



FAIRFAX TOWN COUNCIL MEETING

STAFF REPORT

MEETING DATE	November 1, 2023
PREPARED FOR	Mayor and Town Council
PREPARED BY	Jeffrey Beiswenger, AICP, Building & Planning Director
SUBJECT	Second Reading by Title only and Adoption of an ordinance amending Title 17 (Zoning) and Title 15 (Buildings and Construction) of the Fairfax Municipal Code to add or amend the following chapters: add Chapter 17.010 (Rules of Measurement); add Chapter 17.026 (Ministerial Approvals for Qualifying Housing Developments); add Chapter 17.027 (Procedures for SB 330 Application for Housing Developments); add Chapter 17.050 (Affordable Housing Density Bonus); amend Chapter 17.006 (Definitions); amend Chapter 17.020 (Design Review Regulations); amend Chapter 17.024 (Required Permits); amend Chapter 17.032 (Use Permits); amend Chapter 17.040 (General Zone Regulations); amend Chapter 17.044 (Exceptions and Modifications); amend Chapter 17.048 (Residential and Accessory Dwelling Units and Junior Accessory Dwelling); amend Chapter 17.052 (Off-Street Parking and Loading Requirements); amend Chapter 17.056 (Traffic Impact Permit); amend Chapter 17.076 to 17.090 and 17.116 (Related to Residential Zones); amend Chapter 17.138 (Regulations Applying in Multiple Zone Districts), and amend Chapter 15.04 (Construction Codes).
CEQA	The adoption of the Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance Amendment will have a significant effect on the environment.

RECOMMENDATION

Waive second reading and read by title only an "Ordinance Amending Title 17 (Zoning) and Title 15 (Buildings and Construction) of the Fairfax Municipal Code by Adding the Following New Chapters: Chapter 17.010 (Rules of Measurement), Chapter 17.026 (Ministerial Approvals for Qualifying Housing Developments), Chapter 17.027 (Procedures For SB 330 Applications for Housing Developments), and Chapter 17.050 (Affordable Housing Density Bonus) and Amending the Following Chapters: Section 17.008.020 of Chapter 17.008 (Definitions), Chapter 17.020 (Design Review Regulations), Chapter 17.024 (Required Permits), Chapter 17.032 (Use Permits), Chapter 17.040 (General Zone Regulations), Chapter 17.044 (Exceptions Modifications and Waivers), Chapter 17.048 (Residential Accessory Dwelling Units and Junior Accessory Dwelling Units), Chapter 17.052 (Off-Street Parking and Loading Requirements), Chapter 17.056 (Traffic Impact Permit), Chapter 17.076 (RS-7.5 Single-Family Residential Zone, Medium Density), Chapter 17.080 (RS-6 Single-Family Residential Zone, High Density), Chapter 17.084 (RD 5.5-7 Residential Zone, High Density), Chapter 17.088 (RM Multiple-Family Residential Zone), Chapter 17.090 (RM-S Multiple-Family Residential – Senior – Residential Zone), Chapter 116 (SF-RM Single-Family Residential Master Planned District), Chapter 17.136 (Floor Area), Chapter 17.138 (Regulations Applying in Multiple Zoning Districts), and Chapter 15.02 (Construction Codes) and Determining The Ordinance to be Exempt from CEQA."

BACKGROUND

The ordinance under consideration is to amend Title 17 (Zoning) and Title 15 (Construction Codes) of the Fairfax Municipal Code. The chapters to be updated are listed in the recommendation above.

The proposed ordinance updates to the Fairfax municipal code are an important part of bringing the code into compliance with state law and helping to streamline development review. Over the past several years California

has adopted a collection of planning and housing laws, the proposed code amendments will help bring the Town into compliance with these laws. The municipal code, particularly Title 17 (Zoning) is difficult to interpret and includes onerous processing requirements. The amendments are intended to help streamline development processing, as required by State law.

The collection of zoning and building code amendments included as part of the attached ordinance are referred to as “module one” since two other modules are proposed for consideration at a later time. These other two modules require additional analysis under the California Environmental Quality Act (CEQA), and will come before decisionmakers when the CEQA analysis is complete. Amendments included in attached module one are primarily technical in nature, many are required by State law and the proposed text amendments are exempt from CEQA review.

