

Division D4

Standards for Specific Land Uses

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Chapter I - Adult Business Regulations

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D4-1 - Purpose

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

- B. Purpose.** It is, therefore, the purpose of this Chapter to:
1. Establish reasonable and uniform regulations to prevent the concentration of Adult-Oriented Businesses or their close proximity to incompatible uses, while allowing the location of Adult-Oriented Businesses in certain areas; and
 2. Regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the citizens of the City.
- C. Not purpose, intent, or effect.** 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.

D4-2 - Definitions

Definitions of the technical terms and phrases used in this Chapter are under "Adult Oriented Business" in Division D8 (Glossary).

D4-3 - Permitted Areas and Minimum Proximity Requirements

- A. MW (Manufacturing/Warehousing) zone.** Subject to the limitations set forth in this Chapter, Adult-Oriented Businesses may be established in the MW (Manufacturing/Warehousing) zone.
- B. Specified distance separation requirements.** Notwithstanding the above, no Adult-Oriented Business shall be established or located within certain distances of certain specified land uses or zones as set forth below. No Adult-Oriented Business shall be established or located:
1. Within a 500-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 zone or property in current residential use, along a straight line extended between the two points; or

2. 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. The distance between the two 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 two points; or
 3. Within a 500-foot radius from any existing park, playground, religious facility, or school use or property zoned Open Space (OS) Parks and Recreation (P), or Public and Semi-Public (PS). The distance between a proposed Adult-Oriented Business use and park, playground, religious facility or school uses or property zoned Open Space (OS), Parks and Recreation (P), or Public and Semi-Public (PS), 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 Open Space (OS), Parks and Recreation (P), or Public and Semi-Public (PS) along a straight line extended between the two points.
- C. Separation requirements also apply to the General Plan.** The above distance limitations shall also apply to residential zones or uses and parks, playgrounds, schools, and religious uses or property so designated in the General Plan Land Use Element of an adjacent jurisdiction.

D4-4 - Use Permit Required

- A. Use Permit and Business License required.** It shall be unlawful for any person to engage in, conduct, establish, carry on, or to permit to be engaged in, conducted, established, or carried on, in or upon any premises in the City, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect both an Use Permit and a Business License from the City.
- B. Not allowed by right.** No Adult-Oriented Business may be established within the City by right. All persons wishing to establish an Adult-Oriented Business within the City shall first apply for and receive a Use Permit in compliance with this Chapter.
- C. Applicant to supply sufficient evidence.** It is the burden of the applicant for an Use Permit to supply sufficient evidence to justify the grant of an Use Permit.

D4-5 - Application Requirements

- A. Application submittal.** A person desiring to operate or establish an Adult-Oriented Business within the City shall file with the Department a Use Permit application on a standard application form supplied by the Department.
- B. Required information.** All applications shall include the following information:
1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.
 2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names and current addresses of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
 3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names, addresses, and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.
 4. The notarized signature of the property owner and proof of ownership via submittal of a Title Report.
 5. A non-refundable deposit or fee as set forth by the City's Fee Schedule.
 6. Signed statement by the applicant verifying that applicant intends to and will comply with all of the adult-oriented business development standards of this Chapter.
 7. A description of the Adult-Oriented Business for which the permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of all the owners and lessors of the Adult-Oriented Business site.
 8. The address to which notice of action on the application is to be mailed.
 9. The names of all employees, independent contractors, and other persons who will perform/work at the Adult-Oriented Business.
 10. A floor plan showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business, and exterior premises lighting per D4-12.D. The floor plan need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 11. A site plan prepared within 30 calendar days before 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 1,000 feet of the nearest exterior wall of the Adult-Oriented Business;
 - b. The property line of any other Adult-Oriented Business within 1,000 feet of the nearest exterior wall of the Adult-Oriented Business for which a Business Permit is requested; and
 - c. the property lines of any church, school, park, or playground within 1,000 feet of the nearest exterior wall 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. Signature of applicant required.** If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10 percent or greater interest in the business entity shall sign the application.
- D. Fictitious name, if applicable.** If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.
- E. CEQA compliance.** Each applicant for a Use Permit shall comply with the California Environmental Quality Act (CEQA) as required by the City.
- F. Director's determination of completeness.** The Director shall determine whether the application contains all the information required by 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 therefore, 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 Director shall again determine whether the application is complete in compliance with the procedures set forth in this Subsection. Evaluation and notification shall occur as provided above until the time 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 the notice is provided.
- G. Other permits or licenses.** The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a Use Permit.

D4-6 - Investigation and Action on Application

- A. Appropriate investigation and inspection.** 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.
- B. Public hearing within 45 days.** Within 45 days of receipt of the completed application, the Commission shall hold a public hearing on the application for a Use Permit. Notice of the public hearing shall be given in compliance with California Government Code Section 65091, as the same may be amended from time to time.
- C. Relevant evidence.** In reaching a decision on an application for a Use 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.
- D. Commission's decision within 60 days.** The Commission shall grant, conditionally grant or deny an application for a Use Permit ("permit"). The Commission shall render a written decision on the application for a Use Permit within 60 days of receiving a completed application. The failure of the Commission to render a decision within this time frame shall be deemed to constitute a denial of the application. Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zone in which the property is located.
- E. Transmittal of decision to applicant.** The Commission's decision shall be mailed to the applicant.

D4-7 - Appeal

- A. **Appeal of Commission's decision.** Any interested person may appeal the decision of the Commission to the Council in writing within 10 calendar days after the Commission's written decision. In addition, within 10 calendar days after the Commission's written decision, any member of the Council shall have the authority to direct that the Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the Council.
- B. **De novo public hearing.** Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the Council.
- C. **Council's action on appeal.** The Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the Council shall grant, conditionally grant, or deny the application. The Council's decision shall be final and conclusive.
- D. **Relevant evidence.** In reaching its decision, the Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

D4-8 - Judicial Review of Decision to Grant, Deny, or Revoke

- A. **Court challenge.** The time for court challenge to a decision by the Council to grant, deny, or revoke, a Use Permit is governed by California Code of Civil Procedure Section 1094.6.
- B. **Transmittal of decision to applicant.** Notice of the Council's decision and its findings shall be mailed to the applicant and shall include citation to California Code of Civil Procedure Section 1094.6.
- C. **Prompt judicial review.** The Petitioner may seek prompt judicial review of the Council's action in compliance with California Code of Civil Procedure Section 1094.8.

D4-9 - Permit Expiration

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

D4-10 - Findings

- A. **Required findings.** The Commission, or Council appeal shall approve or conditionally approve an application for a Use Permit where the information submitted by the applicant substantiates all of the following findings:
1. The applicant is over the age of 18 years;
 2. The required application fee has been paid;
 3. The proposed use complies with the development and design requirements of the underlying zone in which it is located and with the applicable development standards of this Chapter;
 4. The proposed site is not located within a 500-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 zone or property in current residential use, along a straight line extended between the two points;
 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. The distance between the two 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 two points;

6. The proposed site is not located within 500 feet from any existing park, playground, religious facility, or school uses or property zoned Open Space (OS) or Public Facilities (PF). The distance between a proposed Adult-Oriented Business use and park, playground, church, or school uses or property zoned Open Space (OS) or Public Facilities (PF), shall be measured from the nearest exterior wall of the facility housing the Adult-Oriented Business use or proposed Adult-Oriented Business use to the nearest property line where the park, playground, church, or school use or property zoned Open Space (OS) or Public Facilities (PF) is located, along a straight line extended between the two points;
 7. The proposed site is not located within 500 feet of a residential zone or use or within 500 feet of a park, playground, church, or school use located in or property so designated in the General Plan Land Use Element of an adjacent jurisdiction; and
 8. Neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded nolo contendere (no contest) within the past four years of a misdemeanor or a felony classified by the State as a sex or sex-related offense.
- B. Conditions imposed on the permit.** Any conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zone in which the property is located.

D4-11 - Registration of New Employees

- A. Employee registration required.** As a further condition of approval of every Use Permit issued in compliance with this Chapter, every owner or operator of an Adult-Oriented Business shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the Adult-Oriented Business.
- B. Color photographs and other information required.** Each Employee shall be required to provide two recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted and subject to a background check by the Police Department for purposes of identification. In addition, each new employee shall provide the following information in a form provided by the Police Department:
 1. Name, current resident address, and telephone number;
 2. Date of birth;
 3. Social Security number;
 4. Height, weight, color of eyes and hair; and
 5. Stage name, if applicable, and other aliases used within the previous two years.

- C. **Current employee register required.** Each owner or operator of an Adult-Oriented Business shall maintain a current register of the names of all employees currently employed by the Adult-Oriented Business, and shall disclose the registration for inspection by any Police Officer for the purposes of determining compliance with the requirements of this Section.
- D. **Failure to comply.** Failure to register each new employee within five days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the Use Permit and may be considered grounds for suspension or revocation of the permit in compliance with Section D4-16 (Permit Revocation).

D4-12 - Adult-Oriented Business Development Standards

- A. **Unlawful hours of operation.** It shall be unlawful for any operator or employee of an Adult-Oriented Business to allow the adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of any day.
- B. **Compliance with building and fire regulations.** Maximum occupancy load, fire exits, aisles, and fire equipment shall be regulated, designed, and provided in compliance with the Fire District and building regulations and standards adopted by the City.
- C. **Observation of activities or materials outside prohibited.** No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of the establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- D. **Outdoor lighting level required.** All off-street parking areas and other exterior areas of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light evenly distributed at ground level. The required lighting level is established in order to provide sufficient illumination of the parking areas, walkways, and outdoor areas serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises; a photometrics plan shall be submitted with the application.
- E. **All areas shall be readily accessible.** The operator of an Adult-Oriented Business shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.

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

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

G. Open to view by management. 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. Additional "Adult Arcade" provisions. Any adult-oriented business which is also an "Adult Arcade" (see definition in Glossary), shall comply with the following additional provisions:

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

5. Customers, patrons, or visitors who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing, shall not be allowed to stand idly by in the vicinity of any video booths, or to remain in the common area of the business, other than the restrooms. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.
6. The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any of the booths shall be evidence of improper maintenance and inadequate sanitary controls; instances of these conditions may justify suspension or revocation of the Use Permit.

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

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

J. Separate restrooms required. The Adult-Oriented Business shall provide and maintain separate restrooms for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using a restroom for females, and female patrons and employees shall be prohibited from using a restroom for males, except to carry out duties of repair, maintenance, and cleaning of the 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 Subparagraph shall not apply to an Adult-Oriented Business that deals exclusively with sale or rental of sexually oriented material or merchandise that is not used or consumed on the premises and which does not provide rest room facilities to its patrons or the general public.

