, the City Council may take any legally permissible action or combination of actions necessary to protect public health, safety, and welfare.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.230. Removal and restoration, permit expiration, revocation or abandonment.

- A. Permittee's removal obligation. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.
- B. Failure to remove. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Martinez Municipal Code, and be grounds for:
 1. Prosecution;
 2. Calling of any bond or other assurance required by this Chapter or conditions of approval of permit;
 3. Removal of the facilities by the City in accordance with the procedures established under the Martinez Municipal Code for abatement of a public nuisance at the owner's expense; or
 4. Any other remedies permitted under the Martinez Municipal Code.
- C. Summary removal. In the event the Community and Economic Development Director determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the Community and Economic Development Director may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If

the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.

- D. Removal of facilities by city. In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Martinez Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.240. Effect on other ordinances.

Compliance with the provisions of this Chapter shall not relieve a person from complying with any other applicable provision of the Martinez Municipal Code, including but not limited to obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this Chapter and other provisions of the Martinez Municipal Code, this Chapter shall control.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.250. Effect of state or federal law.

In the event that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, the permits required by this Chapter for those facilities shall be deemed to be ministerial permits. For those facilities, in lieu of a conditional use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility and all provisions of this Chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the Community and Economic Development Director rather than as a discretionary permit. Any conditions of approval set forth in this Chapter or deemed necessary by the Community and Economic Development Director shall be imposed and administered as reasonable time, place and manner rules.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

§ 22.39.260. Appeals.

Except as may be otherwise provided by this Chapter, any Planning Commission determination on the issuance, modification, revocation, or extension of a conditional use permit may be appealed to the City Council under, and in accordance with, the provisions of Chapter 22.40.

(Ord. No. 1424-B, § 2(Exh. A), 4/3/2019)

CHAPTER 22.40
CONDITIONAL USES—USE PERMITS

§ 22.40.010. Purposes.

In order to give the district use regulations of this Title the flexibility necessary to achieve the objectives prescribed in Section 22.02.010, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include certain types of community facilities, institutions and public utility installations appropriately located in residential, professional and administrative offices, commercial and industrial districts, certain types of light industrial uses appropriately located in commercial service districts, certain types of heavy industrial uses appropriately located in light industrial districts and certain types of nuisance industries appropriately located in heavy industrial districts. Because of their unusual characteristics, conditional uses require special consideration, so they may be located properly with respect to their effects on surrounding properties. In order to achieve these purposes, the Board of Adjustments is empowered to grant and to deny applications for use permits and to impose reasonable conditions upon the granting of use permits, subject to review by the Board of Appeals.

(Prior code § 10,117.0; Ord. 822 C.S. § 2, 1975)

§ 22.40.020. Powers of Board of Adjustments.

The Board of Adjustments may grant use permits for such conditional use in such districts as are prescribed in the district regulations of this Title subject to review by the Board of Appeals in accord with the procedure prescribed herein.

(Prior code § 10,117.1; Ord. 822 C.S. § 2, 1975)

§ 22.40.030. Application and fee.

A. Application for a use permit shall be made to the Board of Adjustments on a form prescribed by the Board which shall include the following data:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property or is the authorized agent of the owner;
3. Address or description of the property;
4. Statement indicating the precise manner of compliance with each of the applicable provisions of this Title, together with any other data pertinent to the findings prerequisite to the granting of a use permit as prescribed in Section 22.40.070 of this Chapter.

B. The application shall be accompanied by the following plans and drawings:

1. An accurate scale drawing of the site and surrounding area for a distance of at least 500 feet from each boundary of the site showing the existing location of streets and property lines and the names and last known addresses of the recorded legal owners of all properties shown on the drawing;
2. An accurate scale drawing of the site showing the contours at intervals of not more

than 5 feet and existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

- C. The application shall be accompanied by a fee set by resolution of the Board of Adjustments sufficient to cover the cost of handling the application as prescribed herein.
(Prior code § 10,117.2; Ord. 822 C.S. § 2, 1975)

§ 22.40.040. Public hearing—Notice.

- A. The Board of Adjustments shall hold at least one public hearing on each application for a use permit within forty-five (45) days of the date when the application was filed.
- B. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing in the manner prescribed by the Board of Adjustments.
(Prior code § 10,117.3; Ord. 822 C.S. § 2, 1975)

§ 22.40.050. Public hearing—Procedure.

At the public hearing the Board of Adjustments shall review the application and the statements and drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated, or maintained, particularly with respect to the findings prescribed in Section 22.40.070 of this Chapter.
(Prior code § 10,117.4; Ord. 822 C.S. § 2, 1975)

§ 22.40.060. Investigation and report.

The Zoning Administrator shall make an investigation of the application and shall prepare a report, thereon which shall be submitted to the Board of Adjustments.
(Prior code § 10,117.5; Ord. 822 C.S. § 2, 1975)

§ 22.40.070. Action by Board of Adjustments.

- A. The Board of Adjustments may grant an application for a use permit as the use permit was applied for or in modified form if, on the basis of the application and the evidence submitted, the Board makes the following findings:
1. The proposed location of the conditional use is in accord with the objectives of this Title, and the purposes of the district in which the site is located;
 2. The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
 3. The proposed conditional use will comply with each of the applicable provisions of this Title.
- B. A use permit may be revocable, may be granted for a limited time period or may be granted subject to such conditions as the Board may prescribe.
- C. The Board may deny an application for a use permit.

- D. A use permit shall become effective upon the expiration of 10 days following the date on which the permit is granted unless an appeal has been taken to the Board of Appeals.
(Prior code § 10,117.6; Ord. 822 C.S. § 2, 1975)

§ 22.40.080. Appeal to Board of Appeals.

- A. Within 10 days following the date of a decision of the Board of Adjustments on a use permit application, the decision may be appealed to the Board of Appeals by the applicant or by any other interested party. An appeal shall be made on a form prescribed by the Board of Adjustments and shall be filed with the Planning Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Board of Adjustments or wherein its decision is not supported by the evidence in the record.
- B. Within 20 days of the filing of an appeal, the Zoning Administrator shall transmit to the Board of Appeals the use permit application, the scale drawing of the site and the surrounding area and all other data filed therewith, the minutes of the public hearing, the report of the Zoning Administrator, the findings of the Board of Adjustments and its decision on the application.
- C. The Zoning Administration shall give to the applicant and to the appellant (if the applicant is not the appellant) the time when the appeal will be considered by the Board of Appeals. The Zoning Administrator shall also notify all property owners to whom notices of the Board of Adjustments' hearing were mailed.
(Prior code 10,117.7; Ord. 822 C.S. § 2, 1975)

§ 22.40.090. Action of the Board of Appeals.

The Board of Appeals shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Board of Adjustments. Approval of the use permit shall require a majority vote of the members of the Board of Appeals voting on the matter. A tie vote shall have the legal effect of denying the use permit.
(Ord. 1275 C.S. § 3, 2000)

§ 22.40.100. Appeal to City Council.

- A. Within 10 days following the date of a decision of the Board of Appeals on a use permit application, the decision may be appealed to the City Council by the applicant or by any other interested party. An appeal shall be made on a form prescribed by the Board and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record.
- B. Within 5 days of the filing of an appeal, the Zoning Administrator shall transmit to the City Clerk the use permit application, the scale drawing of the site and the surrounding area, and all other data filed therewith, the minutes of the public hearing, the report of the Zoning Administrator, the findings of the Board of Appeals and its decision on the application.
- C. The City Clerk shall give to the applicant and to the appellant (if the applicant is not the appellant) the time when the appeal will be considered by the City Council. The City Clerk shall also notify all property owners to whom notices of the Board of Appeals' hearing were mailed.

(Prior code § 10,117.9; Ord. 822 C.S. § 2, 1975)

§ 22.40.110. Action of City Council.

- A. The City Council shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Board of Appeals. Approval of the use permit shall require a majority vote of the members of the City Council voting on the matter. A tie vote shall have the legal effect of denying the use permit.
- B. In the case of an appeal concerning a use permit for a planned unit development, the City Council shall hear the matter de novo and may affirm or may reverse or may modify a decision of the Planning Commission. Approval of the use permit shall require a majority vote of the members of the City Council voting on the matter. A tie vote shall have the legal effect of denying the use permit for the planned unit development.
- C. A use permit which has been the subject of an appeal to the City Council shall become effective 3 days following the date on which the use permit is granted by the City Council.
- D. A fee shall be required of the appellant, said fee to be established and adopted by the City Council from time to time by resolution. Payment of the appeal fee shall be made at the time of the filing of an appeal.

(Prior code § 10,117.10; Ord. 822 C.S. § 2, 1975; Ord. 865 C.S. § 1, 1977; Ord. 1275 C.S. § 4, 2000)

§ 22.40.120. Lapse of use permit.

A use permit, unless otherwise limited, shall lapse and shall become null and void 1 year following the date on which the use permit became effective, unless a building permit is issued, and construction commenced on the site. A use permit may be renewed for an additional period of 1 year provided that prior to the expiration of 1 year from the date when the permit originally became effective, an application for renewal of the use permit is filed with the Board of Adjustments. The Board may grant or deny an application for renewal of a use permit. Within 10 days of the date of a decision by the Board denying an application, the decision may be appealed to the Board of Appeals which shall render a decision on the application for renewal.

(Prior code § 10,117.11; Ord. 822 C.S. § 2, 1975)

§ 22.40.130. Pre-existing conditional uses.

- A. A conditional use established prior to enactment of this Title shall be permitted to continue. Alteration or expansion of a conditional use established prior to enactment of this Title shall be permitted upon the granting of a use permit, provided that a use permit shall not be required for accessory structures and uses located on the same site with and necessary for or incidental to the operation of a pre-existing conditional use.
- B. A use permit shall be required for the reconstruction of a structure housing a conditional use established prior to enactment of this Title if the structure is destroyed by fire or other calamity or by act of God or by the public enemy to a greater extent than 50%.
- C. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building

Inspector.

(Prior code § 10,117.12; Ord. 822 C.S. § 2, 1975)

§ 22.40.140. Revocation.

Upon violation of any applicable provision of this title or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a use permit shall be suspended automatically, the Board of Adjustments shall call a public hearing within 60 days in accord with the procedure prescribed in Section 22.40.040 and, if not satisfied that the regulation, general provision or condition is being complied with, may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision or condition.

(Prior code § 10,117.13; Ord. 822 C.S. § 2, 1975)

§ 22.40.150. New application.

Following the denial of a use permit application or the revocation of a use permit, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within 1 year from the date of denial or revocation of the use permit.

(Prior code § 10,117.14; Ord. 822 C.S. § 2, 1975)

§ 22.40.160. Use permit to run with the land.

A use permit granted pursuant to the provision of this Chapter or Chapter 22.42 of this Title, shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application.

(Prior code § 10,117.15; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.41 TEMPORARY USE PERMITS

§ 22.41.010. Purpose.

The purpose of this Chapter is to establish a procedure for approving temporary land uses that meet established development review standards and are appropriate due to their temporary nature. The permitted temporary land uses are those specified in Section 22.41.030 and other temporary land uses determined to be similar by the Community and Economic Development Director or designee. This Chapter regulates temporary uses on private property only. Temporary uses on public property must obtain a special events permit through the Community and Recreation Services Division.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.030. Uses permitted with a temporary use permit.

All temporary use permits must conform to the following standards to be approved. No temporary use permit may be renewed unless otherwise indicated by this Chapter.

A. Construction-related temporary uses. The following types of construction-related temporary uses may be permitted with approval of a temporary use permit:

1. Temporary construction trailer. A temporary construction trailer not located on the site where the construction activity is occurring.
2. Temporary storage container. This use includes metal shipping containers used for the storage of materials on sites other than where the construction activity is occurring. A temporary storage container associated with construction that meets all the following conditions:
 - a. Temporary storage container in conjunction with remodeling or reconstruction work at a project site with an active building permit and shall be located on the project site. For construction on a single parcel (not part of a larger development project), a temporary use permit is valid for as long as the project has a valid building permit, or for one year, whichever is shorter.
 - b. Container must be located on private property and may not be located in the public right-of-way.
 - c. Container shall be sited to minimize impacts on required parking to the extent feasible.
 - d. Container must be located on a paved surface.
 - e. Container may be located in the rear yard on a paved or unpaved surface.
 - f. No more than one container per residential parcel is permitted.
3. Construction equipment storage yard. A construction equipment storage yard includes both storage containers and construction equipment associated with construction on a commercial, industrial, or residential project, which is not located on the same site where the construction activity is occurring. A construction equipment storage yard shall be located in close proximity to the project site.

- B. Farmers market. An event offering for sale produce, food items, and related goods and merchandise by certified growers authorized to sell directly to consumers, which takes place on private property. Each individual farmers market shall be limited to one day per week. Farmers markets on public property require a special events permit from the Community and Recreation Services Division.
- C. Mobile vendors. Vehicles or trailers that are equipped to prepare and sell food, beverages, or other retail items, subject to the following performance standards:
1. Mobile vendors shall only operate on private property, in City-owned parking lots, in public plazas, in public parks, and in legal parking spaces on public streets.
 2. Mobile vendors operating in legal parking spaces on public streets are subject to the following restrictions:
 - a. Mobile vendors shall only operate between 7:00 A.M. and 10:00 P.M.
 - b. Mobile vendors shall comply with the posted parking time limits and shall pay all applicable parking fees.
 - c. Mobile vendors shall provide their own temporary waste receptacle and shall off-haul and properly dispose of all solid waste.
 - d. Mobile vendors are prohibited from operating on streets with a posted traffic speed of 35 miles per hour or greater.
 - e. Mobile vendors shall not operate on streets or rights-of-way where a public safety hazard or unsafe condition exists or potentially exists, based upon determination by the Community and Economic Development Director or designee.

Mobile vendors operating in legal parking spaces on public streets for an hour or more are subject to the following additional restrictions:

 - f. Mobile vendors shall maintain a minimum distance of 100 feet from any other mobile vendor located in a legal parking space.
 - g. Mobile vendors shall operate within a maximum travel distance of 200 feet of an approved and readily available toilet and handwashing facility to ensure that restroom facilities are available to mobile vendor employees whenever the mobile vendor is stopped to conduct business for more than a one-hour period.
 3. Mobile vendors operating in City-owned parking lots, public parks, public plazas, or as part of a permitted street closure must secure the approval of the City. Mobile vendors operating on private property must secure the approval of the property owner, prior to filing the application.
 4. Mobile vendors must secure all applicable State and local permits prior to operating within the City, including, but not limited to, environmental health permits and fire certificates.
 5. Mobile vendors are required to secure and display a City of Martinez business license.
 6. Temporary use permits for mobile vendors are valid for a maximum of one year or

for the time period listed in the approved permit, whichever is shorter. After the permit has expired, an applicant must reapply for a new temporary use permit to continue any mobile vending operation.

7. Mobile vendors are limited to operating a maximum of 100 days per year. Mondays and Tuesdays are not included towards the allotted days.
 8. Mobile vendors operating in Martinez shall report Martinez as the point of sale for the sales tax collected while operating in Martinez city limits. Failure to do so will result in revocation of their use permit.
 9. Noise from any generator shall be minimized as much as possible through screening and placement.
 10. An applicant may request an exception to exceed standards 6 and 7. The other standards may not be modified. An exception may be granted if the following findings can be made:
 - a. The use will not pose a detrimental impact to the site, adjacent properties, or neighborhood.
 - b. The use will otherwise comply with applicable Zoning Ordinance standards and requirements.
- D. Outdoor event by an established business. An outdoor event shall be limited to a maximum of 30 event days per year. Outdoor events are distinguishable from outdoor sales by established businesses in that outdoor events do not involve the commercial sale of merchandise, but are promotional in nature or for charitable or fundraising purposes. Examples of outdoor events by an established business include, but are not limited to, car shows hosted by non-auto-oriented businesses or similar events. Events in the public right-of-way are subject to further limitations. An encroachment permit is required for any road closure. Outdoor events cannot conflict with other events permitted by the City. Individual outdoor events approved as part of a temporary use permit allowing outdoor events are subject to the conditions of approval of the primary temporary use permit. Applicants shall notify the City at least 15 days in advance of any proposed individual outdoor event.
- E. Outdoor sales by an established business. Outdoor sales of merchandise and goods may be permitted in the public right-of-way provided they will not impact accessibility. Outdoor sales that occur entirely on private property do not require a temporary use permit.
- F. Outdoor skating rink. An outdoor skating rink may be permitted, with a maximum of 90 operational days per calendar year.
- G. Sales office/model home complex. This use includes nonpermanent sales offices and model home complexes within approved developments, and accessory signs, landscaping, and parking facilities. This temporary use is in effect during the period of construction and original sale of the buildings or lots in a new development. A temporary use permit is not required if sales take place entirely within a building that is otherwise permitted as a permanent structure in the approved development.
- H. Seasonal sales lot. A seasonal sales lot, including, but not limited to, Christmas tree lots and pumpkin patches, is permitted for a maximum of 60 days.

- I. Special events. An event intended to serve a public need by providing a community service or special entertainment event for the Martinez community which is normally only provided as a temporary and/or seasonal activity. Examples of special events include, but are not limited to, parades, celebrations, memorials, festivals, and fairs. Special events on public property must obtain a special events permit through the Community and Recreation Services Division.
- J. Storage or shipping container. This use includes metal shipping containers used for the storage of materials, and does not include containers associated with construction. The permit may be for one container per business or parcel for no more than one year subject to standards established by the Community and Economic Development Director designee and may be renewed by means of another temporary use permit.
 - 1. Residential. In residential zoning districts, the following conditions apply:
 - a. Storage containers in place for fewer than 30 days do not require a temporary use permit.
 - b. Container must be located on private property and may not be in the public right-of-way.
 - c. Container shall be sited to minimize impacts on required parking to the extent feasible.
 - d. Container must be located on a paved surface.
 - e. Container may be in the rear yard on a paved or unpaved surface.
 - 2. Non-residential. In non-residential zoning districts, the following conditions apply:
 - a. All temporary storage containers in non-residential zoning districts require a temporary use permit.
 - b. Letters must be submitted certifying that the Contra Costa County Department of Environmental Health, the Contra Costa County Fire Protection District, and Building Division have given approval to the materials stored and the methods used before the permit will be issued.
- K. Temporary mobile home/manufactured home. Occupancy of a mobile home/manufactured home during the period of construction of permanent living quarters for which a valid building permit is in force, on the same premises, in any agriculture or residential zoning district.
- L. Vehicle sales promotional tent sales. A temporary event promoting auto sales with a duration greater than 30 days. A promotional tent sale shall be permitted subject to the following conditions:
 - 1. The duration of automobile dealership promotional tent sales for any one dealership shall be limited to a maximum of 75 days per calendar year.
 - 2. The total square footage of all temporary tents utilized during an automobile dealership promotional tent sale at an auto dealership site at any one time shall be no more than 2,000 square feet.

3. The location of temporary tents shall be subject to review and approval by the Planning Division, Building Division, Engineering Division, and Contra Costa County Fire Protection District. A building permit shall be obtained prior to installation of the temporary tent.
 4. No advertising or logos are permitted on any temporary tent canopy.
 5. Temporary tents cannot be in place for longer than six months.
- M. Other temporary uses. A use not otherwise defined in this Chapter that is determined by the Community and Economic Development Director or designee to be temporary in nature and compatible with the surrounding area and zoning district in which it is located may be approved.
- (Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.050. Type of temporary use permits: major and minor.

- A. Major temporary use permit. Any applicant seeking a temporary use permit for any temporary use listed in Section 22.41.030 that, due to its size, location, or hours of operation, poses a significant potential impact on neighboring properties, shall be required to obtain a major temporary use permit. Examples of temporary uses requiring a major temporary use permit include, but are not limited to, an event which draws so many participants that lanes of traffic are closed and safety personnel are required to be on hand to direct traffic into parking areas.
- B. Minor temporary use permit. All other types of temporary uses listed in Section 22.41.030 shall be required to obtain a minor temporary use permit.
- (Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.060. Minor use permit.

A minor use permit may be applied for to deviate from a standard for any temporary land use contained in Section 22.41.030.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.070. Application.

The applicant shall submit a complete standard application form, accompanied by a fee, written description of the proposed temporary use with hours and duration of operation, the written authorization by the property owner, and a diagram of the proposed temporary use (including pedestrian and automobile circulation) and other information as may be required by the Community and Economic Development Director or designee. The Community and Economic Development Director or designee will determine whether the temporary use permit is major or minor for the purposes of fee payment.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.080. Approval.

The Community and Economic Development Director or designee may approve a temporary use permit upon make the determination that the project meets the findings in Section 22.41.090 and any standards established by the Community and Economic Development Director or designee for that permit, including, but not limited to, compliance with applicable requirements

of the State of California; review and approval by other departments, divisions, and outside organizations; compliance with other applicable regulations; and meets the requirements of this Title. The Community and Economic Development Director or designee may impose additional standards or conditions of approval on the temporary use permit.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.090. Findings.

The Community and Economic Development Director or designee may approve an application for a temporary use permit, without public notice, upon making the following findings:

- A. The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the city; and
- B. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas or a parking management plan.
- C. The use is consistent with all applicable provisions of the Municipal Code, the General Plan, and any applicable Specific Plans or city regulations/standards.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.100. Expiration of temporary use permit.

A temporary use permit is valid for one year, for the time period specified in this Chapter, or for the time period listed in the approved permit, whichever is shorter.

(Ord. No. 1458, § IX, 5/15/2024)

§ 22.41.110. Appeals.

The approval or denial of a temporary use permit may be appealed to the Planning Commission.

(Ord. No. 1458, § IX, 5/15/2024)

CHAPTER 22.41A

PERSONAL CULTIVATION OF CANNABIS PROHIBITIONS AND REGULATIONS⁴⁶

§ 22.41A.010. Purpose.

- A. Subject to certain exceptions, the purpose of this Chapter is to impose regulatory restrictions on the personal cultivation of cannabis pursuant to state law. Nothing in this Section is intended to allow commercial cannabis activities as defined in this Chapter. This Section is not intended to interfere with a patient's right to use medicinal cannabis pursuant to state law, as may be amended, nor does it criminalize cannabis possession or cultivation otherwise authorized by state law. This Section is not intended to give any person or entity independent legal authority to operate a cannabis business, as it is intended simply to impose regulatory restrictions regarding personal cultivation of cannabis in the City pursuant to this Code and state law.
- B. Applicability. Nothing in this Section shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law, nor shall it be construed, to exempt any activity related to the cultivation of cannabis from any applicable electrical, plumbing, land use or other building or land use standards or permitting requirements. No provision of this Section shall be deemed a defense or immunity to any action brought against any person by the Contra Costa County District Attorney's office, the Attorney General of the State of California or the United States of America.

(Ord. No. 1420, § 2, 1/16/2019)

§ 22.41A.020. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- A. "Cannabis" means all parts of the plant *Cannabis sativa* linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medicinal, non-medicinal, or other purposes.
1. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
 2. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5, which said definition provides:

"Industrial hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds

46. Editor's note: Prior history: Ord. No. 1411 C.S., 11/15/2017.

or resin produced therefrom.

- B. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- C. "Fully enclosed accessory structure" means a building that complies with the applicable provisions of the California Building Standards Code as adopted and amended by Chapter 14.10 (Construction Codes) of the Martinez Municipal Code. It must be located on a parcel on which a primary residence is situated; and the fully enclosed accessory structure can only be located in the rear yard. This definition includes greenhouses. Any fully enclosed accessory structure must conform with all applicable provisions of this Title.
- D. "Greenhouse" means an enclosed agricultural building used for the growing of plants. "Greenhouse" includes other structures also known as hothouses, cold frames and other similar specialty categories. It may include construction materials of glass, rigid plastic, flexible plastic, masonry, wood, metal and concrete. If the greenhouse is less than 100 square feet in size or less than six and one half feet in height, and contains no mechanical, electrical or plumbing improvements, no building permit shall be required. It must be located on a parcel on which a private residence is situated.
- E. "Indoor" or "indoors" means inside a fully enclosed accessory structure, greenhouse or space within a private residence.
- F. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, as the same may be amended from time to time.
- G. "Medicinal cannabis" means cannabis used for medical purposes as described in California Health and Safety Code Section 11362.5.
- H. "Outdoors" means any location within the City that is not within fully enclosed accessory structure, greenhouse, or within a private residence.
- I. "Primary caregiver" means the individual described in Health and Safety Code Section 11362.7(d).
- J. "Private residence" means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.
- K. "Qualified patient" means an individual who is entitled to the protections of Health and Safety Code Section 11362.5.

(Ord. No. 1420, § 2, 1/16/2019)

§ 22.41A.030. Indoor personal cultivation standards.

- A. Indoor personal cultivation in private residence. Indoor personal cultivation of cannabis is permitted on a parcel with an approved private residence in accordance with the regulations of this Chapter. The indoor personal cultivation of cannabis shall only be conducted within a fully enclosed accessory structure, greenhouse or within a private residence. Such cultivation shall be in conformance with the following minimum standards:
 - 1. The primary use of the property on which the cannabis cultivation is occurring shall be for a residence. Cannabis cultivation is prohibited as a home occupation.

2. All areas used for cultivation of cannabis shall comply with Title 22 (Zoning) and Title 15 (Buildings and Construction) of the Martinez Municipal Code, as well as applicable law.
 3. Any fully enclosed accessory structure used for the cultivation of cannabis shall adhere to size, height, and setback requirements for accessory structures outlined in the Municipal Code and must adhere to all planning and building requirements as adopted and amended in Chapter 15 (Building and Construction) and Title 22 (Zoning) of the Martinez Municipal Code. A greenhouse that does not require a building permit shall be exempted from this requirement.
 4. No more than six cannabis plants may be cultivated indoors per residence regardless of how many individuals reside at the private residence by either a qualified patient or primary caregiver, and as consistent with state law for qualified patients and primary caregivers. No more than six cannabis plants may be cultivated per residence by an individual over 21 years old that is neither a qualified patient nor a primary caregiver, regardless of how many individuals reside at the private residence. These limitations shall apply, regardless of whether the cannabis is cultivated inside the residence and/or in a fully enclosed structure.
 5. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. These rooms shall not be used for cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.
 6. From a public right-of-way, there shall be no exterior evidence of cannabis cultivation occurring on the parcel.
 7. Cannabis cultivation areas, whether in a fully enclosed accessory structure, greenhouse or inside a residence, shall not be accessible to persons under 21 years of age (unless the person is a qualified patient or primary caregiver, in which case access is permissible by these persons but the cannabis can only be used for medicinal purposes).
 8. Cannabis cultivation may only be conducted by a property owner, tenant, or resident of the property on which the cannabis cultivation is occurring. Written consent of the property owner for any tenant or non-owning resident to cultivate cannabis within the residence, greenhouse or in a fully enclosed accessory structure shall be obtained and shall be kept on the premises, and available for inspection by the building official or his/her designee.
- B. Disposal of waste. The following regulations apply to the disposal of cannabis cultivation waste on residential property:
1. Cannabis plants and products must be rendered unusable and unrecognizable by grinding and incorporating cannabis waste with any non-consumable solid waste with a resulting mixture of at least 50 percent non-cannabis waste.
- C. Outdoor cultivation. Personal cultivation of cannabis is strictly prohibited outdoors.
(Ord. No. 1420, § 2, 1/16/2019)

§ 22.41A.040. Violation and penalty.

In addition to any other enforcement permitted by this Chapter 22.41A of the Martinez Municipal Code, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Chapters 1.12 and 1.15 of the Martinez Municipal Code, no provision of Chapters 1.12 and 1.15 or this Chapter 22.41A authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by California Health and Safety Code § 11362.71, et seq. or § 11362.1, et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Chapters 1.12 and 1.15 of the Martinez Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.
(Ord. No. 1420, § 2, 1/16/2019)

CHAPTER 22.42
PLANNED UNIT DEVELOPMENTS (PUDs)⁴⁷

§ 22.42.010. Purpose.

The purposes of this Chapter are to:

- A. Implement the objectives of the General Plan in a manner that will provide for greater flexibility in the design of integrated developments than otherwise possible through strict application of zoning regulations.
 - B. Encourage the design of well-planned facilities which offer a variety of housing or other land uses through creative and imaginative planning.
 - C. Ensure orderly and through planning and review procedures, that will result in high quality urban design.
 - D. Encourage variety and avoid monotony in development.
 - E. Conserve superior natural features.
 - F. Encourage the preservation of serviceable existing structures determined by the City to be of historic value by providing the opportunity for imaginative re-use, rehabilitation and where appropriate expansion.
 - G. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.
 - H. Provide more desirable public and private open space and encourage allocation and improvement of common open space in residential areas. Provide for maintenance thereof at the expense of those who will directly benefit from it.
 - I. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
 - J. Encourage the provision of superior amenities in development.
- (Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.020. General provisions.

- A. General criteria and intent. In administering the provisions of this Chapter, the extent to which the proposed planned unit development (PUD) generally promotes the purposes of this Chapter shall be taken into consideration.
 - 1. It is intended that this Chapter be utilized for developments capable of achieving the distinct characteristics intended by the PUD criteria set forth in this Chapter, among them the following types of development:
 - a. Residential. Residential subdivision developments which may include a variety of housing types and site plans, accessible open "green spaces," or common recreational areas and other features of substantial benefit to a viable and balanced community.

47. Editor's note: Prior history: Prior code §§ 10,118.0—10,118.8; and Ord. 822 C.S., 1975.

- b. Residential—Mixed Use Development. Mixed residential-commercial developments combining among other things, residential, retail, hotel, office, commercial recreation facilities, or other compatible uses grouped in a well-designed and coordinated site development.
- c. Industrial Development. Well-designed and controlled groupings of research, service, or light industrial uses within an area containing visual and operational amenities and features, such as selective occupancies, setbacks, landscaping, and bulk and building material controls.

B. Limitations on use of PUD. It is not intended that this Chapter:

- 1. Encourage or permit a property owner to increase the development potential of his or her property merely by increasing the density of his or her project, contrary to the regulations imposed by the base zoning applicable to the property.
- 2. Be used solely to create a development potential for small or difficult parcels of property created or remaining as a result of subdividing, freeway construction, or other contributing factors.
- 3. Be applied to projects of less than 1 acre in size, except projects within the boundaries of either the Downtown Specific Plan or Central Martinez Specific Area Plan, in which case the minimum size project for a PUD application is 7,000 square feet.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.030. PUD District.

- A. Application—Procedure—Notice—Fees. A zoning amendment to rezone property to a PUD Overlay District may be initiated by a property owner or authorized agent, or by the City. If initiated by the property owner and the property is not under a single ownership, all owners shall join in the application, and a map showing the extent of the ownerships shall be submitted. The PUD zoning designation shall be adopted or removed in the same manner as a rezoning as set forth in this title. An application for a PUD zoning designation shall be subject to application fees as set forth by resolution of the City Council.
- B. Areas in multiple ownership. The PUD designation of property that is not all in the same ownership may only be initiated by a petition submitted on behalf of the owners of all of the property within the area.
- C. Effect of PUD designation. A PUD designation constitutes an overlay zoning district. The PUD designation appearing on the official zoning map indicates that the property within such overlay zone is subject to the requirements and restrictions set forth in this Chapter in addition to the indicated underlying zoning district.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.040. PUD Plan.

No land use entitlement or development for property located within a PUD Overlay Zone shall be approved until a PUD Plan for the property subject to the Overlay has been approved by the City Council in accordance with this Chapter.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.050. Required contents of PUD Plan.

- A. The approval of a PUD Plan shall constitute a rezoning of the property and zoning text amendment applicable to the property and shall establish the specific requirements for development and use of the site consistent with the General Plan and any applicable Specific Plan. In approving a PUD Plan, the City Council may modify zoning regulations prescribing development standards, including but not limited to those relating to maximum building height, minimum yard, open space area and lot size requirements, parking and loading, and other provisions of this title otherwise applicable to the property, excepting those prescribed by the Hillside Development Regulations; Chapter 22.33, which include but are not limited to Maximum Allowable Density Calculations; Section 22.33.020.
- B. The PUD Plan shall contain a schematic plan and development standards applicable to development within the PUD and shall include specific details, elements, conditions and restrictions as the council may deem warranted to carry out the purpose of this Chapter, including conditions and restrictions related to size, timing and sequence of development.
- C. The PUD Plan shall at a minimum contain:
1. Allowable density standards. The allowable density and intensity of development, including: the total number and type of dwelling units that may be allowed for residential development (attached or detached and product type) and or the total square footage, maximum floor area ratios and building massing requirements for nonresidential development. Maximum allowable density shall not exceed the maximum density permitted by the General Plan, any applicable Specific Plan and the underlying zoning district in which the property is located.
 2. Allowable land uses. The allowable land uses, including accessory uses, and any subsequent land use permit requirements that shall apply after the approval of the PUD Plan.
 3. Streets and lots. The proposed street and lot pattern. The creation of lots is subject to compliance with the subdivision ordinance.
 4. Lot size and coverage requirements. Minimum lot sizes and site coverage requirements.
 5. Setbacks and height limits. Minimum setback requirements and structure height limits.
 6. Parking. Off street parking requirements and identification of the location for required off street parking.
 7. Landscaping. Landscaping requirements.
 8. Sign program. If signs are proposed, an integrated consistent sign program.
 9. Such other information required by the review authority.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.060. Effect of approval, and administration of approved plans.

After the PUD Plan approval, the land uses allowed on the site and the proposed development

shall comply with:

- A. The standards of the PUD Plan to the extent that those provisions differ from the standards of this title, and
- B. The provisions of this title where the PUD Plan is silent on any aspect of land use or development that is otherwise regulated by this title.
- C. In any case where a PUD Plan is silent on an aspect of land use or development otherwise regulated by this title, the allowable land use requirements and development standards of the underlying zoning district shall apply.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.080. PUD plan application and approval procedures.

PUD Plans shall be prepared, filed, processed, and approved or disapproved as follows.

- A. Application filing and processing. An application for PUD Plan approval shall be filed and processed as an amendment to the zoning text and map in compliance with this title. The PUD Plan application shall include the following information and materials.
 - 1. Graphic documents (one or more maps or drawings) accurately drawn to scale and sufficiently detailed to show:
 - a. Boundaries and area of the site;
 - b. A site plan for the conceptual and completed project showing each type of land use and the maximum allowable density or building intensity identified, areas designated for open space, all buildings/structures, streets, parking, pathways, patios, decks, pools, accessory buildings, fences, walls and similar improvements;
 - c. Preliminary utility plan including storm drainage system;
 - d. Topography, with existing and proposed contours shown at a minimum interval of 10 feet;
 - e. Site slopes, calculated and classified as per Section 22.33.020; Hillside Development Regulations, Maximum Allowable Density Calculations;
 - f. All existing structures and improvements on the site;
 - g. All water areas (ponds, lakes, streams, wetlands, and drainage ways);
 - h. Contiguous properties, their zoning and existing uses and structures and other improvements;
 - i. Surrounding street pattern, with design capacities and current traffic counts;
 - j. Either: 1) conceptual architectural floor plans and elevations, sufficiently detailed to show conceptual height, bulk, and their relationship to the topography and indicating materials and colors of all building types proposed to be developed, or 2) comprehensive design standards and guidelines, as to be applied to all development within the PUD, prescribing the maximum building

envelope for each structure; and minimum standards for and/or limitations on ranges of exterior materials, landscaping, fencing and any other applicable limitations on site development, including but not limited to grading or tree removal.