The Planning Commission conducted a public hearing on September 14, 2023 and continued the item to September 21 to allow for robust public comment and discussion by Commissioners. On September 21, 2023 the Planning Commission forwarded a recommendation to the Town Council. A summary of the Planning Commission discussion is included later in this staff report.

The [October 18, 2023](#) reading served as a first reading; this is the second reading for adoption at a regular Council meeting. If adopted, the ordinance would take effect in 30 days.

DISCUSSION

This first ordinance amends Title 17 (with minor amendments to Title 15). Also included within the ordinance are internal consistency amendments, additional definitions, and rules of measurement to facilitate administration of these new regulations. This ordinance has been drafted to meet the following objectives:

- To organize zoning amendments in a logical, user-friendly format that can be readily integrated into the regulatory framework that has been established in Title 17;
- To ensure internal consistency as well as consistency with the General Plan and federal and State law;
- To provide opportunities for affordable housing density bonuses consistent with the State density bonus law;
- To add specific design standards multi-family housing, manufactured housing, residential care, supportive housing, transitional housing, and tiny houses that are appropriate for the Town;
- To avoid creation of nonconforming structures and other needless nonconformities which could occur with overly detailed design standard for single family;
- To clarify design review and decision-making responsibilities when ministerial approval of housing development is required by State law; and
- To streamline project review and approval procedures as required for certain affordable housing projects, as required by State law, using objective development standards that can be administered with checklists.
- Allow for “Tiny Housing” by references “Appendix Q” of the State Building Code.

Organization of the Ordinance

The introductory section of the adopting ordinance sets forth the framework for the amendments, which are organized into six exhibits (A to F), described as follows:

- A. Includes specific guidance on determining compliance with standard by using “rules for measurement” which is good practice, and the new chapters required to implement State law: 1) procedures for ministerial approvals for qualifying housing developments (SB 35 projects); 2) procedures for SB 330 applications for qualifying housing developments; and 3) provisions for an affordable housing density bonus program, which tiers of the State density bonus law.
- B. Adds definitions. Only the new definitions are shown to avoid unnecessary length as none of the existing definitions are modified.

- C. Technical amendments needed including 1) amendments to the design review regulations so the criteria focus on objective standards; 2) amendments to provisions for zoning permits to include references to objective standard and clear authority to modify or revoke an approval; 3) amendments to provisions for use permits, adding references to objective standards; and 4) amendments to provisions for general regulations and exceptions and modifications to introduce authority for granting waivers, subject to strict limits and findings; 5) amendments to exempt affordable housing from a traffic impact fee as required by State law, and 6) amendments to slightly reduce parking standards for one-bedroom units (please see Changes to Parking Regulations section below for additional detail). These amendments also include rules for granting reasonable accommodation for persons with disabilities and for religious institutions, which can be done through the new waiver provisions. Objective Design and Development Standards (ODDS) are now required by State law, and the Town received grant funds to work with a Countywide ODDS effort.
- D. “Clean-up” amendments to the recently adopted regulations (Ordinance 846) for accessory dwelling units to reflect current State law and to clarify some minor inconsistencies related to allowable building height.
- E. Amendments to the regulations for the individual zones for residential development and, in the supplemental regulations in Chapter 17.138, provisions for residential care, supportive housing, and transitional housing and design standards for multi-family development which will apply in the RM zones, as required by State law.
- F. Amendments to Title 15 to add Appendix Q (Tiny Housing) from the International Residential Code to the list of construction codes adopted. This responsive to requests previously made by community and Council Members.

As a follow-up to ordinance adoption, Town staff would need to prepare an SB 35 application for ministerial review and checklists based on the draft ordinance. HCD’s uniform template for an SB 330 application can be used and no Town application form would be needed for those applications.

How to Read Ordinance Amendments

The intent of Exhibits A to F is to clearly indicate what would be changed in the Municipal Code without replicating entire chapters of the existing code. Including entire chapters would waste paper if printed and would include extraneous information that is not needed for the Town Council to understand the intent of the amendments. Various common types of formatting techniques have been used to indicate changes, as follows:

- Plain text (no underline or strike-out) indicates no change to existing code language;
- Underlined text indicates text to be added;
- ~~Strike-out text~~ indicates text to be removed;
- The ... symbol indicates where the text in the existing chapter or section is to remain unchanged in the existing code.

This symbology will be helpful when adopted and sent to the code publishing company to incorporate on the Town’s municipal code website. Some of the unchanged (plain) text is only included to provide context for the Town Council so that it can be clearly understood where changes are being made.