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

1. No employee, owner, operator, responsible managing employee, manager, or permittee of an Adult-Oriented 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 four feet of a patron while performing for compensation or while on the Adult-Oriented Businesses premises. This four-foot separation shall be marked by a railing or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).
3. No owner, operator, responsible managing employee, manager, or permittee shall permit or allow at licensed premises any patron to approach within four feet of an entertainer, or permit or allow an entertainer to approach within four feet of a patron.
4. All employees, other than entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.
5. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
6. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.
7. The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If a separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three-foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
8. No entertainer, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after performances by the entertainer. This Subparagraph shall only apply to physical contact on the premises of the Adult-Oriented Business.
9. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

- L. Security guards required.** Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, consistent with the following standards:
1. Adult-Oriented Businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.
 2. All Adult-Oriented Businesses shall have a responsible person who shall be at least 18 years of age, or 21 years of age if serving alcohol, and shall be on the premises to act as manager at all times during which the business is open. The individual designated as the on-site manager shall be registered with the Police Chief by the owner to receive all complaints and be responsible for all violations taking place on the premises.
 3. All Adult-Oriented Businesses shall provide a security system that visually records and monitors the exterior premises of the property including all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the exterior premises of the property, including the parking lot areas during all business hours. These recordings are to be kept available for a minimum period of 72 hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two by three feet and shall at a minimum be one foot by one and a half feet
 4. Security guards shall be uniformed in a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of State law. No security guard required in compliance with this Subparagraph shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.
- M. X-rated movies or videos.** The availability of X-rated movies or videos shall be restricted only to persons over 18 years of age. If an establishment that is not otherwise prohibited from providing access to persons under 18 years of age sells, rents, or displays videos or other motion picture media that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, the videos shall be located in a specific Section of the establishment where persons under the age of 18 shall be prohibited. All access to sexually oriented material or merchandise shall be restricted to persons over 18 years of age.
- N. Disposal in locked garbage receptacles only.** Any and all sexually oriented materials or sexually oriented merchandise discarded by an Adult-Oriented Business shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to sexually oriented materials or sexually oriented merchandise.

The foregoing applicable requirements of this Section shall be deemed conditions of Use Permit approvals, and failure to comply with every

requirement shall be grounds for revocation of the permit issued in compliance with these regulations.

D4-13 - Display of Permit

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

D4-14 - Persons Under 18 Prohibited

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

D4-15 - Transfer of Adult-Oriented Business Regulatory Permits

- A. Only at approved address.** A permittee shall not operate an Adult-Oriented Business under the authority of a Use Permit at any place other than the address of the Adult-Oriented Business stated in the application for the Adult-Oriented Permit.
- B. No transfer without permit amendment.** A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer a Use Permit to another person unless and until the transferee obtains an amendment to the permit from the Commission stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Commission in compliance with Sections D4-4 (Use Permit Required) and D4-5 (Application Requirements), above, accompanies the application with a transfer fee as set forth in the City's Fee Schedule, and the Commission determines in compliance with Sections D4-6 that the transferee would be entitled to the issuance of an original Use Permit. The transfer fee shall be paid in lieu of the filing fee required by Section D4-5.
- C. No transfer when subject to suspension or revocation.** No Use Permit may be transferred when the permittee has been notified that the Use Permit has been or may be suspended or revoked.
- D. No transfer in violation of this Section.** Any attempt to transfer a Use Permit either directly or indirectly in violation of this Section is hereby declared void, and the Use Permit shall be deemed revoked.

D4-16 - Permit Revocation

- A. Findings required for revocation.** Any Use Permit issued in compliance with the provisions of this Chapter may be revoked by the City on the basis of any of the following:
1. The business or activity has been conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits for the building in which the use is located set by the Fire Marshall;
 2. The permittee has misrepresented a material fact in the application for permit or in any report required to be filed with the City or has not answered each question in the application truthfully;
 3. The permittee has failed to obtain or maintain all required City, County, and State licenses and permits;
 4. The permit is being used to conduct an activity different from that for which it was issued;
 5. The building or structure in which the Adult-Oriented Business is conducted is hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing, or Uniform Fire Code;
 6. The permitted business creates sound levels which violate the City's noise regulations (Section D3-8);
 7. The permittee, if an individual, or any of the officers or general partners, if a corporation or partnership is found guilty or pleaded nolo contendere to a misdemeanor or felony classified by the State as a sex or sex-related offense after the Adult-Oriented Business has commenced operation;
 8. The permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business:
 - a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;
 - b. Use of the Adult-Oriented Business site as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;
 - c. Any conduct constituting a criminal offence which requires registration under Section 290 of the California Penal Code;

- d. The occurrence of acts of lewdness, assignation, or prostitution including any conduct constituting violations of California Penal Code Sections 315, 316, 318, or 647(b);
 - e. Any act constituting a violation of provisions of the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to, Sections 311 through 313.4; or
 - f. Any conduct prohibited by this Chapter.
9. Failure to abide by any action previously imposed by an appropriate City official; and
10. The use for which the approval was granted has ceased to exist or has been suspended for 180 days or more.
- B. Transmittal of notice.** Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee shall be sent by certified mail to the permittee at least 10 days before the hearing.
- C. Relevant evidence.** The Commission shall hold a public hearing on the proposed revocation of the permit. Notice of the public hearing shall be given in compliance with California Government Code Section 65091, as the same may be amended from time to time. In reaching a decision on the proposed revocation, the Commission shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
- D. Commission's action.** The Commission shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Use Permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zone in which the property is located.
- E. Transmittal of Commission decision.** The Commission's decision shall be in writing, and shall be mailed to the applicant and all property owners within 300 feet of the use.
- F. Decision within 30 days.** The Commission shall make its final decision within 30 days of the public hearing.
- G. Appeal of Commission's decision.** Any interested person may appeal the decision of the Commission to the Council in writing within 10 days after the Commission's written decision. In addition, within 10 days after the Commission's written decision, any member of the Council shall have the authority to direct that the Council review the decision of the Commission on the grounds that the individual council member believes that the matter should be decided by the Council.

- H. De novo public hearing.** Consideration of an appeal of the Commission's decision shall be at a de novo public hearing which shall be noticed in the same manner as the public hearing of the Commission and shall occur within 30 days of the filing of the appeal or initiation of review by the Council. In reaching its decision, the Council shall not be bound by the formal rules of evidence. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
- I. Council's action on appeal.** The Council action on the appeal of the Commission's decision shall be by a majority vote of the quorum, and upon the conclusion of the public hearing, the Council shall revoke, not revoke, or not revoke but add additional conditions to, the permittee's Use Permit. Any additional conditions imposed upon the permit shall be in keeping with the objective development standards of this Chapter and the underlying zone in which the property is located. The Council's decision shall be final and conclusive.
- J. No new permit within 12 months after revocation.** In the event a permit is revoked pursuant to this Chapter, another adult use development permit to operate an adult business shall not be granted to the permittee within 12 months after the date of the revocation.

D4-17 - 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 compliance with the limits set forth in California Government Code Section 36901, as it may be amended from time to time, or any other legal remedy available to the City.

D4-18 - Applicability to Other Regulations

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

D4-19 - 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 other courts as may have jurisdiction to grant relief that will abate or remove the Adult-Oriented Business and restrain and enjoin any person from conducting, operating, or maintaining an Adult-Oriented Business contrary to the provisions of this Chapter.

D4-20 - Inspections

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

Chapter II - Alternative Energy Structures

Sections:

- D4-21 - Purpose
- D4-22 - Solar Power Equipment
- D4-23 - Wind Energy Equipment

D4-21 - Purpose

This Chapter provides regulations for alternative energy structures and equipment, including solar power equipment and windmills (wind energy conversion systems), to assist residents and businesses in reducing the consumption of electricity produced by sources outside of the community.

D4-22 - Solar Power Equipment

The provisions of this Section are intended to ensure that solar energy systems are protected from shading and conform in appearance to the surrounding neighborhood.

- A. Protection of solar access.** A structure, fence, or wall shall not be constructed or modified in a residential zone, and vegetation may not be placed or allowed to grow after the effective date of this Chapter, so as to obstruct more than 10 percent of the absorption area of a solar energy system on a neighboring parcel at any time.
- B. Solar power equipment standards.** Solar power equipment shall be designed and installed in compliance with the following standards.
 - 1. Solar collectors.**
 - a. Roof-mounted collectors shall be placed in the location least visible from public streets without reducing the operating efficiency of the collectors, unless they are integrated into the design of the structure as an architectural element.
 - b. Wall-mounted and ground-mounted collectors shall be screened from public view.
 - c. Roof-mounted collectors shall be mounted at the same angle or as close as possible to the pitch of the roof.

2. **Appurtenant equipment.** Equipment appurtenant to solar collectors, including plumbing, and related fixtures, shall be installed within a structure on which the collectors are mounted, where feasible, or shall be screened from public view. Appurtenant equipment outside of a building shall comply with applicable setback requirements.
3. **Accessory fixtures.** Large accessory fixtures that generally require exposure (e.g., storage tanks) shall be screened through architectural features that harmonize with other elements of the structure.
4. **Exterior finishes.** Exterior surfaces shall have a matte finish and shall be color-coordinated to harmonize with roof materials or other dominant colors of the structure.

D4-23 - Wind Energy Equipment

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), a windmill proposed for the generation of electricity, hereafter referred to as a "windmill," shall comply with the requirements of this Section.

- A. **Application requirements.** The Use Permit application shall include all information and materials required by Section D6-16, and the following.
 1. Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code (UBC), and certification by a California-licensed professional mechanical, structural, or civil engineer. A "wet stamp" shall not be required on the drawings and analysis if the application demonstrates that the system is designed to meet the most stringent wind requirements (UBC wind exposure D), the requirements for the worst seismic class (UBC Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot.
 2. Information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
 3. Evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states in the application, that the system will not be connected to the electricity grid.
 4. Evidence that the proposed height of the windmill tower does not exceed the height recommended by the manufacturer or distributor of the system.
- B. **Minimum site area.** A windmill shall only be located on a parcel of one acre or larger.
- C. **Limitations on location.** No more than one windmill shall be approved on a single parcel, or closer than 500 feet from another windmill.
- D. **Windmill design standards.**

1. **Setback requirements.** A windmill shall not be located closer to a property line than the height of the windmill (the distance from the ground to the topmost point of the windmill blades).
 2. **Height limit.** A windmill tower shall not exceed the maximum height allowed by the applicable zone.
 3. **Windmill turbine.** The turbine proposed for the system shall have been approved by the California Energy Commission (CEC) as qualifying under the Emerging Renewables Fund of the CEC's Renewables Investment Plan, or certified by a national program recognized and approved by the CEC.
- E. **Noise standards.** A windmill shall be designed, installed, and operated so that noise generated by the system shall not exceed the lesser of 60 decibels (dBA), or the maximum noise levels established by the Noise Ordinance for the applicable zone, as measured at the property line, except during short-term events including utility outages and severe wind storms.
- F. **Required findings for approval.** The approval of a Use Permit for a windmill shall require that the Review Authority first find that the location and design of the windmill will not produce excessive visual impact or cause the windmill to be the dominant visual feature on a ridgeline when viewed from a public right-of-way, in addition to the findings required for Use Permit approval by Section D6-28 (Use Permits and Minor Use Permits).

Chapter III - Standards for Specific Land Uses

Sections:

- D4-24 - Purpose
- D4-25 - Applicability
- D4-26 - Accessory Structures
- D4-27 - Bed and Breakfast Inns
- D4-28 - Card Rooms
- D4-29 - Child Day Care Facilities
- D4-30 - Commercial Entertainment Facilities
- D4-31 - Employee Eating Areas
- D4-32 - Heliports
- D4-33 - Home Occupations
- D4-34 - Live Entertainment
- D4-35 - Outdoor Display, Storage, and Vending
- D4-36 - Mobile Homes and Mobile Home Parks
- D4-37 - Recycling Facilities
- D4-38 - Restaurants with Take-Out Service
- D4-39 - Second Dwelling Units
- D4-40 - Service Stations and Car Washes

D4-24 - Purpose

This Chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by Division D2 (Allowable Land Uses and Zoning Standards) within individual or multiple zones, and for activities that require special standards to mitigate their potential adverse impacts.

D4-25 - Applicability

The land uses and activities covered by this Chapter shall comply with the provisions of each Section applicable to the specific use, in addition to all other applicable provisions of this Zoning Ordinance.