- k. Designation of projected density and/or intensity of development. Density in gross and net figures for residential uses and, lot and building coverage, and total square footage of floor area for nonresidential uses;
 - l. Geologic map graphically identifying areas of potential geologic problems or hazards;
 - m. Opportunities and constraints map, showing visual focal points, view potential and existing utilities;
 - n. Subdivision proposals with minimum lot sizes and lot pattern;
 - o. Comprehensive landscape plans including the location, trunk diameter and type of all existing trees more than three inches in diameter measured 24 inches above ground level within the development area noting which, if any, are to be removed. These plans shall also show areas to be planted with trees, shrubs, groundcover, and hydroseeding and whether such trees or shrubs are to be evergreen or deciduous and shall include visual design including such elements as fencing, pathways, lighting, and other features;
 - p. A comprehensive grading plan with a contour interval of at least five feet, showing area, height and slope of all cut or fill banks, earth quantities of import or export, street and lot layout;
2. Written development standards and statements as they apply to the following subjects:
- a. Density/intensity of development proposed including: the total number and type of dwelling units that may be allowed for residential development (attached or detached and product type) and or the total square footage, maximum floor area ratios and building massing requirements for nonresidential development;
 - b. The proposed allowable land uses, including all accessory uses and approximate land area and square footage of floor areas and number of bedrooms for residential uses;
 - c. Provisions dealing with ongoing physical development or use limitations such as, minimum lot size, height limitations for structures, required yard areas, maximum fence heights, coverage limitations, maximum floor area ratios, accessory structures, home occupations, parking requirements, landscaping requirements and signs;
 - d. A description of subsequent land use permit requirements that shall apply after the approval of the PUD plan;
 - e. Professional analysis and report on soils, flooding, geologic hazard, seismic hazard, wildlife, vegetation, noise, traffic safety, historic or archeological considerations;

- f. Utilities plan (gas, electric, water, sanitary sewer, telephone, storm drainage);
 - g. Public services (police, fire, schools, mail);
 - h. Public conveniences (solid waste, TV, newspapers);
 - i. Public facilities (streets, library, public transportation and parks);
 - j. Traffic analysis (auto, bike, pedestrian, equestrian), including trip generation figures for vehicular traffic (auto/truck/service);
 - k. Parking computations and ratios (per unit for residential and per square foot in nonresidential);
 - l. If the project is in a high fire hazard area, as determined by the Fire District, then a fire management plan shall be included. The fire management plan shall describe the terrain, vegetation, fire service, access, and water availability and proposed method to reduce fire hazards, including long-term maintenance standards and management practices and identification of the responsible party and funding source;
 - m. Any proposed exceptions to development standards of this code;
 - n. Management plans including standards for maintenance of any open space, common areas, scenic easements, or other non-developed areas, and all waterways or wetlands including identification of responsible party and long-term funding source for maintenance activities; and
 - o. Information provided as required by the director to allow a determination on environmental review to be made in accordance with the California Environmental Quality Act).
3. A list of all property owners included on the PUD Plan and a map depicting the parcel ownership.
- B. Design review committee recommendation on site plan required. Prior to review by the Planning Commission, PUD Plans shall first be reviewed by the Design Review Committee for a site plan design recommendation. Design Review Committee recommendations shall be advisory and shall be transmitted to the Planning Commission with the staff evaluation. The Planning Commission shall consider the staff evaluation and the Design Review Committee's recommendation in making its findings and recommendations to the council on the PUD Plan.
- C. Commission action on PUD Plan. Following a public hearing in compliance with this title, the commission may recommend that the council approve, conditionally approve, or disapprove the PUD Plan. The commission may recommend approval of a PUD Plan only after first making all of the following findings:
- 1. The proposed PUD Plan development is in conformance with the applicable goals and policies of the general plan and any applicable specific plan;
 - 2. The proposed PUD Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities;

3. Streets and pedestrian facilities adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development;
4. The proposed PUD Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood and the site is physically suitable for the type and density/intensity of development being proposed, adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this title;
5. The proposed PUD Plan would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than might otherwise occur from more traditional development applications;
6. The location, access, density/building intensity, size and type of uses proposed in the PUD Plan are compatible with the existing and future land uses in the surrounding neighborhood.

D. Council action on PUD Plans.

1. After a commission recommendation for the approval of a PUD Plan, or an appeal of a commission disapproval of a PUD Plan, council shall review the PUD Plan in a noticed public hearing in compliance with this title.
2. Following the public hearing, the council may approve, conditionally approve, or disapprove the PUD Plan. The council may approve the PUD Plan only after first making all of the findings required by subsection (C) of this section.
3. Disapproval shall be by motion. Approval or conditional approval shall be by the adoption of an ordinance.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.090. Council action required for applications integral to PUD Plan.

Applications for development entitlements made concurrently with an application for approval of a PUD Plan, including but not limited to a request for approval of a subdivision map, variance to the provisions of the Hillside Development Regulations (Chapter 22.33) and Design Review (pursuant to Section 22.42.100.B below), the Planning Commission will make its recommendation to the Council on such applications, who will take action to approve, conditionally approve, or disapprove such applications concurrently with its consideration of the PUD Plan pursuant to Section 22.42.080.D.

(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.100. Design review approval and issuance of building permits.

- A. Design review approval subsequent to council action. No building permit shall be issued for any building or structure within the boundaries of property zoned PUD overlay until a Design Review application, per Section 22.34.030-070, has been approved for the finalized architectural and landscape plans, and it is determined by the Planning Commission that the plans conform to either the: 1) conceptual architectural floor plans and elevations or 2)

comprehensive design standards and guidelines adopted for the PUD. No building or structure within a PUD may be occupied until an inspection of the project has been made by the Community Development and Economic Director to see that all conditions of the plan review have been complied with. Modifications to previous Design Review approvals may be subject to Design Review Committee and/or Planning Commission review per Section 22.34.030-070.

- B. Design review application may be concurrent with council's approval of PUD. Notwithstanding Sections 22.42.080.B and 22.42.090.A, an applicant may choose to apply for Design Review approval concurrently with the application for a PUD. In such cases, Design Review Committee's site plan review, as required by Section 22.42.080.B, will be expanded to include a review of finalized architectural and landscape plans as normally required by Sections 22.34.030-070. The Design Review Committee's recommendation will be made to the Planning Commission, who will make its recommendation to the Council, who will take action as provided in Section 22.42.090 above.
(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.110. Amendments to an approved PUD Plan.

Any proposed deviation from an approved PUD Plan, other than those limited to Design Review approval(s) per Section 22.42.090, are to be considered a potential amendment to the PUD Plan. Amendments to a previously approved PUD Plan may be applied for by the property owner or the City. The authority of the commission and council to act upon a PUD Plan amendment application is limited to considering and taking action with respect to only: (i) the changes in the plan proposed by the amendment; (ii) the direct and indirect effects on the balance of the plan caused by said amendment; and (iii) the environmental consequences of, and any necessary mitigation measure applicable to said changes. The commission and council shall follow the same procedures as were required for the City's consideration and action on the original (or previously amended) PUD Plan.
(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.120. Revocation of an approved PUD District and Plan.

An application to revoke a previously approved PUD District and Plan may be applied for by the property owner or the City. Reasons for such an application may include, but are not limited to, the expiration of a concurrently approved tentative map or the failure of a property owner(s) to acquire neighboring parcel(s) for concurrent development as envisioned by the approved PUD Plan. The commission and council shall follow the same procedures as were required for the City's consideration and action on the original (or previously amended) PUD District Plan. The approval of the requested revocation will remove the PUD Overlay District, and the land use and development regulations of the underlying base zoning district would apply.
(Ord. No. 1356 C.S., § 1, 9/15/2010)

§ 22.42.130. Map of approved PUDs.

The City shall prepare and maintain on file in the planning division a map which delineate the designated PUDs in the City.
(Ord. No. 1356 C.S., § 1, 9/15/2010)

CHAPTER 22.43

ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

§ 22.43.010. Intent.

This Chapter is intended to comply with State law (including, but not limited to, California Government Code Sections 66310 through 66342), by allowing accessory dwelling units (ADU) and junior accessory dwelling units (JADU) through ministerial review, subject to meeting the objective design and development standards prescribed below. In the event of any conflict or inconsistency between this Chapter and State law or other Sections in the Municipal Code, the more permissive regulations shall prevail.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1474, 7/16/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.020. Where permitted.

A. Any ADU may be permitted:

1. On any lot zoned for a residential use, or any non-residentially zoned lot which is currently occupied with a single-family dwelling or multifamily dwellings.
2. On any lot zoned or occupied by a religious institution, as defined in Chapter 22.04.

B. ADUs shall not be located in the following locations:

1. In areas encumbered by a recorded easement, including, but not limited to, public utility easements, conservation easements, access easements, pedestrian pathway easements and open space easements; or
2. In areas that extend into a creek bank.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1463, § XVII, 10/23/2024; Ord. No. 1485, 3/18/2026)

§ 22.43.030. Quantity of units.

The following number of ADUs and JADUs shall be the maximum number of accessory units permitted on lots subject to this Section.

A. Lot with one single-family dwelling unit: one detached ADU, one attached ADU, and one JADU.

B. Lot with more than one legal, conforming single-family dwelling unit: one detached ADU, one attached ADU, and one JADU.

C. Lot with existing multifamily dwellings:

1. Up to eight detached ADUs, but shall be limited to the number of existing multifamily dwelling units on the lot;
2. At least one ADU converted from non-habitable portions of the existing primary structure that are not within the living space of a dwelling unit (e.g., basement, attic, garages, storage room) or the non-residential portions of a mixed-use building. The maximum number of ADUs shall not exceed 25 percent of the total number of existing dwelling units on the lot; and

3. One additional attached or detached ADU subject to the development standards provided in this Chapter.
 - D. Lot with a proposed multifamily dwelling unit: up to two detached ADUs and one additional attached or detached ADU subject to the development standards provided in this Chapter.
 - E. Lot with religious institution: up to three ADUs, subject to the following exceptions:
 1. When a lot contains a religious institution and a single-family and/or multifamily dwelling, the maximum number of ADU(s) permitted shall be associated with only one of the uses, whichever permits more.
 2. When a religious institution occupies multiple lots, only one of these lots shall be eligible for the ADU(s).
- (Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1463, § XVII, 10/23/2024; Ord. No. 1469, § IX, 4/2/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.040. Unit size.

- A. Minimum Size. An ADU/JADU shall be a minimum of 150 square feet or the size necessary to accommodate an efficiency unit as defined by California Health and Safety Code Section 17958.1, whichever is greater.
- B. Maximum Size.
 1. ADU. The total floor area of an attached or detached ADU shall not exceed 1,200 square feet, excluding any garage area. Non-State Exempt ADUs shall have a floor area smaller than the primary dwelling. In no case shall an ADU attached to the primary dwelling exceed 50 percent of the existing primary dwelling square footage, except a State Exempt ADU shall be permitted.
 2. JADU. The total floor area of a JADU shall not be more than 500 square feet of interior living space, excluding any shared sanitation facility within the primary dwelling structure.
- C. Conversion Restrictions. A JADU created entirely through conversion of an existing permitted structure is allowed a physical addition of no more than 150 square feet and shall be limited to accommodating ingress and egress, subject to all other applicable provisions of this Chapter. The conversion of an existing permitted accessory structure or a portion of an existing primary structure to an ADU is not subject to unit size requirements.
- D. Lot Coverage and Floor Area Ratio. Newly constructed ADUs shall be exempt from the maximum lot coverage or floor area ratio allowed in the zoning or overlay district.
(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1474, 7/16/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.050. Setbacks.

- A. Front. Both attached and detached Non-State Exempt ADUs shall be subject to the same front setback requirements as the primary dwelling.
- B. Side. A setback of no less than four feet from the side lot line shall be required for either an attached or detached ADU.

- C. Rear. A setback of no less than four feet from the rear lot line shall be required for either an attached or detached ADU.
- D. Expansion of converted existing structures. The first floor of an existing permitted structure which has setbacks of less than four feet and is planned for conversion into an ADU can be expanded, so long as the expansion does not result in additional encroachment into the required setbacks.
- E. Architectural features. Architectural features including sills, eave overhangs, awnings, and cornices may extend into a required setback or space between buildings not more than 18 inches.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1480, 12/10/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.055. Sight distance.

Both attached and detached ADUs shall not encroach within the sight distance area, as established by the California Department of Transportation Highway Design Manual, Chapter 400, Section 405, to protect the health and safety of the public.

(Ord. No. 1485, 3/18/2026)

§ 22.43.060. Building separation.

- A. Non-State Exempt ADU. For any detached ADU which does not qualify as a State Exemption ADU, the distance between the ADU and any other structures shall be at least five feet.
- B. State Exempt ADU. Detached ADUs located closer than five feet to any other structures without an automatic residential fire sprinkler system shall be subject to a minimum of one-hour fire-resistance rating and shall comply with all California Building Code and California Fire Code fire-rating requirements.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1485, 3/18/2026)

§ 22.43.070. Height.

Building height shall be measured as the vertical distance from any point on the natural grade, to the topmost point of the building immediately above.

- A. Detached ADU.
 - 1. New construction. A maximum height of 18 feet for a new detached ADU shall be permitted. An additional two feet in height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit shall also be permitted.
 - 2. Addition to an existing detached structure. An ADU which results in an addition to an existing detached structure that is not the primary dwelling shall have a maximum height of 25 feet or the height limitation associated with the primary dwelling, whichever is lower.
- B. Attached ADU. A maximum height of 25 feet or the height limitation associated with the primary dwelling, whichever is lower, shall be permitted for an ADU that is attached to a primary dwelling.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1474, 7/16/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.080. Parking.

- A. **Minimum Parking.** A minimum of one independently usable off-street parking space shall be provided for each ADU, which shall be provided in addition to the required parking for the primary residential dwelling(s), except as outlined in Subsections C and D of this section. No parking is required for a JADU.
- B. **Parking Design.** This space need not be covered, and shall comply with all development standards set forth in Chapter 22.36 (Off-Street Parking and Loading Facilities), except the space may be compact and/or uncovered. A tandem parking space may also be used to meet the parking requirement for an ADU, providing such space will not encumber access to a required parking space for the primary single-family dwelling.
- C. **Replacement Parking.** When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU or JADU, no parking replacement spaces for the primary residence shall be required. Any other required off-street parking spaces shall be maintained for the primary residence, and may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the building permit application for the accessory dwelling unit and issued at the same time. The applicant is not required to provide written notice or post a placard for the demolition of a detached garage, that is to be replaced with an accessory dwelling unit, unless the property is located within the Historic Overlay District or another architecturally and historically significant historic district.
- D. **Parking Exceptions.** Off-street parking shall not be required for an ADU in any of the following instances:
 - 1. The ADU has no bedroom (such as a studio unit or efficiency unit).
 - 2. The ADU is located within one-half mile walking distance of public transit, including various means of transportation that charge set fees, run on fixed schedules, and are available to the public.
 - 3. The ADU is located within the Historic Overlay District or another architecturally and historically significant historic district.
 - 4. The ADU is part of the proposed or existing primary dwelling or an accessory structure.
 - 5. When on-street parking permits are required but not offered to the occupant of the ADU.
 - 6. When there is a designated pick-up or drop-off location for car share vehicles located within one block of the ADU.
 - 7. The ADU is consistent with affordability requirements outlined in Section 22.43.140.
 - 8. When a building permit application for an ADU is submitted with a building permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed under these parking exceptions.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1485, 3/18/2026)

§ 22.43.090. Design standards.

The following design standards shall apply to all Non-State Exemption ADUs:

A. Aesthetics. The design of the ADU and/or JADU shall be as follows:

1. For a detached ADU, the exterior materials and design shall match the design of any existing primary unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials and roof pitch. The Community and Economic Development Director, Planning Manager, or designee may determine without the requirement for a public hearing or a public review process that similar materials and design substantially comply with this requirement.
2. For an attached ADU, the exterior materials, windows, and other architectural features shall match the existing structure by employing the same building form, exterior wall materials, color tones, window design, door and window trims, roofing materials and roof pitch. The Community and Economic Development Director, Planning Manager, or designee may determine without the requirement for a public hearing or a public review process that similar materials, windows, or other architectural features substantially comply with this requirement.

B. Lighting. Exterior building lighting shall be fully shielded and downward-facing and limited to one exterior light fixture per exterior doorway, or the minimum necessary to comply with the California Building Standards Code.

C. Utility connections. All electrical and utility services to a new dwelling unit shall be undergrounded.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1480, 12/10/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.100. Ingress and egress.

A. ADUs and JADUs shall have an independently accessible entrance that does not require passage through the primary residence.

B. With the exception of JADUs that do not include separate sanitation facilities, attached ADUs shall not be allowed a connecting doorway or other permanent ingress or egress between the primary dwelling and the ADU.

C. A JADU created entirely through conversion of an existing permitted structure is allowed a physical addition of no more than 150 square feet and shall be limited to accommodating ingress and egress consistent with the remainder of this Chapter.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1485, 3/18/2026)

§ 22.43.110. Privacy.

The following privacy standards shall apply to all Non-State Exempt ADUs:

A. Windows. ADUs that do not meet the setback requirements that would apply to a primary dwelling in the same district shall require windows on the second story or above that face neighboring property lines to:

1. Be clerestory with a minimum sill height of six feet above the subject interior floor elevation; or
 2. Have frosted or opaque glass and not be operable except as required for an ingress/egress requirement pursuant to the California Residential Code.
- B. Balconies and decks. Balconies and decks attached to ADUs shall comply with the setback requirements that apply to a primary dwelling in the same district.
(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1458, § XII, 5/15/2024; Ord. No. 1480, 12/10/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.120. General requirements.

- A. Compliance With Building Codes. All ADUs and JADUs shall comply with all applicable requirements of the building code as adopted and enforced at time of submitting a complete application. In cases where an ADU or JADU is to be created through the reconfiguration of a portion of an existing single-family dwelling, both the secondary and primary dwelling shall be upgraded to comply with such building code requirements, which include but is not limited to noise separation between units sharing common walls, emergency egress and heating/ventilation requirements, as required by the Chief Building Official or designee.
- B. Final Building Permit. A Final Building Permit for an ADU/JADU shall not be permitted before a Final Building Permit is issued for the respective primary dwelling, unless the ADU is constructed in a county that is subject to a proclamation of a state of emergency made by the Governor on or after February 1, 2025, if the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency, and the ADU has been issued construction permits and passed all required inspections.
- C. Permanent Foundation. A permanent foundation shall be required for all attached and detached ADUs and for any ADU or JADU created entirely through conversion to the existing structure with a physical addition.
- D. Public Utilities and Services. ADUs shall be served by public water and sewer and shall have access to an improved public street.
- E. Required Facilities. With the exception of JADUs, all attached or detached ADUs must include:
1. Independent facilities for living, sleeping, cooking, and sanitation.
 2. A kitchen area containing a refrigerator, sink, and permanently installed cooking appliance, which must include at least a fixed stovetop.
 3. A fully plumbed bathroom including sink, shower, and toilet.
 4. If a permitted JADU does not include a separate bathroom, the JADU must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.
- F. Fire Sprinklers. All newly constructed or converted ADUs are required to have automatic residential fire sprinklers consistent with California Residential Code Section R313.2, unless the existing primary structure was constructed prior to the requirement for automatic residential sprinkler system. The construction of an accessory dwelling unit shall not

trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

- G. Windows. Detached ADUs with a wall(s) located closer than five feet to a primary dwelling shall not include any openings such as windows or doors on the subject wall(s).
- H. Occupancy. ADUs and JADUs may be rented separately from the primary dwelling. Dwellings with ADUs do not require owner occupancy of either the primary dwelling or ADU. Dwellings with JADUs require owner occupancy of either the primary dwelling or the JADU if the JADU has shared sanitation facilities with the existing structure, but shall not be required if the JADU has separate sanitation facilities or the owner is another governmental agency, land trust, or housing organization. No ADU or JADU shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.
- I. Conveyance. ADUs may be separately conveyed as condominiums under the following requirements.
 - 1. Non-Profit Conveyance: The involvement of qualified nonprofit housing organizations consistent with California Government Code Section 66341.
 - 2. Private Conveyance: An ADU may be conveyed separately from a primary dwelling via a private transaction with implementation of a condominium plan. The conveyance of the ADU shall also comply with Government Code Section 66341, the Subdivision Map Act (Division 2 (commencing with Section 66410)), and all objective requirements of Martinez Municipal Code Title 21.
- J. Common Sanitation Facilities. JADUs are permitted to have common sanitation facilities with the primary dwelling. Any JADU with common sanitation facilities shall have interior access to the primary dwelling.
- K. Protected Trees. Where an ADU is proposed within the dripline of a protected tree, as defined in Section 8.08.044, an arborist report prepared by a licensed arborist shall be required and all ensuing recommendations shall be followed.
- L. Hillside Properties. For areas with slopes greater than 30 percent, the preparation of a geotechnical investigation report shall be required and all ensuing recommendations shall be followed.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1458, § XII, 5/15/2024; Ord. No. 1485, 3/18/2026)

§ 22.43.130. Exceptions.

- A. Exceptions may be granted. The Zoning Administrator may grant an exception to height, size, setback, sight distance, building separation, parking, ingress and egress, privacy, and design standards consistent with the procedures set forth in Chapter 22.45 (Exceptions).
- B. Limitations of this section. Consistent with California Government Code Section 66323, this Section shall not preclude or impede the development of any State Exempt ADU and in compliance with all other local development standards.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1485, 3/18/2026)

§ 22.43.140. ADU bonus program.

- A. Applicability. Applicants that are proposing to deed-restrict an ADU to the following affordability levels are eligible for the bonuses described below:

1. Moderate-Income, deed-restricted: Provide affordability between 80 to 120 percent of area median income with affordability restrictions in place for 55 years.
 2. Lower-Income, deed-restricted: Provide affordability at less than 80 percent of area median income with affordability restrictions in place for 35 years.
- B. Bonuses. The Community and Economic Development Director, Planning Manager, or designee shall approve the following exceptions:
1. For ADU(s) consistent with the affordability requirements outlined in subsection A of this section:
 - a. If the project is located within a Transit Priority Area, defined by California Public Resources Code Section 21099(a)(7) as an area within one-half mile of a major transit stop that is existing or planned, the applicant shall be allowed one additional unrestricted ADU for every deed-restricted ADU with no limits so long as the respective amount of deed-restricted ADUs is provided, subject to space limitations and compliance with other standards and requirements of this chapter.
 - b. If the project is not located within a Transit Priority Area, the limit shall be one additional unrestricted ADU, for a maximum of four ADUs.
 2. Waiver from another development standard listed in this chapter that would otherwise make development of a deed-restricted ADU infeasible.
- C. Requirements. Property owners shall work with the City and Housing Authority of the County of Contra Costa (HACCC) to establish an affordable housing program, which at a minimum shall establish tenant eligibility, income verification and reporting requirements, and procedures for when a tenant's income raises beyond income limits.
(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1463, § XVII, 10/23/2024; Ord. No. 1485, 3/18/2026)

§ 22.43.150. Application requirements.

An application for an ADU or JADU shall be allowed with a building permit. In addition to the normal building permit submittal requirements, a completed application must include, at a minimum:

- A. Site Plan.
1. Drawn to scale.
 2. Dimensions of the perimeter of parcel on which the proposed dwelling will be located.
 3. Indicate the location and dimensioned setbacks of all existing, proposed, and adjacent structures abutting the project site.
 4. Data on the floor space of the existing structure(s) and proposed unit.
 5. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included.

6. Provide average slope calculations for the project site.
7. Calculations indicating the square footage of the structure and the lot, including calculations on the plan for the percentage of lot area covered by the foundation of the existing and proposed dwelling units.

B. Floor Plans.

1. Each floor and room shall be dimensioned, and the resulting floor area calculation included.
2. The use of each room shall be identified.
3. The size and location of all windows and doors shall be clearly depicted.

C. Elevation Views.

1. Provide north, south, east, and west elevations.
2. Show all heights for all existing and proposed structures on site. Height shall be calculated as the vertical distance of a building at any point, within a given plane, from finished grade to the top of the roof or parapet walls.
3. Show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, and materials.
4. For ADUs and/or JADUs that include modifications to the exterior of the primary structure or new construction, provide elevations showing all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing primary structure and the proposed unit.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1485, 3/18/2026)

§ 22.43.160. Review and approval authority.

- A. Application to be administratively approved. All ADUs and JADUs require a building permit. The building permit will be reviewed for compliance with applicable building codes, California Government Code Sections 66310 through 66342, and development and design standards from this Section. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a Building Permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.
- B. Approval of preapproved ADU. The City shall approve or deny an application for an ADU ministerially within 30 days if the proposed ADU plans utilize either preapproved project plans provided on the City's website or if the plans are identical to a separate and previously approved application.
- C. Approval of unit does not permit land division. Approval of an ADU or JADU shall not be deemed to be a division of land for purposes of California Government Code Section 66410 et seq. or Title 21 of the Municipal Code, nor shall the administrative approval above entitle the applicant to either: (1) such a division of land; or (2) to have each of the dwelling units on the parcel separately assessed for property tax purposes.

(Ord. No. 1447, § 10, 7/19/2023; Ord. No. 1458, § XII, 5/15/2024; Ord. No. 1485, 3/18/2026)

§ 22.43.170. Amnesty for unpermitted ADUs and JADUs.

See Chapter 15.55 (Residential Amnesty Program for Unpermitted Dwelling Units) for regulations related to legalizing unpermitted dwelling units.
(Ord. No. 1469, § IX, 4/2/2025; Ord. No. 1485, 3/18/2026)

§ 22.43.180. Successor provisions.

All references to State statutes include successor provisions.
(Ord. No. 1485, 3/18/2026)

CHAPTER 22.44 VARIANCES

§ 22.44.010. Purposes.

The Board of Adjustments is empowered to grant variances in order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Title as would result from a strict or literal interpretation and enforcement of certain of the regulations prescribed therein. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site, or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site, or from population densities, street locations or traffic conditions in the immediate vicinity. Cost to the applicant of strict or literal compliance with a regulation shall not be the sole reason for granting a variance. The power to grant variances does not extend to use regulations because the flexibility necessary to avoid results inconsistent with the objectives of this Title is provided by the conditional use provisions.

(Prior code § 10,119.0; Ord. 822 C.S. § 2, 1975)

§ 22.44.020. Powers of Board of Adjustments.

The Board of Adjustments may grant variances to the regulations prescribed by this Title with respect to fences and walls, site area, width, frontage, depth, coverage, front yard, rear yard, side yard, height of structures, distances between structures, off-street parking facilities and off-street loading facilities in accord with the procedure prescribed in this Chapter.

(Prior code § 10,119.1; Ord. 822 C.S. § 2, 1975)

§ 22.44.030. Application and fee.

- A. Application for a variance shall be made to the Board of Adjustments on a form prescribed by the Board, which shall include the following data:
 - 1. Name and address of the applicant;
 - 2. Statement that the applicant is the owner of the property or is the authorized agent of the owner;
 - 3. Address or description of the property;
 - 4. Statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship, inconsistent with the objectives of this Title which would result from a strict or literal interpretation and enforcement of a specified zoning regulation, together with any other data pertinent to the findings prerequisite to the granting of a variance, prescribed in Section 22.44.070 of this Chapter.
- B. The application shall be accompanied by an accurate scale drawing of the site and any adjacent property affected showing the contours of intervals of not more than 5 feet and all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities, and landscaped areas.
- C. The application shall be accompanied by a fee set by resolution of the Board of Adjustments sufficient to cover the cost of handling the application as prescribed in this Chapter.

- D. The application shall be filed with the Zoning Administrator. He shall give notice to the applicant of the time when the application will be considered by the Board and he may give notice of the time to any other interested party.
(Prior code § 10,119.2; Ord. 822 C.S. § 2, 1975)

§ 22.44.040. Public hearing—Notice.

The Board of Adjustments shall hold a public hearing on an application for a variance within forty-five (45) days of the date when the application was filed. Notice of the hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing in the manner prescribed by the Board.

(Prior code § 10,119.3; Ord. 822 C.S. § 2, 1975)

§ 22.44.050. Public hearing—Procedure.

At the public hearing the Board of Adjustments shall review the application and the statements and drawings submitted therewith and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in Section 22.44.070 of this Chapter.

(Prior code § 10,119.4; Ord. 822 C.S. § 2, 1975)

§ 22.44.060. Investigation and report.

The Zoning Administrator shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the Board of Adjustments.

(Prior code § 10,119.5; Ord. 822 C.S. § 2, 1975)

§ 22.44.070. Action of Board of Adjustments.

- A. The Board of Adjustments may grant a variance to a regulation prescribed by this Title with respect to fences and walls, site area, width, frontage, depth, coverage, front yard, rear yard, side yard, height of structures, distance between structures or landscaped areas as the variance was applied for or in modified form if, on the basis of the application, the report of the Zoning Administrator, and the evidence submitted, the Board makes the following findings:

1. Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title;
2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
3. Strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
4. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations on other properties classified in the same zoning district;
5. The granting of the variance will not be detrimental to the public health, safety or

welfare, or be materially injurious to properties or improvements in the vicinity.

- B. The Board of Adjustments may grant a variance to a regulation prescribed by this Title with respect to off-street parking facilities or off-street loading facilities, as the variance was applied for or in modified form if, on the basis of the application, the report of the Zoning Administrator, and the evidence submitted, the Board makes the findings prescribed in Subdivisions 1 through 5 of this Section and the following additional findings:
1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably required strict or literal interpretation and enforcement of the specified regulation;
 2. The granting of a variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets;
 3. The granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this Title.
- C. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Board may prescribe.
- D. The Board of Adjustments may deny a variance application.
- E. A variance shall become effective upon the expiration of 10 days following the date on which the variance was granted by the Board.

(Prior code § 10,119.6; Ord. 822 C.S. § 2, 1975)

§ 22.44.080. Appeal to Board of Appeals.

- A. Within 10 days following the date of a decision of the Board of Adjustments on a variance application, the decision may be appealed to the Board of Appeals by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Board and shall be filed with the Planning Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Board or wherein its decision is not supported by the evidence in the record.
- B. Within 20 days of the filing of an appeal, the Zoning Administrator shall transmit to the Board of Appeals the variance application, the scale drawing of the site and all other data filed therewith, and the minutes of the public hearing, the report of the Zoning Administrator, the findings of the Board and its decision on the application.
- C. The Zoning Administrator shall give to the applicant and to the appellant (if the applicant is not the appellant) the time when the appeal will be considered by the Board of Appeals. The Zoning Administrator shall also notify all property owners to whom notices of the Board of Adjustments' hearing were mailed.

(Prior code § 10,119.7; Ord. 822 C.S. § 2, 1975)

§ 22.44.090. Action of the Board of Appeals.

- A. The Board of Appeals shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Board of Adjustments. Approval of the variance at issue shall require a majority vote of the members of the Board of Appeals voting on the matter. A tie

vote shall have the legal effect of denying the variance.

- B. A variance which has been the subject of an appeal to the Board of Appeals shall become effective 10 days following the date on which the variance is granted by the Board of Appeals.

(Prior code § 10,119.8; Ord. 822 C.S. § 2, 1975; Ord. 865 C.S. § 1 1977; Ord. 1275 C.S. § 5, 2000)

§ 22.44.100. Appeal to City Council.

- A. Within 10 days following the date of a decision of the Board of Appeals on a variance application, the decision may be appealed to the City Council by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Board and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Board or wherein its decision is not supported by the evidence in the record.
- B. Within 5 days of the filing of an appeal, the Zoning Administrator shall transmit to the City Clerk the variance application, the scale drawing of the site and all other data filed therewith, and the minutes of the public hearing, the report of the Zoning Administrator, the findings of the Board and its decision on the application.
- C. The City Clerk shall give to the applicant and to the appellant (if the applicant is not the appellant) of the time when the appeal will be considered by the City Council. The City Clerk shall also notify all property owners to whom notices of the Board of Appeals hearing were mailed.

(Prior code § 10,119.9; Ord. 822 C.S. § 2, 1975)

§ 22.44.110. Action of City Council.

The City Council shall hear the matter de novo and may affirm, or may reverse or modify the decision of the Board of Appeals. Approval of the variance at issue shall require a majority vote of the members of the City Council voting on the matter. A tie vote shall have the legal effect of denying the variance. An appeal fee shall be required per Section 22.40.110, Section D.

(Ord. 1275 C.S. § 6, 2000)

§ 22.44.120. Lapse of variance.

A variance shall lapse and shall become null and void 1 year following the date on which the variance becomes effective, unless prior to the expiration of 1 year, a building permit is issued and construction is commenced on the site, or a certificate of occupancy is issued by the Building Inspector for the site or structure which was the subject of the variance application. A variance may be renewed for an additional period of 1 year, provided that prior to the expiration of 1 year from the date when the variance originally became effective, an application for renewal of the variance is made to the Board. The Board may grant or deny an application for renewal of a variance.

(Prior code § 10,119.11; Ord. 822 C.S. § 2, 1975)

§ 22.44.130. Revocation.

A variance granted subject to a condition or conditions shall be revoked by the Board of

Adjustments if the condition or conditions are not complied with.
(Prior code § 10,119.12; Ord. 822 C.S. § 2, 1975)

§ 22.44.140. New application.

Following the denial or revocation of a variance application, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within 1 year of the date of denial or revocation of the variance.
(Prior code § 10,119.13; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.45 EXCEPTIONS

§ 22.45.010. Purpose.

This chapter establishes a procedure to allow minor and major exceptions from specified regulations in the Martinez Municipal Code.
(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.020. Applicability.

- A. Minor Exceptions. A minor exception to the development standards listed in Table 22.45.020(A) shall be approved if the Community and Economic Development Director, Planning Manager, or designee can make the findings identified in Section 22.45.040A. If a minor exception is requested as part of another planning application, then the minor exception will be considered by the review authority reviewing the planning application in question.