- A. **Where allowed.** Each use shall be located only where allowed by Division D2 (Allowable Land Uses and Zoning Standards).
- B. **Planning permit requirements.** Each use shall be authorized by the planning permit required by Division D2, except where a planning permit requirement is established by this Chapter for the specific use.
- C. **Development standards.** The standards for specific uses in this Chapter supplement and are required in addition to all other applicable provisions of this Zoning Ordinance (e.g., Divisions D2 and D3, etc.).
 - 1. The land use tables in Division D2 determine when the standards of this Chapter apply to a specific land use.
 - 2. In the event of any conflict between the requirements of this Chapter and those of Divisions D2 or D3, the requirements of this Chapter shall control.

D4-26 - Accessory Structures

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), accessory structures shall comply with the requirements of this Section.

- A. **Requirements for all accessory structures.**
 - 1. **Relationship to primary use.** An accessory use and/or structure shall be incidental to the primary use of the site, and shall not alter the character of the primary use.
 - 2. **Timing of installation.** An accessory structure shall only be constructed concurrent with or after the construction of the primary structure on the same site except that construction trailers may be placed on a site at the time site clearance and grading begins, and may remain on the site only for the duration of construction.
 - 3. **Allowed projections into setbacks.** An architectural feature of an accessory structure may extend into a required front, side or rear setback in compliance with Table 4-1.

**TABLE 4-1
ALLOWED ACCESSORY STRUCTURE
PROJECTIONS INTO SETBACKS**

Projecting Feature	Allowed Projection into Required Setback		
	Front/Street Side Setback	Interior Side Setback	Rear Setback
Awnings and canopies	6 ft	30 in (1)	6 ft (1)
Balcony, landing, porch, stairway - Uncovered, unenclosed, and less than 30 in. above grade	25% of setback		
Balcony, landing, porch, stairway - Covered and enclosed by roof and walls	Not allowed in any setback		
Balcony, landing, porch, stairway - Covered but unenclosed	6 ft	30 in (1)	6 ft (1)
Bay window, or similar projecting feature	30 in	The greater of 30 in or 20% of setback (1)	30 in
Chimney/fireplace, 6 ft. or less in breadth, media niche	24 in	24 in (1)	24 in (1)
Chimney/fireplace, more than 6 ft. in breadth, media niche	Not allowed	24 in (1)	24 in (1)
Cornice, eave, mechanical equipment, roof overhang	24 in	24 in (1)	24 in (1)

Notes: (1) Feature may project an additional 6 inches if the minimum provided setback is greater than 5 feet.

- B. Exemptions - Decks.** A deck shall be exempt from the provisions of section D4-26 only if constructed with an approved Development Plan.
- C. CC, CT, CCMU, CR, CS, MU, OA, and OL zones.** An accessory structure shall comply with the following standards, in addition to those in Subsection A.
- 1. Setback requirements.** An accessory structure shall not occupy a required front or corner side setback, or project beyond the front building line of the primary structure on the site. In addition, an accessory structure located to the rear of a primary structure shall be set back from the interior side and rear property lines by a minimum of five feet, unless the accessory structure complies with the height limit requirements of Subsection B.2.
 - 2. Height limit.** An accessory structure shall not exceed a maximum height of 12 feet, provided that:
 - a. A pitched roof may extend to a maximum height of 16 feet; and
 - b. A structure placed at a property line shall not exceed six feet in height at the property line, and shall not intercept an inclined daylight plane sloping inward from a point six feet above the

property line and rising one foot for each foot of distance from the property line.

- D. MW, AG, OS, P, GC, M-1, and M-2 and PS zones.** Accessory structures shall comply with all regulations applicable to the principal primary structure. Off-site accessory uses may be allowed only with a Minor Use Permit approval.
- E. R zones.** Each accessory structure within a residential zone shall comply with the following requirements.
 - 1. Maximum total floor area.** The total floor area of all accessory structures on the site with a solid roof over four feet in height and/or deck structures over four feet in height shall not exceed three percent of the lot area.
 - 2. Height limit.** An accessory structure shall not exceed the height limit as stated in Table 4-2.

Table 4-2 Maximum Accessory Structure Height		
	HR, RE-B, RS, RM, RMH, RH and RVH	RC, RE-A and RR
Accessory structure	12 feet	16 feet
Decks	Floor plate of the top story of the residence (1) (2)	Floor plate of the top story of the residence (1) (2)
Accessory structure within front setback	3 feet, plus an additional 18 inches for decorative features or lighting	3 feet, plus an additional 18 inches for decorative features or lighting

Notes:

- (1) Maximum railing/screen height shall be the minimum required under the Uniform Building Code.
- (2) Decks constructed with an approved Development Plan shall be exempt from height regulations in Table 4-2.

3. **Setback requirements.** Accessory structures shall comply with the following setback requirements.
 - a. **Front setback.** An accessory structure shall be set back from a front property line by a minimum distance:
 - (1) Of five feet when the structure does not exceed a height of three feet (fences and walls of three feet or less in height are exempt from this requirement); and
 - (2) As required by Subsection D.3.c for animal structures.
 - (3) An accessory structure in a required front yard setback shall comply with the driveway visibility requirements of Section D3-10 (Setback Requirements and Exceptions), and the site obstruction requirements of Section D3-37 (Driveways and Site Access).
 - b. **Side and rear setbacks.** An accessory structure shall be set back from the side and rear property line as follows.
 - (1) If the structure is of 18 inches or less in height, no setback is required;
 - (2) If the structure is greater than 18 inches but 6 feet or less in height, a three-foot setback is required; and
 - (3) If the structure is greater than 6 feet in height, the setback shall be equal to the height less three feet.
 - c. **Setbacks for animal keeping structures.**
 - (1) **Small animal structures.** The minimum setback for chicken houses, rabbit hutches, and similar structures housing similar small animals shall be 60 feet from the front property line; and 40 feet from both side and rear property lines.
 - (2) **Large animal structures.** The minimum setback for barns, stables, and similar accessory structures housing large animals shall be 100 feet from the front property line; and 50 feet from both side and rear property lines.
- F. **PD zone.** The size and location of accessory structures shall comply with the requirements of the adopted PD or specific plan for the applicable PD zone. If the PD standards do not address standards for accessory structures, then the requirements of R zone apply to residential developments and C zone standards apply to commercial developments.

D4-27 - Bed and Breakfast Inns

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), bed and breakfast inns shall comply with the requirements of this Section.

- A. **Owner occupancy required.** A bed and breakfast inn shall be operated by the property owner living on the site. This requirement may be waived by the Planning Commission.
- B. **Limitation on number of guest rooms.** A bed and breakfast inn shall be limited to a maximum of six guest rooms for lodging.
- C. **Signs.** Signs shall be limited to a single sign with a maximum area of six feet. The face of the sign may be indirectly illuminated by an exterior light source entirely shielded from view, but no internal illumination from an interior light source shall be permitted.

D4-28 - Card Rooms

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), card rooms shall comply with the requirements of Municipal Code Division B1, Chapter I (Cardrooms).

D4-29 - Child Day Care Facilities

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), large family day care homes shall comply with the requirements of this Section.

- A. **Purpose.** The intent of these regulations is to prescribe reasonable standards for large family day care homes in San Ramon.
- B. **Permit required.** A Use Permit issued by the Zoning Administrator shall be required before operating a large family day care home.
- C. **Hearing.** If requested in writing after a 15 day notice from the City, a hearing will be held on the application for a large family day care home.
- D. **Contents of application.** An application for a Large Family Day Care Home Permit shall contain the information as outlined by the Zoning Administrator with the General Submittal Requirement List.
- E. **Findings required.** The Zoning Administrator shall issue a Use Permit only when the following findings can be made:
 - 1. The proposal adheres to all State of California Department of Social Services requirements for large family day care homes; and
 - 2. The large family day care home is not within 300 feet of any other legally established large family day care home; and

3. The Fire and Building Departments approve clearance for use of the residential structure as a large family day care home; and
 4. The primary use of the structure is as a residence; and
 5. Operation of the large family day care home at the proposed location will not result in hazardous traffic circulation, traffic conditions, and parking; and
 6. Operation of the large family day care home at the proposed location will be in compliance with adopted noise standards applicable to the site.
- F. Standards.** All large family day care homes shall comply with all applicable State standards and requirements for family day care homes. In addition, all large family day care homes shall comply with the following standards:
1. **Outdoor play area.** Outdoor play areas shall be provided at all large family day care homes.
 - a. All outdoor play areas shall be enclosed by a natural barrier, wall, solid fence, or other solid structure at least 6 feet in height.
 - b. All outdoor play areas shall be adequately separated from driveways, streets, and parking areas.
 2. **Parking.** Adequate parking shall be provided for employees of the large family day care home and for pick-up and drop-off of children at the home in accordance with the following standards:
 - a. In addition to the off-street parking spaces required for the residential zone, one additional off-street parking space shall be provided per employee, and can be within the setback and/or in the driveway.
 - b. Adequate space shall be available for the safe pick-up and delivery of children to the day care home. This space shall be off-street, and can be in the driveway or off-street parking area.
 3. **Overconcentration.** A large family day care home shall be a minimum of 300 feet from any other legally established large family day care home. The 300 foot minimum distance shall be measured from the subject site property lines to the property lines of any other legally established large family day care home. Small family day care homes and day care centers are not included when determining overconcentration.
 4. **Noise.** The applicant shall address noise impacts on neighboring properties consistent with the noise standards of the City.
- G. Appeals.** Decisions of the Zoning Administrator may be appealed to the Planning Commission in accord with Chapter D7-II (Appeals and Calls for Review).

D4-30 - Commercial Entertainment Facilities

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), commercial entertainment facilities shall comply with the requirements of this Section.

- A. Purpose.** The intent of these regulations is to control the location and hours of operation of game centers so as not to allow school children to play the games during school hours nor to encourage minors to congregate in areas close to commercial establishments that sell alcoholic beverages.
- B. Permit required.** A Use Permit shall be required to install, operate or maintain six or more games.
- C. Duration and renewal of permit.** Initially, the permit shall be valid only for one year; thereafter, the Zoning Administrator may renew the permit for periods of not more than two years. The procedure for renewal is the same as that for the initial application, and the same factors considered for the initial application shall be considered for the renewal.
- D. Adult manager.** At least one adult manager (18 years of age, or 21 or over if serving alcohol) shall be on the premises during the time a game center is open to the public.
- E. Location criteria.**
 - 1. A game center shall not be permitted within 300 feet of a school site or the boundary of an R zone, or within 500 feet of a liquor store, a cocktail lounge or bar. The distance shall be measured in a straight line from the main public entrance to the game center to the property line of the school site, the zone boundary, or the main public entrance of the liquor store or cocktail lounge, as the case may be. Exits not limited to emergency use only shall generally be directed away from an R zone adjoining the site.
 - 2. Within the CC Zone, game centers with not more than five games shall be permitted, subject to the restrictions that may be imposed pursuant to Subsection F below.
- F. Restrictions.** The Zoning Administrator may impose reasonable restrictions on the physical design, location, and operation of a game center in order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety and welfare of the surrounding community.
- G. Appeals.** Any person may appeal the decision of the Zoning Administrator on an application for an initial permit or a renewal of a game center permit to the Planning Commission in accord with Chapter D7-II (Appeals and Calls for Review).

D4-31 - Employee Eating Areas

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), outdoor employee eating areas shall comply with the requirements of this Section.

A. Standards.

1. A minimum of 150 square feet of outdoor eating facilities shall be provided for office buildings of 10,000 gross sq. ft. or greater, excluding warehouse and storage space. A larger outdoor eating area shall be required for larger buildings in an amount to be determined by the Zoning Administrator. Credit toward the required amount of square footage will be given for indoor eating facilities as determined by the Zoning Administrator.
2. The area shall be easily accessible to employees and shall be located to offer a sense of privacy.
3. The area shall be landscaped and provided with attractive outdoor furniture, i.e., metal, wood, or concrete picnic tables, benches/chairs and trash receptacles.
4. A site plan showing the location, landscaping and facilities required above shall be submitted to the Zoning Administrator for approval as part of the development application.

B. Exceptions. This Section shall not apply to industrial/office buildings that are located within 1,000 feet of an approved mini-park or a City park that include facilities for eating and are accessible by walking as determined by the Zoning Administrator.

D4-32 - Heliports

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), heliports shall comply with the requirements of this Section.

- A. Purpose.** These regulations establish location criteria and development standards for helicopter takeoff and landing areas to protect the public health, safety and welfare, and to minimize land-use conflicts, noise impacts, and operational hazards.
- B. Permit required.** A Use Permit shall be issued by the Planning Commission, for the construction and operation of a heliport, helipad, or helistop upon finding that:
1. The helipad, heliport, or helistop conforms to the location criteria and standards established in Subsections D. and E., and the requirements of the California Department of Transportation, Division of Aeronautics;
 2. The heliport, helipad, or helistop is compatible with the surrounding environment; and
 3. The proposed operation of the helicopter facility does not pose a threat to public health, safety or welfare.

The Planning Commission may impose conditions on approval of the Use Permit to prevent adverse impacts on surrounding properties; if such impacts can not be mitigated to an acceptable level, the Use Permit application shall be denied.

- C. Location criteria.**
1. **Relation to transportation system.** The heliport, helipad, or helistop shall be located within 3,000 feet of a freeway as designated on the General Plan.
 2. **Minimum separation.** Minimum separation between heliports, helipads, and helistops shall be 1.5 miles, except for facilities specifically intended for emergency use, such as medical evacuation, and temporary landing sites.
 3. **Protected areas.** No heliport, helipad, or helistop shall be located within 1,000 feet of an R zone or the site of a public or private school or within 500 feet of a park provided that heliports, helipads or helistops specifically intended for emergency use may be within 500 feet of an R zone, a park or a public or private school. Temporary landing sites within 1,000 feet of a public or private school may be allowed with a temporary Use Permit subject to approval of: (a) the City of San Ramon; (b) the San Ramon Valley Unified School District; and (c) the California Department of Transportation.

D. Site development standards.

1. Approach and departure paths 65 feet wide shall be free of obstruction for a minimum distance of 400 feet.
2. Setbacks from property lines shall be as follows:
 - a. Takeoff and landing area - 100 feet;
 - b. Helicopter maintenance facilities - 25 feet;
 - c. Administrative or operations building - 15 feet.
3. Any lighting used for nighttime operations shall be directed away from adjacent properties and public rights-of-way.
4. A telephone shall be provided on or adjacent to the heliport, helipad or helistop.
5. Helipads, heliport or helistops intended for emergency use shall have a landing pad with a standard landing area designated and the words "Emergency Only". The initial direction of the departure routes shall be indicated on the takeoff and landing area.

E. Application requirements. The following additional information shall be submitted with a Use Permit application:

1. An area map, at a scale of 1" = 800' showing existing land use within a two-mile radius of the facility site and the proposed flight paths.
2. A plot plan of the site and vicinity, including all land within a 400-foot radius of the takeoff and landing area, that shows clearly the height of the takeoff and landing area; the height of existing, approved and proposed structures and trees within 100 feet of the approach and takeoff flight paths; and the maximum allowable building height under existing zoning.
3. A description of the proposed operations, including the type of use, names and descriptions of helicopters expected to use the facility, and anticipated number and timing of daily flights.
4. A helicopter noise study including a map of the approach and departure flight paths at a scale of 1" = 800' showing existing day/night average noise levels in decibels (LDN noise contours), future day/night average noise levels with the proposed facility and anticipated flight operations, and single-event maximum sound levels associated with the types of helicopters expected to use the facility.

F. Appeals. Decisions of the Commission may be appealed to the Council in compliance with Chapter D7-II (Appeals and Calls for Review).

D4-33 - Home Occupations

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), home occupations shall comply with the requirements of this Section.

- A. Permit required.** A home occupation in a residential zone shall require a home occupation permit, obtained by filing a completed application form with the Zoning Administrator. The Zoning Administrator shall issue the permit upon determining that the proposed home occupation complies with the requirements of this section.
- B. Application contents.** An application for a home occupation permit shall contain the information as required by the Zoning Administrator.
- C. Required conditions.** Home occupations shall comply with the following regulations:
1. No clients may come to the home.
 2. The use is incidental to the residential use of the dwelling.
 3. The use shall be conducted entirely within a portion of the main building, not within any required parking facility and does not exceed 20 percent of the building's floor area, excluding garage square footage. No outside storage shall be permitted.
 4. No article shall be sold or offered for sale on the premises.
 5. No person other than a resident of the dwelling shall be employed on-site or report to work at the site in the conduct of the home occupation. This prohibition also applies to independent contractors.
 6. The use will not generate vehicular or pedestrian traffic in excess of that which is normally associated with residential uses in the same zone.
 7. No parking space will be obstructed and no additional parking space will be required for the home occupation.
 8. There is no exterior indication of the home occupation, including signs.
 9. The use will not create noise, odor, dust, fumes, vibration, smoke, electrical interference, or any other interference with residential uses of adjacent property.
 10. No motor vehicle repair or personal services shall be permitted on-site.
 11. The address of the home occupation will not be advertised in any publication. Business cards and letterhead are not included in this requirement.
- D.** The permit for a home occupation that is not operated in compliance with these regulations shall be revoked by the Zoning Administrator after 30 calendar days written notice unless the home occupation is altered to comply.

- E. Appeals.** In accord with Chapter D7-II (Appeals and Calls for Review), decisions of the Zoning Administrator may be appealed to the Planning Commission.

D4-34 - Live Entertainment

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), live entertainment shall comply with the requirements of this Section.

- A.** Exits not limited to emergency use only shall generally be directed away from an R zone adjoining the site.
- B.** A Use Permit shall establish conditions ensuring that no litter problem will exist.
- C.** A Use Permit for live entertainment shall apply only to the type of entertainment approved, and a different type of entertainment shall require approval of a separate Use Permit.
- D. Noise requirements and other limitations.** Approval shall include conditions addressing:
1. Hours of operation;
 2. Transferability; and
 3. The temporary vs. permanent nature of the use.

D4-35 - Outdoor Display, Storage, and Vending

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), outdoor display and sales shall comply with the requirements of this Section.

A. Outdoor display and storage.

1. **Where permitted.** The outdoor storage and display of merchandise, materials, or equipment, including display of merchandise, materials, and equipment for customer pick-up may occur only where allowed by the allowable land use tables in Division D2 for the specific zone applicable to the site.
2. **Permit conditions, grounds for denial.** A Minor Use Permit for outdoor storage, display, or food service may require yards, screening, or planting areas necessary to prevent adverse impacts on surrounding properties and the visual character of scenic areas as identified in the General Plan. If these impacts cannot be prevented, the Zoning Administrator shall deny the Minor Use Permit application.
3. **Exceptions.** Notwithstanding the provisions of Subsections A.1 and A.2 above, outdoor storage and display shall be permitted in conjunction with plant nurseries in zones where plant nurseries are allowed by Division D2, provided that the outdoor storage and display is limited to plants only.
4. **Screening.** Except for the land uses excepted by Subsection A.3 above, each outdoor storage and display area shall be screened from the view of streets by a solid fence or wall. The height of merchandise, materials, and equipment stored or displayed in the MW zone shall not exceed the height of the screening fence or wall. In other zones, screening shall be provided as prescribed by the Minor Use Permit.
5. **Coin-Operated Vending Machines.** Each machine located in an R zone or within 300 feet of an R zone, except for machines located on the site of a service station, shall be buffered from view from public rights-of-way.
6. **Outdoor eating areas.** Sidewalk cafes and outdoor food service accessory to an Eating and Drinking Establishment shall include no outdoor preparation of food or beverages.
7. **Appeals.** Decisions of the Zoning Administrator may be appealed to the Planning Commission in compliance with Chapter D7-II (Appeals and Calls for Review).

B. Outdoor vending.

1. **Purpose.** To provide opportunities for outdoor vendors to operate in the C and O Zones and to ensure that such operations are properly regulated in such a manner that their benefits to the City are realized and at the same time adverse impacts are minimized.

2. Definitions.

- a. **Vendor.** A person who sells, or offers to sell any type of merchandise, including food, beverages or edibles of any type whether hot, cold, fresh, prepared or packaged, at a location other than within a building or structure constructed on a permanent foundation which is rented, leased, or owned by that person.
- b. **Vending.** Selling or offering to sell any type of merchandise, including food, beverages or edibles of any type, at any location other than within a building or structure constructed on a permanent foundation, which is rented, leased, or owned by the person selling or offering to sell the merchandise.
- c. **Vending equipment.** Includes, but is not limited to any materials, merchandise, tools, carts, tables, or other items owned by, in the possession of or associated with a licensed vendor.
- d. **Licensed vendor.** A person(s) with an approved Use Permit and Business License for the operation of a vending business.

3. Permits required.

- a. **Minor Use Permit.** A Minor Use Permit issued by the Zoning Administrator shall be required for any vending operation in accordance with Chapter D6-28 (Use Permits and Minor Use Permits).
- b. **Business License.** Every vendor shall obtain a City Business License prior to operation.
- c. **County Health Department.** If food and/or beverages are being sold, a valid permit from the County Health Department is required.
- d. **Building and Fire Departments.** All necessary permits and approvals from the Building and Fire Departments shall be obtained prior to operation of a vending business.
- e. **Permit and license display.** At all times while vending, a valid Business License and Use Permit shall be displayed at the vending site. The Zoning Administrator may impose conditions of approval on the Use Permit to prevent adverse impacts on surrounding uses.

4. Location criteria and hours of operation.

- a. **Hours.** Hours of operation for vending businesses shall be as determined by the Minor Use Permit.
- b. **Location.** Vending shall be allowed with an approved Minor Use Permit on private property in the C (Commercial) and O (Office) zones only.

c. Vendors shall not operate:

- (1) at a location where space for pedestrian passage will be reduced to less than four feet;
- (2) at a location which obstructs access to any entrance to any building or facility used by the public, including but not limited to doors and emergency exits;
- (3) within 10 feet of any handicap access ramp, pedestrian crosswalk, or fire hydrant;
- (4) in any parking lot, drive aisle, or marked parking space;
- (5) within any landscaped area;
- (6) at any publicly owned property including streets or sidewalks and the adjacent public right-of-way;
- (7) within 100 feet of a business selling food and/or beverages for on-site consumption, in the case of a vendor selling food and/or beverages; or within 100 feet of a business selling a similar commodity in the case of a vendor selling commodities other than food and/or beverages;
- (8) within a public park or recreation area, except when licensed by the City as a concessionaire or when authorized by the City to vend at special events; and
- (9) within 200 feet of another approved vending location.

5. Standards and design criteria.

- a. Vending equipment shall occupy no more than 50 square feet of space, and shall not exceed eight feet in height.
- b. Vendors shall maintain their immediate sales location in a clean and hazard free condition; failure to so maintain and failure to clean the vending location of all waste shall be cause for revocation of the Use Permit.
- c. Vendors selling food and/or beverages shall maintain one thirty-two gallon garbage container immediately adjacent to the vending location for use by customers.
- d. No vendor shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound in connection with the promotion of a vending operation.
- e. No vendor shall sell any merchandise to any person who is in a motor vehicle at the time of sale.