Table 22.45.020(A) – Minor Exceptions	
Type of Exception	Maximum Deviation Permitted with Minor Exception
Building height	Up to a maximum of five feet above the existing limitation, as measured from the base flood elevation for primary structures and up to two feet for accessory structures
Fence or wall height	Up to a maximum of two feet above the existing limitation, and all portions of fence or wall taller than six feet must be lattice or similar open style of material
Required setbacks	Up to a maximum of 10 feet or 25% of the normally required setback, whichever is less
Floor area ratio ("FAR")	Up to a maximum of 0.1 FAR or 500 square feet above the existing limitation, whichever is greater
Lot coverage	Up to a maximum of 10% or 500 square feet above the existing limitation, whichever is greater
Distance between structures	Up to a maximum of zero feet separation between structures on the same lot
Lot size	Up to a maximum of 10% below the existing requirement
Lot width or depth	Up to a maximum of 10% below the existing requirement
Sign size	Up to a maximum of 20% above the existing limitation
Accessory dwelling units	Exceptions to height, size, setback, sight distance, building separation, parking, ingress and egress, privacy, and design standards, consistent with this Chapter and Section 22.43.130 (Exceptions)

- B. Major Exceptions. An exception beyond the maximum permitted deviations listed in Table 22.45.020(A) may be permitted through participation in the Development Incentives and Community Benefits Program, pursuant to the regulations found in Chapter 22.81 (Development Incentives and Community Benefits Program). A major exception, beyond

what is permitted by the Development Incentives and Community Benefits Program, may be approved by the Planning Commission or Zoning Administrator if the project participates in the Development Incentives and Community Benefits Program and if the Planning Commission or Zoning Administrator can make the findings identified in both Sections 22.45.040A and B.

(Ord. No. 1463, § XVIII, 10/23/2024; Ord. No. 1474, 7/16/2025; Ord. No. 1485, 3/18/2026)

§ 22.45.030. Application and fee.

Applications for exceptions shall be completed, filed, and processed in accordance with this chapter. Applications for exceptions shall be accompanied by a completed Standard Planning Application Form, on file with the Planning Division, accurate scale drawings, and all applicable fees in accordance with the currently adopted fee schedule. It is the responsibility of the applicant to provide evidence in support of the findings identified in Section 22.45.040.

(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.040. Findings.

A. Minor exceptions may be granted consistent with the procedures set forth in Section 22.45.030 and subject to the following findings:

1. The project will substantially comply with the Zoning Ordinance and the purpose and intent of the zoning district where the property is located.
2. The project will not pose a detrimental impact to the site, adjacent properties, or neighborhood.
3. The project will otherwise comply with applicable Zoning Ordinance and Building Code standards and requirements.

B. Major exceptions are subject to the following additional findings:

1. A greater deviation from the development standard than is otherwise permitted by a minor exception will allow for a higher quality of architectural design and site planning.
2. The project will contribute to the economic vitality of the area by creating new businesses, creating jobs, creating significant housing, or otherwise enhancing the attractiveness of the surrounding neighborhood.

(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.050. Appeals.

Within ten days following the date of a decision of the review authority, the decision may be appealed to the Zoning Administrator or Planning Commission, as applicable, by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.060. Lapse of exception.

An exception shall lapse and shall become null and void one year following the date on which the exception becomes effective, unless prior to the expiration of one year, a building permit is issued and construction is commenced on the site, or a certificate of occupancy is issued by the Building Inspector for the site or structure which was the subject of the exception application. An exception may be renewed for an additional period of one year, provided that prior to the expiration of one year from the date when the exception originally became effective, an application for renewal of the exception is made. The Planning Manager or designee may grant or deny an application for renewal of an exception.
(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.070. Revocation.

An exception granted subject to a condition or conditions of approval shall be revoked if the condition or conditions are not satisfied.
(Ord. No. 1463, § XVIII, 10/23/2024)

§ 22.45.080. New application.

Following the denial or revocation of an exception application, no application for the same or substantially the same exception on the same or substantially the same site shall be filed within one year of the date of denial or revocation of the exception.
(Ord. No. 1463, § XVIII, 10/23/2024)

CHAPTER 22.46 AMENDMENTS

§ 22.46.010. Purposes.

This Title may be amended by changing the boundaries of any district or by changing any district regulation, off-street parking or loading facilities requirements, general provision, exception or other provision thereof in accord with the following procedure as set out in this Chapter.

(Prior code § 10,120.0; Ord. 822 C.S. § 2, 1975)

§ 22.46.020. Conformity with general plan.

In accordance with the requirements of State law, zoning ordinances and zoning district boundaries shall be consistent with the City General Plan. The various land uses authorized by the ordinance shall be compatible with the objectives, policies, general land uses and programs specified therein. For any amendment or change in district boundaries, the Planning Commission shall make a finding that the amendment or change in a district boundary is consistent with the General Plan.

(Prior code § 10,120.1; Ord. 822 C.S. § 2, 1975)

§ 22.46.030. Initiation.

- A. A change in the boundaries of any district may be initiated by the owner of the property within the area for which a change of districts is proposed, or the authorized agent of the owner filing an application for a change in district boundaries, on a form prescribed in Section 22.46.040 of this Title. If the area for which a change of district is proposed is in more than one ownership, all the property owners or their authorized agents shall join in filing the application.
- B. A change in boundaries of any district or a change in a district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision may be initiated by resolution of the City Planning Commission or by action of the City Council in the form of a request to the Commission that it consider a proposed change, provided that in either case the procedure prescribed in Sections 22.46.050 through 22.46.100 of this Title shall be followed.

(Prior code § 10,120.2; Ord. 822 C.S. § 2, 1975)

§ 22.46.040. Application and fee.

- A. A property owner desiring to propose a change in the boundaries of the district in which his property is located, or his authorized agent, may file an application with the City Planning Commission for a change in district boundaries on a form prescribed by the Commission which shall include the following data:
 - 1. Name and address of the applicant;
 - 2. Statement that the applicant for which the change in district boundaries is proposed, or the authorized agent of the owner;
 - 3. Address or description of the property.
- B. The application shall be accompanied by an accurate scale drawing of the site and the

surrounding area for a distance of at least 500 feet from each boundary of the site showing the location of streets and property lines and the names and last known addresses of the recorded legal owners of all properties shown on the drawing.

- C. The application shall be accompanied by a fee set by resolution of the City Planning Commission sufficient to cover the cost of processing the application as prescribed in this Chapter.

(Prior code § 10,120.3; Ord. 822 C.S. § 2, 1975)

§ 22.46.050. Public hearing—Notice.

The City Planning Commission shall hold at least one public hearing on each application for a change in district boundaries, and on each proposal for a change in district boundaries, or of a district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision of this Title initiated by the Commission or the City Council within forty-five (45) days of the date when the application was filed or the proposal was initiated. Notice of the public hearing shall be given not less than ten (10) days or more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the City and in such other manner as may be prescribed by the City Planning Commission.

(Prior code § 10,120.4; Ord. 822 C.S. § 2, 1975)

§ 22.46.060. Public hearing—Procedure.

At the public hearing, the City Planning Commission shall review the application for a change in a district boundary or of a district regulation, off-street parking or loading facilities requirement, general provision, exception or other provisions of this Title and may receive pertinent evidence as to why or how the proposed change is necessary to achieve the objectives prescribed in Section 22.02.010 of this Title.

(Prior code § 10,120.5; Ord. 822 C.S. § 2, 1975)

§ 22.46.070. Investigation and report.

The Zoning Administrator shall make an investigation of the application for a change in a district boundary or a district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision of this Title, and shall prepare a report thereon which shall be submitted to the City Planning Commission.

(Prior code § 10,120.6; Ord. 822 C.S. § 2, 1975)

§ 22.46.080. Action of City Planning Commission.

Within forty-five (45) days following the public hearing, the City Planning Commission shall make a specific finding as to whether the change in the district boundary or of the district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision of this Title is required to achieve the objectives prescribed in Section 22.02.010. The Commission shall transmit a report to the City Council recommending that the application be granted or denied, or that the proposal be adopted or rejected, together with one copy of the application, resolution of the Commission, or request of the Council, the scale drawing of the site and the surrounding area, and all other data filed therewith, the minutes of the public hearing, the report of the Zoning Administrator and the findings of the Commission.

(Prior code § 10,120.7; Ord. 822 C.S. § 2, 1975)

§ 22.46.090. Action of City Council.

- A. Upon receipt of the resolution or report of the City Planning Commission, the City Council shall review the application for a change in a district boundary of the proposal, for a change in a district boundary or a district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision of this Title and shall consider the resolution or report of the Commission and the report of the Zoning Administrator.
- B. The City Council shall make a specific finding as to whether the change in the district boundary or of the district regulation, off-street parking or loading facilities requirement, general provision, exception or other provision of this Title is required to achieve the objectives prescribed in Section 22.02.010. If the Council finds that the change is required, it shall enact an ordinance amending the zoning map or an ordinance amending the regulations of this Title, whichever is appropriate. If the Council finds that the change is not required, it shall deny the application or reject the proposal.

(Prior code § 10,120.8; Ord. 822 C.S. § 2, 1975)

§ 22.46.100. Change zoning map.

A change in a district boundary shall be indicated on the zoning map with a notation of the date and number of the ordinance amending the map.

(Prior code § 10,120.9; Ord. 822 C.S. § 2, 1975)

§ 22.46.110. New application.

Following the denial of an application for a change in a district boundary, no application for the same or substantially the same change shall be filed within one year of the date of denial of the application.

(Prior code § 10,120.10; Ord. 822 C.S. § 2, 1975)

§ 22.46.120. Annexed territory.

All territory annexed to the City shall be placed in the U Undesignated District, unless rezoned in accordance with the intent of the General Plan, until duly amended by the Planning Commission in conformance with this Chapter. The Planning Commission may, at any time deemed appropriate, make a study of the annexed territory and initiate a change of zone compatible with the General Plan and the objectives prescribed in Section 22.02.010 of this Title. The owner of annexed property, or the authorized agent of the owner, may initiate similar action at any time by filing an application for a change in district, as prescribed in Section 22.46.020.

(Prior code § 10,120.1; Ord. 822 C.S. § 2, 1975)

§ 22.46.130. Appeal.

- A. Within ten (10) days following the date of a decision of the Board of Adjustments on a rezoning or zoning amendment, the decision may be appealed to the City Council by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Board of Adjustments and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Board or wherein its decision is not supported by the evidence in the record.
- B. Within five (5) days of the filing of an appeal, the Zoning Administrator shall transmit to

the City Clerk the zoning amendment application, the scale drawing of the site, and all other data filed therewith, the minutes of the public hearing, the report of the Zoning Administrator, the findings of the Board, and its decision on the application. At its next meeting, the City Council shall set a hearing date.

- C. The City Clerk shall give notice to the applicant and to the appellant (if the applicant is not the appellant) of the time when the appeal will be considered by the City Council. The City Clerk shall also notify all property owners to whom notices of the Planning Commission hearing were mailed.

(Prior code § 10,120.2; Ord. 822 C.S. § 2, 1975)

§ 22.46.140. Construction upon the granting of a change in district boundaries.

Upon the granting of an application for a change in a district boundary, the owner of the property affected shall proceed with the construction of building or buildings on the property which was subject of the Planning Commission's action. Substantial progress shall be made by the owner during the one-year period immediately following the granting of the change in district boundaries. At any time prior to the end of this one-year period, the owner may apply for an extension of the period herein provided for. In no event shall an extension be granted for a period longer than one year.

(Prior code § 10,120.12; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.47
HISTORIC RESOURCE PROVISIONS

§ 22.47.010. Title.

This chapter shall be known as the "Historic Resources Provisions."
(Ord. 990 C.S. § 1, 1983)

§ 22.47.020. Purpose.

The intended purpose of this Chapter is to establish a framework for the preservation of structures and districts which significantly contribute to the cultural and architectural heritage of the City.

Historic preservation will safeguard the heritage of the City by providing for the protection of significant landmarks and areas, enhance the visual character of the City by encouraging compatible architectural styles which reflect unique and established architectural traditions, foster public appreciation of the historic character of the City, and strengthen the local economy by preserving, enhancing and unifying the City's historic attractions to residents, tourists and visitors.

This Chapter is not intended to be an impediment to healthy economic growth, but rather a part of an overall economic development program which encourages the orderly expansion of commerce and respects the historical integrity of the City of Martinez.

This Chapter shall apply to any area within the City of Martinez.
(Ord. 990 C.S. § 1, 1983)

§ 22.47.030. Definitions.

- A. "Alterations" shall mean any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district.
- B. "Contributing structure" shall mean an edifice within an historic district which retains the scale, mass and other architectural characteristics, or imparts a strong historical tie to the development of the City, to the degree that it contributes to the sense of time and place of the immediate area and the district. Contributing structures may reflect interior modifications if the modifications do not irreparably detract from the character of the building.
- C. "Cultural or historic resources" shall mean improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural, or historic significance to the citizens of the City.
- D. "Historic district" shall mean any area containing improvements which have a special character, historic interest or aesthetic value, or which represent one or more architectural periods or styles typical to the history of the City, and which improvements constitute a distinct section of the City that has been designated an historic district pursuant to this ordinance.
- E. "Improvements" shall mean any building, structure, place, parking facility, fence, gate, wall, work of art, or other object constituting a physical betterment of real property, or any

part of such betterment.

- F. "Maintenance" shall mean any construction effort given to a structure to provide for its general upkeep and which does not affect the historic character of the improvement.
 - G. "Preservation" shall mean the identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.
 - H. "Restoration" shall mean any construction effort given to an improvement to effect its retention of historic or architectural characteristics.
- (Ord. 990 C.S. § 1, 1983)

§ 22.47.040. Martinez Planning Commission—Historic functions.

The City of Martinez Planning Commission (hereinafter referred to as the "Commission") shall have particular historic preservation duties in addition to its current responsibilities.

- A. Staff composition. In its deliberations, the Commission shall obtain the assistance and advice of qualified City personnel and/or outside support staff. Qualified City staff shall have demonstrated interest and expertise in architecture, architectural history or historic preservation. Should City staff possess insufficient qualifications to assist the Commission in its preservation duties, local outside assistance may be requested from qualified historians and/or architectural historians. Recommendations regarding Commission actions on historic preservation shall be solicited from the Martinez Historical Society.
 - B. Responsibilities. The Commission shall have the responsibility of preserving the architectural heritage of the City of Martinez. It may conduct surveys of structures of historic or architectural significance, maintain a register of cultural or historic resources, and adopt guidelines for the designation of these resources. It may render advice, upon the request of the property owner or occupant on the restoration, alteration, or maintenance of any designated historic structure or any contributing structure to a designated historic district within the City, or regarding the design compatibility of any new construction within historic districts. Finally, the Commission shall adopt prescriptive standards to be used in reviewing applications for permits to alter, remove, or destroy an historic or cultural resource, or contributing structure to an historic district. The Commission shall use current Design Review and urban design standards in approving and disapproving applications for permits issued pursuant to Sections 22.47.050 and 22.47.060 of this Chapter.
- (Ord. 990 C.S. § 1, 1983)

§ 22.47.050. Cultural resource designation and procedures.

- A. Individual structures. Individual structures possessing significant architectural or historical importance to the City may be designated as cultural resources. Any resident of Martinez may request such designation by contacting and applying to the Martinez Historical Society. Based on its findings, the Historical Society shall recommend, for City Council approval, those structures worthy of recognition and preservation.
- B. Historic districts. Application for the designation of an historic district may be made by the City, or an occupant or owner of property within the proposed district. If, after a preliminary determination based on staff evaluation with the assistance of the Historical Society, the Planning Commission considers the request appropriate, a public hearing will be held. The Commission will then recommend approval, in whole or in part, or

disapproval of the application. Final approval and subsequent designation of the area as an historic district shall be contingent on action by the City Council and confirmation by two-thirds of the property owners within the proposed district.

(Ord. 990 C.S. § 1, 1983)

§ 22.47.060. Permits.

It shall be unlawful for any person to tear down, demolish, construct, alter, or remove any improvement or portion thereof which has been designated a cultural resource or which lies within an historic district without obtaining a permit in the manner outlined in this section.

All work or alterations in improvements or buildings lying within designated historic districts must be approved by the Planning Commission. Decisions regarding permits shall be made pursuant to established Design Review procedures described in Sections 22.34.010 through 22.34.040 of the Municipal Code. Standard Design Review process will be undertaken by the Commission with the Urban Design Manual providing the basic guidelines for the Commission action.

In the event of an application for a permit allowing demolition of a designated historic structure or a contributing structure to an historic district, the Commission may require a 120-day waiting period, during which time the owner may be encouraged to take such actions, including the sale of the property or negotiation with the Commission, as may save structure from demolition. The 120-day waiting period may be extended an additional 120 days by the City Council.

(Ord. 990 C.S. § 1, 1983)

§ 22.47.070. Appeals.

Appeals may be filed after any decision of the Commission regarding designation of historic structures or districts and permit issuance. Appeals shall follow established procedure set forth in Sections 22.34.060 and 22.34.070 of the Municipal Code.

(Ord. 990 C.S. § 1, 1983)

§ 22.47.080. Severability.

If any section, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed this ordinance and adopted this Chapter and each section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

(Ord. 990 C.S. § 1, 1983)

CHAPTER 22.49
CHILD CARE FACILITIES

§ 22.49.010. Purpose.

The purpose of this Chapter is to implement the Child Care Component of the Community Facilities Element of the Martinez General Plan. It is the policy of the City to assist and encourage the development of adequate, affordable and quality child care. The City recognizes the need to provide infant and after-school care and thus encourages the development of facilities to address these two age groups. The City acknowledges that the provision of child care requires a partnership between public and private participants and that the role of the City is to establish land use policies and ordinances to promote the establishment of child care facilities in this City. It is recognized that it is the developer's responsibility to address child care needs associated with his/her development and that the establishment of such child care facilities will help satisfy the child care infrastructure requirements associated with new growth.
(Ord. 1148 C.S. § 1, 1990)

§ 22.49.020. Definitions.

- A. "Child care facility" or "facility" means an existing or proposed child day care facility and related improvements and structures as defined in Health and Safety Code Section 1596.750.
- B. Such facility includes the building, indoor and outdoor equipment, landscaping, and other site development costs, and any accessory structures and programs licensed by the State for direct child care services providing but not limited to shelter, food and educational and play opportunities for less than 24 hours per day.
- C. "Project" means any new residential development resulting in the addition of more than one bedroom, and any new non-residential development resulting in more than 2,500 gross square feet and any subdivision which is granted an extension of time for which to file the final or parcel map except buildings or improvements related to the following:
 - 1. Day Care Centers.
 - 2. Schools.
 - 3. Churches.
 - 4. Accessory Dwelling Units, as defined in Section 22.04.021.
 - 5. Repair and reconstruction of any building damaged by flood, fire, or other disaster.
 - 6. Senior housing project.
 - 7. Subdivisions for which, during the five-year period prior to this ordinance becoming effective (which date is May 10, 1990), a final or parcel map has been recorded.
 - 8. Subdivisions, the applications for which were deemed complete on or before February 3, 1990, the date notice of this ordinance was given per Section 66474.2(b) of the Subdivision Map Act.

(Ord. 1148 C.S. § 1, 1990; Ord. 1156 C.S. § 1, 1990; Ord. No. 1447, § 11, 7/19/2023)

§ 22.49.030. Permitted use.

Any child care facility provided as part of a project shall be permitted as an accessory use in all zoning districts except those designated as industrial. Child care facilities not a part of a project as defined by this Chapter shall be subject to the City's regulations and zoning ordinance.
(Ord. 1148 C.S. § 1, 1990)

§ 22.49.040. Child care requirement.

- A. Child care needs assessment. Staff will determine each project's child care needs based on generation rates and percent of working mothers.
- B. Response program. An application for a project, including building permits (with the exceptions as noted in Section 22.49.020 of this Chapter), as defined herein shall include a response program identifying how the needs as identified in Section 22.49.040 (A) shall be met within the City of Martinez. The response program shall include the manner in which the establishment of child care services and the use of child care facilities will be assured by the availability of qualified care providers and related resources.

(Ord. 1148 C.S. § 1, 1990)

§ 22.49.050. Facility repaired.

- A. Prior to issuance of a building permit for any project defined herein, applicant shall provide or guarantee through bonding or development agreement, a facility or participant in the construction and establishment of facilities as required to mitigate the project's child care impacts.
- B. In certain circumstances, the Planning Commission or City Council may consider payment in lieu of the facilities requirement. In-lieu fees shall be made according to the standards and formula contained in this Chapter.

(Ord. 1148 C.S. § 1, 1990)

§ 22.49.060. Standards and formula for facilities.

The applicant and/or developer shall provide a facility to serve the project residents and/or employees.

- A. The size of the facility required shall be as follows:

- 1. Residential development.

Size of facility = number of children generated in need of child care × square feet of facility required per child.

- 2. Non-residential development.

Size of facility = number of employees × percent of women in the workforce with children ages 0—12 × square feet of facility required per child.

- B. The child care facility standards shall equal those that are required for State licensing for the provision of child care as follows:

110 square feet of land per child; 35 square feet of building per child (excluding bathroom,

kitchen, crib space and storage space).
(Ord. 1148 C.S. § 1, 1990; Ord. 1156 C.S. § 2, 1990)

§ 22.49.070. Formula for fee in lieu of facility.

Should the provision of a facility prove to be infeasible due to the size of the project or other special circumstance as determined by the Planning Commission and/or City Council, the applicant shall, in lieu of providing the facility, pay a fee equal to the value of land and construction costs as prescribed in Section 22.49.060 and in an amount determined in accordance with the provisions of Section 22.49.080. Projects which do not require City Council or Planning Commission action shall pay fees. The fee is to be used for a local facility which will serve the project residents and/or employees.

(Ord. 1148 C.S. § 1, 1990)

§ 22.49.080. Amount of fee in lieu of facilities.

When a fee is required to be paid in lieu of facilities, the amount of the fee shall be based on the estimated fair market value of land for residential development or non-residential development as appropriate for the type of project for which an application has been submitted and the estimated cost of construction, (including site development, landscaping and indoor and outdoor equipment) and the number of children generated by the development in need of child care. This fee shall be set annually by Council resolution.

(Ord. 1148 C.S. § 1, 1990; Ord. 1156, C.S. § 3, 1990)

§ 22.49.090. Integration with other facilities.

To the extent possible, child care facilities shall be integrated with other facilities. Cooperative efforts with public and private schools shall be encouraged as the preferred method to provide off-site child care. Coordinated use of recreational or common areas within projects, with churches, parks or community facilities is to be fostered as a secondary method to provide child care facilities.

(Ord. 1148 C.S. § 1, 1990)

§ 22.49.100. Deed notification and restrictive covenants.

The developer shall provide in the deed or Covenants, Conditions and Restrictions to all purchasers or lessees of units or buildings in the project that a child care facility may be located at or on any residential unit or lot or in any common area or facility within the project.

(Ord. 1148 C.S. § 1, 1990)

CHAPTER 22.50 BUILDING LINE SETBACKS

§ 22.50.010. Declaration of policy.

The City Council declares that the City, through the City Planning Commission and the City Council, is engaged in developing a master plan of streets and specific plans for streets within the City for the purpose of assuring ample transportation facilities for the present and future; that the magnitude of the undertaking precludes such plans being completed in their entirety in time to fully guide the rapid development occurring within the City; that the surveys, hearings, map preparation and requirements of law governing such matters necessitate such detailed plans being developed progressively; that to conserve the public interest and to assure economies and public safety and welfare, it is imperative that necessary rights-of-way for streets within the City be protected against encroachment by permanent physical improvements, the existence of which would make unnecessarily difficult or make impractical the retention or creation of thoroughfares, adequate in alignment, dimensions and vision clearance to serve the public needs, safety and welfare; that to deal effectively with the practical problem thus presented; it is necessary to establish certain minimum building line setbacks on a City-wide basis.

(Prior code § 10,500; Ord. 822 C.S. § 2, 1975)

§ 22.50.020. Specific plan.

Whenever a specific plan for a street, based upon the master plan, has been adopted by the City Council, a copy of the specific plan, sufficient to accurately indicate the location of the street on parcels of land to be traversed or otherwise occupied by the street when constructed, shall be given to the Director of Building Inspection and Housing Development by the City Clerk.

(Prior code § 10,501; Ord. 822 C.S. § 2, 1975)

§ 22.50.030. Effect on issuance of building permit.

Before issuing a building permit, the Director of Building Inspection and Housing Development or his authorized deputy, shall examine the specific plan. If he finds that the building or structure proposed to be erected will be within the boundaries of the specific plan, or within the setback lines of the existing zoning regulations affecting the land as measured from the boundaries of the specific plan, he shall grant the permit if the cost of the proposed building or structure is \$500.00 or less. Otherwise, he shall refuse the permit and notify the applicant for the permit of the reason for refusal.

(Prior code § 10,502; Ord. 822 C.S. § 2, 1975)

§ 22.50.040. Appeal.

Any person aggrieved by the refusal of a building permit may appeal to the City Board of Appeals. The Board of Appeals shall grant the permit only if all of the following are true:

- A. There are special circumstances or conditions attached to the property upon which the proposed building, structure or other improvement is sought to be placed;
- B. The granting of the application is necessary for the preservation and enjoyment of substantial property rights;
- C. Balancing the interests of the public in preserving the integrity of the master plan of streets

against the interest of the owner of the land in using his property, the granting of the permit is required by considerations of justice and equity.

(Prior code 10,503; Ord. 822 C.S. § 2, 1975)

§ 22.50.050. Miscellaneous.

- A. Nothing in this Chapter shall be deemed a condition precedent to the acquisition of rights-of-way by purchase or by proceedings in eminent domain.
- B. Nothing in this Chapter shall be construed to restrict the right of any person to seek declaratory relief, or to avail himself of any other legal or equitable remedy applicable to his particular case.
- C. No zoning regulation is to be construed as permitting a building line setback or any building within the bed of a proposed street, except as herein provided.

(Prior code § 10,504; Ord. 822 C.S. § 2, 1975)

CHAPTER 22.51A
**OBJECTIVE STANDARDS AND REGULATIONS FOR QUALIFIED SENATE BILL 9
SUBDIVISIONS AND DEVELOPMENT PROJECTS**

§ 22.51A.010. Purpose and intent.

The purpose of this chapter is to establish objective standards and regulations to govern the development of qualified Senate Bill No. 9 subdivisions and development projects on single-family residential zoned properties within the City of Martinez. The establishment of these regulations will result in the orderly subdivision and development of qualified Senate Bill No. 9 (2021) ("SB 9") projects while ensuring that the new units are consistent with the character of the City and do not create any significant impacts with regard to public infrastructure or public safety. The regulations are established to implement the requirements under California Government Code Sections 65852.21 and 66411.7. In the event of any conflict or inconsistency between this chapter and State law or other sections in the Municipal Code, the more permissive regulations shall prevail.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.010)

§ 22.51A.020. Definitions.

For purposes of this chapter, the following definitions apply:

- A. "Dwelling unit" includes an ADU, JADU, a primary dwelling unit, and an SB 9 dwelling unit.
- B. "Conservation easement" means restrictive covenants that run with the land and bind upon successive owners that protect against future development such as preservation of open space, scenic, riparian, historical, agricultural, forested, or similar conditions. Open space and riparian easements are included in this definition.
- C. "Existing dwelling unit" means a primary dwelling unit or other dwelling unit on a parcel that exists prior to any voluntary demolition or reconstruction or remodel where more than 50 percent of the exterior wall framing has been removed or altered. Any existing dwelling unit where more than 50 percent of the exterior wall framing has been removed is considered a new dwelling for purposes of this chapter.
- D. "Panhandle" means the narrow strip of land on a flag lot, typically less than 30 feet in width, that provides access to a public or private road.
- E. "Private road" means a road, way, or street in private ownership and under private maintenance, not offered for dedication as a public road, way, place, or street, which affords the principal means of access to three or more lots or parcels which do not have frontage on a public street.
- F. "SB 9 dwelling unit" or "SB 9 unit" means a dwelling unit that is developed using the provisions in this chapter and the provisions identified in California Government Code Sections 65852.21 and 66411.7.
- G. "Single-family residential zone" means a zoning district in which one-family residence is a permitted use and is limited to the following zoning districts: R-6.0, R-7.0, R-7.5, R-10, R-15, R-20, R-40, R-65, R-80, R-100, and RR.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.020)

§ 22.51A.030. Eligibility of properties for a subdivision.

The following parcels are not eligible for a subdivision under this chapter:

- A. Any parcel which is not located in a single-family residential zone, as defined by this chapter.
- B. Any parcel that was established through a prior exercise of a subdivision as provided for in this chapter.
- C. Any parcel proposing to be subdivided that is adjacent to another parcel where either the owner of the parcel proposing to be subdivided or any person acting in concert with said owner has previously subdivided that adjacent parcel using the provisions in this chapter. For the purposes of this chapter, "any person acting in concert" with the owners includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the property owner.
- D. Any parcel located within an historic district or included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or a parcel within a site that is designated or listed as a City of Martinez or Contra Costa County landmark or historic property or district pursuant to a City of Martinez or Contra Costa County ordinance.
- E. Any parcel where the subdivision would require the demolition or alteration of any of the following types of housing:
 - 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low-, or very-low income.
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - 4. Housing that has been occupied by a tenant in the last three years.
- F. Any parcel fully encumbered with a conservation easement or identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the Federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
- G. Any parcel that is designated prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland and Mapping and Monitoring Program of the Department of Conservation, or land zoned

or designated for agricultural protection or preservation by a local ballot measure.

- H. Any parcel containing wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993), that would prevent the development of the parcel.
 - I. Any parcel within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code Section 4202. This subsection does not apply to parcels that have been excluded from specific hazard zones by actions of the City pursuant to Government Code Section 51179(b), or parcels that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - J. Any parcel with a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - K. Any parcel within a special flood hazard area subject to inundation by the one percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency ("FEMA") in any official maps published by the FEMA. However, a subdivision and/or development project may be located on a parcel described in this subsection if: (1) the parcel is otherwise eligible for approval under the provisions of this chapter, and (2) the project applicant is able to satisfy all applicable federal qualifying criteria demonstrating either of the following are met:
 - 1. The site has been subject to a Letter of Map Revision prepared by the FEMA and issued to the City.
 - 2. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
 - L. Any parcel within a regulatory floodway as determined by the FEMA in any official maps published by the FEMA, unless the subdivision and/or development project has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
 - M. Any parcel containing habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
- (Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.030)

§ 22.51A.040. Objective standards and requirements for a subdivision.

The following objective standards and regulations apply to all subdivisions under this chapter:

- A. A Parcel Map and a Subdivision Application shall be submitted to the City for all proposed subdivisions.
- B. The subdivision shall create no more than two new parcels of approximately equal area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision. In no instance shall any resulting parcel be smaller than 1,200 square feet in area.
- C. Existing parcels shall be split approximately perpendicular to the longest contiguous property line.
- D. The subdivision shall not result in a new parcel with an average width that is less than the average width of the original parcel. Any panhandle on a flag lot shall not be used to calculate the average width. However, this requirement shall be waived if the subdivision applicant demonstrates that it would prohibit a subdivision that otherwise meets the requirements of subsection (B) of this section.
- E. The front parcel line of any newly created parcel shall be the parcel line that is closest to or parallel to the public or private road that serves the parcel.
- F. A 25-foot-wide panhandle (for a flag lot) or an ingress/egress easement shall be provided for all new parcels that do not have direct frontage on a public or private road. Driveway access to the new parcels shall be shared unless the new driveways are a minimum of 100 feet apart.
- G. Easements for access and public and private utilities shall be provided for any newly created parcel that does not front on a public or private street.
- H. Separate utility meters shall be provided for each parcel prior to recordation.
- I. All newly created parcels shall be connected to public sewer.
- J. No setbacks shall be required for an existing structure on the parcel from a proposed property line.
- K. The subdivision is subject to all impact or development fees related to the creation of a new parcel.
- L. Upon receipt of a subdivision application using the provisions of this chapter, the City shall notify all owners and occupants within a 500-foot radius from the subject parcel that a parcel map has been filed with the City.
- M. A note on the parcel map and a recorded deed restriction in a form approved by the City Attorney's Office shall be applied to all newly created parcels indicating that the parcel was split using the provision of this chapter and that no further subdivision of the parcels is permitted.
- N. Prior to the recordation of the parcel map, the applicant shall sign and record an affidavit stating that the applicant intends to reside in one of the proposed or existing primary dwelling units or SB 9 units for three years from the date of the approval of the subdivision.

This requirement shall not apply if the applicant is a community land trust or a qualified nonprofit corporation as provided in Revenue and Taxation Code Sections 402.1 and 214.15.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.040)

§ 22.51A.050. Objective standards and requirements for new dwelling units on a parcel that is not being subdivided.

The following objective standards and regulations apply to all new development on a parcel located within a single-family zone, as defined by this chapter, including primary dwellings, SB 9 dwelling units, an ADU, or a JADU attached to the primary dwelling, that are developed under the provisions of this chapter on a parcel that is not being subdivided:

- A. Where Permitted. The following development is permitted on the parcel:
 - 1. An existing primary dwelling unit and a new construction SB 9 unit; or
 - 2. Two new construction SB 9 units on a vacant lot; or
 - 3. An existing primary dwelling unit, one ADU or one JADU; or
 - 4. Lot with multiple-family dwelling, either:
 - a. Up to two detached ADUs; or
 - b. At least one ADU converted from non-habitable portions of the existing primary structure that are not within the living space of a dwelling unit (e.g., basement, attic, garage, storage room). The maximum number of ADUs converted from portions of the existing primary structure that are not within the living space of a dwelling unit shall not exceed 25 percent of the total number of existing dwelling units on the lot.
- B. Floor Area. The maximum floor area of any new dwelling unit developed under SB 9 shall be 850 square feet. Basements and bunkers are not permitted.
- C. Lot Coverage. The maximum lot coverage shall be that assigned to the zoning district in which the development will be located.
- D. Setbacks.
 - 1. The minimum setback for any new SB 9 dwelling unit shall be 40 feet from the front parcel line and four feet from the side and rear parcel lines.
 - 2. Notwithstanding subsection (C) of this section, no setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.
- E. Height. The maximum height of any new dwelling unit developed under SB 9 shall be 16 feet. The maximum height of ADUs shall be consistent with Section 22.43.070.
- F. Parking. One uncovered parking space, located a minimum of 40 feet from the front parcel line and 30 feet from the side and rear parcel lines, is required for each dwelling unit, except where:

1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in Subsection (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Public Resources Code Section 21064.3.
 2. When there is a car share vehicle facility located within one block of the subject property.
 3. As provided in Section 22.43.080 for ADUs/JADUs.
- G. Fire Wall. A solid (no openings) one-hour rated fire wall is required between any SB 9 unit and the primary dwelling unit or an ADU.
- H. Driveway. Driveway access to all new units shall be compliant with the City's standard details and specifications for driveways and turnarounds.
- I. Owner Occupancy.
1. The owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner will reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of an SB 9 dwelling unit's Certificate of Occupancy and closing of all construction permits pertaining to the parcel.
 2. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.
 3. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.
- J. Utilities. All newly created dwelling units shall be connected to public water and separately metered, and to public sewer.
- K. Fees. Development projects pursuant to this section shall be subject to all impact or development fees related to the development of a new dwelling unit.
(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.050)

§ 22.51A.060. Objective standards and requirements for dwelling units on a parcel subdivided pursuant to this chapter.

The following objective standards and regulations apply to all development on a parcel that has been subdivided or subdivided under the provisions of this chapter:

- A. Where Permitted. No more than three dwelling units may be permitted on a parcel that has been subdivided under the provisions of this chapter. The following development is permitted on the parcel:
1. A primary dwelling unit and an SB 9 unit; or
 2. Two SB 9 units; or
 3. If there is an existing primary dwelling unit, ADU, and JADU on the property, then no further development is permitted for that property.
- B. Floor Area. The maximum floor area (MFA) permitted on each lot shall be 1,700 square

feet.