- f. Every vendor shall be required to have a written agreement giving the vendor the right to use permanent sanitary facilities located no more than 200 feet from the approving vending location.
 - g. No off-site signage advertising the vending operation is permitted.
 - h. The maximum sign area is eight square feet per vendor.
 - i. All signage shall be located on the vending equipment.
 - j. No more than two employees, including the licensed vendor, shall sit in, stand in or otherwise occupy a vending location at any one time.
 - k. Vending equipment shall be non-motorized, and easily moved and self supporting; at no time shall vending equipment be attached, tied, or locked to trees, hydrants, or other permanent vertical structures or benches.
 - l. After the permitted hours of operation, all vending equipment shall be stored off-site or within a permanent enclosed structure on-site.
 - m. No vendor shall sell alcoholic beverages.
 - n. Vendors cooking food shall maintain a fire extinguisher at the vending location at all times.
- 6. Exceptions.** The Zoning Administrator may grant minor exceptions to the regulations contained in Subsections D. and E. above, provided that the Required Findings can still be made.
- 7. Contents of application.** The following additional information shall be submitted with a Use Permit application:
- a. A plot plan, drawn to scale, of the site showing the location of the proposed vending operation and identifying all building entrances/exits, hydrants, handicapped access ramps, and pedestrian crosswalks in the immediate vicinity of the proposed vendor location.
 - b. A list of all businesses located within 100 feet of the proposed vending location.
 - c. Specifications and details of the proposed vending equipment.
 - d. Written authorization from the property owner and adjacent tenants to operate the vending business at the proposed location.
 - e. A detailed description of the proposed vending operation including but not limited to the following information: (a) a list of merchandise and/or types of food/beverages offered for sale; (b) the proposed hours of operation; (c) the type of power source

if applicable; (d) the types and amounts of combustible and/or chemicals if applicable.

- 8. Findings required.** In addition to the required Findings for Use Permits and Minor Use Permits contained in Section D6-28.F, the Zoning Administrator shall make the following additional findings:
- a. The proposed vendor operation will not adversely impact adjacent businesses including the creation of unfair competition with merchants in fixed locations.
 - b. The vending equipment and operation will be aesthetically pleasing.
 - c. The vending operation will not adversely impact automobile and pedestrian safety, and will have minimal impacts on parking.

D4-36 - Mobile Homes and Mobile Home Parks

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), mobile homes and mobile home parks shall comply with the requirements of this Section.

- A. Purpose.** It is the intent of the City to provide opportunities for the placement of mobile homes in R zones and to insure that such mobile homes are designed and located so as to be harmonious within the context of the surrounding houses and neighborhood.
- B. General requirements.** Mobile homes may be used for residential purposes as follows:
1. If such mobile homes have been approved by the Architectural Review Board and have been granted a Certificate of Compatibility and are located in an R zone; or
 2. If such mobile homes have been approved by the Zoning Administrator for a location in an AG zone or the MW zone as caretaker housing.

Mobile homes may be used for temporary uses, subject to the requirements of a Temporary Use Permit issued under Chapter D-62.070 (Temporary Use Permits).

- C. Requirements for Certificates of Compatibility.** A mobile home may be located in any R zone where a conventional single-family detached dwelling is permitted subject to the same restrictions on density and to the same property development regulations, provided that such mobile home has architectural approval and receives a Certificate of Compatibility as part of the zoning permit prescribed by Division D6 (Planning Permit Procedures). The Zoning Administrator shall issue such certificate if the mobile home meets the design and location criteria of this Subsection.

The certificate shall be valid for two years and may be renewed for subsequent periods of two years if the location and design criteria of this Section are met. More specifically, the location and design of mobile homes shall comply with the following criteria in order to protect neighborhood integrity, provide for harmonious relationship between mobile homes and surrounding uses, and minimize problems that could occur as a result of locating mobile homes on residential lots.

- 1. Location criteria.** Mobile homes shall not be allowed:
 - a. On substandard lots that do not meet the dimensional standards of Division D2.
 - b. As a second or additional unit on an already developed lot;
 - c. As an accessory building or use on an already developed lot, except for a caretaker's quarters in an MW, PS or AG zone;
 - d. On lots with an average slope of more than 10 percent, or on any portion of a lot where the slope exceeds 15 percent; or
 - e. On lots in an L Landmark overlay zone or on a designated historical site.

- 2. Design criteria.** Mobile homes shall be compatible in design and appearance with residential structures in the vicinity and shall meet the following standards:
 - a. Each mobile home must be at least 24 feet wide;
 - b. It must be built on a permanent foundation approved by the Chief Building Official;
 - c. It must have been constructed after June 15, 1976, and must be certified under the National Manufactured Home Construction and Safety Act of 1974;
 - d. The unit's skirting must extend to the finished grade;
 - e. Exterior siding must be compatible with adjacent residential structures, and shiny or metallic finishes are prohibited;
 - f. The roof must have a pitch of not fewer than three inches vertical rise per 12 inches horizontal distance;
 - g. The roof must be concrete or asphalt tile, shakes or shingles complying with the most recent edition of the Uniform Building Code fire rating approved in the City of San Ramon;
 - h. The roof must have eaves or overhangs of not less than one foot;
 - i. The floor must be no higher than 20 inches above the exterior finished grade; and

- j. Required covered parking shall be compatible with the mobile home design and with other buildings in the area.

Mobile homes shall be subject to architectural review under the provisions of Division D3 (Site Planning and Project Design Standards).

- D. **Cancellation of State registration.** Whenever a mobile home is installed on a permanent foundation, any registration of said mobile home with the State of California shall be cancelled, pursuant to state laws and regulations. Before any occupancy certificate may be issued for use of such a mobile home, the owner shall provide to the Chief Building Official satisfactory evidence showing: that the state registration of the mobile home has been or will, with certainty, be cancelled; if the mobile home is new and has never been registered with the state, the owner shall provide the Chief Building Inspector with a statement to that effect from the dealer selling the home.

D4-37 - Recycling Facilities

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), recycling facilities shall comply with the requirements of this Section.

A. Definitions.

1. **Recyclable Material.** 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 California Health and Safety Code Sections 25250.11 and 25143.2(b)(4).
2. **Recycling Facility.** A center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.
 - a. **Collection Facility.** A center for the acceptance of donation, redemption, or purchase of recyclable materials from the public.
 - (1) Small collection facilities occupy less than 500 square feet and may include:
 - A mobile unit;
 - Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
 - Kiosk-type units that may include permanent structures;
 - or

- Unattended containers placed for the donation of recyclable materials.

- (2) Large collection facilities occupy more than 500 square feet and may include permanent structures as well as mobile units, bulk reverse vending machines, Kiosk-type units.

b. Processing Facility. A building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

- (1) A light-processing facility occupies less than 45,000 square feet and includes equipment for baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials, except ferrous metals other than food and beverage containers, and repairing of reusable materials.
- (2) A heavy-processing facility is any processing facility larger than a light-processing facility.

3. Reverse Vending Machine. An automated mechanical device that accepts at least one or more types of empty 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.

- a. A single-feed revenue vending machine is designed to accept individual containers one at a time.
- b. 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.

4. Mobile Recycling Unit. An automobile, truck, trailer, or van and appurtenant bins, boxes or containers used for the collection of recyclable materials.

- B. Permits required.** No person shall place, construct, or operate any recycling facility without first obtaining a permit as follows:

TABLE 4-3 - RECYCLING FACILITIES PERMITS REQUIRED

Type of Facility	Zones Permitted	Permit Required
Single-Feed Reverse Vending Machine(s)	MU, all C and MW	Use Permit
Bulk Reverse Vending	CC, CS, CT, and MW	Use Permit
Small Collection	CS, CT, MW, and PS	Minor Use Permit
Large Collection	CS, CT, MW, and PS	Use Permit
Light Processing	MW	Use Permit
Heavy Processing	MW	Use Permit

C. Permits for multiple sites.

1. A Use Permit or Minor Use Permit as indicated in Table 4-3 may be granted to allow more than one reverse vending machine or small collection facility located on different sites under the following conditions:
 - a. The operator of each of the proposed facilities is the same;
 - b. The proposed facilities are determined by the Zoning Administrator to be similar in nature, size and intensity of activity; and
 - c. All the applicable criteria and standards set forth in this Chapter are met for each such proposed facility.

D. Design criteria and standards.

1. Reverse vending machines.

- a. Each machine shall be located within 30 feet of the entrance to the primary commercial use on the site and shall not obstruct pedestrian or vehicular circulation, not within a landscaped area.
- b. No required parking space for the development shall be used for the reverse vending machine.
- c. Each machine shall occupy no more than 50 square feet of space, including any protective enclosure, and shall not exceed eight feet in height.

- d. Each machine 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 responsible person to call if the machine is inoperative.
- e. The maximum sign area is four square feet per machine, exclusive of operating instructions of Subsection D.1.d.
- f. Adequate nighttime lighting shall be provided, if warranted.

2. Small collection facilities.

- a. Small collection facilities shall be no larger than 500 square feet, shall be set back at least 10 feet from a front or side property line, and shall not obstruct pedestrian or vehicular circulation.
- b. No power-driven processing equipment shall be used except for reverse vending machines.
- c. All containers shall be constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, secured from unauthorized entry or removal of material, and of a capacity sufficient to accommodate materials collected.
- d. All recyclable material shall be stored in containers or in a mobile unit vehicle.
- e. Personnel attended facilities located within 100 feet of the boundary of an R zone shall operate only between 7 a.m. and 7 p.m.
- f. Containers for the 24-hour donation of materials shall be at least 100 feet from the boundary of an R zone unless there is a recognized service corridor and acoustical shielding between the containers and residential use.
- g. Containers shall be clearly marked to identify the type of material that may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- h. The maximum sign area shall be 16 square feet exclusive of informational requirements and operational instruction of Subsection D.2.g. above. Directional signs bearing no advertising message may be installed with the approval of the Zoning Administrator if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.
- i. No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space will be provided for the attendant, if needed.

- j. Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.
- k. No required parking spaces shall be occupied by the facility.

3. Large collection facilities.

- a. A large collection facility shall be located at least 250 feet from an R zone.
- b. Each facility shall be in an enclosed building or within an area enclosed by an opaque fence at least six feet in height with landscaping.
- c. Six parking spaces shall be for customers and one parking space shall be provided for each commercial vehicle operated by the recycling facility.
- d. Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding, or other light-processing activities necessary for efficient temporary storage and shipment of material may be allowed if noise and other conditions are met.

4. Processing facilities.

- a. Processors will operate in a wholly enclosed building except for incidental storage, or within an area enclosed on all sides by an opaque fence or wall not less than eight feet in height and landscaped on all street frontages located at least 250 feet from an R zone.
- b. Power-driven processing shall be permitted provided all noise-level requirements are met. Light-processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials.
- c. If the facility is open to the public, space will be provided for a minimum of 10 customers or the peak load, whichever is higher, except where the Zoning Administrator determines that allowing overflow traffic is compatible with surrounding businesses and public safety.
- d. One parking space will be provided for each commercial vehicle operated by the processing center.

5. All collection and processing facilities.

- a. No facility or storage area shall occupy a required front or corner side yard, and all regulations applicable to the principal structure on the site shall apply to collection and processing facilities except as provided in this section.

- b. A large collector or processing facility may accept used motor oil for recycling from the generator in compliance with California Health and Safety Code Section 25250.11.
- c. All exterior storage of material shall be in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing.
- d. Noise levels generated by the facility shall not exceed 60 dBA as measured at the property line of an R zone or otherwise shall not exceed 70 dBA.
- e. All facilities shall be administered by on-site personnel during hours the facility is open. If a large collection or processing facility is located within 500 feet of an R zone, it shall not be in operation between 7 p.m. and 7 a.m.
- f. Any containers provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secure from unauthorized entry or removal of materials.
- g. The site of the facility shall be kept free of litter and any other undesirable material. Containers shall be clearly marked to identify the type of material that may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.
- h. Sign regulations shall be those provided for the zone in which the facility is located. In addition, each facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation.
- i. No dust, fumes, smoke vibration or odor above ambient level may be detectable on neighboring properties.

D4-38 - Restaurants with Take-Out Service

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), restaurants with take-out service shall comply with the requirements of this Section.

- A. **Minimum separation.** Establishments on separate freestanding sites that are outside retail complex and have their own parking shall not be closer than 500 feet to a public or private school, park, or playground.
- B. **Litter control.** Identifiable containers and napkins shall be used for all carry-out food, and all litter resulting shall be promptly removed. The area within a 300-foot radius shall be maintained free of debris originating from said establishment. The Zoning Administrator may require the operator to retain a contract litter cleanup service.
- C. **Sidewalk cafes and outdoor service.** See Section D4-35 (Outdoor Display, Storage, and Vending).

D4-39 - Second Dwelling Units

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), second dwelling units shall comply with the requirements of this Section.

- A. **Definitions.**
 - 1. **Attached dwelling unit.** A dwelling unit that has one or more party walls in common with another dwelling unit.
 - 2. **Detached dwelling unit.** A dwelling unit that does not share any walls in common with another dwelling unit.
 - 3. **Secondary unit.** An attached or detached rental dwelling unit located on a lot which contains a single-family dwelling. A secondary unit shall include provisions for living, eating, sleeping, cooking and sanitation. A secondary unit is not considered an accessory building as defined in Division D2 and Division D8 (Glossary).
- B. **Applicability.** Secondary units are permitted in the RC, HR, RE, RS, RM, RMH, and in PD zones for residential uses on lots with a single-family dwelling.
- C. **Design and development Standards**
 - 1. **Unit size.**
 - a. A secondary unit constructed within an existing dwelling, attached to an existing dwelling or detached shall contain at least 350 square feet, but not more than 35 percent of the net floor area of the existing dwelling up to a maximum of 1200 square feet. In addition, the net floor area of the existing dwelling shall not be

reduced by more than 20 percent to accommodate a secondary unit.

- b. A secondary unit shall include no more than two bedrooms and two bathrooms.
- c. The existing unit may be considered the secondary unit, and a new dwelling unit built, if all applicable standards and requirements of this Zoning Ordinance are met.

2. Required setbacks.

- a. In all R zones or a PD zone, an attached secondary unit or detached two-story secondary unit must conform to the setbacks generally applicable to residential development in the applicable zone.
- b. In the RS-6 and RS-7 zones, a detached one-story secondary unit shall be set back a minimum of twenty (20) feet from the front property line, five (5) feet from the interior side property lines, seven (7) feet from the corner side property line, and seven (7) feet from the rear property line.
- c. In all other R zones or a PD zone, a detached one-story secondary unit shall be setback a minimum of twenty (20) feet from the front property line, seven (7) feet from the interior side property lines, seven (7) feet from the corner side property line, and seven (7) feet from the rear yard property line.

3. Height. As generally applicable to residential construction in the applicable zone.

4. Parking. A second unit shall require that one covered or uncovered parking space be provided in addition to the parking required for the primary unit. The additional space shall not be located within a required front setback.

5. Design.

- a. The exterior design shall be in harmony with the immediate neighborhood. Building materials, colors and exterior finishes should be substantially the same as those on the existing dwelling.
- b. Outside access to the secondary unit shall not be in the front of the existing dwelling. Side or rear access shall not be visible from the front or street.

D. Occupancy. The main dwelling or secondary unit shall be owner occupied.

E. Non-conforming units. Where the existing dwelling unit constitutes a legal non-conforming unit, a secondary unit may be constructed only if the non-conformity is not expanded and the secondary unit meets all current applicable zoning standards.

F. Subdivision. No subdivision or land or air rights shall be allowed of the subject parcel.

D4-40 - Service Stations and Car Washes

Where allowed by Division D2 (Allowable Land Uses and Zoning Standards), service stations and car washes shall comply with the requirements of this Section.

- A. **Minimum separation.** Minimum separation between site boundaries shall be 500 feet, except that one such use may be located at each corner of a street intersection.
- B. **Site layout.** Conditions of approval of a Use Permit may require buffering, screening, planting areas, or hours of operation necessary to avoid adverse impacts on properties in the surrounding area.
- C. **Planting areas.** Perimeter planting areas shall be as required for parking lots by Chapter D-33 (Landscape Design Standards) and Chapter D-34 (Parking and Loading), except where a building adjoins an interior property line. Required interior planting areas may adjoin perimeter planting areas.
- D. **Storage of materials and equipment.** The provisions of Section D4-35 (Outdoor Display, Storage, and Vending) shall apply, except that a display rack for automobile products no more than 4 feet wide may be maintained at each pump island of a service station. If display racks are not located on pump islands, they shall be placed within three feet of the principal building, and shall be limited to one per street frontage. The Storage of inoperative vehicles is prohibited. The location of display racks and vending machines shall be specified by the Use Permit.

Chapter IV - Wireless Telecommunications Facilities

Sections:

- D4-41 - Purpose
 - D4-42 - Process and Applicability
 - D4-43 - Development Standards
 - D4-44 - Permit Requirements
 - D4-45 - Performance Standards and Maintenance
 - D4-46 - Administration
-

D4-41 - Purpose

The purpose of this Section is to establish standards for siting, design, modifications and maintenance of telecommunications facilities including, but not limited to, telecommunications antennas and related facilities, and other above-ground structures used for the purposes of transmitting data wirelessly. The standards contained in this Section are designed to promote the following:

- A. Protect and promote public safety and community welfare;
- B. Protect the visual character of the City of San Ramon and minimize potential adverse impacts of wireless communications facilities development and installation;
- C. Protect the environmental resources of San Ramon;
- D. Ensure that a competitive, varied and high quality wireless communications service infrastructure is provided to serve San Ramon's residents and the business community;
- E. Ensure that all telecommunications providers or carriers are treated equally, without unduly restricting or discriminating among service providers of functionally equivalent services;
- F. Streamline the permitting process, while ensuring compliance with Zoning and Building and Safety regulations;
- G. Encourage the managed development of wireless communication service infrastructure to secure San Ramon's role in the evolution of technology;
- H. Retain local responsibility for management of the use of the public right-of-way;
- I. Ensure a telecommunications network that will serve an effective role in San Ramon's emergency response system; and
- J. Promote the economic vitality of the City of San Ramon.

D4-42 - Process and Applicability

- A. Applicability.** Except for the exemptions listed under Subsection D, this ordinance shall apply to all types of wireless telecommunications facilities and related structures within any zone, including the PD zone. It shall include any structures used to transfer data wirelessly including, but not limited to, utility data such as PG&E and AT&T cabinets, facilities built for transmittal of wireless digital television, personal communications systems (PCS), and other wireless facilities specifically addressed in this Chapter.

Above ground cabinets housing equipment for fiber optic cables or housing equipment for telecommunications underground equipment shall also be subject to the provisions of this ordinance.

- B. Permitting authority.** Subject to the provisions of Division D7 (Zoning Ordinance Administration), of the Zoning Ordinance, the Planning Commission and the Zoning Administrator are authorized to approve, approve with conditions, or deny applications for telecommunications facilities. The review process may be incorporated as part of a specific development project, provided that the process and applicable standards are in accordance with the provisions of this Chapter.

- C. General requirements.** All telecommunications antenna facilities and related equipment in the City of San Ramon shall conform to the following requirements:

1. Compliance with the General Plan and any other land use plan, policies and guidelines adopted by the City of San Ramon including, but not limited to, the requirements of the Zoning Ordinance and adopted Specific Plans;
2. Compliance with CEQA requirements;
3. Compliance with the requirements of any other governmental agency with jurisdiction over the installation of a telecommunications facilities;
4. Compliance with Federal Aviation Administration (FAA) regulations and permit requirements;
5. Compliance with any applicable easements, restrictions or land use approvals restricting development on any given parcel;
6. The telecommunications facility shall be an accessory use, secondary to the primary use on a parcel, unless the parcel is zoned for Open Space or the parcel is vacant subject to future development to include a primary use;
7. Compliance with radio frequency emission standards adopted by the Federal Communications Commission (FCC), which shall include any combined radio frequency levels produced by antennas located on the same parcel in addition to all antennas within 100 feet distance of the proposed facility; and

8. Compliance with the Uniform Building Code and subject to the building permitting process.

D. Exemptions. The following telecommunications facilities are exempt from the discretionary review described in this Section if located outside the public right-of-way. The Zoning Administrator may require that application materials be submitted to the Planning Division and/or the City Attorney to verify compliance with the requirements of this section. All exempt facilities are subject to review by the Building & Safety Division and may require approval of a building permit.

1. The facility is preempted from local regulations, by state or federal law. The owner of the antenna shall provide the Planning Division and/or the City Attorney a copy of applicable regulations, and if applicable, a current FCC or California Public Utility Commission (CPUC) permit prior to installation of the exempt antenna. The City Attorney shall determine if a facility is exempt from local regulations.
2. A single building-mounted receive-only radio or television antenna (excluding parabolic or satellite antennas), not exceeding 15 feet above the roof, including mast, used solely by the tenant of a residential or commercial property on which the structure is located.
3. A single ground or building-mounted Direct Broadcast Satellite (DBS) antenna, Multipoint Distribution Services (MDS) antennas, Television Broadcast Service (TVBS) antennas or substantially similar antennas, which are less than one meter (39 inches) in diameter are subject to the following standards:
 - a. The dish/antenna is for the sole use of the occupant of a residential or commercial property on which it is located;
 - b. It does not exceed the height of the roof ridge of the main structure on which it is located;
 - c. It is located outside of a required front yard setback.
4. Mobile temporary telecommunications facilities operating at various locations to provide public information or coverage of news events. Mobile facilities providing public information of news events may be setup on public property for 72 hours or less subject to City approval.
5. Temporary telecommunications facilities, including mobile facilities, for a period not to exceed 60 days, when deployed during a community-wide emergency or natural disaster as follows:
 - a. The Zoning Administrator shall determine whether an event qualifies as a community-wide emergency or natural disaster;
 - b. The Zoning Administrator may grant an extension to the maximum 60-day time period on a case-by-case basis.
6. Handheld and mobile personal wireless devices such as cell phones, personal digital assistants, cordless phones, and similar devices as determined by the Zoning Administrator.

7. The facility is located entirely inside a building and serves only that building, including but not limited to wireless and fiber-optic networks.
8. Satellite Earth Station (SES) antennas which are 2 meters (78 inches) or less in diameter if located in a commercial or industrial zone and meeting setback requirements of accessory structures. If mounted on a roof, these facilities shall be of a non-contrasting color preferably closely matching the color of the roof.
9. A temporary testing facility to establish the necessary height of a permanent telecommunications tower for a maximum of 48 hours per year per site upon notification of the Planning Division.
10. Amateur radio antenna and supporting structures which meet the following standards:
 - a. Maximum height of 35 feet when fully extended. The use of retractable antennas is encouraged. To the extent feasible, antennas shall remain retracted when not in use, unless used for emergency related operations.
 - b. There shall be only one amateur radio tower on a single parcel.
 - c. There shall be no portions of the amateur tower or antennas, when fully extended, overhanging into the required setbacks for main structures within the applicable zone.
 - d. The maximum total width of the entire structure, including top mounted antennas shall not exceed 30 ft. when fully extended.
 - e. The operator shall be licensed by the FCC as an amateur radio operator or shall be permitted to operate as an amateur radio station in the United States by treaty or statute.