Exception: If there is an existing primary dwelling unit on the parcel, then the floor area of the existing dwelling unit cannot be increased, and any SB 9 dwelling unit shall not exceed 850 square feet.

- C. Setbacks and Floor Area. The minimum setback for any new primary dwelling unit or SB 9 dwelling unit shall be 40 feet from the front property line and four feet from the side and rear property lines and the maximum combined floor area for all dwelling units on the property shall be 1,700 square feet. Basements and bunkers are not permitted.

Exception: No setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.

- D. Height. The maximum height of all new SB 9 dwelling units shall be 16 feet. If there is an existing primary dwelling on the parcel then the maximum height of the existing residence cannot be increased. The height of ADUs shall be consistent with Section 22.43.070.
- E. Parking. All parking required for an existing primary dwelling on the parcel shall be retained. One parking space, located a minimum of 40 feet from the front property line and 30 feet from the side and rear property lines, is required for each new dwelling unit. The parking space shall be at least 10 feet wide by 20 feet deep. In order to allow access to fire and emergency response vehicles, no structure shall be closer than three feet to the driveway or access easement.

Exception: An onsite parking space is not required for new dwelling units where:

1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 2. When there is a car share vehicle facility located within one block of the subject property.
 3. As provided in Section 22.43.080 for ADUs/JADUs.
- F. Fire Wall. If the two SB 9 dwelling units are a duplex on a parcel, a solid one-hour fire wall between the units is required. In addition, a deed restriction in a form approved by the City Attorney's Office shall be recorded stipulating that the duplex shall be maintained as two separate units.
- G. Deed Restriction. If the parcel is fully developed with the number of units permitted under subsection (A) of this section, then the applicant or property owner shall record a deed restriction in a form approved by the City Attorney's Office stipulating that no further development of the parcel is permitted.
- H. Driveway. Driveway access to all new units shall be compliant with the City's standard details and specifications for driveways and turnarounds.
- I. Owner Occupancy.
1. If the proposed dwelling units are developed subsequent to a subdivision completed pursuant to this chapter, the owner shall sign and record an affidavit placing a

covenant that will run with the parcel to confirm that the owner intends to reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of a Certificate of Occupancy for the SB 9 dwelling unit and closing of all construction permits pertaining to the parcel. Owner occupancy requirements related to ADUs/JADUs shall comply with Section 22.43.120(G).

2. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.
 3. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.
- J. Utilities. All newly created dwelling units shall be connected to public water utilities and sewer.
- K. Fees. Any development constructed in accordance with this section shall be subject to all impact or development fees related to the development of a new dwelling unit.
(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.060)

§ 22.51A.070. Objective building and design requirements for all SB 9 dwelling units.

All SB 9 dwelling units shall be reviewed and approved without discretionary review or a hearing. ADUs/JADUs proposed as SB 9 dwelling units shall also comply with the applicable design requirements provided in Chapter 22.43. As part of the Community and Economic Development Department's ministerial approval, the following objective design requirements shall be confirmed:

- A. The design of the dwelling unit shall be as follows:
1. For a detached unit, the exterior materials and design shall match the design of any existing primary dwelling unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials, and roof pitch.
 2. For an attached unit, the exterior materials, windows and other architectural features shall match the existing structure by employing the same building form, color tones, window design, door and window trims, roofing materials, and roof pitch.
- B. Exterior wall colors and materials shall have a light reflectivity value (LRV) of 50 or less and roof materials shall have a light reflectivity value (LRV) of 40 or less.
- C. Exterior building lighting shall be fully shielded and downward-facing and limited to one exterior light fixture per exterior doorway, or the minimum necessary to comply with the California Building Standards Code.
- D. All new dwelling units are required to have fire sprinklers, subject to Section 22.43.120(E).
- E. All portions of the SB 9 dwelling unit, including eave overhangs and other projections, shall meet the required setbacks as set forth in this chapter.
- F. No roof decks are permitted on SB 9 dwelling units.
- G. New or modified detached dwelling units shall be separated from any other dwelling unit or building by 10 feet to prevent the spread of fire. Building separation requirements related

to ADUs/JADUs shall comply with Section 22.43.060.

H. Structures, except ADUs and JADUs, shall not be located in the following locations:

1. In areas encumbered by a recorded easement, including but not limited to public utility easements, conservation easements, access easements, pedestrian pathway easements, and open space easements;
2. In areas within 25 feet of the top of a creek bank;
3. In areas within the critical root zone of any protected tree as defined in Section 8.08.044(A). Review and approval of an arborist report prepared by a licensed or consulting arborist is required if a structure is proposed within the critical root zone of a protected tree;
4. Areas with slopes greater than 30 percent.
Exception: ADUs and JADUs shall comply with Sections 22.43.020, 22.43.050, and 22.43.060.

I. All electrical and utility services to a new dwelling unit shall be undergrounded.

J. Notwithstanding the foregoing subsections, any development or design standards that physically preclude an SB 9 dwelling unit from being 850 square feet in floor area shall be waived.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.070)

§ 22.51A.080. Permit review process.

All applications for lot splits and new development using this chapter shall be ministerially approved without public hearings or discretionary review.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.080)

§ 22.51A.090. Fees.

The City Council may establish and set by resolution all fees and charges, consistent with Government Code Sections 65852.2 and 65852.22, and related provisions, as may be necessary to effectuate the purpose of this chapter.

(Ord. No. 1433 C.S., § 2, 12/15/2021; Ord. No. 1447, § 12, 7/19/2023; Ord. No. 1473, 6/25/2025. Formerly 22.51.090)

CHAPTER 22.51B
**OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS FOR QUALIFIED
MULTIFAMILY HOUSING DEVELOPMENT PROJECTS**

§ 22.51B.010. Applicability.

This chapter applies to housing development projects (as defined in Government Code 65589.5) consisting of two or more new multifamily dwelling units (excluding primary units with accessory dwelling units or junior accessory dwelling units) or modifications to projects previously approved under the development standards of this chapter. Housing development projects that are eligible for a streamlined or by-right approval shall comply with all applicable objective design and development standards in this title. Housing development projects that are not eligible for a streamlined or by-right approval shall either be consistent with all applicable objective design and development standards; alternatively, if the proposal deviates from one or more objective design and development standards, then the proposal is consistent with the purpose and intent of the applicable standard.
(Ord. No. 1473, 6/25/2025)

§ 22.51B.020. Permitted and Conditional Uses.

Permitted and conditional uses shall be those allowed by the underlying zoning district, unless inconsistent with standards in this chapter.
(Ord. No. 1473, 6/25/2025)

§ 22.51B.030. Site Planning Standards.

- A. Site Development Regulations. The required minimum site area, frontage, width and depth of the site, front yards, side yards, rear yards, site area per dwelling unit, floor area ratio, building height, and location of accessory structures are those allowed by the underlying zoning district and/or overlay district, unless inconsistent with standards of this chapter. Lot coverage shall conform to standards of the underlying district and/or overlay district, except that no maximum site coverage standards shall apply to projects with a density of 25.0 dwelling units or more.
- B. Off-Street Parking and Loading. Off-street parking and loading facilities shall conform to Chapter 22.36 (Off-Street Parking and Loading Facilities).
(Ord. No. 1473, 6/25/2025)

§ 22.51B.040. Site Design Standards.

- A. Usable Outdoor Space. The minimum usable outdoor space per dwelling unit shall conform to Table 22.51B.040A, Usable Outdoor Space Per Dwelling Unit.

Table 22.51B.040A – Usable Outdoor Space Per Dwelling Unit	
Dwelling Size	Minimum per Unit
Efficiency or Studio	150 square feet
One Bedroom	200 square feet
Two Bedroom	250 square feet
Three or More Bedrooms	300 square feet

Required usable outdoor space may be met using a combination of usable private outdoor space and common outdoor space that is shared among all residents, consistent with Table 22.51B.040B (Private Outdoor Space Requirement).

- B. Private Outdoor Space. The amount of required usable outdoor space shall include a minimum amount of private outdoor space for every dwelling unit as set forth in Table 22.51B.040B (Private Outdoor Space Requirement).

Table 22.51B.040B – Private Outdoor Space Requirement	
District	Minimum for Each Unit
R-1.5	80 square feet
R-2.5	120 square feet
R-3.5	160 square feet

- C. Common Outdoor Space.

1. Common outdoor spaces may be used to meet part of required usable outdoor space, excluding areas of common outdoor space comprised of sidewalks or horizontal building projections. Common outdoor spaces are provided for shared use by residents and include:
 - a. Courtyards and Paseos. Enclosed by a building and a building or wall on at least one other side, and containing at least two of the following features: seating areas, patios, lawn areas, public art, and landscaped areas;
 - b. Outdoor Recreation Space. Facilities for active recreation and containing at least two of the following features: play equipment, swimming pools, ball courts, seating areas, lawns with a width of not less than 40 feet in any direction, and other landscaped areas; and
 - c. Roof Terraces. Shared deck space of not less than 30 feet in any direction that includes outdoor seating and at least two of the following: food preparation equipment, entertainment center, library, public art, lawns with a width of not less than 20 feet in any direction, and other landscaped areas.
2. Common open space areas may be directly accessible by members of the public or may be secured from direct public access behind a gate. Their design shall include the following.
 - a. A width of not less than 30 feet (excluding allowable building projections);
 - b. Sidewalks of at least five feet in width;
 - c. Fixed seating with not less than one seat per 500 square feet of common outdoor space area;
 - d. A landscaped area within three feet of adjacent building, except to allow sidewalks, building entry features, enclosed storage, and/or utilities;
 - e. Irrigation for lawns and other landscaped areas.

- D. Fences, Walls, and Hedges. Development projects shall conform to Section 22.34.090

(Fences, Walls, and Hedges).

E. Ground-Level Utility Boxes and Equipment.

1. Ground-level utility boxes and equipment, including but not limited to back-flow preventers, air conditioner units, transformer boxes, gas and electric meters, generators and other utilities, shall not be located within a front or street side setback. If this is determined to be technically infeasible in a written statement by licensed engineer and confirmed by the City Engineer or designee, then ground-level utility boxes and equipment may be located in the front setback, if consistent with one of the following:
 - a. Set feature back not less than five feet from front and street side property lines;
 - b. Place a fence or wall in front of the feature, which is at least 12 inches wider than the feature on each side, and is at least 12 inches taller than the feature but not taller than allowed by Section 22.34.090 (Fences, Walls, and Hedges);
 - c. Plant shrubs with specifications showing them to grow to the same dimensions as described for fence or wall above;
 - d. Designed as public art with paint or wraps using materials that are resistant to graffiti.
2. Ground-level utility boxes and equipment shall use paint having manufacturer specifications describing it to be resistant to graffiti to allow for its removal.

F. Service Areas. Loading areas shall conform to Chapter 22.36 (Off-Street Parking and Loading Facilities). Service areas for landfill, recycling, and organics collection shall be located to conform to the following:

1. Entirely enclosed within the building envelope or in an exterior enclosure not less than 30 feet from front and street side property lines and enclosed on three sides by a solid wall or fence that is at least 42 inches in height.
2. Openings that provide access to service areas, whether into a building or exterior enclosure, shall be accompanied by a gate or door, including roll-up doors.

G. Landscape Setbacks. Not less than 75 percent of required yard areas shall be landscaped, except for areas occupied by building projections, pedestrian access, vehicular access, parking, utilities, retaining walls, and usable outdoor space areas. Landscape materials shall be comprised of trees, shrubs, and groundcover in compliance with the following:

1. Trees shall be planted at 15-gallon size or larger;
2. Shrubs shall be planted at one-gallon size or larger;
3. Ground cover shall be planted at spacing not more than 12 inches on center; and
4. Up to 10 percent of required landscape areas may be comprised of inorganic materials including, but not limited to, sand, stone, decomposed granite, and/or gravel.

H. Site Lighting. Lighting for parking and open space areas shall conform to the following standards:

1. Pole-mounted lighting fixtures shall not exceed a height of 12 feet from finished grade;
2. Within two feet of a building entryway at least one wall-mounted exterior light fixture shall be provided; and
3. All proposed exterior lighting shall include shielded downlighting and shall not cast direct light beyond interior side and rear property lines, based on fixture specifications, location, and height.

(Ord. No. 1473, 6/25/2025)

§ 22.51B.050. Building Design Standards.

- A. **Building Width and Façade Width.** A building's greatest width as measured parallel to any adjacent public street shall conform to Table 22.51B.050 (Building Width). Any street-facing façade in a single plane shall not extend more than 80 feet unless it is interrupted by a vertical recess from the façade plane. The required vertical recess shall be not less than 10 feet wide and eight feet deep, and extend from finished grade to the sky except to allow encroachments that conform to Section 22.34.160 (Yard Requirements — Exceptions).

Table 22.51B.050 – Building Width	
District	Maximum Building Width
R-1.5	240 feet
R-2.5	120 feet
All other districts	80 feet

- B. **Building Massing and Modulation.** Street-facing building façade planes within 20 feet of a required front or street side setback (yard) shall conform to one or more of the following standards, if the façade plane is more than 50 feet in width and over two stories or 25 feet:
1. **Upper-Story Stepbacks.** For not less than 20 percent of the total façade plane width, the street-facing façade plane that is above 25 feet from finished grade shall be stepped back at least 10 feet from the façade plane below it.
 2. **Ground-Floor Passages and Arcades.** For not less than 20 feet or 20 percent of the façade plane width (whichever is greater), a ground-floor opening shall be provided that is recessed from the street-facing façade plane for a depth of at least 10 feet and a clear height of at least 10 feet except for columns and light fixtures.
 3. **Vertical Façade Recesses.** The street-facing building façade shall include a vertical recess spaced not less than 50 feet on center. Each required vertical recess shall be not less than two feet wide and two feet deep, and shall extend to the ground and be open to the sky.
 4. **Façade Projections.** One or more floors of a street-facing façade plane shall include bay windows and/or balconies for a combined width not less than 25 percent of the façade plane's width. To meet this requirement, each bay window and balcony shall be 8 to 12 feet in width and extend 24 to 30 inches in front of the adjacent façade plane.
 5. **Window Canopies.** For not less than 50 percent of the combined width of all window

openings contained within each street-facing façade plane, a window opening shall be shaded by brise soleil or other metal canopy, except for windows that daylight bathrooms. The rigid canopy shall extend not less than 18 inches in front of the adjacent façade plane, and shall be placed at the top or within the top half of each window opening.

6. Corner Towers. On corner lots, where two intersecting street-facing façade planes meet, provide a tower element. The tower element shall have a width and depth of between 12 feet to 16 feet and shall extend not less than 8 feet above the height of the adjacent roof and/or parapet. Tower elements that are used to meet this requirement shall be allowed to exceed the maximum building height requirement (of the underlying district) for up to 10 feet.
7. Tripartite Composition. The street-facing façade plane shall be composed vertically to have base element(s), middle element(s) and top element(s). To meet this requirement, base and top elements shall be as follows:
 - a. The base element shall extend four to 12 feet from finished grade. The base element shall be expressed with at least two of the following:
 - i. A different material than the adjacent middle element, and separated from the different material by a horizontal molding or metal-reinforced control joint;
 - ii. A sill or cornice at the top of the base that is not less than eight inches in height and extends not less than four inches from the adjacent façade plane; or
 - iii. A textured surface comprised of real or simulated shingles, board-and-batten, brick, masonry, or horizontal metal-reinforced control joints spaced not less than 16 inches apart.
 - b. The top element(s) shall be immediately below and within five to 12 feet of the top edge of the façade plane. The top element shall be expressed with at least two of the following:
 - i. A different material than the adjacent middle element, and separated from the different material by a horizontal molding or metal-reinforced control joint;
 - ii. A sill or cornice that is not less than eight inches in height and extends not less than four inches from the adjacent façade plane; or
 - iii. An eave that extends not less than two feet from the adjacent façade plane and visibly supported by corbeling or bracing spaced not more than 12 feet apart.

C. Building Frontage.

1. Within 20 feet of a required front setback: not less than 50 percent of the parcel width shall be building frontage conforming to building entrance and façade design requirements; and not more than 25 percent maximum shall be parking, driveways, and/or garage door openings.

2. Within 20 feet of a streetside setback: not less than 35 percent of the parcel depth shall be building frontage conforming to building entrance and façade design requirements; and not more than 50 percent maximum shall be parking, driveways, and/or garage door openings.
 3. A required building frontage may be reduced by 25 feet to accommodate vehicular site access, if it cannot be otherwise obtained.
 4. Exterior corridors on upper floors shall not be open to front and street side setback areas.
- D. Building Entrances. Building entrances that provide principal pedestrian access to any residential unit shall conform to the following:
1. A sidewalk not less than five feet in width shall connect every principal building entrance to a public sidewalk, and shall not be less than five feet in width.
 2. The door to each principal entrance shall have a transparent window or sidelight window not less than two square feet in area.
 3. No principal building entrance shall be more than five feet above finished grade. Exterior stairs shall not extend above this level within 10 feet of a front or street side property line.
 4. Every principal building entrance shall be accompanied by an articulated vestibule or porch, or stoop, which shall incorporate lighting and conform to the following:
 - a. Vestibules may serve more than one dwelling unit, and shall have interior reception space not less than eight feet in any dimension. Vestibule doors shall be accompanied by an overhead canopy that projects beyond the building envelope by not less than three feet.
 - b. Porches may serve more than one dwelling unit, and shall have a covered floor area that is not less than eight feet wide and four feet deep. The front edge of porch roofs shall be supported by posts, and shall not be cantilevered.
 - c. Stoops shall serve not more than one dwelling unit, and shall have a floor area that is not less than four feet wide and four feet deep. Stoops shall be protected by an overhead canopy that is not less than three feet deep.
- E. Façade Design. Building façades that are within 20 feet of a front or street side setback shall conform to the following standards. These requirements shall apply to each street-facing façade, if multiple façades are separated by building recesses pursuant to façade width requirements. These façade requirements shall also apply to building façades that enclose courtyards and paseos used to meet usable outdoor space requirements.
1. Windows.
 - a. Window openings shall comprise not less than 25 percent of the surface area of each street-facing façade.
 - b. Window frames shall have a vertical proportion in which height exceeds width by not less than 25 percent. Multiple window frames may be grouped within a single window opening, if adjacent window frames are separated by a wood or

metal post.

- c. Window glass shall be recessed at least two inches from the front face of adjacent trim or, if no trim is used, from the face of the adjacent exterior cladding.
- d. Except for bathroom windows, window glass shall be clear.
- e. All windows shall be of the same material.
- f. Prohibited window attributes include vinyl window frames and mullions, mirrored windows, horizontally sliding windows, and windows with mullions behind glass when viewed from outside.

2. Exterior Materials and Finishes.

- a. Exterior finishes shall not include unfinished cinder block, unfinished cement block, rough sawn wood, split logs, metal siding, mirrored glass, and pressed plywood if not accompanied by horizontal batten.
- b. For exterior stucco and concrete, a horizontal expansion joint or control joint shall be placed within one foot of the level of each floor, and a vertical expansion joint shall occur not less than fifteen feet apart.
- c. Any exterior veneer or color shall extend from exterior corners not less than eight feet or until it meets an interior corner, except where it will be fully concealed by an adjacent building.
- d. If brick, stone, or simulated brick or stone are used adjacent to a building opening, then a brick soldier course or solid lintel shall be incorporated above a window or door opening.
- e. Wood and composite wood shall be stained, sealed, or painted.
- f. Wood cladding shall not be located below brick, stone, or simulated stone or brick.
- g. Wrought iron shall have a minimum one-half-inch cross section.
- h. Metal pieces, panels, and fasteners affixed to the exterior surface of a building or accessory structure shall be resistant to corrosion.
- i. Balconies that extend more than two feet shall have a railing/balustrade unit that is not less than 50 percent opaque, such as by using wood panels, metal bars, or closely-spaced metal bars.

3. Downspouts.

- a. Downspouts shall not cross window openings, and shall not be located on sides of porches and bay windows that run parallel to and directly face an adjacent street.
- b. Downspouts shall run vertically, except where they are within three feet of eaves or top of finished grade.

- c. Downspouts shall have the same color as the nearest building surface, except when copper or stainless-steel downspouts are used.
- 4. A Conditional Use Permit shall be required where modifications and alternations to existing façades would obscure original construction.
- F. **Roof-Mounted Equipment.** Roof-mounted mechanical equipment shall be entirely recessed within a sloped roof, or surrounded on all sides by parapet walls with a top edge as high as the topmost point of the equipment, with the following exceptions: solar panels, wireless telecommunications facilities equipment approved pursuant to Chapter 22.39 (Wireless Telecommunications Facilities), window cleaning systems, and equipment required by the fire department or other public agencies.
- G. **Downtown Façades.** For projects within the Downtown Overlay District, new construction shall conform to three or more of the following standards:
 - 1. Exterior cladding shall be of the same material as on an adjacent or confronting structure for not less than one-third of the façade area within 50 feet of the shared property line.
 - 2. A ground floor building entrance shall be of the same type (vestibule, porch, stoop, or storefront) as an entrance used on an adjacent or confronting street-facing façade.
 - 3. Between the ground floor and upper floors, a horizontal cornice shall be provided if such a cornice is present on an adjacent street-facing façade. The cornice shall have a height and depth that is at least as great as exists on an adjacent façade.
 - 4. One or more bay windows shall be provided with a width and depth that is within six inches of the width and depth of a bay window on an adjacent façade, if present.
 - 5. The height and width of window frames shall have a width and height that is within six inches of the width and depth of a bay window on an adjacent street-facing façade.
 - 6. The type of roof shall be the same as is above the front façade of an adjacent structure, and street-facing eaves shall be of equal or greater depth.

(Ord. No. 1473, 6/25/2025)

§ 22.51B.060. Street Frontage Standards.

- A. **Street Design.** Developer improvements within a public right-of-way shall conform to: Chapter 21.08 (Streets, Alleys, and Walkways); current Street Design Criteria on file with the Department of Public Works; and the standards of this section. In the event of inconsistencies, then the more restrictive standard shall prevail.
- B. **Sidewalks and Planting Strips.** All projects shall be required to bring adjacent sidewalk conditions into conformance with the streetscape design plan that pertains, if one has been established, and is kept on file with the Department of Public Works. In the absence of an applicable streetscape design plan, the following design standards shall apply, in addition to standards in Chapter 12.30 (Street Frontage Improvements):
 - 1. Maintain a continuous accessible public sidewalk that provides a path of travel that is not less than the width of sidewalks on the same block face as the project or six feet wide, whichever is more. The path of travel shall be uninterrupted and free from fixed

obstructions, including street trees, bike racks, trash and recycling receptacles, poles, and above-grade utilities.

2. Except in the Downtown Overlay Zone, a planting strip shall be provided that is not less than four feet in width between the public sidewalk and the curb.
 3. If the existing distance between back of curb and property line is less than the combined width of required sidewalk and planting strip, the width of the public sidewalk may be reduced to not less than four feet. If the existing distance between back of curb and property line is less than the combined width of a 4-foot sidewalk and 4-foot planting strip, then the development project shall dedicate land. In such instances, required building setbacks shall be measured from the original property line prior to land dedication.
 4. Constructed sidewalks shall align with the width of existing sidewalks adjacent to abutting properties. To address this requirement, a landscape strip shall not be required within six feet of the project construction limit line.
 5. New streets shall conform to Chapter 21.08 (Streets, Alleys, and Walkways), except that sidewalks shall not be less than six feet in width and planting strips shall not be less than six feet in width.
- C. Street Trees. Street trees shall not be planted more than 35 feet apart, except where tree setback requirements described in Section 8.08.050 (Street Tree Planting Standards) make the maximum spacing infeasible. Street trees shall be consistent with the list of acceptable tree species maintained by the Public Works Department.
- D. Street Lighting. Where projects have over 50 feet of street frontage, streetlights are required where sidewalk improvements are also required.
1. New streetlights shall be spaced within 10 feet of the average spacing of existing streetlights along the same block face as the project.
 2. Streetlights shall be located not more than three feet from the curb.
 3. The style of streetlight poles and fixtures shall be the same as found along the same block face of the project, except in the Downtown Overlay District where historic light poles and standards shall be used, the specifications for which can be obtained from the Engineering Division.
- E. Utilities. Development projects shall install any new distribution lines underground, including connections between buildings and utilities or modifications to existing utilities.
- F. Alleys. Projects that rely on vehicular access from an existing public alley shall repair existing pavement from between the point of site access to the street(s) to which the alley connects. Stop signs shall be installed at alley-street intersections in the direction of alley egress, unless exempt by the City Engineer or designee.

(Ord. No. 1473, 6/25/2025)

CHAPTER 22.51C
**OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS FOR QUALIFIED
 MIXED-USE HOUSING DEVELOPMENT PROJECTS**

§ 22.51C.010. Applicability.

This chapter applies to mixed-use housing development projects (as defined in Government Code 65589.5) with both commercial space and two or more new multifamily dwelling units, and with at least two-thirds of a project's floor area designated to residential uses, including transitional or supportive housing, proposed in any non-residential zoning district or combining district which allows multifamily housing. Mixed-use housing development projects that are eligible for a streamlined or by-right approval shall comply with all applicable objective design and development standards in this title. Mixed-use housing development projects that are not eligible for a streamlined or by-right approval shall either be consistent with all applicable objective design and development standards; alternatively, if the proposal deviates from one or more objective design and development standards, then the proposal is consistent with the purpose and intent of the applicable standard.

(Ord. No. 1473, 6/25/2025)

§ 22.51C.020. Permitted and Conditional Uses.

Permitted and conditional uses shall be those allowed by the underlying zoning district, unless inconsistent with standards in this chapter.

(Ord. No. 1473, 6/25/2025)

§ 22.51C.030. Site Planning Standards.

A. **Site Development Regulations.** The required minimum site area, frontage, width and depth of the site, front yards, side yards, rear yards, site area per dwelling unit, usable outdoor space, floor area ratio, building height, and location of accessory structures are those allowed by the underlying zoning district and/or overlay district, unless inconsistent with standards of this chapter. Lot coverage shall conform to standards of the underlying district and/or overlay district, except that no maximum site coverage standards shall apply to projects with a density of 25.0 dwelling units or more.

B. **Off-Street Parking and Loading.** Off-street parking and loading facilities shall conform to Chapter 22.36 (Off-Street Parking and Loading Facilities).

(Ord. No. 1473, 6/25/2025)

§ 22.51C.040. Site Design Standards.

A. **Usable Outdoor Space.** The minimum usable outdoor space per residential dwelling unit shall conform to Table 22.51C.040A (Usable Outdoor Space Per Dwelling Unit).

Table 22.51C.040A, Usable Outdoor Space Per Dwelling Unit	
Dwelling Size	Minimum per Unit
Efficiency or Studio	150 square feet
One Bedroom	200 square feet
Two Bedroom	250 square feet

Table 22.51C.040A, Usable Outdoor Space Per Dwelling Unit	
Dwelling Size	Minimum per Unit
Three or More Bedrooms	300 square feet

Required usable outdoor space may be met using a combination of usable private outdoor space and common outdoor space that is shared among all residents.

- B. Private Outdoor Space. The minimum amount of private outdoor space for every dwelling unit shall be not less than 80 square feet.
- C. Common Outdoor Space.
 - 1. Common outdoor spaces may be used to meet part of required usable outdoor space, excluding areas of common outdoor space comprised of sidewalks or horizontal building projections. Common outdoor spaces are provided for shared use by residents and include:
 - a. Plazas, courtyards, and paseos - enclosed by a building and a building or wall on at least one other side, and containing at least two of the following features: seating areas, patios, lawn areas, art, and landscaped areas; and
 - b. Roof terraces - shared deck space of not less than 30 feet in any direction that includes outdoor seating and at least two of the following: food preparation equipment, entertainment center, library, public art, lawns with a width of not less than 20 feet in any direction, and other landscaped areas.
 - 2. Common open space areas may be directly accessible by members of the public or may be secured from direct public access behind a gate. Their design shall include the following:
 - a. A width of not less than 30 feet (excluding allowable building projections);
 - b. Sidewalks of at least five feet in width;
 - c. Fixed seating with not less than one seat per 500 square feet of common outdoor space area;
 - d. A landscaped area within three feet of adjacent building, except to allow sidewalks, building entry features, enclosed storage, and/or utilities;
 - e. Irrigation for lawns and other landscaped areas.
- D. Fences, Walls, and Hedges. Development projects shall conform to Section 22.34.090 (Fences, Walls, and Hedges). In all Commercial districts, where the property line of a site adjoins property in the R or PA district, a solid masonry wall or board fence six feet in height shall be located on the property line.
- E. Ground-Level Utility Boxes and Equipment:
 - 1. Ground-level utility boxes and equipment, including but not limited to back-flow preventers, air conditioner units, transformer boxes, gas and electric meters, generators and other utilities, shall not be located within a front or street side setback. If this is determined to be technically infeasible in a written statement by a licensed

engineer and confirmed by the City Engineer or designee, then ground-level utility boxes and equipment may be located in the front setback, if consistent with one of the following:

- a. Set feature back not less than five feet from front and street side property lines;
 - b. Place a fence or wall in front of the feature, which is at least 12 inches wider than the feature on each side, and is at least 12 inches taller than the feature but not taller than allowed by Section 22.34.090, Fences, Walls, and Hedges;
 - c. Plant shrubs with specifications showing them to grow to the same dimensions as described for fence or wall above;
 - d. Designed as public art with paint or wraps using materials that are resistant to graffiti;
2. Ground-level utility boxes and equipment shall use paint having manufacturer specifications describing it to be resistant to graffiti to allow for its removal.
- F. Service Areas. Service areas for refuse and recycling collection shall be located to conform to the following:
1. Entirely enclosed within the building envelope or in an exterior enclosure not less than 30 feet from front and street side property lines and enclosed on three sides by a solid wall or fence that is at least 42 inches in height.
 2. Openings that provide access to service areas, whether into a building or exterior enclosure, shall be accompanied by a gate or door, including roll-up doors.
- G. Landscape Setbacks. Not less than 75 percent of setback areas shall be landscaped, except for areas occupied by building projections, pedestrian access, vehicular access, parking, utilities, retaining walls, and usable outdoor space areas. Landscape materials shall be comprised of trees, shrubs, and groundcover in compliance with the following:
1. Trees shall be planted at 15-gallon size or larger;
 2. Shrubs shall be planted at one-gallon size or larger;
 3. Ground cover shall be planted at spacing not more than 12 inches on center; and
 4. Up to 10 percent of required landscape areas may be comprised of inorganic materials including, but not limited to, sand, stone, decomposed granite, and/or gravel.
- H. Site Lighting. Lighting for parking and outdoor space areas shall conform to the following standards:
1. Pole-mounted lighting fixtures shall not exceed a height of 12 feet from finished grade;
 2. Within two feet of a building entryway at least one wall-mounted exterior light fixture shall be provided; and
 3. All proposed exterior lighting shall include shielded downlighting and shall not cast direct light beyond interior side and rear property lines, based on fixture specifications, location, and height.

(Ord. No. 1473, 6/25/2025)

§ 22.51C.050. Building Design Standards.

- A. **Building Width.** A building's greatest width as measured parallel to any adjacent public street shall not exceed 250 feet. Any street-facing façade in a single plane shall not extend more than 120 feet unless it is interrupted by a vertical recess from the façade plane. The required vertical recess shall be not less than 10 feet wide and eight feet deep, and extend from finished grade to the sky except to allow encroachments that conform to Section 22.34.160 (Yard Requirements - Exceptions).
- B. **Building Massing and Modulation.** Street-facing building façade planes within 20 feet of a required front or street side setback (yard) shall conform to one or more of the following standards, if the façade plane is more than 50 feet in width and over two stories or 25 feet:
1. **Upper-Story Stepbacks.** For not less than 20 percent of the total façade plane width, the street-facing façade plane that is above 30 feet from finished grade shall be stepped back at least 10 feet from the façade plane below it.
 2. **Ground-Floor Passages and Arcades.** For not less than 20 feet or 20 percent of the façade plane width (whichever is greater), a ground-floor opening shall be provided that is recessed from the street-facing façade plane for a depth of at least 10 feet and a clear height of at least 10 feet except for columns and light fixtures.
 3. **Vertical Façade Recesses.** The street-facing building façade shall include a vertical recess spaced not less than 50 feet on center. Each required vertical recess shall be not less than two feet wide and two feet deep, and shall extend to the ground and be open to the sky.
 4. **Façade Projections.** One or more floors of a street-facing façade plane shall include bay windows and/or balconies for a combined width not less than 25 percent of the façade plane's width. To meet this requirement, each bay window and balcony shall be 8 to 12 feet in width and extend 24 to 30 inches in front of the adjacent façade plane.
 5. **Storefront Canopies.** All ground-floor windows and entrances that face the street front property line and/or abut interior commercial space shall be shaded by a metal canopy that extends not less than 36 inches in front of the adjacent façade plane, and shall be placed within two feet of the top of the window opening, except where the ground floor is recessed. An alternative material that is rigid and is demonstrated it can readily be maintained may be allowed subject to approval by the Planning Manager or designee. An applicant may request a determination regarding encroachment permits from the Review Authority prior to application, if proposed storefront canopies would extend into an adjacent right-of-way.
 6. **Window Canopies.** For not less than 50 percent of the combined width of all window openings contained within each street-facing façade plane, a window opening shall be shaded by brise soleil or other metal canopy, except for windows that daylight bathrooms. The metal canopy shall extend not less than 18 inches in front of the adjacent façade plane, and shall be placed at the top or within the top half of each window opening.

7. Corner Towers. On corner lots, where two intersecting street-facing façade planes meet, provide a tower element. The tower element shall have a width and depth of between 12 feet to 16 feet and shall extend not less than eight feet above the height of the adjacent roof and/or parapet. Tower elements that are used to meet this requirement shall be allowed to exceed the maximum building height requirement (of the underlying district) for up to 10 feet.
8. Tripartite Composition. The street-facing façade plane shall be composed vertically to have base element(s), middle element(s) and top element(s). To meet this requirement, base and top elements shall be as follows:
 - a. The base element shall extend four to 12 feet from finished grade. The base element shall be expressed with at least two of the following:
 - i. A different material than the adjacent middle element, and separated from the different material by a horizontal molding or metal-reinforced control joint;
 - ii. A sill or cornice at the top of the base that is not less than eight inches in height and extends not less than four inches from the adjacent façade plane; or
 - iii. A textured surface comprised of real or simulated shingles, board- and-batten, brick, masonry, or horizontal metal-reinforced control joints spaced not less than 16 inches apart.
 - b. The top element(s) shall be immediately below and within five to 12 feet of the top edge of the façade plane. The top element shall be expressed with at least two of the following:
 - i. A different material than the adjacent middle element, and separated from the different material by a horizontal molding or metal-reinforced control joint;
 - ii. A sill or cornice that is not less than eight inches in height and extends not less than four inches from the adjacent façade plane; or
 - iii. An eave that extends not less than two feet from the adjacent façade plane and visibly supported by corbeling or bracing spaced not more than 12 feet apart.

C. Building Frontage.

1. Within 20 feet of a required front setback: not less than 50 percent of the parcel width shall be building frontage conforming to façade design requirements; and not more than 25 percent maximum shall be parking, driveways, and/or garage door openings.
2. Within 20 feet of a street side setback: not less than 35 percent of the parcel depth shall be building frontage conforming to façade design requirements described in Subsection (D) of this section; and not more than 50 percent maximum shall be parking, driveways, and/or garage door openings.
3. A required building frontage may be reduced by 25 feet to accommodate vehicular

site access, if it cannot be otherwise obtained.

4. Exterior corridors on upper floors shall not be open to front and street side setback areas.

D. Façade Design.

1. Ground-Floor Space and Entrances.

- a. For not less than 75 percent of a building frontage along any street, ground-floor commercial space shall extend to a depth of not less than 20 feet as measured from the front of building and shall have a minimum ceiling height of 15 feet. This space shall be used for any non-residential use allowed in the zoning district, except to also allow community rooms and residential lobbies providing access to dwelling units on upper floors or behind the commercial frontage.
- b. Entrances to ground-floor commercial space from a public sidewalk shall occur not more than 75 feet apart.
- c. Residential entry vestibules may be applied towards ground-floor space and entrance requirements.

2. Windows.

- a. Ground-floor window openings shall comprise not less than 60 percent of width of the ground-floor façade. To meet this requirement, windows shall: be located between 2.5 feet to eight feet above finished grade; use clear glass; and provide a visual connection from the exterior into a lighted display case for not less than three feet, or into interior space for not less than 10 feet.
- b. Ground-floor windows shall be framed by columns and/or pilasters that are spaced not more than 25 feet apart. Pilasters shall project not less than two inches in front of an adjacent entrance and/or window.
- c. Upper-floor window openings shall comprise not less than 25 percent of the surface area of the upper-floor building façade, as measured between the floor level of the 2nd floor and the ceiling of the uppermost floor.
- d. Upper-floor window frames shall have a vertical proportion in which height exceeds width by not less than 25 percent. Multiple window frames may be grouped within a single window opening, if adjacent window frames are separated by a wood or metal post.
- e. All window glass shall be recessed at least two inches from the front face of adjacent trim or, if no trim is used, from the face of the adjacent exterior cladding.
- f. Except for bathroom windows, all window glass shall be clear.
- g. All windows shall be of the same material.
- h. Transom windows shall be exposed and not covered with a faux façade.
- i. Prohibited window attributes include vinyl window frames and mullions,

mirrored windows, horizontally sliding windows, windows with mullions behind glass when viewed from outside.

3. Exterior Materials and Finishes.

- a. Exterior finishes shall not include unfinished cinder block, unfinished cement block, rough sawn wood, split logs, metal siding, mirrored glass, and pressed plywood if not accompanied by horizontal batten.
- b. For exterior stucco and concrete, a horizontal expansion joint or control joint shall be placed within one foot of each floor's location behind the façade, and a vertical expansion joint shall occur not less than 15 feet apart.
- c. Any exterior veneer or color shall extend from exterior corners not less than eight feet or until it meets an interior corner, except where it will be fully concealed by an adjacent building.
- d. If brick, stone, or simulated brick or stone are used adjacent to a building opening, then a soldier course or solid lintel shall be incorporated above a window or door opening.
- e. Brick and stone shall not be painted and shall retain their original color.
- f. Wood cladding shall not be located below brick, stone, or simulated stone or brick.
- g. Metal pieces, panels, and fasteners affixed to the exterior surface of a building or accessory structure shall be resistant to corrosion.
- h. Balconies that extend more than two feet shall have a railing/balustrade unit that is not less than 50 percent opaque, such as by using wood panels, metal bars, or closely-spaced metal bars.

4. Downspouts.

- a. Downspouts shall not cross window openings, and shall not be located on sides of porches and bay windows that run parallel to and directly face an adjacent street.
- b. Downspouts shall run vertically, except where they are within 3 feet of eaves or top of finished grade.
- c. Downspouts shall have the same color as the nearest building surface, except when copper or stainless steel downspouts are used.

5. A Conditional Use Permit shall be required where modifications and alternations to existing façades would obscure existing construction.

- E. Roof-Mounted Equipment. Roof-mounted mechanical equipment shall be entirely recessed within a sloped roof, or surrounded on all sides by parapet walls with a top edge as high as the topmost point of the equipment, with the following exceptions: solar panels, wireless telecommunications equipment approved pursuant to Chapter 22.39 (Wireless Telecommunications Facilities), window cleaning systems, and equipment required by the fire department or other public agencies.

- F. **Downtown Façades.** For projects within the Downtown Overlay District, the new construction shall conform to three or more of the following standards:
1. Exterior cladding shall be of the same material as on an adjacent or confronting structure for not less than one-third of the façade area within 50 feet of the shared property line.
 2. A ground floor building entrance shall be of the same type (vestibule, porch, or stoop) as an entrance used on an adjacent or confronting street-facing façade.
 3. Between the ground floor and upper floors, a horizontal cornice shall be provided if such a cornice is present on an adjacent street-facing façade. The cornice shall have a height and depth that is at least as great as exists on an adjacent façade.
 4. One or more bay windows shall have a width and depth that is within six inches of the width and depth of a bay window on an adjacent façade, if present.
 5. The height and width of window frames shall be provided with a width and height that is within six inches of the width and depth of a bay window on an adjacent street-facing façade.
 6. The type of roof shall be the same as is above the front façade of an adjacent structure, and street-facing eaves shall be of equal or greater depth.

(Ord. No. 1473, 6/25/2025)

§ 22.51C.060. Street Frontage Standards.

- A. **Street Design.** Developer improvements within a public right-of-way shall conform to: Chapter 21.08, Streets, Alleys, and Walkways; current Street Design Criteria on file with the Department of Public Works; and the standards of this section. In the event of inconsistencies, then the more restrictive standard shall prevail.
- B. **Sidewalks and Planting Strips.** All projects shall be required to bring adjacent sidewalk conditions into conformance with the streetscape design plan that pertains, if one has been established, and is kept on file with the Department of Public Works. In the absence of an applicable streetscape design plan, the following design standards shall apply, in addition to standards in Chapter 12.30 (Street Frontage Improvements):
1. Maintain a continuous accessible public sidewalk that provides a path of travel that is not less than the width of sidewalks on the same block face as the project or six feet wide, whichever is more. The path of travel shall be uninterrupted and free from fixed obstructions, including street trees, bike racks, trash and recycling receptacles, poles, and above-grade utilities.
 2. Except in the Downtown Overlay Zone, a planting strip shall be provided that is not less than four feet in width, which may be substituted with sidewalk segments separated by tree wells.
 3. If the existing distance between back of curb and property line is less than the combined width of required sidewalk and planting strip, the width of the public sidewalk may be reduced to not less than four feet. If the existing distance between back of curb and property line is less than the combined width of a 4-foot sidewalk and 4-foot planting strip, then the development project shall dedicate land for a

combined width of sidewalk path of travel and landscape strip of not less than 10 feet. In such instances, required building setbacks shall be measured from the original property line prior to land dedication.

4. Constructed sidewalks shall align with the full width of existing sidewalks that will remain beyond the project construction limit line. To address this requirement, a landscape strip shall not be required within six feet of the project construction limit line.
 5. New streets shall conform to Chapter 21.08 (Streets, Alleys, and Walkways), except that sidewalks shall not be less than six feet in width and planting strips shall not be less than six feet in width.
- C. Street Trees. Street trees shall not be planted more than 35 feet apart, except where tree setback requirements described in Section 8.08.050 (Street Tree Planting Standards) make the maximum spacing infeasible. Street trees shall be consistent with the list of acceptable tree species maintained by the Public Works Department.
- D. Street Lighting. Where projects have over 50 feet of street frontage, streetlights are required where sidewalk improvements are also required and shall conform to the following standards:
1. New streetlights shall be spaced within 10 feet of the average spacing of existing streetlights along the same block face as the project.
 2. Streetlights shall be located not more than three feet from the curb.
 3. The style of streetlight poles and fixtures shall be the same as found along the same block face of the project, except in the Downtown Overlay District where historic light poles and standards shall be used, the specifications for which can be obtained from the Engineering Division.
- E. Bike Racks. Mixed-use development projects with street frontage exceeding 50 feet from street frontage shall provide one short-term bike rack for every 50 feet of frontage.
- F. Utilities. Development projects shall install any new distribution lines underground, including connections between buildings and utilities or modifications to existing utilities.
- G. Alleys. Projects that rely on vehicular access from an existing public alley shall repair existing pavement from between the point of site access to the street(s) to which the alley connects. Stop signs shall be installed at alley-street intersections in the direction of alley egress, unless exempt by the City Engineer or designee.

(Ord. No. 1473, 6/25/2025)

CHAPTER 22.52
PENALTIES

§ 22.52.010. Designated.

- A. Any person, firm, corporation or organization violating any provision of this title is guilty of a misdemeanor or an infraction, at the election of the City and/or its prosecuting official. A misdemeanor offense shall be punishable by a fine off not more than \$500.00 or by imprisonment for a term not exceeding 6 months or by both a fine and imprisonment. An infraction shall be punishable in the same manner as is prescribed in Section 1.12.010(A)(2) of this Code. A person, firm, corporation or organization shall be deemed guilty of a separate offense for each day during any portion of which a violation of, this Title is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable as herein provided.
- B. Any structure erected, moved, altered enlarged or maintained or any use of a site contrary to the provisions of this Title is unlawful and a public nuisance, and the City Attorney may institute necessary legal proceedings for the abatement, removal and injunction thereof in the manner provided by law and may take such other steps as may be necessary to accomplish these ends, and may apply to a court of competent jurisdiction to grant such relief as will remove or abate the structure or use and restrain or enjoin the person, firm, corporation or organization from erecting, moving, altering or enlarging the structure or the site contrary to the provisions of this Title; provided, however, that such action by the City Attorney is authorized under Chapter 1.13 of the this Code.
- C. All remedies provided for herein shall be cumulative and not exclusive.
(Prior code § 10,122.2; Ord. 822 C.S. § 2, 1975; Ord. 1084 C.S. § 3, 1986; Ord. 1273 C.S. § 3, 2000)

CHAPTER 22.54
INDEMNIFICATION OF CITY FOR DISCRETIONARY APPROVALS

§ 22.54.010. Indemnification of City for discretionary approvals.

- A. At the time of submitting an application for a discretionary approval which is the subject of this Title, and/or for environmental clearance under the California Environmental Quality Act, the applicant shall agree, as part of the application, to defend, indemnify, and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul any such approval of the City, or an action taken to provide environmental clearance under the California Environmental Quality Act by its advisory agencies, appeal boards, or City Council, which action is brought within the applicable statute of limitations. The indemnification shall include damages awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the town, and/or the parties initiating or bringing such action.
- B. Also at the time of submitting such an application, the applicant shall agree, as part of the application, to defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, Negative Declaration, Specific Plan, or General Plan Amendment) if made necessary by said action and if the applicant desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents.
- C. In the event that a claim, action or proceeding described in [Subsection] A, above, is brought, the City shall promptly notify the applicant of the existence of the claim, action or proceeding and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing in this Section shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that the applicant is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the applicant in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own defend any claim, action or proceeding where the applicant has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City.

(Ord. 1166 C.S. § 1, 1991)

CHAPTER 22.55
IMPACT MITIGATION FEES

§ 22.55.010. Purpose.

This Chapter requires that impact mitigation fees be charged as a condition of approval of a development project in order to defray the cost of public services, facilities, improvements and amenities, the need for which was generated by the development project. The cost of developing and administering the City's impact mitigation fee program established to implement this Chapter may be included as a component of the fee amounts, which are established by Council resolution. This Chapter is not intended to and does not apply to: regulatory and processing fees; fees required under a development agreement; funds collected under a reimbursement agreement; or assessment district proceedings, assessments or taxes; or fees specified in California Government Code Section 66477. (Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.020. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

- A. "City" means the City of Martinez, including its future boundaries.
- B. "Developer" means the person(s) or legal entity(ies), who also may be the property owner, who is developing a particular project in the City.
- C. "Development" means the construction, alteration, extension, enlargement or addition of any building or structure within the City. "Development project" shall have the same meaning as specified in Cal. Government Code Section 66000(a).
- D. "Director" or "community development director" means the Director of the Department of Community Development or his or her designee.
- E. "Industrial development" or "industrial" means warehouse, industrial, manufacturing and research and development ("R & D") buildings.
- F. "Impact mitigation fee" or "IM fee" means any one of the five impact mitigation fees established pursuant to Section 22.55.030 of this Chapter.
- G. "Impact mitigation fee technical report" or "technical report" refers to the current and subsequent "technical reports" to be undertaken in order to establish, justify and update IM fee amounts, which are approved by City Council resolution.
- H. "Multi-family dwelling" means any building or portion thereof which is occupied, or intended for occupancy, as the same residence of 2 or more families living independently of each other and doing their own cooking in such building, including, but not limited to, duplexes, triplexes, fourplexes, apartments, flats, condominiums, and townhouses. "Multi-family dwelling" also includes accessory dwelling units created on a lot with a primary single-family dwelling.
- I. "Office development" or "office" means professional, medical, and administrative office buildings.
- J. "Public facility or facility(ies)" means public facilities as defined in Subsection (d) of

Section 66000 of the California Government Code, and also includes, but is not limited to, capital improvements for transportation and transit facilities, parks and recreation facilities, public safety facilities and such other facilities as may be identified in the technical report.

- K. "Retail development" or "retail" means retail stores, commercial service shops and hotel buildings.
- L. "Single-family dwelling" means an attached or detached single-family residential dwelling occupied or intended for occupancy by one household.

(Ord. 1310 C.S. § 3 Exh. A, 2004; Ord. No. 1447, § 13, 7/19/2023)

§ 22.55.030. Impact mitigation fees—Requirement established.

- A. General. There is hereby established, re-established and imposed as part of the City's approval of every development project the requirement and condition that the development's developer pay to the City an impact mitigation fee (IM Fee) for the purposes and in the amounts specified herein below. The amount and the calculation of each IM fee shall be established by City Council resolution and shall be based upon the following principles:
 - 1. Each type of development will pay only for construction of those public facilities where there is a reasonable relationship between the facilities funded and needs for the public facility created by the development.
 - 2. Each type of development shall contribute to the funding of the facilities made necessary, in whole or in part, by that development in proportion to the need for the facilities created by that type of development.
- B. Categories of public facilities for which fees are required. Pursuant to the considerations of this Section, and in amounts that shall be established by Council resolution, an IM fee shall be paid for each and all of the 5 categories of public facilities listed below:
 - 1. Transportation;
 - 2. Parks and recreation facilities;
 - 3. Cultural facilities;
 - 4. Police facilities;
 - 5. Child care (facilities in lieu fees) as required by Chapter 22.49 of the Martinez Municipal Code.
- C. Type of development. The categories of land uses and types for which IM fees will be imposed are:
 - 1. Single-family dwelling;
 - 2. Multi-family dwelling;
 - 3. Retail development;
 - 4. Office development;
 - 5. Industrial development.

The IM fee shall, in part, be based on the estimated level of facilities needed by each type of development.

D. Fee unit.

1. Residential. A specific IM fee amount, established for each type of residential development, shall be charged for each new dwelling unit.
2. Retail, office and industrial. A specific IM fee amount, established for each retail, office and industrial development, shall be charged for each retail, office and industrial development, respectively.

E. Public facilities improvements. The amount of the IM fee applicable to each type of development shall be based on the percentage of the cost of the public facilities improvements attributable to new residential, retail, office and industrial development as determined in the technical report. The improvements included in the total costs upon which the IM fee shall be based shall be set forth in that report and shall not include the costs of improvements needed to alleviate existing deficiencies in the City's public facilities, if any exist.

F. Amount of impact mitigation fees-formula. The amount of each impact mitigation (IM) fee shall be established by Council resolution and may be amended from time to time. The fee shall be determined as follows, as reflected in the technical report:

1. Estimate total public facilities costs attributable to each type of new residential, retail, office and industrial development.
2. Divide the cost attributable to new single-family development by the total number of new single-family dwelling units expected under buildout. The result is the IM fee to be charged on the development of each new single-family dwelling unit in the City.
3. Divide the cost attributable to new multi-family development by the total number of new multi-family dwelling units expected under buildout. The result is the IM fee to be charged on the development of each new multi-family dwelling unit in the City.
4. Divide the cost attributable to new retail development by the total number of new retail building square feet expected under buildout. The result is the IM fee to be charged on the development of each new square foot of retail development in the City.
5. Divide the cost attributable to new office development by the total number of new office building square feet expected under buildout. The result is the IM fee to be charged on the development of each new square foot of office development in the City.
6. Divide the cost attributable to new industrial development by the total number of new industrial square feet expected under buildout. The result is the IM fee to be charged on the development of each new square foot of industrial development in the City.

G. Amount of impact mitigation fees-adjustments. Fee amounts shall be included in the technical report, and shall be updated periodically to reflect changes in construction costs, development schedules, availability of other funds and other factors. The Council's fee resolution may require that fees be automatically adjusted each year to reflect changes the cost of the public facilities, based on a widely accepted regional cost index.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.040. Impact mitigation fees-when applicable.

Except as otherwise expressly provided herein, the impact mitigation fees required hereunder shall be payable with respect to:

- A. All development within the City for which building permits, development permits or other entitlements for development are issued on or after the effective date of this Chapter; and
- B. All development within the City for which a development permit issued prior to the effective date of this Chapter for which said development permit was granted or issued subject to a condition requiring the developer to pay impact mitigations fees to be imposed upon all new residential, office, retail and/or industrial development, as the case may be, within the City and the fee remains unpaid or is not otherwise satisfied prior to the effective date hereof.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.050. Fee exemptions.

The following development projects shall be exempt, in whole or in part, from the requirement to pay impact mitigation (IM) fees:

- A. Any alteration or addition to an existing residential unit, except in cases where a residential unit or units are added to single-family residential unit(s) or to an existing multi-family residential unit;
- B. Except as provided in California Government Code Section 66011, any replacement or reconstruction of an existing residential structure that has been destroyed or demolished provided that the building permit for reconstruction is obtained within 1 year after the building was destroyed or demolished unless the replacement or reconstruction increases the square footage of the structure 50% or more;
- C. Except as provided in California Government Code Section 66011, any replacement or reconstruction of an existing non-residential structure that has been destroyed or demolished provided that the building permit for reconstruction is obtained within 1 year after the building was destroyed or demolished unless the replacement or reconstruction increases the square footage of the structure 500 square feet or more;
- D. Any development projects exempt pursuant to state or federal law;
- E. Development projects governed by a development agreement in which development impact fees are specifically delineated, calculated or imposed in lieu of the IM fees required by this Chapter.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.060. Time of payment.

Pursuant to and as permitted by California Government Code Section 66007(b), the time for payment of impact mitigation (IM) fees shall be either the issuance of a building permit, grading permit, or approval of a final subdivision map, whichever occurs first.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.070. Notice to applicant of fee requirement.

At the time of approval of a development project or at the time of the imposition of the IM fees, the City shall provide to the project applicant a statement of:

- A. The amount of the IM fee and the public facilities that the fee will be used to finance (Government Code Section 66006(f)); and
- B. Notification that the 90-day period in which the applicant may protest has begun (Government Code Section 66020(d)).
(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.080. Use and reimbursement of fees.

- A. The revenues raised by payment of the impact mitigation (IM) fee shall be placed in a separate City fund. Separate and special accounts within this fund shall be used to account for such revenues, along with any interest earnings on each account. The revenues (and interest) shall be used for the following purposes:
 - 1. To pay for the costs of implementing the facilities and programs and/or the costs of design, engineering, right-of-way or land acquisition and construction of the facilities and reasonable costs of outside consultant studies related thereto;
 - 2. To the extent permitted by law, to reimburse the City for the facilities constructed or programs implemented by the City from other funds;
 - 3. To reimburse developers or City who have designed and constructed facilities or implemented programs which are oversized with supplemental size, length, or capacity; and/or
 - 4. To the extent permitted by law, to reimburse costs of program development and/or implementation and ongoing administration of the fee program.
- B. Fees in these accounts shall be expended only for the facilities and only for the purpose for which the fee was collected.
(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.090. Fee credits.

- A. Where a developer and the City Council agree that in connection with the approval of a development project certain facilities shall be constructed by the developer, the total amount of the IM fee otherwise payable by the developer shall be reduced in accordance with the construction cost of the facilities as agreed between the developer and the City Council. Said agreement may provide for reimbursement to the developer of construction costs in excess of the fee otherwise applicable. No credit shall be allowed for the cost of construction of improvements, which are not, identified facilities. In the event the City and the developer agree that the developer shall construct certain facilities, the developer shall enter into an agreement with the City providing for the construction of such improvements based upon plans and specifications prepared by the developer and approved by the City Engineer and providing adequately therefore. The foregoing shall not limit the right of the City to require the construction and/or dedication of improvements which the City otherwise may require under any other ordinance, resolution, rule or policy of the City of

Martinez, the Subdivision Map Act, the California Environmental Quality Act, or other federal, state or local rule or ordinance.

- B. Where development occurs within an assessment district, fee benefit area, community facilities district, or an area which is otherwise subject to an assessment fee or special tax collected specifically to defray the costs of providing or constructing certain facilities, programs or public improvements as identified herein, some or all of which the developer of said development constructs as part of his/her development, the developer shall be entitled to a credit in an amount equal to that portion of the construction cost of the facilities included in such assessments, fees or special taxes which will be contributed by the developer.
- C. In no event shall a developer be entitled to a credit in excess of the fee otherwise payable pursuant to this Chapter.
- D. In no event shall a developer be entitled to more than 1 credit for the construction of the same facility.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.100. Annual review.

The impact mitigation fees established by this Chapter and the implementing Council resolution(s), the accumulated fee funds and their appropriation and supporting documentation, may be reviewed annually by the City Council in a manner which conforms with applicable laws. (Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.110. Termination of fee requirement.

The City shall not collect an impact mitigation fee established by this Chapter once funds sufficient to construct residential, retail, office and industrial development's share of all facilities described in the then current technical report and its appendices have been collected. (Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.120. Fee adjustment, waiver or finding of exemption.

- A. The developer of a development project subject to an IM fee under this Chapter may apply to the Community Development Director for an adjustment to or waiver of that fee or for a finding that the project is exempt from the fee. The waiver or adjustment of an IM fee shall only be granted if the developer establishes, by a preponderance of the evidence, that the City, in establishing and/or imposing the challenged IM fee, failed to comply with applicable state law and/or this Chapter. Additionally, in the case of new residential development providing low and/or moderate income housing, the City Council may grant a waiver of all or a portion of the IM fee if the developer demonstrates that the development would not be economically feasible and could not be built with the imposition of the full fee.
- B. The application shall be made in writing and filed with the Community Development Director no later than 60 days after the time of the development project's approval or later than the time of the issuance of a building permit, whichever is to occur first. The application shall state completely and in detail both the applicant's factual basis and legal theory for adjustment or waiver, and compare its proposal with the analysis set forth in the

technical report prepared for the fee being challenged. The Community Development Director may refuse to consider factual assertions or legal theories not set forth in the written application.

- C. The Community Development Director shall consider the application at an informal hearing, which may be continued from time to time, and which shall be held within 60 days after the filing of the complete application. The decision of the Community Development Director is appealable under Section 22.55.140.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.130. Developer's acknowledgement of fee adjustment, waiver or exemption.

The Community Development Director may require as a condition of adjustment, waiver or a finding of exemption that the developer provide a recordable document in a form acceptable to the Director acknowledging the factual basis of such adjustment, waiver or exemption and further acknowledging that a subsequent change of facts may result in the requirement that additional IM fees be paid.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.140. Appeal procedure.

The Community Development Director is responsible for administering, collecting, crediting, adjusting and refunding development fees. The Director's administrative decision(s) regarding the above is appealable in accordance with Section 22.06.050. A person appealing under this Section shall have first sought a fee credit under Section 22.55.090, or an adjustment or waiver, or a finding of fee exemption under Section 22.55.120. A person seeking judicial review under Code of Civil Procedure Section 1094.5 shall first complete an appeal under this Section and shall pay all City charges for that appeal.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.150. Payment under protest.

A developer seeking to proceed with his or her development project during the pendency of an application for adjustment or waiver or a finding of exemption or during the pendency of an appeal may do so by following the procedures set forth in Section 66020 of the Government Code.

(Ord. 1310 C.S. § 3 Exh. A, 2004)

§ 22.55.160. Refund of a mitigation impact fee.

The Community Development Director shall refund an IM fee where:

- A. The building permit expires and no extensions have been granted for a development for which the IM fee requirement under this Chapter has been collected, provided that the claim for such refund is filed no later than 1 year after the expiration date of the building permit or any extension thereof as may be approved by the City, as the case may be; or
- B. A refund is specifically authorized by resolution of the City Council adopted pursuant to Government Code Section 66001(d). Such amounts shall be refunded by the City to the then current record owner or owners of the development on a pro-rated basis. The City may effect such refunding by direct payment, by providing a temporary suspension of IM fees,

or by any other means consistent with the intent of Government Code Section 66001.

C. A decision regarding refund of a fee is appealable under Section 22.55.140.
(Ord. 1310 C.S. § 3 Exh. A, 2004)

CHAPTER 22.56
PROCEDURES AND REQUIREMENTS FOR DEVELOPMENT AGREEMENTS

§ 22.56.010. Definitions.

The following terms when used in this Chapter shall have the following respective meanings:

- A. "Community development director" shall mean the director of the City's department of community development or his/her authorized representative.
- B. "Developer" shall mean a person who has a legal or equitable interest in real property, and who applies for a development agreement for a project on that property pursuant to the procedures specified in this Chapter, and who executes and is bound by the terms of the development agreement.
- C. "Development agreement" shall mean a development agreement entered into between the City and a developer pursuant to Government Code Sections 65864-65869.5 and this Chapter.
- D. "Person" shall mean an individual, group, partnership, firm, association, corporation, trust, governmental agency, governmental official, administrative body, tribunal or any other form of business or legal entity.
- E. "Project" shall mean the development project that is the subject of a development agreement.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.020. Forms and information.

- A. The Community Development Director shall prescribe the form of each application, notice, and document required for the consideration and implementation of a development agreement.
- B. The Community Development Director may require a developer to submit such additional information and supporting data as the Community Development Director, City Council and/or other City agency considers necessary to properly process the application.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.030. Fees.

The City Council shall by separate resolution fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or approved under this Chapter, including annual reviews, and administration of approved development agreements.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.040. Parties to a development agreement.

The Community Development Director shall require a developer to submit evidence of the nature of the developer's interest in the property and of the authority of the Developer to apply for the development agreement.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.050. Application for a development agreement.

Each application shall be accompanied by a proposed development agreement on the City's then standard form of development agreement, and shall include any specific proposals for changes in or additions to the language of the standard form. Any proposed development agreement shall contain the provisions required under this Chapter and shall also include any other relevant provisions which may be deemed necessary by the Community Development Director.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.060. Review of application.

- A. The Community Development Director shall review each application to determine whether it is complete and accurate. If the application is found to be incomplete or inaccurate, the Community Development Director shall reject the application and inform the applicant of the items necessary to properly complete the application. The Community Development Director shall reject any application where the development agreement clearly would be inconsistent with the general plan, any applicable specific plan, zoning or any other land use regulations applicable to the subject property. If the application for a development agreement is submitted in conjunction with an application for other land use approvals, the proposed development agreement shall be reviewed for consistency with the existing and, separately, the proposed land use approvals.
- B. If the Community Development Director determines that the application is complete and accurate, copies of the application shall be forwarded to each appropriate City department and after consultation with each department, and after performing all other tasks necessary to the processing of land use applications (including but not limited to, environmental review), the director shall prepare a staff report and recommendation to the Planning Commission.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.070. Contents of development agreement.

- A. A development agreement shall specify its duration, the permitted uses of the property thereunder, the density and/or intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and requirements for construction and maintenance of on-site and off-site improvements or payment of fees in lieu of such dedications or improvements.
- B. A development agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but the mere inclusion of some shall not affect the developer's responsibility to obtain all land use approvals required by the Martinez Municipal Code.
- C. A development agreement may include conditions and restrictions imposed by the City with respect to the project including those conditions and restrictions proposed in an environmental impact report applicable to the project prepared and certified under the California Environmental Quality Act, and the City's regulations with respect thereto, in order to eliminate or mitigate adverse environmental impacts of the project.
- D. A development agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase

thereof be completed within a specified time.

- E. If the development agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
 - F. All development agreements shall contain an indemnity and insurance clause requiring the developer to indemnify and hold the City harmless against claims arising out of the development process including any approvals granted in connection therewith, including all legal fees and costs.
 - G. A development agreement is a contract that is negotiated and voluntarily entered into by City and developer and may contain any additional or modified conditions, terms or provisions agreed upon by the parties, including sanctions for failure to meet requirements.
 - H. A development agreement may include conditions relating to financial guarantees for performance of obligations thereunder.
- (Ord. 1239 C.S. § 1, 1997)

§ 22.56.080. Planning Commission and City Council hearings.

All development agreements shall be considered at public hearings before the Planning Commission and the City Council. Notice of the Planning Commission's and the City Council's intention to consider adoption of a development agreement shall be given as provided in Section 22.56.130.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.090. Required findings for approval by Planning Commission.

After the hearing by the Planning Commission, the Planning Commission shall make a recommendation to the City Council. The recommendation shall include the Planning Commission's determination whether or not the proposed development agreement:

- A. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- B. Complies with the zoning for the real property in question;
- C. Is consistent with and complies with the City's Subdivision Ordinance and State Subdivision Map Act, if applicable;
- D. Ensures provision of public facilities in a manner consistent with the City's general plan.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.100. Ordinance; public hearing.

Adopting of a development agreement is a legislative act and shall be approved by ordinance only after a public hearing before the City Council. The ordinance shall refer to and incorporate by reference the text of the development agreement.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.110. Conduct of Council hearing.

At the hearing, the City Council shall consider the Planning Commission's recommendation

together with any additional public testimony, and may approve, disapprove or modify any recommendation of the Planning Commission. If public testimony is presented on an issue which was not considered by the Planning Commission, the City Council may, but need not, refer the issue back to the Planning Commission for further hearing and recommendations.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.120. City Council approval.

If the City Council finds that the development agreement is consistent with the Martinez General Plan and any applicable specific plan, and that the agreement will promote the public health, safety and general welfare, it may, but is not required to, approve the development agreement.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.130. Notice.

- A. The Community Development Director shall give notice of intention to consider adoption of a development agreement in addition to such other notices as may be required by law for other actions to be considered concurrently with the development agreement.
- B. The notice of intention shall contain:
 - 1. The time and place of the hearing;
 - 2. A general explanation of the matter to be considered including a general description of the area affected; and
 - 3. Other information required by specific provisions of this Chapter or which the Community Development Director considered necessary or desirable.
- C. The time and manner of giving notice is as specified in Government Code Section 65867 or applicable successor code provision. Such publication and mailing shall be done at least 10 days prior to any hearing.
- D. The Planning Commission may direct that notice of the public hearing to be held before it shall be given in a manner that exceeds the notice requirements prescribed by state law.
- E. The notice requirements referred to in this Section are declaratory of existing law. If state law is subsequently amended to prescribe a different notice requirement, notice shall be given in that manner.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.140. Rules governing conduct of hearings.

All the public hearings under this Chapter shall be conducted in accordance with the procedures and the time limits specified for the conduct of zoning hearings in accordance with the Municipal Code, except that hearings conducted under Section 22.56.150 are not to be held only before the City Council and noticed as such.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.150. Annual review.

- A. Time for and initiation of review. The City Council shall review the development agreement annually in order to ascertain the good faith compliance by the developer with

its terms. The developer shall initiate the required annual review by submitting a written request at least 60 days prior to the review date specified in the agreement. The developer shall also provide evidence as determined by the City Council to demonstrate good faith compliance with the provisions of the development agreement.

- B. Public hearing. The City Council shall conduct a public hearing at which the developer must demonstrate good faith compliance with the terms of the agreement. The burden of proof by substantial evidence of compliance is upon the developer.
- C. Findings upon public hearing. The City Council shall determine upon the basis of substantial evidence whether or not the developer has, for the period under review, complied in good faith with the terms and conditions of the agreement.
- D. Procedure upon findings.
 - 1. If the City Council finds and determines on the basis of substantial evidence that the developer has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.
 - 2. If the City Council finds and determines on the basis of substantial evidence that the developer has not complied in good faith with the terms and conditions of the agreement during the period under review, the City Council may without consent of the developer modify or terminate the agreement in accordance with the provisions of Section 22.56.160(b).

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.160. Modification or termination.

- A. Modification or termination by mutual consent. Any development agreement may be modified or terminated by mutual consent of the parties, but only in the manner provided in California Government Code Section 65868 which requires that any proposal to modify or cancel a development agreement be heard and determined in accordance with the procedures specified by this Chapter for approval of a development agreement.
- B. Modification or termination after non-compliance. If, upon a finding under Section 22.56.150(d) (2), the City Council determines to proceed with modification or termination of the development agreement, the City Council shall give notice to the developer of its intention so to do after public hearing. The notice shall contain:
 - 1. The time and place of the hearing;
 - 2. A statement as to whether or not and in what respects the City Council proposes to terminate or to modify the development agreement;
 - 3. A statement of the reasons for the proposed modification or termination, and if any of said reasons constitute a breach of and/or an event of non-compliance with the development agreement, a statement of the terms of curing the default or remedying non-compliance and a reasonable time for the developer to effect said cure and/or meet the terms of compliance; and
 - 4. Other information which the City Council considers necessary to inform the developer of the nature of the proceeding.

The procedures specified in Section 22.56.160(a) shall govern proceedings conducted

under Section 22.56.160(b).

- C. Hearing on modification or termination. At the time and place set for the hearing on modification or termination, the developer and all interested parties shall be given an opportunity to be heard. After the public hearing, the City Council shall terminate or modify the development agreement, or rescind its finding of non-compliance or breach and issue a finding of compliance. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.170. Rights of the parties after termination.

- A. In the event that a development agreement should be terminated, all rights of the developer or successor in interest under the development agreement shall terminate. The City may, in its sole discretion, determine to retain any and all benefits, including reservations or dedications of land, and payment of fees, received by the City.
- B. Notwithstanding the above paragraph, any termination of the development agreement shall not prevent the developer from completing a building or other improvements authorized pursuant to a valid building permit, but the City may take any action permitted by law to prevent, stop or correct any violation of law occurring after termination of the development agreement.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.180. Separate procedure.

All development agreements entail and consist of a separate procedure from other land use planning procedures and shall not take the place of the zoning ordinance, the general plan, conditional use permit, subdivision approval, building permit or any other city planning function. To the extent practicable, public hearings on a proposed development agreement should be held concurrently with the public hearings on related land use approvals.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.190. Execution and recordation of development agreement, amendment or cancellation.