D4-43 - Development Standards

Unless otherwise specifically described in this Section, the following development standards shall apply to all telecommunications facilities:

- A. Location standards.** Telecommunications structures are permitted in all zones, provided that the standards listed under Sections B., C., and D. below are met:
- B. Prohibited sites.** Telecommunications structures are prohibited in the following locations:
 1. Any areas specifically prohibited by the General Plan, any applicable specific plan, or other site-specific discretionary planning approvals.
 2. Properties listed, or eligible for listing, on the National Register of Historic Places, or properties otherwise deemed of local historic

significance by the Zoning Administrator, provided that the visual impact of the proposed facility cannot be mitigated.

3. A site of archeological significance, including but not limited to Native-American religious sites, if such facilities will cause a disturbance to the site.
4. An environmentally sensitive site providing habitat to a special status animal or plant species, or containing wetlands, vernal pools, 100-year floodplains, etc., if such facilities will cause a disturbance to the site.
5. Within a 100 ft. vertical distance of any major ridgeline and a 50 ft. vertical distance from any minor ridgeline within the City and its sphere of influence, and provided that the telecommunications tower does not extend above the ridgeline seen as a backdrop to the facility, as seen from vantage points specified by the Zoning Administrator.

C. Preferred sites. The following is a list of preferred sites for locating telecommunications structures:

1. Any new facility co-located on an existing approved telecommunications structure or on a building roof or facade already containing approved antennas, often broadcasting at different frequencies and operated by different providers.
2. Any new facility located on an existing tall building or structure provided it is positioned strategically and not visible from the public right-of-way and designed to fully mitigate its visual impacts.
3. Located in properties zoned for Commercial, Office, Industrial, Medical, Public and Semi-Public uses.
4. Located on existing structures including, but not limited to, PG&E towers, light poles, water tanks, bell towers, existing flagpoles, etc.
5. Located on a City-owned property used or designated for public/semi-public use as deemed appropriate by the Zoning Administrator.

D. PG&E transmission line corridor. Telecommunications facilities proposed within the PG&E transmission line easement shall comply with the following minimum standards:

1. The proposal shall include design mitigation strategies to avoid an “antenna farm” effect and reduce visual impacts to the adjoining neighborhoods. These strategies may include, but are not limited to, strategically positioning of the antennas, placement of smaller antennas, limiting the number of antennas per PG&E tower, stealth antenna design, decorative landscaping, etc. In addition, the City may require participation in any existing master landscaping plan for the PG&E corridor.
2. The proposal shall specify any new lighting, parking and/or noise associated with the project and applicable mitigation measures submitted for the Zoning Administrator review.

3. All equipment shelters shall be screened from view. Screening methods may include a combination of decorative landscaping and fencing.
4. The Zoning Administrator may require additional site improvements on the property or nearby to further mitigate for the visual effects of the antennas. These mitigation measures may include, but are not limited to landscaping improvements along the boundaries of PG&E property and residential properties, decorative fencing, public art, etc.

D4-44 - Permit Requirements

All wireless telecommunications facilities not specifically exempted from these regulations in accordance to this Ordinance are subject to one of the following permitting requirements:

- A. Minor Use Permit.** Telecommunications facilities meeting all the applicable standards of this Subsection require Minor Use Permit approval.

A notice of application will be sent to all property owners within a minimum 300 foot radius of the proposed site. Additional notification may be authorized by the Zoning Administrator consistent with Chapter D6-28 (Use Permits and Minor Use Permits). If neighborhood interest is identified by submittal of a written request for a public hearing, the zoning administrator shall require a Zoning Administrator hearing.

1. The proposal meets the applicable "preferred sites" criteria in Section D4-43.C;
2. The proposal presents no visual impact, is completely hidden from right-of-way view, is built below parapet line, or is fully screened and/or mitigated with a stealth design;
3. The proposal meets the setback and height limit requirements of the applicable zone;
4. The proposal meets all applicable design and development standards of this section; and
5. Proposals for utility cabinets (i.e. PG&E, phone company) containing a wireless component for data transmittal if cabinets are placed underground or shielded from view as deemed appropriate by the Zoning Administrator.

The Zoning Administrator may refer an application that meets these administrative review requirements, to the Architectural Review Board or to the Planning Commission if it is determined that the project may involve a significant design impact or policy issue.

- B. Design Review.** Applications for telecommunications facilities meeting all of the applicable standards of this Subsection are subject to design review and will be forwarded to the Architectural Review Board.

A notice of application will be sent to all property owners within a minimum 300 foot radius of the property. Additional notification may be authorized by the Zoning Administrator consistent with Subsection A. If neighborhood interest is identified, the Zoning Administrator may require a Zoning Administrator hearing.

Standards:

1. Telecommunications structures or building-mounted antennas extending above the maximum allowed height of a zone by no more than 10 ft.;
2. The proposed facility is architecturally integrated or stealth fully designed as seen from sensitive areas such as residential areas, public right-of-way, scenic vistas and recreational areas;
3. The proposal includes artificial lighting;
4. The proposal meets all applicable design and development standards of this section;
5. Utility cabinets containing a wireless component (i.e. PG&E) proposed within a City right-of-way;
6. Satellite dishes over one meter in diameter or exceeding the maximum allowed height in residential zones;
7. Satellite dishes over two meters in diameter in commercial, industrial and office zones; and
8. Amateur radio antennas exceeding 35 feet, but less than 50 feet in height.

The Zoning Administrator may refer an application that meets the above design review requirements to the Commission if it is determined that the project may involve a significant design impact, policy issue, or deemed to be highly controversial.

- C. Use Permit.** A Use Permit application shall be required for all telecommunications facilities meeting any applicable standards of this Subsection. The Commission shall be the decision-maker for the Land Use Permit application.

The Zoning Administrator shall be responsible for determining whether a project subject to a Use Permit shall also be reviewed by the Architectural Review Board for design recommendations.

Standards:

1. Telecommunications facilities projecting over 10 ft. above the maximum zone height;

2. New telecommunications structures, not meeting the co-location standards and without proper justification as established in Subsection D.1;
3. Telecommunication facilities visible from the right-of-way which would require design mitigation;
4. Telecommunications facilities located within residentially zoned properties;
5. Amateur radio antennas exceeding 50 ft. in height;

D. Modification to approved project. The following modification criteria streamline the process by establishing an appropriate level of review for changes to plans, operating standards, and design of previously approved telecommunications facilities.

The Zoning Administrator is responsible for making any interpretations required to determine which level of modification is applicable, whether a modification application meets the intent of this Section or if a new application is required.

The five-year life of project approval, and all subsequent five-year renewals specified in D4-46.C shall be counted from the original project approval date and not from the modification approval date.

1. **Minor modification.** Any proposed modifications deemed to be in substantial compliance with the original project may be approved administratively if it meets the following applicable criteria:
 - a. Changes are consistent with the requirements of this Chapter; Ordinance;
 - b. The changes are part of standard maintenance, which could include equipment replacement of substantially equal appearance provided it uses identical technologies. The applicant would be responsible for providing a written statement by the appropriate professional demonstrating compliance with this requirement;
 - c. Changes result in an insignificant revision to the floor plan, physical details or site layout not affecting compliance with the original project approval and the provisions of this Ordinance;
 - d. The changes are not noticeable or insubstantial such as:
 - (1) Minor color changes,
 - (2) Minor landscaping changes,
 - (3) Minor material specification or architectural detail changes, if of equal or greater quality.
 - e. Changes comply with FCC requirements. The applicant would be responsible for demonstrating compliance with this requirement;

- f. Proposal does not reflect changes to a condition of project approval;
- g. Changes do not involve issues of public policy and are not likely to generate neighborhood interest or concern;
- h. If there is an increase in the number of antennas proposed, not to exceed 25 percent the original approval, provided the increase does not create a negative visual impact, and an updated RF Emissions Evaluation Report is submitted specifically addressing the proposed increase;
- i. Proposal does not involve increase of more than 10 percent in antenna height;
- j. Proposal does not reflect changes to an item specifically approved or discussed during the original project hearing as reflected on meeting minutes or tapes; and
- k. Changes meet the intent of original project approval and do not involve significantly different design concepts. Any architectural or design changes shall maintain or upgrade the quality of the original approval;

The Zoning Administrator shall be responsible for determining which of the submittal materials are necessary for modification evaluation, other than those documents described in this Subsection, in addition to plans demonstrating the proposed change.

- 2. **Major modification (ARB, ZA or PC).** If an application does not meet the criteria to be considered a minor modification as specified in this Section, then the proposal requires a new application.
- 3. **Modification findings.** An approval of a modification to a facility shall adopt findings of fact to include all findings listed in Section F. in addition to the following:
 - a. The proposed change is consistent with the original telecommunications facility and does not require the complete redesign and submittal of a new project; and
 - b. That the proposed change does not result in lack of compliance with the development standards approved with the original telecommunications facility project.
- E. **Variance.** The applicant of a telecommunications facility proposal not meeting the standards established in this Ordinance is entitled to request a Variance in compliance with Section D6-29 (Variances). The variance process is subject to the Zoning Administrator or Commission review and may be approved, denied, or approved with conditions.
- F. **Findings for approval or denial.** The decision maker, as determined by this ordinance, when approving or denying an application for a telecommunications facility, shall adopt findings of fact.

1. Findings for approval shall include, but not be limited to:
 - a. That the proposed telecommunications facility complies with the intent of this Chapter and shall not result in conditions that would be detrimental to the public health, safety or welfare of the community;
 - b. That the facility was designed to protect the visual character of the City of San Ramon, and any adverse visual impacts of development have been mitigated to a level of less than significant;
 - c. That the proposal complies with the General Plan and any other land use plan, policies and guidelines adopted by the City including, but not limited to, the Zoning Ordinance and adopted Specific Plans;
 - d. That the proposed height of the facility is needed for adequate electromagnetic reception and that a reduced height is not feasible;
 - e. That the site is suitable for the type and intensity of development proposed, and that the location, size, design and operating characteristics of the proposed facility are compatible with adjacent uses and natural resources; and
 - f. That the proposal complies with the requirements of any other governmental agency with jurisdiction over the installation of a telecommunications facility including, but not limited to, the Federal Communications Commission (FCC) regulations and permit requirements.
2. The decision-maker may deny an application for a telecommunications facility if it is not consistent with the provisions of this Chapter. If the project is denied, findings for denial shall be adopted.

D4-45 - Performance Standards and Maintenance

- A. Noise.** All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to sensitive areas such as residences, schools, churches or hospitals. The use of back-up generators shall be limited to during power outages and for the purposes of maintenance and testing.

The Zoning Administrator may request a noise analysis to evaluate whether noise attenuation measures are needed when a facility is located within 100 feet of a residence, school, church or hospital, and generates noise levels, measured at the property lines, exceeding those established in Section D3-8 (Performance Standards) as follows:

1. Maximum 60 dBA during daytime;
2. Maximum 55 dBA between the hours of 10:00 p.m. and 7:00 a.m. as measured at the closest property line of a residential property; and
3. Sound levels shall be measured in decibels (dBA). Noise descriptors used for analysis shall be in DNL (Day-Night Average Level) or CNEL (Community Noise Equivalent Level) consistent with the Noise Element of the 2020 General Plan.

- B. Interference.** All telecommunications facilities, including HAM radio antennas, shall be operated in compliance with Federal Communications Commission (FCC) regulations for signal interference, including, but not limited to, interference with other telecommunications facilities and household electronics (radios, phones, TV's, etc;).