- A. Within 10 days after the ordinance approving the development agreement takes effect, the City Manager shall execute the development agreement on behalf of the City, and the City Clerk shall record the development agreement with the County Recorder.
- B. If the parties to the development agreement or their successors in interest cancel or modify the development agreement or modifies the development agreement as provided in Government Code Subsection 65865.1 and this Chapter for failure of the developer to comply in good faith with the terms or conditions of the development agreement, the City Clerk shall, after such action takes effect, record notice of such action with the County Recorder.

(Ord. 1239 C.S. § 1, 1997)

§ 22.56.200. Enforcement of a development agreement.

The procedures for enforcement, modification or termination of a development agreement specified in this Section are non-exclusive. A development agreement may be enforced, modified or terminated by any manner otherwise provided by law or by the terms of the development agreement.

(Ord. 1239 C.S. § 1, 1997)

CHAPTER 22.57 MICRO UNITS

§ 22.57.010. Intent.

This chapter is intended to facilitate the development of quality, affordable housing through regulatory incentives and to incentivize units that are affordable by design that still provide all the necessary residential amenities.

(Ord. No. 1471, 6/4/2025)

§ 22.57.020. Where Permitted.

Micro units may be permitted on any legal lot within the following zoning districts:

- A. Central Commercial District.
- B. Downtown Overlay District.
- C. Neighborhood Commercial District.
- D. Service Commercial District.
- E. R-1.5 Residential District.

(Ord. No. 1471, 6/4/2025)

§ 22.57.030. (Reserved)

§ 22.57.040. Unit Size.

- A. Minimum Size. A micro unit shall be a minimum of 225 square feet.
- B. Maximum Size. A micro unit shall be no more than 500 square feet.

(Ord. No. 1471, 6/4/2025)

§ 22.57.050. Site Development Regulations.

The required minimum site area, frontage, width and depth of the site, front yards, side yards, rear yards, building separation requirements, lot coverage, floor area ratio, and building height are those allowed by the underlying zoning district and/or overlay district, unless inconsistent with standards of this chapter.

(Ord. No. 1471, 6/4/2025)

§ 22.57.060. Density.

- A. Micro unit Project. Projects solely consisting of micro units shall not be subject to the maximum dwelling unit density standards of the associated General Plan land use designation or zoning district. The number of micro units permitted on a site shall be determined solely by the ability of the proposed development to comply with all other applicable development standards of the underlying zoning district.
- B. Mixed Unit Project. For projects in which micro units are integrated with non-micro units, density shall be regulated by the underlying General Plan land use designation and zoning district.

(Ord. No. 1471, 6/4/2025)

§ 22.57.070. Parking.

- A. Minimum Parking. A minimum of one independently usable off-street parking space shall be provided for each micro unit, except when the project is located within one-half mile of a major transit stop.
- B. Parking Design. Parking shall comply with all development standards set forth in Chapter 22.36 (Off-Street Parking and Loading Facilities), except the parking space may be compact and/or covered or uncovered.

(Ord. No. 1471, 6/4/2025)

§ 22.57.080. Usable Outdoor Space.

- A. Minimum Outdoor Space. The minimum outdoor space provided for micro units shall be 80 square feet per unit.
- B. Private or Common Outdoor Space. Outdoor space for micro units can either be provided in the form of private or common outdoor space, so long as 80 square feet per unit is provided cumulatively.

(Ord. No. 1471, 6/4/2025)

§ 22.57.090. Required Facilities.

All micro units shall include:

- A. Independent facilities for living, sleeping, cooking, and sanitation.
- B. A kitchen area containing a refrigerator, sink, and permanently installed cooking appliance, which must include at least a fixed stovetop.
- C. A fully plumbed bathroom including sink, shower, and toilet.
- D. A separate closet/storage space.

(Ord. No. 1471, 6/4/2025)

CHAPTER 22.58 SMALL ANIMALS

§ 22.58.010. Purpose.

The purpose of this Chapter is to maintain the semi-rural quality of Martinez and promote sustainability by allowing small farm animals, while protecting the health, safety, and general welfare of the community.

(Ord. No. 1450, § VII, 12/20/2023)

§ 22.58.020. Apiary.

A. Permitted uses.

1. Apiaries may occur on parcels within the residential, commercial, industrial, and agricultural zoning districts.
2. Apiaries shall be registered with the Contra Costa County Agricultural Commissioner.

B. Beekeeping standards.

1. Quantity of hives. The maximum number of beehives permitted on a given parcel is based on gross lot area and can be found in Table 22.58.020 below.

Table 22.58.020: Maximum Number of Beehives Allowed	
Gross Lot Area	Maximum Number of Beehives Permitted
Between 5,000 square feet and 10,000 square feet	4
Between 10,001 square feet and 20,000 square feet	6
Between 20,001 square feet and 40,000 square feet	8
Between 40,001 square feet and 200,000 square feet	10
Greater than 200,001 square feet	40

2. Nucleus. For each beehive kept on a lot in accordance with Table 22.58.020, one nucleus hive may also be kept on the lot.
3. Dimensions and height. A beehive shall not exceed six square feet. Beehives may be stacked and/or placed on a stand provided the cumulative height does not exceed six feet.
4. Flyway barrier. All properties on which honeybees are kept must have a flyaway barrier installed between the beehive and property line shared with adjacent residence. The flyway barrier shall be:
 - a. A minimum six feet high, consisting of a solid wall or fence or dense vegetation, and
 - b. A minimum of the same length as the beehive box(es)

C. Water source. All properties on which honey bee colonies are kept must have adequate

water sources on the property. Adequate sources of water provide both an amount of fresh water necessary for the amount of honey bees or honey bee colonies and a method for the honey bees to be able to gain a good footing to obtain the water.

D. Location.

1. Beehives shall be located in the rear or side yard of a parcel.
2. Beehives shall be set back a minimum of 25 feet from public rights-of-way and private streets.
3. Buildings or structures housing beehives shall comply with the accessory structure setbacks of the applicable zoning district.
4. Beehives must be located closer to the primary residence or structure of the subject property than to any primary structure on adjacent parcels.

E. Exceptions.

1. In Agricultural zoning districts, one beehive for every 5,000 square feet of gross lot area is permitted, or the quantity of bee hives based on Table 22.58.020, whichever is greater.
2. In Commercial and Industrial zoning districts, the 25-foot setback is not required for rooftop beehives only.
3. The following conditional uses shall be permitted upon the granting of a conditional use permit in accord with the provisions of Chapter 22.40 of this Title:
 - a. Quantity of beehives per parcel.
 - b. Location of beehives.
4. An application seeking an exception from this Chapter may be filed using the form provided by the Planning Division, along with the required fee.

(Ord. No. 1450, § VII, 12/20/2023)

§ 22.58.030. Chickens.

A. Standards.

1. The keeping of chickens is only permitted in residential and agricultural zoning districts.
2. Chickens or eggs shall not be sold for commercial purposes in Residential zoning districts.
3. The maximum number of chickens permitted on a given parcel is based on gross lot area and can be found in the Table 22.58.030 below.

Table 22.58.030: Maximum Number of Chickens Allowed	
Gross Lot Area	Maximum Number of Chickens Permitted
Between 4,000 square feet and 10,000 square feet	8
Between 10,001 square feet and 20,000 square feet	12
Between 20,001 square feet and 40,000 square feet	16
Greater than 40,001 square feet	20

B. Prohibited.

1. Roosters and other animals that produce noise and/or create a nuisance to neighboring residents as determined by the Noise Control Officer are prohibited.

C. Enclosures.

1. Chickens shall be kept within an enclosed structure or fenced area at all times.
 2. Chickens shall have access to a coop, cage, or similar structure, which:
 - a. Must be kept in a clean and sanitary condition, free from odor, pests, and vermin.
 - b. Has a minimum area of three-square feet per chicken in a coop, cage, or similar structure.
 - c. Is located within a rear or side yard.
 - d. Meets the minimum required setbacks for accessory structures.
 - e. Is located closer to the primary residence or structure of the chicken owner than to any adjacent or neighboring primary structure.
 - f. Is roofed.
 3. Coops and cages do not count towards lot coverage limits.
 4. Animal feed shall be stored in a rodent-proof and predator-proof container.
- (Ord. No. 1450, § VII, 12/20/2023)

CHAPTER 22.61
DOWNTOWN TRANSITION DISTRICT (DT)

§ 22.61.010. Purpose.

The purpose of this district is to maintain the character of this traditionally mixed-use area immediately south of the areas designated by the General Plan as "Downtown Core" and "Downtown Government," and north of the residential neighborhoods beyond. This area will continue to contain small-scale and locally serving service commercial uses, as well as office and residential uses. New development is envisioned to be primarily multifamily residential.
(Ord. No. 1472, 6/4/2025)

§ 22.61.020. Permitted and Conditional Uses.

Permitted and conditional uses shall be the same as the Central Commercial or the R-1.5 zoning district, whichever is more permissive.
(Ord. No. 1472, 6/4/2025)

§ 22.61.030. Site Area Per Dwelling Unit.

Each site shall have an area of not less than 1,500 square feet except that special consideration may be given by the Zoning Administrator or Planning Commission to reduce the minimum site area per dwelling unit to not less than 1,250 square feet for good site planning, architectural design, and landscaping.
(Ord. No. 1472, 6/4/2025)

§ 22.61.040. Floor Area Ratio.

The maximum floor area ratio ("FAR") shall be up to 1.5 (increased to 2.0 with development incentive pursuant to Chapter 22.81).
(Ord. No. 1472, 6/4/2025)

§ 22.61.050. Height.

The maximum allowable height shall be two and a half stories or a maximum of 30 feet above the 100-year flood plain, whichever is greater.
(Ord. No. 1472, 6/4/2025)

§ 22.61.060. Objective Development Standards.

The required distances between structures, and minimum site area, frontage, width and depth of the site, usable outdoor space; maximum site area coverage; front yards, side yards, rear yards, and accessory structures shall comply with requirements for the R-1.5 Residential District, as outlined in Chapter 22.12 (Residential Districts); the objective design and development standards in Chapter 22.51B (Objective Design and Development Standards for Qualified Multifamily Development Projects) and Chapter 22.51C (Objective Design and Development Standards for Qualified Mixed-Use Development Projects); other applicable objective development standards in this title, and any other objective development standard in an adopted Specific Plan.
(Ord. No. 1472, 6/4/2025)

CHAPTER 22.65 PARKLETS

§ 22.65.010. Purpose.

The purpose of this chapter is to regulate the City's parklet program, allowing businesses to occupy on-street parking spaces adjacent to their premises for purposes such as additional seating and dining, retail displays, or other customer-serving uses. The program is designed to enhance the vitality of the downtown area by encouraging innovative uses of public space while maintaining public safety and accessibility.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.020. Applicability.

This chapter applies to businesses located within the Downtown area, as defined by the boundaries of the Downtown Specific Plan.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.030. General provisions.

- A. Eligible businesses. Only businesses with ground floor street frontage on the block where the parklet is proposed may apply for a parklet permit. Additionally, the proposed parklet must be in front of, or within one parking space of the front of, the applicable business. Ground floor street frontage is defined as the portion of a building or business located at street level with direct pedestrian access from the sidewalk or street, typically used for customer-oriented services or retail activities. This frontage must face and be immediately adjacent to the street where the parklet is proposed, and it must be active, meaning the space is used for primary business operations (such as retail, dining, or public interaction).
- B. Permitted uses. Parklets may be used for outdoor seating and dining, retail displays, or other customer-serving uses approved by the Planning Manager or designee.
- C. Parking space allocation. Each parklet shall occupy no more than three contiguous parking spaces unless otherwise approved by the Planning Manager or designee.
- D. Maximum use of block face. A maximum of 50 percent of a block face may be occupied by parklets unless otherwise approved by the Planning Manager or designee.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.040. Design standards.

- A. Overhead structures. Overhead structures are only permitted in locations where they pose no potential to obscure or otherwise obstruct the entrance, windows, or signage of an existing business. For the purposes of this section, umbrellas and sail shades do not count as overhead structures.
- B. Accessibility. Parklets must comply with all applicable accessibility standards, including, but not limited to, the Americans with Disabilities Act.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.050. Application and permit requirements.

- A. Application process. Businesses interested in participating in the Parklet Program must submit a completed application to the Planning Division, along with the required application fee, as specified in the City's Fee Schedule.
 - B. Buy-in fee. Each applicant is required to pay a one-time buy-in fee for time and materials to install the parklet, the amount of which is established in the City's Fee Schedule. The buy-in fee is due upon approval of the parklet and prior to installation.
 - C. Monthly fee. A monthly fee, as set forth in the City's Fee Schedule, shall be charged per occupied parking space. It is the responsibility of any business with an approved parklet to pay monthly fees on time in advance of these dates, regardless of whether the City bills the business. The Finance Director, Community and Economic Development Director, or designees may elect to bill on a quarterly or biannual basis at their sole discretion with advance notice.
 - D. Insurance requirements. Applicants must provide proof of general liability insurance, naming the City as an additional insured, in an amount determined by the City Manager or designee. The insurance must be maintained for the duration of the parklet's operation.
- (Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.060. General requirements.

- A. Cleanliness. Permittees shall regularly inspect and clean the parklet and the portion of the sidewalk adjacent to the parklet.
- B. Approval of parklet furnishings. All furniture, decorations, umbrellas, or any other structures or embellishments located in or on the parklet require approval by the Planning Manager or designee, and shall be of suitable construction for outdoor use.
- C. Secure storage. All non-secured parklet components shall be stored in a secure location on private property when not in use.
- D. Hold harmless agreement. By accepting a permit under this chapter, the permittee explicitly agrees to indemnify, defend, and hold the City, its officers, and employees harmless from any liability, claims, suits, or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance, or removal of the parklet.
- E. Signage. Signage, except for City-installed safety, traffic, or directional signage is prohibited at parklets.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.070. Revocation and termination.

- A. Revocation. The City reserves the right to revoke a parklet permit at any time if the parklet is found to be in violation of this chapter, the terms of the permit, or other applicable laws, or if it is determined that the parklet is causing a public nuisance or safety hazard. The revocation process will be initiated by the Planning Manager or designee upon identifying non-compliance, a public nuisance, or a safety hazard. A notice of intent to revoke will be issued to the permittee. If the issue relates to noncompliance, the permittee will have an opportunity to remedy the issue within a specified period. If the noncompliance persists, the Planning Manager or designee shall finalize the revocation, the parklet permit will be

deemed null and void, and the parklet will be removed. If the issue relates to a public nuisance or safety hazard, the parklet permit will be deemed null and void, and may be removed immediately.

- B. Termination. Any business with an approved parklet may request the termination of their parklet. Requests for termination must be made in writing to the Planning Division. Parklets located in front of a business that has closed, and whose tenant space remains vacant, may remain in place subject to the discretion of the Public Works Director, Planning Manager, or designees.

(Ord. No. 1468, § IV, 1/15/2025)

§ 22.65.080. Enforcement and penalties.

- A. Enforcement. The City shall have the authority to enforce the provisions of this chapter and any associated parklet permits.
- B. Penalties. Violations of this chapter or the terms of a parklet permit may result in penalties as specified in the City's enforcement provisions, including fines, permit revocation, or other remedies as provided by law.

(Ord. No. 1468, § IV, 1/15/2025)

CHAPTER 22.73
WATER EFFICIENT LANDSCAPE

§ 22.73.010. Purpose.

The purpose of this chapter is to establish regulations that promote water conservation and efficient water use within landscape areas consistent with the State Model Water Efficient Landscape Ordinance. This chapter establishes a structure for planning, designing, installing, maintaining and managing water efficient landscapes in new construction and rehabilitated projects.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.020. Applicability.

A. The requirements of this chapter shall apply to all the following landscape projects:

1. New construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check, or design review.
2. Rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check, or design review.
3. Existing landscapes limited to Section 22.73.170.
4. Cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are limited to Sections 22.73.040, 22.73.110, and 22.73.120, and existing cemeteries are limited to Sections 22.73.030, 22.73.120, and 22.73.170.

B. Any project with an aggregate landscape area of 2,500 square feet or less requiring a building or landscape permit, plan check, or design review may comply with the performance requirements of this chapter or conform with alternative prescriptive measures contained in Section 22.73.180.

C. For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than 2,500 square feet of landscape and meets the lot or parcel's landscape water requirements (Estimated Total Water Use) entirely with treated or untreated graywater or through stored rainwater captured on site is subject only to the alternative prescriptive measures contained in Section 22.73.180.

D. This chapter does not apply to:

1. Registered local, state or federal historical sites;
2. Ecological restoration projects that do not require a permanent irrigation system;
3. Mined-land reclamation projects that do not require a permanent irrigation system; or
4. Existing plant collections, as part of botanical gardens and arboretums open to the public.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.030. Landscape design package elements.

A. The Landscape Documentation Package shall include the following:

1. Project information:
 - a. Date of landscape plan submittal;
 - b. Project Applicant;
 - c. Project address (if available, parcel and/or lot number(s));
 - d. Total landscape area (square feet);
 - e. Project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed);
 - f. Water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the Applicant is not served by a private well;
 - g. Checklist of all documents in Landscape Documentation Package;
 - h. Project contacts to include contact information for the project Applicant and property owner;
 - i. Applicant signature and date with statement, "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package";
2. Water Efficient Landscape Worksheet on the form or format provided by the Community and Economic Development Department, containing the following:
 - a. Hydrozone information table;
 - b. Water budget calculations of the Maximum Applied Water Allowance ("MAWA") and Estimated Total Water Use ("ETWU");
3. Soil management report;
4. Landscape design plan;
5. Irrigation design plan; and
6. Grading design plan.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.040. Water efficient landscape worksheet.

A. The Applicant shall submit a Water Efficient Landscape Worksheet in a format provided by the Community and Economic Development Department which adheres to the following:

1. The Evapotranspiration Adjustment Factor ("ETAF") for the landscape project shall not exceed a factor of 0.55 for residential areas, 0.45 for non-residential areas, exclusive of Special Landscape Areas.

2. The Estimated Total Water Use ("ETWU") is calculated based on the plants used and the irrigation method selected.
3. The Maximum Applied Water Allowance ("MAWA") is calculated based on the maximum ETAF allowed (0.55 for residential areas and 0.45 for non-residential areas) and expressed as annual gallons required.
4. The Estimated Total Water Use ("ETWU") is calculated based on the plants used and irrigation method selected for the landscape design.
5. ETWU must be below the MAWA.

B. Water Budget Calculations shall adhere to the following requirements:

1. The plant factor used shall be from WUCOLS or from horticultural researchers with academic institutions or professional associations as approved by the California Department of Water Resources ("DWR"). The plant factor ranges from 0 to 0.1 for very low water using plants, 0.1 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water use plants.
2. All water features shall be included in the high water use hydrozone and temporarily irrigated areas shall be included in the low water use hydrozone.
3. All Special Landscape Areas shall be identified and their water use calculated.
4. ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.050. Soil management report.

A. To reduce runoff and encourage healthy plant growth, the Applicant or designee shall complete a soil management report, as follows:

1. Submit soil samples to a laboratory for analysis and recommendations.
 - a. Soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants.
 - b. The soil analysis shall include:
 - i. Soil texture.
 - ii. Infiltration rate determined by laboratory test or soil texture infiltration rate table.
 - iii. pH.
 - iv. Total soluble salts.
 - v. Sodium.
 - vi. Percent organic matter.
 - vii. Recommendations for amending the soil with compost to bring the soil

organic matter to a minimum of six percent by dry weight and incorporating organic fertilizers to recommended levels for planting areas. Acceptable organic fertilizers and amendment products are those allowed for use in crop production by at least one of the following:

- (A) Organic Materials Review Institute's Generic Materials List.
- (B) California Department of Food and Agriculture's Organic Input Materials Program.
- (C) U.S. Department of Agriculture's National Organic Program.

- c. In projects with multiple landscape installations (i.e., production home developments) a soil sampling rate of one in seven lots or approximately 15 percent will satisfy this requirement. Large landscape projects shall sample at a rate equivalent to one in seven lots.

- 2. The Applicant or designee shall comply with one of the following:

- a. If significant mass grading is not planned, the soil management report shall be submitted as part of the Landscape Documentation Package; or
- b. If significant mass grading is planned, the soil management report shall be submitted as part of the Certificate of Completion.

- 3. The soil analysis report shall be made available, in a timely manner, to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans.

- 4. The Applicant or designee shall submit documentation verifying implementation of soil management report recommendations to the Community and Economic Development Department with the Certificate of Completion.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.060. Landscape design plan.

- A. For the efficient use of water, a landscape shall be carefully designed and planned for the intended function of the project and meet the following design criteria. A Landscape Design Plan meeting the following design criteria shall be submitted to the City as part of the Landscape Documentation Package:

- 1. Plant Material.

- a. The Estimated Total Water Use of selected plants in the landscape area shall not exceed the Maximum Applied Water Allowance. Methods to achieve water efficiency shall include one or more of the following:
 - i. Protection and preservation of native species and natural vegetation.
 - ii. Selection of water-conserving plant and turf species, especially local native plants.
 - iii. Selection of plants based on local climate suitability, disease, and pest resistance.

- iv. Selection of trees based on applicable tree regulations or tree shading guidelines and size and maturity as appropriate for the planting area.
- v. Selection of plants from local and regional landscape program plant lists.
- vi. Selection of plants from Local Fuel Modification Plan Guidelines.
- b. Each hydrozone shall have plant materials with similar water use, with the exception of hydrozones with plants of mixed water use, as specified in Section 22.73.070.A.2.e.
- c. Plants shall be selected and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site. Methods to achieve water efficiency shall include one or more of the following:
 - i. Use the Sunset Western Climate Zone System which considers temperature, humidity, elevation, terrain, latitude, and varying degrees of continental and marine influence on local climate.
 - ii. Recognize the horticultural attributes of plants (i.e., mature plant size, invasive surface roots) to minimize damage to property or infrastructure (e.g., buildings, sidewalks, power lines); allow for adequate soil volume for healthy root growth.
 - iii. Consider the solar orientation for plant placement to maximize summer shade and winter solar gain.
- d. Turf is not allowed on slopes greater than 25 percent where the toe of the slope is adjacent to an impermeable hardscape and where 25 percent means one foot of vertical elevation change for every four feet of horizontal length (rise divided by run $\times$ 100 = slope percent).
- e. Turf is not allowed in multifamily and non-residential areas unless it is a recreational area. Turf is allowed in single-family residential areas provided the water budget is met.
- f. High water use plants, characterized by a plant factor of 0.7 to 1.0, are prohibited in street medians.
- g. A landscape design plan for projects in fire-prone areas shall address fire safety and prevention. A defensible space or zone around a building or structure is required per Public Resources Code Section 4291(a) and (b). Avoid fire-prone plant materials and highly flammable mulches as listed in the Wildfire Management Plan or other applicable local ordinances.
- h. The use of invasive and/or noxious plant species, such as those listed by the California Invasive Plant Council, are strongly discouraged.
- i. The architectural guidelines of a common interest development, which include community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.

2. Water Features.

- a. Recirculating water systems shall be used for water features.
 - b. Where available, recycled water shall be used as a source for decorative water features.
 - c. Surface area of a water feature shall be included in the high water use hydrozone area of the water budget calculation.
 - d. Pool and spa covers are highly recommended.
3. Soil Preparation, Mulch, and Amendments.
 - a. Prior to the planting of any materials, compacted soil shall be transformed to a friable condition. On engineered slopes, only amended planting holes need to meet this requirement.
 - b. Soil amendments shall be incorporated according to recommendations of the soil management report and what is appropriate for the plants selected.
 - c. For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of pervious area shall be incorporated to a depth of six inches into the soil. Soils with greater than six percent organic matter in the top six inches of soil are exempt from adding compost and tilling. Organic matter must be confirmed by an accredited soil testing laboratory. Projects that incorporate sheet mulching may choose to install the compost above the cardboard layer instead of tilling it into the soil. Projects that are sheet mulching lawn in place are exempt from the tilling requirement.
 - d. A minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, areas receiving closely spaced plugs as a lawn alternative or direct seeding applications where mulch is not desirable. To provide habitat for beneficial insects and other wildlife, up to five percent of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - e. Stabilizing mulching products shall be used on slopes that meet current engineering standards.
 - f. The mulching portion of the seed/mulch slurry in hydro-seeded applications shall meet the mulching requirement.
 - g. Organic mulch materials made from recycled or post-consumer products shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by the Wildfire Management Plan or other applicable local ordinances.
- B. The landscape design plan, at a minimum, shall:
 1. Include Project Information as provided in Section 22.73.030.A.
 2. Delineate and label each hydrozone by number, letter, or other method.
 3. Identify the following:

- a. Each hydrozone as low water-, moderate water-, high water-, or mixed water-use. Temporarily irrigated areas of the landscape shall be included in the low water-use hydrozone for the water budget calculation.
 - b. Recreational areas.
 - c. Areas permanently and solely dedicated to edible plants.
 - d. Areas irrigated with recycled water.
 - e. Type of mulch and application depth.
 - f. Soil amendments, type, and quantity.
 - g. Type and surface area of water features.
 - h. Hardscapes (pervious and non-pervious).
 - i. Location, installation details, and 24-hour retention or infiltration capacity of any applicable stormwater best management practices that encourage on-site retention and infiltration of stormwater. Applicants shall refer to the Regional Water Quality Control Board for information on any applicable stormwater technical requirements. Stormwater best management practices are encouraged in the landscape design plan and examples are provided in Section 22.73.160.
 - j. Any applicable rain harvesting or catchment technologies (e.g., rain gardens, cisterns, etc.) and their 24-hour retention or infiltration capacity.
 - k. Any applicable graywater discharging pipping, system components, and areas(s) of distribution.
4. Contain the following statement: "The landscape design plan complies with Martinez Municipal Code Chapter 22.73 for the efficient use of water."
 5. Bear the signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape.
- (Ord. No. 1468, § V, 1/15/2025)

§ 22.73.070. Irrigation design plan.

- A. This section applies to landscaped areas requiring permanent irrigation, not areas that require temporary irrigation solely for the plant establishment period. For the efficient use of water, an irrigation system shall meet all the requirements listed in this section and the manufacturers' recommendations. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance. An irrigation design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.
 1. System.
 - a. Landscape water meters, defined as either a dedicated water service meter or private submeter, shall be installed for all non-residential irrigated landscapes of 1,000 sq. ft. but not more than 5,000 sq. ft. (the level at which Water Code 535 applies) and residential irrigated landscapes of 5,000 sq. ft. or greater. A

landscape water meter may be either:

- i. A customer service meter dedicated to landscape use provided by the Water District; or
 - ii. A privately owned meter or submeter.
- b. Automatic irrigation controllers using either evapotranspiration or soil moisture sensor data utilizing non-volatile memory shall be required for irrigation scheduling in all irrigation systems.
- c. If the water pressure is below or exceeds the recommended pressure of the specified irrigation devices, the installation of a pressure regulating device is required to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.
- i. If the static pressure is above or below the required dynamic pressure of the irrigation system, pressure-regulating devices such as inline pressure regulators, booster pumps, or other devices shall be installed to meet the required dynamic pressure of the irrigation system.
 - ii. Static water pressure, dynamic or operating irrigation system pressure, and flow reading of the water supply shall be measured at the point of connection. These pressure and flow measurements shall be conducted at the design stage. If the measurements are not available at the design stage, the measurements shall be conducted at installation.
- d. Sensors (i.e., rain, freeze, and wind), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems, as appropriate for local climatic conditions.
- e. Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency or routine repair.
- f. Backflow prevention devices shall be required to protect the potable water supply from contamination by the irrigation system.
- g. Flow sensors that detect high flow conditions created by system damage or malfunctions are required for all non-residential landscapes and residential landscapes of 5,000 square feet or larger.
- h. Master irrigation shut-off valves are required on all projects except landscapes that make use of technologies allowing for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.
- i. 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, non-irrigated areas, hardscapes, roadways, or structures.
 - j. Relevant information from the soil management plan, such as soil type and

infiltration rate, shall be utilized when designing irrigation systems.

- k. The design of the irrigation system shall conform to the hydrozones of the landscape design plan.
- l. The irrigation system must be designed and installed to meet, at a minimum, the irrigation efficiency criteria regarding the Maximum Applied Water Allowance.
- m. All irrigation emission devices must meet the requirements set in the American National Standards Institute ("ANSI") standard, American Society of Agricultural and Biological Engineers'/International Code Council's ("ASABE/ICC") 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard." All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.
- n. The Applicant shall inquire with the Water District about peak water operating demands (on the water supply system) or water restrictions that may impact the effectiveness of the irrigation system.
- o. In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.
- p. Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.
- q. Head-to-head coverage is recommended. However, sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.
- r. Swing joints or other riser-protection components are required on all risers subject to damage that are adjacent to hardscapes or in high traffic areas on turfgrass.
- s. Check valves or anti-drain valves are required on all emission devices where low point drainage could occur.
- t. Drip irrigation operation indicators are required for all low volume and drip irrigation systems.
- u. Bubblers shall not exceed maximum 0.25 gallons per minute.
- v. Areas less than ten feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.
- w. No obstruction of overhead irrigation, by mature size of plant material, shall be clearly demonstrated as part of the Landscape Documentation Package.
- x. Overhead irrigation shall not be permitted within 24 inches of any impervious surface. Allowable irrigation within the setback from impervious surfaces may include drip, drip line, or other low flow non-spray technology. These restrictions may be modified if:
 - i. The landscape area is adjacent to pervious surfacing; or

- ii. The adjacent impervious surfaces are designed and constructed to drain entirely to landscaping; or
 - iii. The irrigation designer specifies an alternative design or technology as part of the Landscape Design Documentation Package, and clearly demonstrates strict adherence to irrigation system design criteria in subsection A.1.i of this section. Prevention of overspray and runoff must be confirmed during the irrigation audit.
 - y. Slopes greater than 25 percent shall not be irrigated with an irrigation system with an application rate exceeding 0.75 inches per hour.
2. Hydrozone.
- a. Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.
 - b. Sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone.
 - c. Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and turf to facilitate the appropriate irrigation for trees. The mature size and extent of the root zone shall be considered when designing the irrigation for the tree.
 - d. Plants in biotreatment soils shall be on a separate valve.
 - e. Individual hydrozones that mix plants of moderate and low water use, or moderate and high water use, may be allowed if:
 - i. Plant factor calculation is based on the proportions of the respective plant water uses and their plant factor; or
 - ii. The plant factor of the higher water using plant is used for calculations.
 - f. Individual hydrozones that mix high and low water use plants shall not be permitted.
 - g. Hydrozone areas shall be designated by number, letter, or other designation on the landscape plan and irrigation plan. Designate the areas irrigated by each valve, and assign a number to each valve on the irrigation design plan.
- B. The irrigation design plan, at a minimum shall contain:
- 1. Location and size of any landscape water meters.
 - 2. Location, type, and size of all irrigation system components, including controllers, main and lateral irrigation lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices.
 - 3. Static water pressure at the point of connection to the public water supply.
 - 4. Flow rate (gallons per minute), application rate (inches per hour), and design operating irrigation system pressure (pressure per square inch) for each station (valve).

5. Recycled water irrigation systems as specified in Section 22.73.140.
 6. The following statement: "This irrigation design plan complies with the criteria of Martinez Municipal Code Chapter 22.73 for efficient use of water."
 7. The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system.
- (Ord. No. 1468, § V, 1/15/2025)

§ 22.73.080. Grading design plan.

- A. For the efficient use of water, grading of a project site shall be designed to minimize soil erosion, runoff, and waterwaste. A grading plan shall be submitted as part of the Landscape Documentation Package. A comprehensive grading plan prepared by a civil engineer for other City permits satisfies this requirement.
 1. The Applicant shall submit a landscape grading plan indicating finished configurations and elevations of the landscape area including:
 - a. Height of graded slopes;
 - b. Drainage patterns;
 - c. Pad elevations;
 - d. Finish grade; and
 - e. Stormwater retention improvements, if applicable.
 2. To prevent excessive erosion and runoff, it is highly recommended Applicants:
 - a. Grade so all irrigation and normal rainfall remains within property lines and does not drain onto non-permeable hardscapes;
 - b. Avoid disruption of natural drainage patterns and undisturbed soil; and
 - c. Avoid soil compaction in landscape areas.
 3. The grading design plan shall contain the following statement: "I have complied with the criteria of Martinez Municipal Code Chapter 22.73 and applied them accordingly for the efficient use of water in the grading design plan" and shall bear the signature of a licensed professional as authorized by law.
- (Ord. No. 1468, § V, 1/15/2025)

§ 22.73.090. Certificate of completion.

- A. The Certificate of Completion shall be submitted by the Applicant to the City for review on forms provided by the Community and Economic Development Department, prior to project sign-off or acceptance. Final occupancy shall not be granted until the Certificate of Completion is approved by the Community and Economic Development Department.
- B. The Certificate of Completion shall include the following:
 1. Project information sheet.

2. Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved Landscape Documentation Package.
 - a. Where there have been significant changes made in the field during construction, these "as-built" or record drawings shall be included with the certification.
 - b. A diagram of the irrigation plan showing hydrozones shall be kept with the irrigation controller for subsequent management purposes.
 3. Irrigation scheduling parameters used to set the controller.
 4. Landscape and irrigation maintenance schedule.
 5. Irrigation audit report.
 6. Soil management report, if not submitted with Landscape Documentation Package and documentation verifying implementation of soil report recommendations.
 7. Landfill diversion verification.
- C. The Applicant shall:
1. Submit the signed Certificate of Completion to the Community and Economic Development Department for review.
 2. Submit the approved Certificate of Completion to the Water District.
- D. The City shall:
1. Receive the signed Certificate of Completion from the Applicant;
 2. Approve or deny the certificate of completion. If the Certificate of Completion is denied, the City shall provide information to the Applicant regarding reapplication, appeal, or other assistance.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.100. Irrigation scheduling.

- A. For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the following criteria:
1. Irrigation scheduling shall be regulated by automatic irrigation controllers.
 2. Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. If allowable hours of irrigation differ from the Water District, then the stricter of the two shall apply. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
 3. For implementation of the irrigation schedule, particular attention must be paid to irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the Estimated Total Water Use. Total annual applied water shall be less than or equal to Maximum Applied Water

Allowance ("MAWA"). Actual irrigation schedules shall be regulated by automatic irrigation controllers using current reference evapotranspiration data (e.g., CIMIS) or soil moisture sensor data.

4. Parameters used to set the automatic controller shall be developed and submitted for each of the following:
 - a. The plant establishment period;
 - b. The established landscape; and
 - c. Temporarily irrigated areas.
5. Each irrigation schedule shall consider for each station all the following that apply:
 - a. Irrigation interval (days between irrigation);
 - b. Irrigation run times (hours or minutes per irrigation event to avoid runoff);
 - c. Number of cycle starts required for each irrigation event to avoid runoff;
 - d. Amount of applied water scheduled to be applied on a monthly basis;
 - e. Application rate setting;
 - f. Root depth setting;
 - g. Plant type setting;
 - h. Soil type;
 - i. Slope factor setting;
 - j. Shade factor setting; and
 - k. Irrigation uniformity or efficiency setting.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.110. Landscape and irrigation maintenance schedule.

- A. Landscapes shall be maintained to ensure water use efficiency. The Applicant's regular maintenance schedule shall be submitted with the Certificate of Completion to ensure water efficiency.
- B. A regular maintenance schedule shall include, but not be limited to, routine inspection; auditing, adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; topdressing with compost; replenishing mulch; fertilizing; pruning; weeding in all landscape areas; and removing obstructions to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
- C. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents or with components with greater efficiency.
- D. The Applicant is encouraged to implement sustainable or environmentally friendly

practices for overall landscape maintenance.
(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.120. Irrigation audit, survey, and water use analysis.

- A. It shall be the Applicant's responsibility to ensure irrigation audits are performed as required. The Applicant may be required to analyze irrigation water use and conduct irrigation surveys for compliance with the Maximum Applied Water Allowance. Said landscape audits and surveys shall be commissioned and paid for by the Applicant.
- B. All landscape irrigation audits shall be conducted by a third party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.
- C. In projects with multiple landscape installations (i.e., production home developments) an auditing rate of one in seven lots or approximately 15 percent will satisfy this requirement. The irrigation audits are the sole responsibility of the developer.
- D. For new construction and rehabilitated landscape projects installed after December 1, 2015:
 - 1. The Applicant shall submit an irrigation audit report with the Certificate of Completion to the local agency that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rate, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming;
 - 2. The City shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the Maximum Applied Water Allowance.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.130. Irrigation efficiency.

The purpose of determining Estimated Total Water Use, average irrigation efficiency is assumed to be 0.75 for overhead spray devices and 0.81 for drip system devices.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.140. Recycled water.

- A. The installation of recycled water irrigation systems shall allow for the current and future use of recycled water.
- B. All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and state laws.
- C. Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.150. Graywater systems.

- A. Graywater systems promote the efficient use of water and are encouraged to assist in on-site landscape irrigation. All graywater systems shall conform to the California Plumbing Code and any applicable local ordinance standards.
 - B. Graywater systems shall not be interconnected with the domestic water system.
 - C. Applicants shall obtain a construction permit from the Water District for the installation of all graywater systems.
 - D. An approved backflow prevention assembly shall be installed on the domestic water system, downstream of the domestic water meter.
- (Ord. No. 1468, § V, 1/15/2025)

§ 22.73.160. Stormwater management and rainwater retention.

- A. Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Including stormwater best management practices into landscape and grading design plans to minimize runoff and to increase on-site rainwater retention and infiltration are encouraged.
- B. Applicants shall refer to Chapter 15.06 (Stormwater Management and Discharge Control) and the San Francisco Bay Regional Water Quality Control Board Municipal Regional Stormwater NPDES Permit for information on any applicable stormwater regulatory requirements.
- C. All planted landscape areas are required to have friable soil to maximize water retention and infiltration.
- D. It is strongly recommended that landscape areas be designed for capture and infiltration capacity that is sufficient to prevent runoff from impervious surfaces (i.e., roof and paved areas) from either: (1) the one-inch, 24-hour rain event; or (2) the 85th percentile, 24-hour rain event, and/or additional capacity as required by any applicable local, regional, state or federal regulation.
- E. It is recommended stormwater projects incorporate any of the following elements to improve on-site stormwater and dry weather runoff capture and use:
 - 1. Grade impervious surfaces, such as driveways, to drain to vegetated areas.
 - 2. Minimize the area of impervious surfaces such as paved areas, roof, and concrete driveways.
 - 3. Incorporate pervious or porous surfaces (e.g., gravel, permeable pavers or blocks, pervious or porous concrete) that minimize runoff.
 - 4. Direct runoff from paved surfaces and roof areas into planting beds or landscaped areas to maximize site water capture and reuse.
 - 5. Incorporate rain gardens, rain barrels, and other rain harvesting or catchment systems.
 - 6. Incorporate infiltration beds, swales, or basins to capture stormwater and dry weather runoff and increase percolation into the soil.
 - 7. Rainwater catchment systems cannot be connected with the domestic water system.

8. Consider constructed wetlands and ponds that retain water, equalize excess flow, and filter pollutants.
(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.170. Existing landscapes.

- A. This section shall apply to all existing landscapes that were installed before December 1, 2015, and are over an acre in size.
 1. For all landscapes that have a landscape water meter, the City may require, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the Maximum Applied Water Allowance for existing landscapes. The Maximum Applied Water Allowance for existing landscapes shall be calculated as: $MAWA = (0.8) (ETo)(LA) (0.62)$.
 2. For all landscapes that do not have a landscape water meter, the City may require, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.
- B. All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.
(Ord. No. 1468, § V, 1/15/2025)

§ 22.73.180. Alternative prescriptive compliance option.

- A. This Appendix contains prescriptive requirements which may be used as a compliance option to this chapter.
- B. Compliance with the following items is mandatory and must be documented on a landscape plan to use the prescriptive compliance option:
 1. Submit a Landscape Documentation Package which includes the following elements:
 - a. Date.
 - b. Project Applicant.
 - c. Project address (if available, parcel and/or lot number(s)).
 - d. Total landscape area (square feet), including a breakdown of turf and plant material.
 - e. Project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed).
 - f. Water supply type (e.g., potable, recycled, well) and identify the Water District if the Applicant is not served by a private well.
 - g. Contact information for the Applicant and property owner.
 - h. Applicant signature and date with statement, "I agree to comply with the requirements of the prescriptive compliance option to the MWEL0."

2. Incorporate 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 contraindicated by a soil test).
3. Plant material shall comply with all the following:
 - a. For residential areas, install climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for 75 percent of the plant area excluding edibles and areas using recycled water. For non-residential areas, install climate adapted plants that require occasional, little, or no summer water (average WUCOLS plant factor 0.3) for 100 percent of the plant area, excluding edibles and areas using recycled water.
 - b. At a minimum, species listed in the California Invasive Plant Council's "Don't Plant a Pest" brochure as invasive in the project's region are not installed.
 - c. 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 areas receiving closely spaced plugs as a lawn alternative, or direct seeding applications where mulch is contraindicated.
4. Turf shall comply with all of the following:
 - a. Turf shall not exceed 25 percent of the landscape area in residential areas, and there shall be no turf in non-residential areas.
 - b. Turf shall not be planted on sloped areas which exceed a slope of one vertical foot elevation change for every four feet of horizontal length.
 - c. Turf is prohibited in parkways less than ten feet wide, unless the parkway is adjacent to a parking strip and used to enter and exit vehicles. Any turf in parkways must be irrigated by subsurface irrigation or by other technology that creates no overspray or runoff.
5. Irrigation systems shall comply with all of the following:
 - a. Automatic irrigation controllers are required and must use evapotranspiration or soil moisture sensor data and utilize a rain sensor.
 - b. Irrigation controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.
 - c. Pressure regulators shall be installed on the irrigation system to ensure the dynamic pressure of the system is within the manufacturer's recommended pressure range.
 - d. Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be installed as close as possible to the point of connection of the water supply.
 - e. All irrigation emission devices must meet the requirements set in the ANSI standard ASABE/ICC 802-2014, "Landscape Irrigation Sprinkler and Emitter Standard." All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.

- f. Areas less than ten feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.
 - 6. For non-residential projects with landscape areas of 1,000 sq. ft. or more, a private submeter(s) to measure landscape water use shall be installed.
 - 7. Disposal of plant debris in county landfills is prohibited. Plant debris shall be separated from other waste materials and dropped off at facilities with clean green processing for compost or put in green plant debris carts. Landscape professionals shall separate all plant debris from landfill material.
 - 8. At the time of final inspection, the Applicant must provide the property owner with a certificate of completion, certificate of installation, irrigation schedule and a schedule of landscape and irrigation maintenance.
- (Ord. No. 1468, § V, 1/15/2025)

CHAPTER 22.75
RESIDENTIAL DEVELOPMENT IN COMMERCIAL DISTRICTS

§ 22.75.010. Purpose.

The purpose of this chapter is provide objective development standards for mixed-use and multifamily residential development, transitional housing, and supportive housing in zoning districts where office, parking, and/or retail are a principally permitted use, to implement the provisions of state law as reflected in Cal. Gov't. Code §§ 65852.24 and 65912.100, et seq., to facilitate new residential development consistent with the General Plan, and ensure sound standards of public health and safety.

(Ord. No. 1474, 7/16/2025)

§ 22.75.020. Residential project eligibility.

A. A Housing Development Project proposed pursuant to the provisions of Housing Accountability Act (Cal. Gov't. Code § 65852.24) may be either of the following:

1. A project with multifamily residential units only; or
2. A mixed-use development consisting of residential and non-residential retail, commercial, or office uses, where at least 50% of the square footage of the new construction associated with the project is designated for residential use and none of the square footage is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.

B. A Housing Development Project proposed pursuant to the provisions of the Affordable Housing and High Road Jobs Act (Cal. Gov't. Code § 65912.100, et seq.) is a project consisting of any of the following uses:

1. Multifamily residential uses only;
2. Mixed-use developments consisting of residential and non-residential uses where at least two-thirds of the square footage is designated for residential use; or
3. Transitional housing or supportive housing.

(Ord. No. 1474, 7/16/2025)

§ 22.75.030. Permitted zoning districts.

A Housing Development Project that complies with the provisions of this chapter shall be a permitted use in any of the following zoning districts:

- A. Neighborhood Commercial District (NC).
- B. Central Commercial District (CC).
- C. Service Commercial District (SC).
- D. Professional and Administrative Office District (PA).
- E. Research and Development District (RD).
- F. Downtown Transition District (DT).

(Ord. No. 1474, 7/16/2025)

§ 22.75.040. Qualified residential development in commercial districts subject to the housing accountability act.

A. Criteria. A Housing Development Project shall meet all the following:

1. Size. Not proposed on a site that is larger than 20 acres, unless the site is a regional mall of less than 100 acres, as defined in Cal. Gov't. Code § 65912.101.
2. Adjacent industrial uses. Not proposed to be on or adjoined to a site where more than one-third of the gross floor area is dedicated and permitted as industrial use or designated for industrial use in the General Plan.
3. Sustainable Community Strategy. Consistent with Plan Bay Area or an applicable and approved sustainable community strategy or alternative plan, as defined in Cal. Gov't. Code § 65080.

B. Development standards. A Housing Development Project shall meet all the following criteria:

1. Density. The Housing Development Project shall propose a residential density that meets or exceeds 30 dwelling units per acre.
2. Objective design and development standards. All other objective design and development standards applicable to the Housing Development Project shall be either:
 - a. Existing eligible zoning district. The objective zoning standards, objective subdivision standards, and objective design review standards for the existing zoning designation for the site if the existing zoning allows residential use at a density greater than 30 dwelling units per acre.
 - b. Closest eligible zoning district parcel. The objective zoning standards, objective subdivision standards, and objective design review standards for the closest parcel to the site that allows residential use 30 dwelling units per acre or greater. Zoning districts that meet this criterion include the following:
 - i. R-1.5 Residential zoning district;
 - ii. Central Commercial zoning district;
 - iii. Professional and Administrative Office zoning district; and
 - iv. Downtown Transition zoning district.
3. Commercial tenant notice and relocation assistance requirements. If the Housing Development Project is proposed on a site where there are commercial tenants at the time of submission of the application for the Housing Development Project, then the Applicant shall comply with all applicable requirements of Cal. Gov't. Code § 65852.24(c).
4. Labor requirements. The Applicant shall comply with all applicable requirements of Cal. Gov't. Code §§ 65852.24(b)(8) and (b)(9).

5. No short-term rentals. The Applicant shall record a restrictive covenant and agreement in the form prescribed by the City Attorney or designee, which shall run with the land and provide for a requirement that any dwelling units on the site may be rented or leased only for a period longer than 30 days. The City Manager or designee is authorized to enter into the covenant and agreement on behalf of the City and to deliver any approvals or consents required by the covenant.
- C. Application procedures. A Housing Development Project shall meet all the following criteria:
1. Application Requirements. An application for a Housing Development Project shall include all the following information and materials required for an application, as applicable:
 - a. Existing eligible zoning district. Design review and tentative map (if applicable) for a multifamily residential development proposed pursuant to the existing zoning designation for the site if the existing zoning allows residential use at a density greater than 30 dwelling units per acre; or
 - b. Closest eligible zoning district parcel. Design review and tentative map (if applicable) for a multifamily residential development proposed pursuant to the zoning designation for the closest parcel to the site that allows residential use at 30 dwelling units per acre or greater. Zoning districts that meet this criteria include:
 - i. R-1.5 Residential zoning district;
 - ii. Central Commercial zoning district;
 - iii. Professional and Administrative Office zoning district; and
 - iv. Downtown Transition zoning district.
 - c. Density bonus. If the Housing Development Project is requesting any density bonus, incentives, concessions, waivers, or parking reductions pursuant to Chapter 22.80 (Density Bonus), then the Housing Development Project shall demonstrate compliance with all the requirements of this chapter and Chapter 22.80.
 2. Application review. The Planning Division shall process, review, and make a final determination on an application for a Housing Development Project in accordance with the procedures applicable to either:
 - a. Existing eligible zoning district. The existing zoning designation for the site if the existing zoning allows residential use at a density greater than 30 dwelling units per acre; or
 - b. Closest eligible zoning district parcel. The zoning designation for the closest parcel to the site that allows residential use at 30 dwelling units per acre or greater. Zoning districts that meet this criterion include:
 - i. R-1.5 Residential zoning district;
 - ii. Central Commercial zoning district;

iii. Professional and Administrative Office zoning district; and

iv. Downtown Transition zoning district.

(Ord. No. 1474, 7/16/2025)

§ 22.75.050. Qualified mixed-income residential development in commercial districts subject to the Affordable Housing and High Roads Jobs Act.

A. Criteria. The Housing Development Project shall meet all the following:

1. Size. Not proposed on a site that is larger than 20 acres, unless the site is a regional mall of less than 100 acres, as defined in Cal. Gov't. Code § 65912.101.
2. Commercial corridor. The site on which the Housing Development Project is proposed abuts a commercial corridor and has a minimum of 50 feet of frontage along the commercial corridor.
3. Adjoining urban uses. Proposed on a site where at least 75% of the site adjoins parcels developed with urban uses.
4. Non-proximity to industrial uses. Not proposed to be or adjoined to a site where more than one-third of the square footage of the site is dedicated to industrial use, excluding:
 - a. Power substations or utility conveyances such as power lines, broadband wires, and pipes;
 - b. A use where the only source permitted by a district is an emergency backup generator; or
 - c. Self-storage for the residents of a building
5. Environmental hazards. Proposed on a Site that satisfies the requirements of Cal. Gov't. Code §§ 65913.4(a)(6)(B) through (a)(6)(K).
6. Fire zones. Not permitted on a site located within a very high fire hazard severity zone where that site is vacant at the time the Housing Development Project application is submitted.
7. Restricted sites. Not proposed on a site that is currently governed by any of the following:
 - a. Mobilehome Residency Law (codified at Cal. Civ. Code § 798, et seq.);
 - b. Recreational Vehicle Occupancy Law (codified at Cal. Civ. Code § 799.20, et seq.);
 - c. Mobilehome Parks Act (codified at Cal. Health & Safety Code § 18200, et seq.); or
 - d. Special Occupancy Parks Act (codified at Cal. Health & Safety Code § 18860, et seq.).
8. Restricted demolition of existing uses. Not proposed on a site that would require the demolition of any of the following:

- a. Housing subject to recorded covenant, ordinance, or law that restricts rents to levels affordable to moderate-, low-, very low-, or extremely low-income households;
 - b. Housing that has been occupied by tenants in the last 10 years, excluding manager's units; or
 - c. A historic structure that was placed on a national, state, or local historic register.
9. Previous residential development. The Housing Development Project is not proposed on a site that would require the demolition of housing that has been occupied by tenants within the past 10 years, excluding any manager's units.
 10. Existing residential development. The Housing Development Project is not proposed on a site that currently contains one to four dwelling units or on a site that is vacant and zoned for four or fewer units.
 11. Neighborhood Plans. For a Housing Development Project proposed on a site in a neighborhood plan, including the Downtown Specific Plan, the neighborhood plan shall permit multifamily housing development on the site.
 12. Tribal resources. For a Housing Development Project proposed on a site that is vacant at the time that the application is submitted, the site shall not contain tribal resources, as defined in Cal. Pub. Res. Code § 21074, that could be affected by the Housing Development Project that were found pursuant to a consultation as described in Cal. Pub. Res. Code § 21080.1 and the effects of which cannot be mitigated pursuant to the process in Cal. Pub. Res. Code § 21080.3.2.
- B. Development standards. The Housing Development shall comply with all the following:
1. Multifamily residential development. The Housing Development Project must propose to construct at least five residential dwelling units.
 2. Location of housing. Any proposed Housing Development Project shall not be located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.
 3. Density. The Housing Development Project shall propose a residential density that meets or exceeds the density in Table 22.75.050(B)(3) below and shall be calculated prior to any density bonus which is consistent with the State Density Bonus Law.

Table 22.75.050(B)(3) — Qualified Mixed-Income Residential Development Density Requirements

Site	Density
Site < one acre	30 dwelling units/acre
Site > one acre and Commercial Corridor right-of-way < 100 feet	40 dwelling units/acre
Site > one acre and Commercial Corridor right-of-way > 100 feet	60 dwelling units/acre
Site within one-half-mile of a Major Transit Stop	80 dwelling units/acre

4. Height. The height for the proposed Housing Development Project shall not exceed

the greater of the following:

- a. The maximum height permitted by the current zoning designation for the site, regardless of whether that height limit is applicable to residential, commercial, or other type of development.
- b. For a site on a commercial corridor with a right-of-way width of less than 100 feet: 35 feet.
- c. For a site on a commercial corridor with a right-of-way width equal to or greater than 100 feet: 45 feet.

5. Setbacks. The site shall meet the following setbacks:

- a. For the portion of the site that fronts the commercial corridor, no setback shall be required except that any parking which is provided must be set back at least 25 feet from the property line. Notwithstanding the foregoing, on the ground floor of the Housing Development Project, any building(s) must abut the commercial corridor within 10 feet of the property line for at least 80% of the frontage.
- b. For street side setbacks, any building(s) must abut the side street within 10 feet of the property line for at least 60% of the frontage.
- c. For any portion of the site that abuts an adjoining parcel that also abuts the same commercial corridor, no setbacks shall be required unless the adjoining parcel contains a residential use that was constructed prior to September 28, 2022, in which case the requirements of subsection B.5.d of this section shall apply.
- d. For any portion of the site that does not abut the commercial corridor, a side street, or an adjoining parcel that also abuts the same commercial corridor as the site, but abuts a parcel that contains a residential use, the ground floor of the Housing Development Project shall be set back 10 feet from the property line. Starting with the second floor of the Housing Development Project, each subsequent floor shall be stepped back in an amount equal to seven feet multiplied by the floor number from the ground floor. For the purposes of this subsection, the ground floor is the first floor.
- e. For any portion of the site that does not abut the commercial corridor, a side street, or an adjoining parcel that also abuts the same commercial corridor as the site, but abuts a parcel that does not contain a residential use, the Housing Development Project shall be set back 15 feet from the property line.

6. Parking. No off-street vehicle parking shall be required. However, the Housing Development Project shall comply with any applicable bicycle parking requirements, electric vehicle supply equipment-installed parking spaces, or parking spaces that are accessible to persons with disabilities for new multifamily residential or non-residential development as imposed by the existing zoning district for the site.

7. Affordable housing requirement.

- a. Rental Housing. A Housing Development Project that, proposes to construct rental units shall, for a period of 55 years, provide either:

- i. 8% of the units in the Housing Development Project at an affordable rent for very low-income households and 5% of the units in the Housing Development Project at an affordable rent to extremely low-income households; or
 - ii. 15% of the units in the Housing Development Project at an affordable rent to very low- and/or low-income households.
 - b. For sale housing. A Housing Development Project that proposes to construct for sale units shall, for a period of 45 years, provide either:
 - i. 15% of the units in the Housing Development Project at an affordable housing cost to very low- and/or low-income households; or
 - ii. 30% of the units in the Housing Development Project at an affordable housing cost to moderate-income households.
 - c. Deed restriction. The City shall require the Applicant pursuant to this section to record a deed restriction ensuring that the required affordable units are rented to eligible households at affordable housing cost or affordable rent for the length of the applicable term. A similar deed restriction shall also apply to the sale of affordable units and that such units must be owner-occupied.
 - d. Characteristics of affordable units. The affordable units in the Housing Development Project shall have the same proportion of units of each bedroom and bathroom type as the above moderate-income units, shall be equitably distributed, and shall have the same type of quality of appliance, fixtures, and finishes as the above moderate-income units. The occupants of the affordable units in the Housing Development Project shall also have the same access to the common entrances and common areas and amenities, including common outdoor space, parking, storage, and other facilities, of the Housing Development as the occupants of the above moderate-income units.
8. Hazardous materials review. The Applicant shall complete a Phase I Environmental Assessment (as defined in Cal. Health & Safety Code § 78090) and any subsequent environmental review and remediation required by Cal. Gov't. Code § 65912.123(f).
9. Commercial tenant notice and relocation assistance requirements. If the Housing Development Project is proposed on a site where there are commercial tenants at the time of submission of the application for the Housing Development Project, then the Applicant shall comply with all applicable requirements of Cal. Gov't. Code § 65912.124(i).
10. Labor requirements. The Applicant shall comply with all applicable requirements of Cal. Gov't. Code § 65912.130. In addition to the foregoing, a Housing Development Project that proposes to construct at least 50 units shall comply with the requirements of Cal. Gov't. Code § 65912.131, including, but not limited to, the requirement that the Applicant for the Housing Development Project shall submit a report demonstrating compliance with the requirements of Cal. Gov't. Code §§ 65912.131(b) and (c) to the Community and Economic Development Director or designee, on a monthly basis while construction contracts on the Housing Development are being performed. All staff time associated with compliance review

and monitoring shall be subject to an hourly rate as set forth in the City's Fee Schedule.

11. Projects near freeways. Any Housing Development Project within 500 feet of a freeway shall provide the following:
 - a. The building(s) shall have a centralized heating, ventilation, and air-conditioning system.
 - b. The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.
 - c. The building(s) shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value of 16.
 - d. The air filtration media shall be replaced at the manufacturer's designated interval.
 - e. The building(s) shall not have any balconies facing the freeway.
12. Regional mall sites. A Housing Development Project proposed at a Regional Mall Site shall meet all of the following additional requirements:
 - a. The average size of a block does not exceed three acres;
 - b. At least 5% of the site is dedicated to outdoor space; and
 - c. For the portion of the site that fronts a street that is newly created by the project and is not a commercial corridor, the building shall abut within 10 feet of the street for at least 60% of the frontage.
13. Conversion of non-residential to residential. For any Housing Development Project that includes the conversion of an existing building(s) for non-residential use to residential use, the provision of additional common outdoor space beyond what is required for the existing project site shall not be required.
14. Other development standards. All other objective design and development standards shall be either:
 - a. The objective development standards, objective subdivision standards, and objective design review standards for the closest zone to the site that allows multifamily residential use at the residential density applicable to the Housing Development Project pursuant to subsection (B)(3) of this section; or
 - b. If no zone exists in the City that allows residential development at the density determined pursuant to subsection (B)(3) of this section, then the objective development standards, objective subdivision standards, and objective design review standards for the zone in the City that allows the greatest density prior to the grant of any applicable density bonus.

(Ord. No. 1474, 7/16/2025)

§ 22.75.060. Qualified affordable residential development in commercial districts subject to the Affordable Housing and High Roads Jobs Act.

- A. Criteria. The Planning Division shall determine if a Housing Development Project meets all the following requirements:
1. Adjoining urban uses. At least 75% of the site adjoins parcels developed with urban uses.
 2. Not adjoining industrial uses. Not proposed to be or adjoined to a site where more than one-third of the square footage is dedicated to industrial use, excluding:
 - a. Power substations or utility conveyances such as power lines, broadband wires, and pipes;
 - b. A use where the only source permitted by a district is an emergency backup generator; or
 - c. Self-storage for the residents of a building.
 3. Environmental hazards. Satisfies the requirements of Cal. Gov't. Code §§ 65913.4(a)(6)(B) through (a)(6)(K).
 4. Fire zones. Not within a very-high fire severity zone where that site is vacant at the time that the application for the Housing Development Project is submitted.
 5. Restricted sites. Not proposed on a site that is currently or was previously governed by any of the following:
 - a. Mobilehome Residency Law (codified at Cal. Civ. Code § 798, et seq.);
 - b. Recreational Vehicle Occupancy Law (codified at Cal. Civ. Code § 799.20, et seq.);
 - c. Mobilehome Parks Act (codified at Cal. Health & Safety Code § 18200, et seq.); or
 - d. Special Occupancy Parks Act (codified at Cal. Health & Safety Code § 18860, et seq.).
 6. Neighborhood plans. For a Housing Development Project proposed on a site in a neighborhood plan, including the Downtown Specific Plan, the neighborhood plan shall permit multifamily housing development on the site.
 7. Tribal resources. For a Housing Development Project proposed on a site that is vacant at the time that the application is submitted, the site shall not contain tribal resources, as defined in Cal. Pub. Res. Code § 21074, that could be affected by the Housing Development Project that were found pursuant to a consultation as described in Cal. Pub. Res. Code § 21080.1 and the effects of which cannot be mitigated pursuant to the process in Cal. Pub. Res. Code § 21080.3.2.
- B. Development standards. The Housing Development Project shall comply with all the following:
1. Multifamily residential development. Propose to construct at least five residential dwelling units.
 2. Location of housing. The units in the Housing Development Project shall not be

located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

3. Affordable housing. 100% of the units, excluding any manager's unit or units in a Housing Development Project proposed pursuant to this section shall be dedicated for rent to very low- and/or low-income households at an affordable rent or for sale to very low- and/or low-income households at an affordable cost, with a requirement for owner-occupancy.
4. Deed restriction. Any rental units in the Housing Development Project shall be subject to a recorded deed restriction for a period of 55 years. Any owner-occupied units in the Housing Development Project shall be subject to a recorded deed restriction for a period of 45 years. A similar deed restriction shall also apply to the sale of affordable units and that such units must be owner-occupied.
5. Density. The Housing Development Project shall propose a residential density that meets or exceeds 30 dwelling units per acre.
6. Hazardous materials review. The Applicant for the Housing Development Project shall complete a phase I Environmental Assessment (as defined in Cal. Health & Safety Code § 78090) and any subsequent environmental review and remediation required by Cal. Gov't Code § 65912.113(c).
7. Labor requirements. The Housing Development Project shall comply with all applicable requirements of Cal. Gov't. Code § 65912.130. In addition to the foregoing, a Housing Development Project that proposes to construct at least 50 units shall comply with the requirements of Cal. Gov't Code § 65912.131, including, but not limited to, the requirement that the Applicant for the Housing Development Project shall submit a report demonstrating compliance with the requirements of Cal. Gov't. Code §§ 65912.131(b) and (c) to the Community and Economic Development Director or designee, on a monthly basis while construction contracts on the Housing Development Project are being performed. All staff time associated with compliance review and monitoring shall be subject to an hourly rate as set forth in the City's Fee Schedule.
8. Projects near freeways. Any Housing Development Project within 500 feet of a freeway shall provide the following:
 - a. The building(s) shall have a centralized heating, ventilation, and air-conditioning system.
 - b. The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.
 - c. The building(s) shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value of 16.
 - d. The air filtration media shall be replaced at the manufacturer's designated interval.
 - e. The building(s) shall not have any balconies facing the freeway.
9. Conversion of non-residential to residential. For any Housing Development Project

that includes the conversion of an existing building(s) for non-residential use to residential use:

- a. Outdoor space. The provision of additional common outdoor space beyond what is required for the existing project site shall not be required.
 - b. Density. Shall not be subject to any density limitation, unless the Housing Development Project includes additional new square footage that is more than 20% of the overall square footage of the original structure.
 - c. Impact fees. If a Housing Development Project demolishes or changes an existing structure, the amount of impact fees shall be offset to account for the demolition or change in use so that the amount of the fee is attributable to the development's incremental impact on public facilities or services.
10. Other development standards. All other objective zoning standards, objective subdivision standards, and objective design review standards applicable to the Housing Development Project shall be either:
- a. The objective zoning standards, objective subdivision standards, and objective design review standards for the existing zoning designation for the site if the existing zoning allows multifamily residential use; or
 - b. The objective zoning standards, objective subdivision standards, and objective design review standards for the closest parcel to the site that allows residential use at 30 dwelling units per acre or greater.

(Ord. No. 1474, 7/16/2025)

§ 22.75.070. Application procedures for all qualified residential development utilizing the Affordable housing and High Roads Job Act.

Housing Development Projects under Sections 22.75.050 and 22.75.060 shall be subject to the following application procedures:

- A. Ministerial review. An application for a Housing Development Project proposed pursuant to Sections 22.75.070 through 22.75.100 shall be reviewed ministerially by the Planning Division without a public hearing, except as provided in subsection D of this section, and shall be approved if all the criteria in this chapter are met.
- B. Review timeframes.
 1. Consistency review. The Planning Division shall determine whether a Housing Development Project is consistent or is not consistent with the objective design and development standards within the following timeframes:
 - a. Within 60 days of initial submittal if the project contains 150 or fewer housing units.
 - b. Within 90 days of initial submittal if the project contains more than 150 housing units.
 - c. Within 30 days of submittal of any development proposal that was resubmitted to address written feedback.

2. Approval timing. The Planning Division shall be required to approve a Housing Development Project that has been determined as consistent with the objective design and development standards within the following timeframes:
 - a. Within 60 days if the project contains 150 or fewer housing units.
 - b. Within 90 days if the project contains more than 150 housing units.
- C. Application requirements. The application shall include the required fee and the following minimum information:
 1. Design review and tentative map. Design review and tentative map for one of the following, as applicable:
 - a. NC, SC, and RD zoning districts. For eligible multifamily residential development proposed on sites with a NC, SC, or RD zoning district, design review and tentative map requirements of the closest zone to the site that allows multifamily residential use that permits at least 30 dwelling units an acre shall apply.
 - b. R-1.5, CC, PA, and DT zoning districts. For eligible multifamily residential development proposed on sites with a R-1.5, CC, PA, or DT zoning district, design review and tentative map requirements for the existing zoning designation for the site shall apply.
 2. Past and existing uses. A description that the project site is compliant with the restrictions under Sections 22.75.050(A)(8), (A)(9), (A)(10), and/or (A)(11), as applicable.
 3. Affordable housing plan and monitoring. An affordable housing plan describing how the project will satisfy affordable housing requirements. The affordable housing plan shall include an explanation of the proposed mechanism by which the Applicant will fund ongoing monitoring and compliance with the affordability requirements for the affordable units in the Housing Development project throughout the term of affordability.
 4. Tribal resources. If the site is vacant, documentation sufficient to demonstrate that site does not contain tribal resources that could be affected by the Housing Development Project that were found pursuant to a consultation and the effects of which cannot be mitigated.
 5. Additional requirements for mixed-income projects.
 - a. Covenant. A commitment to record, prior to the issuance of the first building permit, a land use restriction or covenant for the required affordable units providing that the housing shall remain affordable, pursuant to the specifications of Section 22.75.050B.7, for either 55 years for rental units or 45 years for-sale units. All for-sale units shall be owner-occupied.
 - b. Affidavit. If any existing housing is proposed to be altered or demolished, then the property owner shall sign an affidavit, in the form approved by the City Attorney or designee, stating that none of the conditions listed in Section 22.75.050A.9 and A.10 exist and shall provide a comprehensive history of the

occupancy of the units to be altered or demolished for the past 10 years, on a form prescribed by the Planning Manager, or designee.

6. Density bonus. Whether the Housing Development Project is requesting any density bonus, incentives, concessions, waivers, or parking reductions pursuant to Chapter 22.80 (Density Bonus). If so, the Housing Development Project shall demonstrate compliance with all the requirements of Chapter 22.80, including submission of a density bonus report.
 - D. Design review. The Housing Development Project shall be required to comply with the objective design criteria provided in Chapter 22.51B or 22.51C, whichever is applicable, as determined by the Planning Commission prior to a final determination of the application by the Planning Manager.
- (Ord. No. 1474, 7/16/2025)

CHAPTER 22.78 LOT CONSOLIDATION INCENTIVES

§ 22.78.010. Purpose.

The purpose of this chapter is to provide incentives for the consolidation of lots to facilitate and encourage denser, higher-quality development.
(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.020. Eligibility.

The lot consolidation incentives contained in this chapter are available to development projects in all zoning districts within the City, except for single-family residential developments and developments in the Protected Open Space and Parks Overlay, Open Space zoning district, or Recreational Facilities zoning district. To take advantage of a lot consolidation incentive, the proposed development must take place on a lot which has been consolidated under this program and an application for development on the resulting parcel must be submitted concurrently with the lot consolidation.
(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.030. Lot consolidation incentives.

The following incentives are provided to incentivize lot consolidation:

- A. Waiver of the Planning Division's Lot Merger Fee.
- B. Expedited review of planning entitlement application, excluding environmental review and tribal consultation—90 days for residential projects with fewer than 75 units or for nonresidential projects measuring less than 50,000 square feet and 120 days for residential projects with 75 units or greater or for nonresidential projects measuring 50,000 square feet or greater. The review period for planning entitlements begins when an application is deemed complete by the Planning Division.
- C. A reduction in required private outdoor space, up to a maximum of 25 percent beneath the minimum requirement.
- D. An allowance for up to ten percent of all required off-street parking spaces to be converted to motorcycle and long-term bicycle parking spaces, rather than vehicular off-street parking spaces.
- E. An allowance for up to 50 percent of all required off-street parking spaces to be compact parking spaces.

(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.040. Application.

Applications for lot consolidation incentives shall be completed, filed, and processed in accordance with this chapter. Applications for lot consolidation incentives shall be processed concurrently with a discretionary planning application for development and cannot be applied for or granted in the absence of a proposed development. It is the responsibility of the applicant to provide documentation proving the proposed development takes place on a lot which has been consolidated. The review authority required by the discretionary planning application shall

review any application for lot consolidation incentives, and shall grant such incentives unless the review authority makes the findings outlined in Section 22.78.050.

(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.050. Findings.

A. Lot consolidation incentives as outlined in Section 22.78.030 shall be granted unless, on the basis of substantial evidence, the review authority makes either of the following findings:

1. The incentives would have a specific adverse impact (as defined in California Government Code Section 65623(a)(2)) upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, in the National Register of Historic Places, or in a local historic register and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. The incentives would be contrary to state or federal law.

(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.060. Appeals.

Within ten days following the date of a decision of the review authority, the decision may be appealed to the Zoning Administrator, Planning Commission, or City Council, as applicable, by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division, along with the applicable fee, and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.070. Duration.