When interference occurs, the Zoning Administrator may require that the carrier responsible for the cell site in question submit an analysis/statement prepared by a licensed Electrical Engineer containing scientific evidence whether the claimed interference is caused by the cell site. If interference is proven to occur, the antenna owner/operator or service carrier shall be responsible for mitigating the effects of the interference. If a reasonable good-faith effort is not made by the antenna owner/operator toward resolving or mitigating the interference problems, revocation proceedings may be initiated.

- C. Maintenance & Safety.** All telecommunication facilities shall be reviewed and comments provided by the San Ramon Valley Fire Protection District, San Ramon Police Department, and must comply with the Uniform Building Code (UBC) and any conditions imposed by the Building Official, Fire Chief, Police Chief and the Zoning Administrator.

Telecommunications towers and antennas shall be designed to remain in operation during a disaster. All possible measures to protect against fire, flood, earthquake, etc., shall be made.

Wireless communication facilities may be required to provide warning signs, fencing, anti-climbing devices, or other techniques to control unauthorized access and vandalism and shall be maintained graffiti free and in good condition. The design of any fencing and anti-climbing devices shall be subject to the Zoning Administrator review and approval, who may at his/her discretion require a maintenance agreement to address these issues.

- D. RF Emission Monitoring.** Telecommunication facilities, whether operating alone or in conjunction with other facilities shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission (FCC) and in compliance with the standards in this Chapter.

An annual RF exposure report may be required as a condition of approval for all wireless telecommunications projects. The report shall be prepared by a certified NIER Professional and submitted to the Zoning Administrator to ensure that no modifications to the site, surrounding environment, or equipment wear and tear have caused an increase in RF exposure over the years. In the event an increase over accepted levels is detected, the applicant shall be responsible for immediately making all necessary adjustments to comply with FCC standards; otherwise revocation proceedings shall immediately begin.

An updated RF emission report may be required as part of an administrative ten-year life of approval renewal and for every subsequent ten years required under Section D4-46.C.

- E. Confirmation of Height.** The Zoning Administrator may require, as a condition of project approval, that a licensed surveyor verify the telecommunications facility height within 60 days of the telecommunications tower, antenna or facility installation. If the height confirmation procedure is requested, the applicant shall be responsible for coordinating the procedure and submit the licensed surveyor's statement of actual height.
- F. Performance and Maintenance Agreement.** The City may require, as a condition of project approval, that the applicant for a telecommunications facility enter into a Performance and/or Maintenance Agreement with the City of San Ramon prior to initiating construction.

The terms of the agreement may include items to ensure compliance with the provisions of this section, as well as a requirement that the applicant post a financial security to ensure that the approved facility is properly installed, maintained and to guarantee that the facility is dismantled and removed in accordance to the provisions of this section.

The financial security may be a bond or letter of credit acceptable to the City of San Ramon. The amount of the bond shall be based on a cost estimate equal to 125% of building permit evaluation based on the amount needed to return the facility and surrounding area to its original condition.

- G. Abandoned Sites.** A telecommunication facility shall be removed and the site restored to its prior condition if the business vacates or no longer operates the facility.

D4-46 - Administration

- A. Notification.** A minimum 10-day notice of public hearing shall be sent to all property owners within a 300-foot radius of the parcel where the proposed facility is to be located. The Zoning Administrator may also require noticing of projects subject to the administrative review process and/or extend the minimum 300-foot radius to include geographic areas immediately outside the 300-foot radius and potentially affected by the project.
- B. Appeal.** A decision of the Zoning Administrator may be appealed in compliance with Chapter D7-II (Appeals and Calls for Review).
- C. Duration of approval.** Unless otherwise established in the project's conditions of approval, all approvals for telecommunications structures shall be valid for a minimum initial period of ten years, at which time the City may require an administrative review to verify compliance with original project approval and all applicable provisions of this section. The administrative review may be required every ten years.

If an administrative review is requested, an updated RF Emissions report shall be prepared by a NIER Professional and submitted with the application verifying compliance with current State and Federal standards. In addition, the Building Official may require that the facility be upgraded to meet current requirements of the Uniform Building Code, if deemed necessary to protect the public health, safety and welfare.

- D. Lapse of approval.** The approval of any telecommunications administrative review, Land Use Permit, Design Review or Modification application authorizing installation or changes to a telecommunications structure and related facilities shall become null and void if any of the following occurs:
1. The project is not implemented/constructed within one-year of its approval, or
 2. The project is implemented/constructed, and its approval has expired, or an extension not granted beyond the original life of project approval. If the facility is co-located with other carriers approved at different dates, a separate expiration date will be applicable to each carrier/applicant according to their original approval dates.
- E. Expiration or abandonment of permits.** Any discretionary planning approvals shall become null and void if lease or rental agreements pertaining to the property on which the telecommunications structure or related facility is located expires or is terminated, and if the facility is abandoned or use is discontinued for more than six months. After this period, a new permit consistent with the provisions of this ordinance would be required to re-instate the project.
- F. Permit revocation.** In the event of any breach of this Chapter, conditions of approval, or other required agreements of the permit, the City shall notify the applicant and schedule a revocation hearing in accordance with Division D6 (Planning Permit Procedures).

- G. Removal of facilities and change of ownership.** The applicant shall be responsible for notifying the Zoning Administrator in writing upon temporary or permanent cessation of operation, or change of ownership of any telecommunications facility. The applicant and/or property owner shall be responsible for removal of all obsolete or unused facilities, or portions thereof, within six months of termination of lease, cessation of operation, permit expiration or revocation. The site shall be restored to its original condition to the satisfaction of the Zoning Administrator.
- H. Pre-existing & non-conforming uses or structures.** All telecommunications towers and antennas legally approved prior to the date this Chapter was adopted shall be allowed to continue as they presently exist and will be considered legal non-conforming uses and structures, provided that all proper building permits were approved. Some facilities may be considered legal conforming uses and structures depending on the original project approval. However, new construction, other than routine maintenance (as determined by the Director) on the existing facilities, shall comply with the requirements of this Chapter.

All previous discretionary planning approvals shall only remain in effect until its permit expires, is abandoned or revoked in accordance to the provision of this Chapter.

- I. Changes in Federal or State regulations.** All telecommunications facilities shall meet current standards and regulations of the Federal Communications Commission (FCC), California Public Utilities Commission (CPUC), and any other agencies with authority to regulate wireless telecommunications service providers. If existing standards or regulations are changed, the applicant shall bring its facilities into compliance with the new standards within 90 days of the effective date of such standards, unless the Federal or State agency mandates a more restrictive compliance schedule. Changes to approved projects are subject to the Modification process in accordance with this Chapter.

Failure to comply with adopted new State or Federal requirements shall trigger the revocation procedure in accordance to Subsection F.

- J. Map and list of locations.** The City will maintain a map of telecommunications facilities within the city and shall make the information readily available to the public. The facilities mapped shall include those which were subject to the discretionary review process of this Chapter and were ultimately approved and constructed.

Facilities approved and installed prior to the adoption of this Ordinance will be included in the map to the best of staff's knowledge. It is the responsibility of the telecommunications providers to inform the City of their pre-existing facilities and any changes in the carrier's status including name, ownership, and whether the wireless business/facility has been discontinued.

- K. Indemnity and liability.** The telecommunications service provider shall defend, indemnify and hold harmless the City or any of its boards, commissions, agents, officers, and employees from any claim, action, or proceedings against the City, its boards, commissions, agents, officers, and employees to attack, set aside, void, or annul the approval of a project. The City shall notify the telecommunications service provider of any such claim,

action or proceeding. The City shall have the option of participating in the defense, if the City bears its own attorney fees and costs, and the City defends the action in good faith.

Telecommunications service providers shall be strictly liable for any and all sudden and accidental pollution and gradual pollution from usage of their service/facilities within the City. This liability shall include cleanup, injury or damage to persons or property. Additionally, telecommunications service providers shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of release of pollutants from their operations.

Telecommunications service providers shall be strictly liable for any and all damages resulting from electromagnetic waves or radio frequency emissions in excess of the Federal Communications Commission (FCC) standards.

- L. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications of the ordinance. To this end, the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

D4-47 through D4-54 - Reserved

Chapter V – Interim Secondary Dwelling Unit Permitting Program

Sections:

- D4-55 – Interim Secondary Dwelling Permit
- D4-56 - Standards for a Secondary Dwelling Unit
- D4-57 - Reserved
- D4-58 - Reserved
- D4-59 - Secondary Dwelling Units Within, Attached, or Detached to an Existing Dwelling Unit
- D4-60 - Fees
- D4-61 - Reserved
- D4-62 - Reserved
- D4-63 - Reserved
- D4-64 - Reserved
- D4-65 - Reserved
- D4-66 - Reserved
- D4-67 - Reserved
- D4-68 - Reserved
- D4-69 - Reserved
- D4-70 - Reconstruction after Damage or Destruction
- D4-71 - Recordation
- D4-72 - Reserved
- D4-73 - Reserved

D4-55 – Interim Secondary Dwelling Permit

On or before May 28, 2010, an owner may apply for a Secondary Dwelling Unit permit for an existing residential second unit, subject to the standards set forth in Section D4-56. Verification of date of construction and occupancy of the proposed Secondary Dwelling Unit may be accomplished by reference to but not limited to the following:

- A. County Assessor's records;
- B. Rental contracts and/or receipts;
- C. Income tax records;
- D. Utility bills; and/or
- E. Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury.

D4-56 – Standards for a Secondary Dwelling Unit

To qualify for a permit for a secondary dwelling unit under provisions of this Chapter the proposed secondary unit must meet the following standards:

- A. The proposed secondary unit is located in a single-family or multifamily residential zoning district.
- B. The proposed secondary unit was constructed and occupied prior to January 1, 2009.
- C. The owner has maintained either the residence or the proposed secondary dwelling unit as his or hers primary residence.
- D. The primary and secondary dwelling units have satisfactorily completed an inspection by the City of San Ramon Building and Safety Division.
- E. One parking space, 9-feet by 19-feet has been provided outside the required front yard set back in addition to the required or existing parking for the primary residence.

D4-57 – Reserved

D4-58 – Reserved

D4-59 – Secondary Dwelling Units Within, Attached or Detached to an Existing Dwelling Unit

- A. A secondary unit constructed within an existing dwelling, attached to an existing dwelling or detached shall contain at least 350 square feet, but not more than 35 percent of the net floor area of the existing dwelling up to a maximum of 1200 square feet. In addition, the net floor area of the existing dwelling shall not be reduced by more than 20 percent to accommodate a secondary unit.
- B. The secondary unit shall include no more than two bedrooms and two bathrooms.
- C. The existing unit may be considered the secondary unit, and a new dwelling unit may be built, if all applicable standards and requirements of this Zoning Ordinance are met.

D4-60 – Fees

All required Community Development Department fees for SDUPP applications, including fees for planning-related services; building permit, plan check, and other related services. Assistance with paying permitting fees may be available through the City's Housing Rehabilitation Program, for those who meet the income requirements.

D4-61 through D4-69 – Reserved

D4-70 – Reconstruction after Damage or Destruction

A residential second unit that is legalized with a SDUPP will be considered a nonconforming unit. The reconstruction of a nonconforming residential second unit damaged or destroyed by natural disaster or as the result of an emergency may be allowed subject to compliance with the requirements of City of San Ramon Code Section D4-39 and D7-2. If the damage represents 50 percent or more of the fair market value of the residential second unit in the fiscal year when the damage occurs, the replacement unit shall meet the standards for a new second unit, including compliance with current zoning and building.

D4-71 – Recordation

A Second Dwelling Unit Permit granted in compliance with the above sections shall be recorded in the County Recorder's Office in reference to the subject property.

D4-72 – Reserved

D4-73 – Reserved

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