Approved lot consolidation incentives shall form part of the planning application with which they are associated and last only as long as the entitlement associated with the planning application. Any approved incentives will terminate and become null and void upon the expiration of the entitlement unless a building permit is issued and construction is commenced on the site. Lot consolidation incentives may be renewed pursuant to the approved conditions of approval for the project and in alignment with any extensions granted to the associated entitlement.

(Ord. No. 1464, § III, 10/23/2024)

§ 22.78.080. Revocation.

Lot consolidation incentives granted subject to a condition or conditions of approval shall be revoked if the condition or conditions are not satisfied. The revocation process will be initiated by the Planning Manager or designee upon identifying non-compliance with the stipulated conditions. A notice of intent to revoke will be issued to the applicant, who will have an opportunity to remedy the non-compliance within a specified period. If the conditions remain unmet, the Planning Manager or designee shall finalize the revocation, and the incentives shall be deemed null and void.

(Ord. No. 1464, § III, 10/23/2024)

CHAPTER 22.79
DEVELOPMENT PHASING FACILITATION MEASURES

§ 22.79.010. Purpose.

The purpose of this chapter is to provide facilitation measures for the phasing of large development projects that otherwise may not be feasible, without, at a minimum, an expansion of duration for phased entitlements.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.020. Eligibility.

The development phasing facilitation measures contained in this chapter are available to development projects in all zoning districts within the City, except for single-family residential projects. To take advantage of a development phasing facilitation measure, a project must have two or more distinct phases. A phase is defined as a portion of a development project planned and designed to be implemented and completed independently of other portions, with distinct timelines and construction sequences. Each phase shall include a coherent set of improvements and amenities, such as separate buildings, that can stand alone functionally and aesthetically.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.030. Development phasing facilitation measures.

The following measures are provided to facilitate development phasing:

- A. An initial two-year duration for all planning entitlements for any phased project, rather than one year, except for projects approved subject to the Subdivision Map Act, which shall receive an initial three-year duration for all planning entitlements.
- B. The proportioning of impact fees by project phase, rather than paying all impact fees at the onset of the project.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.040. General requirements.

- A. The proportioning of impact fees by phase shall be determined by the City Engineer or designee.
- B. All required on-site and off-site improvements shall be completed with the first phase of any development taking advantage of development phasing facilitation measures, except as waived by the Community and Economic Development Director and the City Engineer, or designee(s) or specified in the conditions of approval adopted by the review authority.
- C. The maximum amount of time that can elapse between an approved final inspection of one phase of a project and building permit issuance for a subsequent phase of a project is one year. This time may be extended up to six months by the Community and Economic Development Director or designee upon the applicant demonstrating due diligence to obtain said permit.
- D. Projects with two phases have a maximum of six years to complete all phases. Projects with three or four phases have a maximum of eight years to complete all phases. Projects with five or more phases have a maximum of ten years to complete all phases. The maximum

time begins with the issuance of a building permit for the first phase.
(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.050. Application.

Applications for development phasing facilitation measures shall be completed, filed, and processed in accordance with this chapter. Applications for development phasing facilitation measures shall be processed concurrently with a discretionary planning application for development and cannot be applied for or granted in the absence of a proposed development. It is the responsibility of the applicant to provide documentation proving that the proposed development has distinct phases. The review authority required by the discretionary planning application shall review any application for development phasing facilitation measures, and shall grant such facilitation measures unless the review authority makes the findings outlined in Section 22.79.060.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.060. Findings.

A. Development phasing facilitation measures as outlined in Section 22.79.030 shall be granted unless, on the basis of substantial evidence, the review authority makes either of the following findings:

1. The facilitation measures would have a specific adverse impact (as defined in California Government Code Section 65623(a)(2)) upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources, in the National Register of Historic Places, or in a local historic register and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. The facilitation measures would be contrary to state or federal law.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.070. Appeals.

Within ten days following the date of a decision of the review authority, the decision may be appealed to the Zoning Administrator, Planning Commission, or City Council, as applicable, by the applicant or any other interested party. An appeal shall be made on a form prescribed by the Planning Division, along with the applicable fee, and shall be filed with the City Clerk. The appeal shall state specifically wherein the project approval or denial is not supported by the evidence in the record.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.080. Duration.

Approved development phasing facilitation measures shall form part of the planning application with which they are associated and last only as long as the entitlement associated with the planning application and as specified in Section 22.79.030.A and 22.79.040.D. Any approved facilitation measures will terminate and become null and void upon the expiration of the entitlement unless a building permit is issued and construction is commenced on the site. Development phasing facilitation measures may be renewed pursuant to the approved conditions of approval for the project and in alignment with any extensions granted to the associated

entitlement.

(Ord. No. 1464, § IV, 10/23/2024)

§ 22.79.090. Revocation.

Development phasing facilitation measures granted subject to a condition or conditions of approval shall be revoked if the condition or conditions are not satisfied. The revocation process will be initiated by the Planning Manager or designee upon identifying non-compliance with the stipulated conditions. A notice of intent to revoke will be issued to the applicant, who will have an opportunity to remedy the non-compliance within a specified period. If the conditions remain unmet, the Planning Manager or designee shall finalize the revocation, and the incentives or facilitation measures shall be deemed null and void.

(Ord. No. 1464, § IV, 10/23/2024)

CHAPTER 22.80
DENSITY BONUS

§ 22.80.010. Purpose.

The purpose of this Chapter is to establish a program in accordance with California Government Code Section 65915 et seq. to provide both density increases and other incentives to encourage the creation of housing affordable to moderate-, low-, very low-, and extremely low-income households, seniors, and other qualifying households under State law.
(Ord. No. 1459, § V, 6/26/2024)

§ 22.80.020. Applicability.

- A. General. All proposed housing developments that qualify under California Government Code Section 65915 for a density increase and other incentives, and any qualified land transfer under California Government Code Section 65915 shall be eligible to apply for a density bonus (including incentives and/or concessions) consistent with the requirements, provisions and obligations set forth in California Government Code Section 65915, as it may be amended from time to time.
- B. Compliance. The applicant shall comply with all requirements stated in California Government Code Sections 65915 through 65918. The requirements of California Government Code Sections 65915 through 65918, and any amendments thereto, shall prevail over any conflicting provision of this Code.
- C. Excluded development. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under California Government Code Section 65915.
- D. Interpretation. The provisions of this subdivision shall be interpreted to implement and be consistent with the requirements of California Government Code Section 65915. Any changes to California Government Code Section 65915 shall be deemed to supersede and govern over any conflicting provisions contained herein. If any portion of this Article conflicts with State Density Bonus Law or other applicable State law, State law shall supersede this Chapter. Any ambiguities in this Chapter shall be interpreted to be consistent with State Density Bonus Law.
- E. Replacement housing requirement. Pursuant to California Government Code Section 65915(c)(3), an applicant will be ineligible for a density bonus or other incentives unless the applicant complies with the replacement housing requirements therein.
(Ord. No. 1459, § V, 6/26/2024)

§ 22.80.030. Density increase and other incentives.

- A. General. If a qualifying affordable housing project or land transfer/cash payment meets the criteria of California Government Code Section 65915 et seq., then the project shall be granted a density bonus, the amount of which shall be as specified in California Government Code Section 65915 et seq., and incentives or concessions also as described in California Government Code Section 65915 et seq.
- B. Density bonus units. Except as otherwise required by California Government Code Section 65915, the density bonus units shall not be included when calculating the total number of

housing units that qualifies the housing development for a density bonus.

- C. Special needs housing. Projects which propose to provide housing exclusively for special needs populations, except for manager unit(s) (e.g., housing for seniors, the disabled, and/or disabled veterans) affordable to extremely low-, very low-, low-, and/or moderate income-households in perpetuity, may receive up to one additional incentive beyond what is specified in California Government Code Section 65915 et seq.
- D. Market-rate senior citizen housing developments. Market-rate senior citizen housing developments that qualify for a density bonus shall not receive any other incentives or concessions, unless California Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.

(Ord. No. 1459, § V, 6/26/2024)

§ 22.80.040. Physical constraints and parking waivers.

- A. Physical constraints. Except as restricted by California Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:
 - 1. The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;
 - 2. The waiver or reduction of the development standard would have a specific, adverse impact, as defined in Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
 - 3. The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or
 - 4. The waiver or reduction of the development standard would be contrary to state or federal law.
- B. Parking. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with California Government Code Section 65915(p), as that section may be amended from time to time.

(Ord. No. 1459, § V, 6/26/2024)

§ 22.80.050. Application requirements and review.

- A. An application for a density increase or other incentives under this Chapter for a housing

development shall be submitted in writing to the Planning Division to be processed concurrently with all other entitlements of the proposed housing development. The application for a housing development shall contain information sufficient to fully evaluate the request under the requirements of this Chapter, and in connection with the project for which the request is made, including, but not limited to, the following:

1. Site plan, drawn to scale, including building footprints, driveway(s), and parking layout;
2. A brief written description of the proposed housing development;
3. The zoning, general plan designations, and assessor's parcel number(s) of the project site;
4. The total number of housing units and/or shared housing units (as defined in California Government Code Section 65915(o)(6)) proposed in the development project, including unit sizes and number of bedrooms;
5. The total number of units proposed to be granted through the density bonus over and above the otherwise maximum density for the project site;
6. The total number of units to be made affordable to or reserved for sale, or rental to, extremely low-, very low-, low-, or moderate-income households, or senior citizens, or other qualifying households;
7. Calculations demonstrating the proposed project's consistency with applicable zoning density regulations and bonus percentages;
8. A written description of any requested incentives, concessions, waivers, or modification of development standards, or modified parking standards. For all incentives and concessions, except mixed-use development, the application shall include evidence deemed sufficient by the City that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. For waivers or modifications of development standards, the application shall include evidence deemed sufficient by the City that the waiver or modification is necessary to make the housing units economically feasible and that the development standard from which a waiver or modification is requested will have the effect of precluding the construction of the housing development at the densities to which the applicant is entitled pursuant to this Chapter and with the concessions and incentives permitted by this Chapter; and
9. The proposed method of ensuring the continued availability of the density bonus units, consistent with Section 22.80.060;
10. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the conditions pursuant to Government Code Section 65915(g)(2)(A through H) are met; and
11. If a density bonus or incentive or concession is requested for a childcare facility pursuant to Government Code Section 65915(h), then the application shall show the location and square footage of the childcare facility and provide evidence that the community lacks adequate child care facilities.

- B. Review and consideration. If a density bonus development project includes an entitlement that would otherwise require approval from the Zoning Administrator, Planning Commission, or City Council, the applicant's request for density bonus and associated waivers/concessions will be reviewed concurrently with the project and shall be publicly noticed as otherwise required. If the density bonus development project does not involve these deciding bodies and/or public notification, then the request under this Chapter shall be reviewed separately by the Community and Economic Development Director, or designee, without requiring a public hearing or public notification. The request shall be approved if the applicant complies with the provisions of California Government Code Section 65915 et seq.
- C. Required findings. Before approving an application for a density bonus, incentive, concession, waiver, or modification of a development standard, the deciding body shall affirmatively make the following findings:
1. If the density bonus is based all or in part on a donation of land, the conditions of Government Code Section 65915(g)(2)(A through H) are met.
 2. If the density bonus, incentive, or concession is based all or in part on the inclusion of a childcare facility, that the conditions included in Government Code Section 65915(h)(2)(A) and (B) are met.
 3. If the incentive or concession includes mixed use development, the finding included in Government Code Section 65915(k)(2) are met.
 4. If a waiver or modification of a development standard is requested, then the applicant has demonstrated, for each requested concession or incentive that such concession or incentive is necessary to make the housing units economically feasible and that the development standards from which a waiver or modification is requested will otherwise have the effect of precluding the construction of a housing development at the densities to which the applicant is entitled pursuant to this Chapter or with the concessions and incentives permitted by this Chapter. Consistent with Government Code Section 65915(a)(2), if additional and reasonable documentation is needed to support a request for a concession, incentive, or waiver, then the City may request additional analysis at the cost of the applicant.
- D. Concession or incentive denial. The deciding body may deny a concession or incentive if it makes a written finding based upon substantial evidence of either of the following:
1. The concession or incentive does not result in identifiable and actual cost savings to provide affordable housing costs or for rents for the targeted units, consistent with Government Code Section 65915.
 2. The concession or incentive would have a specific adverse impact upon public health, safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to extremely low-, very low-, low-, or moderate-income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

- E. Waiver or modification denial. The deciding body may deny a waiver or modification of a development standard only if it makes a written finding based upon substantial evidence or either of the following:
1. The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to extremely low-, very low-, low-, or moderate-income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
 2. The waiver or modification would have an adverse impact on any real property listed in the California Register of Historical Resources.
- F. Childcare facilities denial. If a density bonus or concession or incentive is based on the provision of childcare facilities, then the deciding body may deny the density bonus or concession or incentive if it finds, based on substantial evidence, that the City already has adequate childcare facilities.
- (Ord. No. 1459, § V, 6/26/2024)

§ 22.80.060. Density bonus housing agreement.

- A. Density bonus housing agreement. An applicant requesting a density bonus shall agree to enter into an affordable housing agreement ("agreement") with the City in the City's standard form of agreement or otherwise approved to form by the City Attorney. Execution of the agreement shall be made a condition of approval for any discretionary planning permit for housing developments pursuant to this Chapter and shall be recorded as a restriction on all parcels on which the housing units which qualify the housing development for a density bonus will be constructed.
- B. Recording of agreement. The agreement shall be recorded prior to the final or parcel map approval, or, where the housing development does not include a map, prior to the issuance of a building permit.
- C. Contents of the agreement. Each agreement shall include, but not be limited to, the following:
1. A description of the residential development, including whether the housing units which qualify the housing development for a density bonus will be rented or owner-occupied;
 2. The number, size, and location of the housing units which qualify the housing development for a density bonus;
 3. Provisions and/or documents for resale restrictions, deeds of trust, right of first refusal, or rental restrictions;
 4. Provisions for monitoring the ongoing affordability of the housing units which qualify the housing development for a density bonus, and the process for qualifying prospective resident households for income eligibility; and

5. Any additional obligations relevant to compliance with this Chapter.
 - D. Owner-occupied agreements. The purchaser of owner-occupied or rental housing units which qualified the housing development for a density bonus shall execute the City's standard form agreement, to be recorded against the parcel, and which includes such provisions as the City may require to ensure continued compliance with this Chapter.
 - E. Agreements for child care facilities and land donations. Density bonus housing agreements for child care facilities and land dedications shall ensure continued compliance with all conditions included in Government Code Section 65915(h)(2)(A) and (B) and Government Code Section 65915(g) (2)(A through H), respectively.
- (Ord. No. 1459, § V, 6/26/2024)

CHAPTER 22.81
DEVELOPMENT INCENTIVES AND COMMUNITY BENEFITS PROGRAM

§ 22.81.010. Purpose.

The purpose of this chapter is to allow deviations from select development standards for development projects which provide community benefits, such as on-site affordable housing, contribution to funding programs, or construction of on- or off-site improvements.
(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.020. Waiver of state density bonus law.

Use of the provisions of this chapter are optional. If the applicant chooses to use the provisions provided in this chapter, then the applicant shall waive their right to utilize California State Density Bonus Law provided in California Government Code Sections 65915 through 65918 and described in Chapter 22.80 (Density Bonus).
(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.030. Eligibility.

- A. Project types. The provisions provided in this chapter shall apply to the following project types:
 - 1. Multi-family residential projects.
 - 2. Non-residential projects, including, but not limited to, office, industrial, and commercial projects.
 - 3. Mixed-use projects.
- B. Exceptions. This chapter shall not apply to any of the following project types or within the following districts:
 - 1. Single-family district.
 - 2. Parks and Open Space Protection Overlay district.
 - 3. Agricultural Zoning district.
 - 4. Alhambra Valley district.
 - 5. Government Facilities Zoning district.
 - 6. Recreational Facilities Zoning district.
 - 7. Open Space Zoning district.
- C. Consistency with other requirements. In all cases, the potential development incentives available through this program must be consistent with the General Plan, applicable specific plans, and the Martinez Municipal Code.
(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.040. Determination of development incentives.

- A. General. Applicants shall select which of the available development incentives they would like to utilize and then based on the quantity of those requests, a corresponding number of community benefits shall be provided at a 1:1 ratio.
- B. Determination. To calculate the community benefit requirement for a potential project, an application should do the following:
 - 1. Determine the project site's zoning designation.
 - 2. Review the development standards in the respective zoning designation's chapter of this title and determine which of the development incentives are desired.
 - 3. Based on a ratio of one development incentive per one community benefit, determine how many community benefits are required.
 - 4. Select the respective amount of preferred community benefit(s), as provided in Section 22.81.060.
- C. Projects at housing element opportunity sites. Applicants proposing multi-family residential projects, affordable to very low-, low-, or moderate-income households, on Housing Element Opportunity Sites which meet both the envisioned density and affordable housing mix shall be entitled to use of all available development incentives and no additional community benefits are required.

(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.050. Development incentives.

- A. Development standards. Each applicable zoning district shall include a separate set of development standards which are only accessible to applicants opting into this program. These development standards (also referred to as "development incentives") shall be located in each zoning district's respective chapter of this title. The eligible development standards include:
 - 1. Height and stories increases.
 - 2. Setbacks reductions.
 - 3. Floor area ratio increases.
 - 4. Lot coverage increases.
 - 5. Private outdoor space reductions.
 - 6. Parking reductions for residential projects.
- B. Multi-family or mixed-use residential projects - density bonus. Multi-family residential projects shall be allowed to exceed permitted residential density by providing affordable housing as specified in Table 22.81.050 below:

Table 22.81.050 - Density Bonus

Percent Affordable	Percent Density Bonus	Development Incentives
5 percent Very-Low Income	25 percent	Unlimited credits
10 percent Low Income	25 percent	
10 percent Moderate Income	10 percent	
10 percent Very-Low Income	35 percent	
20 percent Low Income	40 percent	
20 percent Moderate Income	20 percent	
15 percent Very-Low Income	55 percent	
24 percent Low Income	55 percent	
30 percent Moderate Income	30 percent	

1. Residential density shall be rounded to the nearest whole number for base and bonus density calculations (e.g., fractions of one-half or greater shall be rounded up to the nearest whole number and fractions less than one-half shall be rounded down to the nearest whole number).
 2. The percentage of required affordable units shall be derived from the total amount of units from the base density associated with the underlying zoning requirements, rounded up to the nearest whole number (e.g., any fraction shall be rounded up to the nearest whole number).
- C. Multi-family or mixed-use residential projects - development incentive credits. In addition to density, applicants who elect to provide affordable housing consistent with this chapter shall also be eligible for an unlimited amount of development incentives.
- D. Affordable unit requirements. Affordable residential dwelling units shall comply with the following requirements:
1. All affordable units, exclusive of any manager unit(s), shall be subject to a recorded deed restriction, in a form and manner approved by the City Attorney and Planning Manager or designee(s) for at least the following periods of time:
 - a. Fifty-five years for units that are rented.
 - b. Forty-five-years for units that are owner occupied.
 2. All affordable units shall be comparable to the overall quality of construction to the market-rate units, including exterior appearance, and access to amenities. The number of bedrooms in the affordable units shall be comparable to the average number of bedrooms in the market-rate units, include comparable square feet by unit size, and the affordable units shall be reasonably dispersed within the project site.
 3. Any household that occupies an affordable unit must occupy that unit as its principal residence, unless otherwise approved in writing for rental to a third party for a limited period of time due to household hardship, as determined and approved by the City in advance.

E. Exceptions.

1. Development incentives shall be granted unless the deviation would result in a specific, adverse impact related to public health and safety as determined by the City.
2. Projects located within the Affordable Housing Overlay district, Alhambra Avenue Overlay district, and Community Services Overlay district shall not be permitted additional density bonuses provided in this chapter. These projects are eligible for other development incentives, except for density.

(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.060. Community benefits.

Applicants have the following available options to provide as community benefits to meet the required criteria set forth above:

- A. General requirement. All community benefits must be in addition to any improvements required as a normal City, State, or federal standard; standard condition of approval; or environmental mitigation.
- B. Contribution to City-funded program.
 1. For every five percent of construction valuation, as determined by the Chief Building Official or designee, contributed to a City-funding program, the applicant shall be permitted one development incentive.
 2. As participation in the Community Benefits Program is optional for developers, the funds collected through this option are not considered impact fees (as defined by State law) and, therefore, are not subject to any State-imposed timelines for spending or restrictions for their use.
 3. Applicants may choose to contribute directly to any of the following programs:
 - a. Affordable Housing Fund for the production, preservation, or protection of affordable housing.
 - b. Waterfront Marina Fund for the implementation of the Waterfront Marina Trust Lands Use Plan.
- C. On-site community benefits.
 1. For every three percent of construction valuation, as determined by the Chief Building Official or designee, provided as an on-site community benefit(s), the applicant shall be permitted one development incentive.
 2. The applicant assumes the full cost of building and the property owner(s) and their successors are responsible for maintaining and operating the on-site community benefit. The privately owned physical improvements shall be permanent, subject to a recorded covenant approved as to form by the City Attorney, and enforceable by the City.
 3. The applicant may propose the location and any other specifics of these improvements, subject to City approval.

4. Applicants may choose to include any of the following on-site community benefits:
 - a. Restoration or rehabilitation of historically significant structures of local, State, or federal importance, including, but not limited to, preparation of a Historic Resources Evaluation and implementation of any recommended measures.
 - b. Leadership in Energy and Environmental Design ("LEED") certification from the United States Green Building Council or equivalent certification approved by the Planning Manager or designee.
 - c. Publicly accessible, privately owned open space.
 - d. Publicly available parking spaces within a new parking structure.
 - e. Trail or open space easement for use by public.
 - f. Public art subject to the City of Martinez's Public Art Policy (City Council Resolution 123-22).
 - g. Implementation of Universal Design and Accessibility standards, as provided in Chapter 15.34 of the Martinez Municipal Code.
- D. Off-site community benefits.
 1. For every three percent of construction valuation, as determined by the Chief Building Official or designee, provided as an off-site community benefit(s), the applicant shall be permitted one development incentive.
 2. All off-site improvements shall be constructed and maintained by the applicant and owned by the City.
 3. All off-site improvements shall be constructed within 500 feet of the proposed project parcel(s).
 4. The applicant may propose the precise location and any other specifics of these improvements, so long as they have a nexus to the proposed project as determined by the City.
 5. Applicants may choose to include any of the following off-site community benefits:
 - a. Right-of-way improvements.
 - b. Façade improvements.
 - c. Utility undergrounding.
- E. Flexible community benefits.
 1. Should an applicant request to provide a community benefit not explicitly provided in this chapter, then the applicant may file for a request, subject to the City Council determining the community benefit is commensurate or greater than the community benefits outlined in this chapter.
 2. The applicant shall be permitted one development incentive for every three percent of project construction valuation, as determined by the Chief Building Official or

designee, of the provided community benefit.

- F. Combining on-and off-site community benefits. In the event a proposed on-or off-site community benefit could be constructed without meeting the required three percent construction valuation threshold, additional community benefits shall be provided to fulfill the minimum community benefit requirements, subject to City approval.

Alternatively, in the event an applicant elects to contribute to a City-funded program instead of an on-or off-site community benefit to fulfill the minimum community benefit requirements, that missing difference must be equivalent to the five percent requirement.

(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.070. Findings.

To grant a development incentive as prescribed in this chapter, the following findings must be made in addition to the findings required by Section 22.40.070:

- A. That the proposed project will provide community benefits sufficient to satisfy the requirements provided in this chapter.
- B. That the proposed community benefits for the project are significant and beyond what would otherwise be required for the project under applicable rules and regulations, conditions of approval, and/or environmental review mitigation measures.
- C. That the proposed community benefits for the project are acceptable and appropriate, and will provide tangible benefits to the community.

(Ord. No. 1463, § XIX, 10/23/2024)

§ 22.81.080. Procedure.

- A. Review authority. Applications requesting to use the provisions from this chapter shall be acted on by the respective review authority associated with the applicable requirements provided in Title 22, unless the applicant seeks use of a flexible community benefit.
- B. Duration of entitlement. The entitlement of development incentives and community benefits shall be the same as the duration of the approval for the respective project.
- C. Application requirements. Applicants requesting to use the provisions from this chapter shall submit the associated Planning Application with the following information:
 - 1. A list of requested development incentives, including any calculations related to density bonuses such as base unit density, number of bonus units, and number of affordable housing units.
 - 2. Selected community benefits from Section 22.81.060, including:
 - a. Preliminary construction valuation in a manner determined by the Chief Building official or designee, if applicable.
 - b. Preliminary materials and labor costs associated with any improvements used to secure development incentives, if applicable.
 - 3. Written response to findings described in Section 22.81.070.
 - 4. Completed Waiver of Rights to utilize State Density Bonus Law form.

- D. Fees. All fees associated with community benefits shall be paid prior to the issuance of a Building Permit.
- E. Environmental review. The environmental review for any project proposing a community benefit that is integrated as a part of a project, that community benefit shall be adequately included as part of the project's environmental review process. If the proposed community benefit will be integrated off site and constructed separately, separate environmental review shall occur.

(Ord. No. 1463, § XIX, 10/23/2024)

CHAPTER 22.82 INCLUSIONARY HOUSING

§ 22.82.010. Intent.

The goal of this chapter is to ensure that affordable housing units are added to the City's housing stock in proportion to the increase in new housing units by requiring the integration of deed-restricted units to be sold or rented at below-market rates to acutely low-, extremely low-, very low-, low-, and moderate-income households within above moderate-income projects, and increase access to resources, amenities, and housing opportunities throughout the community. This chapter establishes policies, incentives, design standards, and alternative means of compliance for meeting the City's inclusionary housing requirements.

(Ord. No. 1480, 12/10/2025)

§ 22.82.020. Applicability.

This chapter applies to any rental or ownership residential project of which any combination of 11 or more dwelling units is created, including, but not limited to, planned unit developments, condominium or subdivision maps, condominium conversions, mixed-use developments, conditional use permits, design review, or other ministerial or discretionary land use approvals.

(Ord. No. 1480, 12/10/2025)

§ 22.82.030. Affordability requirements.

Projects for which this chapter applies must provide at least 15% of the total units, excluding any manager's unit, as deed-restricted affordable housing to acutely low-, extremely low-, very low-, low-, and/or moderate-income households. The levels of affordability shall be derived based on tenure type as provided below:

- A. Rental projects. The income mix of Inclusionary Units must average out to 80% of Area Median Income ("AMI") or less, with no affordable rental units available to households above 120% of AMI.
- B. Ownership projects. The income mix of Inclusionary Units must average out to 120% of AMI or less, with no affordable ownership units available to households above 150% of AMI.
- C. Mixed tenure type projects. For projects containing both rental and ownership Inclusionary Units, each tenure type shall independently comply with the applicable income and affordability requirements of this section.

(Ord. No. 1480, 12/10/2025)

§ 22.82.040. General requirements.

Projects for which this chapter applies shall be subject to the following general requirements:

- A. Design and distribution of inclusionary units. All Inclusionary Units shall be comparable to the overall quality of construction to the above-moderate units, including exterior appearance and access to amenities. The number of bedrooms in the Inclusionary Units shall be comparable to the average number of bedrooms in the above-moderate units, including comparable square feet by unit size, and the Inclusionary Units shall be reasonably dispersed within the project site.

- B. Concurrent construction. All Inclusionary Units in a project shall be constructed concurrently within or prior to the construction of the project's above-moderate units.
- C. Rounding. The percentage of required Inclusionary Units shall be derived from the total amount of proposed units, rounded up to the nearest whole number (e.g., any fraction shall be rounded up to the nearest whole number).
- D. Length of affordability. All Inclusionary Units, exclusive of any manager unit(s), shall be subject to a recorded deed restriction, in a form and manner approved by the City Attorney and Planning Manager or designee(s) for at least the following periods of time:

- 1. 55 years for units that are rented.
- 2. 45 years for units that are owner occupied.

(Ord. No. 1480, 12/10/2025)

§ 22.82.050. Incentives for on-site compliance.

- A. State Density Bonus Law. Qualifying projects can receive the density bonus, concessions, and waivers, consistent with the requirements outlined in Chapter 22.80 (Density Bonus).
- B. Development incentives. Qualifying projects shall qualify for the development incentives described in Chapter 22.81 (Development Incentives and Community Benefits Program) provided the Applicant waives the right to use the California State Density Bonus Law, as provided in Section 22.81.020 (Waiver of State Density Bonus Law).

(Ord. No. 1480, 12/10/2025)

§ 22.82.060. Exempt projects.

The following residential developments are exempt from the requirements of this chapter:

- A. Reconstruction. The reconstruction of any dwelling units destroyed by fire, flood, earthquake, or other act of nature, provided the square footage, number of units, and use of the units remain the same and the use is resumed within 12 months of the interruption, subject to Planning Manager, or designee determination.
- B. Modifications to existing units. Modifications to existing properties or structures that do not increase the number of dwelling units.
- C. Residential care facilities. Residential Care Facility projects, as defined in Chapter 22.04.
- D. Supportive housing. Supportive Housing projects, as defined in Chapter 22.04.
- E. Mobile home parks. Mobile Home Parks and Manufactured Homes as provided in Title 18 (Mobile Home Parks).
- F. Student housing. Student housing projects, such as on-site or off-site dormitories affiliated with a university or college.
- G. Previously approved or pending projects. Residential Developments whose applications were determined by the Planning Division to be complete and/or approved prior to January 1, 2026.

(Ord. No. 1480, 12/10/2025)

§ 22.82.070. Alternative means of compliance.

As an alternative to constructing Inclusionary Units on site as required by this chapter, the Applicant may instead propose one or a combination of the alternative equivalents set forth below:

- A. In-lieu fee. Applicants may request via the Affordable Housing Agreement, provided in Section 22.82.080, to pay a fee in lieu of all or some of the Inclusionary Units otherwise required instead of developing the Inclusionary Units on site, subject to the approval by the respective review authority. The fee shall be charged for each required Inclusionary Unit and shall be paid as follows:
 1. The amount of the fee to be paid by the Applicant pursuant to this subsection shall be provided in the City's fee schedule established by Resolution of the City Council.
 2. One-half of the in-lieu fee required by this subsection shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the Residential Development.
 3. The entirety of the in-lieu fee shall be paid before a Final Building Permit is issued for any unit associated with the project.
 4. The in-lieu fees collected shall be deposited in the Affordable Housing Fund.
 5. In no case shall the in-lieu fee be less than \$100,000 per Inclusionary Unit.
- B. Dedication of vacant developable land. The Applicant may convey title to land in fee simple absolute if all the following requirements have been met and approved by the respective review authority:
 1. The dedicated land must be donated to an affordable housing developer for use as a future affordable housing project.
 2. The dedicated land must be suitable for the construction of Inclusionary Units that the respective review authority reasonably determines to be equivalent or greater value than is produced by applying the City's in-lieu fee to the Applicant's Inclusionary Unit obligation.
 3. The dedicated land must be located within the City of Martinez and be appropriately zoned to accommodate residential development at a density to accommodate at least the number of otherwise required Inclusionary Units.
 4. Infrastructure to serve the dedicated land, including but not limited to streets and public utilities, must be available at the property line and have adequate capacity to serve the maximum allowable residential development pursuant to zoning regulations.
 5. The site and/or project has undergone environmental review to determine eligibility for a California Environmental Quality Act exemption or approval of a negative declaration, mitigated negative declaration, or certification of an Environmental Impact Report. At a minimum, any identified hazardous materials or geological hazards have been or will be mitigated to the satisfaction of the Planning Manager, City Engineer, or designee, prior to acceptance of the site.

- C. Off-site construction or conversion of inclusionary units. Some or all of the required Inclusionary Units may be constructed off-site, or an existing off-site development may be acquired, rehabilitated, and converted to deed-restricted affordable housing to provide the required Inclusionary Units, with the respective review authority's approval, subject to the following requirements:
1. The combination of location, unit size, unit type, pricing, and timing of availability of the proposed off-site Inclusionary Units would provide equivalent or greater benefit than would result from providing those units on-site as might otherwise be required by this chapter.
 2. Any off-site Inclusionary Units must be constructed or rehabilitated prior to or concurrently with construction of the on-site residential development.
 3. The off-site development location must be within the City of Martinez, be appropriately zoned, and must obtain all required entitlements before building permits are issued for the on-site residential development.
 4. Unless otherwise noted, all requirements applicable to on-site Inclusionary Units shall apply to off-site Inclusionary Units.
- D. Other means. Applicants may fulfill its Inclusionary Unit obligation through alternative equivalent methods that deviate or that are not specifically mentioned in this chapter, including through the provision of rental deed-restricted affordable units by Applicants of ownership development projects (in accordance with Cal. Gov't. Code § 65589.8), provided that the City Council determines such alternative results in the same number of deed-restricted affordable units that would have been provided with on-site construction and the Inclusionary Units otherwise meet all requirements provided in this chapter.

(Ord. No. 1480, 12/10/2025)

§ 22.82.080. Affordable housing agreement.

Applicants that are required to provide Inclusionary Units shall be required to provide an Affordable Housing Agreement, subject to the following standards:

- A. Affordable housing agreement. Applicants requiring Inclusionary Units shall agree to enter into an affordable housing agreement ("agreement") with the City in the City's standard form of agreement or otherwise approved to form by the City Attorney and Planning Manager, or designee(s).
- B. Recording of agreement. The agreement shall be recorded as a restriction on all parcels on which Inclusionary Units will be constructed prior to issuance of a certificate of occupancy for each Inclusionary Unit.
- C. Agreement contents. Each agreement shall include, but not be limited to, the following:
1. A description of the residential development, including whether the Inclusionary Units will be rented or owner-occupied or the alternative means by which the Applicant proposes to comply with their Inclusionary Unit obligation;
 2. Provisions related to the duration of deed-restricted affordability;
 3. Provisions related to the maximum rent or price restrictions of the Inclusionary Units

to ensure affordability consistent with any applicable state or federal affordable housing program;

4. Provisions and/or documents for resale restrictions, deeds of trust, right of first refusal, or rental restrictions;
 5. Provisions for monitoring the ongoing affordability of the Inclusionary Units and the process for qualifying prospective resident households for income eligibility; and
 6. Any additional obligations relevant to compliance with this chapter.
- D. Standard form agreement. The purchaser of owner-occupied or rental Inclusionary Units shall execute the agreement in the City's standard form, to be recorded against the parcel, and which includes such provisions as the City may require to ensure continued compliance with this chapter.

(Ord. No. 1480, 12/10/2025)

§ 22.82.090. Compliance monitoring fees.

The City Council by resolution may establish compliance monitoring fees to recover the City's actual, reasonable costs incurred for ongoing implementation of this chapter. For deed-restricted affordable ownership units, the fee shall be payable by the developer or future seller of the property at the time of each sale or transfer during the term of the applicable Affordable Housing Agreement. For deed-restricted rental Inclusionary Units, the property owner shall pay an annual fee each year during the term of the applicable Affordable Housing Agreement.

(Ord. No. 1480, 12/10/2025)