Objective Design and Development Standards

Zoning ordinance amendments are proposed to provide objective design and development standards, encapsulated within each zoning district. The provisions include specific objective criteria for design review. Standards are expressed as “shalls” (instead of “shoulds”) to eliminate arbitrary interpretations. Some design flexibility is included to correspond with the variable lot sizes and dimensions in Fairfax.

The overall approach to this first ordinance was to build on what the Town already has in place and “best practices” in peer communities and only introduce new standards where needed to address a missing element or ensure adequate buffering and screening of adjacent single-family neighborhoods.

General Plan Consistency

The proposed ordinance is consistent with the Fairfax General Plan. The proposed ordinance amendments are technical in nature and/or implement State law.

Planning Commission Public Hearing and Discussion

The Planning Commission was presented draft code language at the September 14 meeting and conducted a public hearing which was subsequently continued to September 21, 2023. Each proposed chapter was discussed at the September 14 and September 21 meetings and public comments were solicited. The Commission had the following comments related to the proposed draft and these have been incorporated into the version presented to the Town Council:

Rules of Measurement (Chapter 17.010)

This would be a new section of the zoning ordinance and is intended to assist with code interpretation. The Commission requested several updates to correct and clarify some of the rules, including:

- Using the term “mezzanine” instead of “loft” and adding a definition of mezzanine. Clarifying the size at which a mezzanine counts as a full floor.
- Clarification regarding the measurement of height by referring to a “reference plane” and clarifying the difference between a basement and a floor. These are particularly important determinate of height on the steep slopes found throughout Fairfax.
- Correcting details regarding the measurement of fence height, so that it is clear it is measured at the location of the actual fence and to allow for safety fence to be added on top of a retaining wall or a steep slope.
- Clarifying how underground construction is accounted for in terms of setbacks.
- Correcting the definition of lot coverage to include certain impervious surfaces (e.g. driveways).

Definitions (Chapter 17.088)

The majority of definitions in the current zoning ordinance will remain unchanged, so the proposed amendments only include the definitions to be added or the definitions that are to be amended. The Commission requested some additional definitions and some edits to proposed definitions. The following has been incorporated into the Town Council draft of the ordinance:

- The definition of “bedroom” was simplified.
- The definition of “defensible space” was amended to reference the Wildland Urban Interface Zone (WUI).
- A definition for “mezzanine” was added.
- The definition of “Open Space, Common” was simplified in the staff recommended version, but the Commission was concerned regarding the removal of the indoor public spaces. Staff has added these back into the definition to provide this option.
- Minor edits were made to the definition of “tiny house.”

Changes to Building Height

In several zoning districts, a maximum height of 28.5 feet is established. The Commission considered and rejected a suggestion from staff to increase the allowable building height to 30 feet (from 28.5 feet). The intent of the 30 feet was to provide some additional design flexibility, but this flexibility can be achieved through the adjustment process if needed.

Changes to Design Review Regulations (17.020)

Staff proposed several new objective standards to protect neighboring properties. The Planning Commission suggested several minor revisions.

Changes to Parking Regulations (Chapter 17.052)

The zoning ordinance currently requires two parking spaces for all one-bedroom dwelling units (including detached homes, duplex, apartments, etc.). This has been identified as an impediment to development since it would be difficult to build apartment units under this minimum parking standard. A recommendation of 1.5 spaces for one bedroom unit was proposed. The Commission requested that the standard remain at 2 spaces for one-bedroom single family homes. Staff supports the Commission recommendation since it would not apply to multi-family units and not impede apartment construction. The Commission also requested a specific parking requirement for tiny houses of one space per unit.

Landscaping Requirements (Section 17.138.470)

The proposed amendments would add minimal landscaping requirements for new development. The Commission had concerns regarding fire safety but was satisfied that Section 17.138.470 (Landscaping), (I) requires vegetation management and compliance with Article VI (Vegetation Management in the Wildland Urban Fire Hazard Interface Zone).

Adding Clear and Objective Standards Related to Color

At the September 14th Planning Commission hearing, the Commission requested that staff incorporate colors into the objective design standards. In response, staff presented some ODDS related to building colors for Planning Commission consideration. Staff proposed adding a range of “earth tones” to the code as a required color palette for new buildings. The Commission was divided on whether or not to include limits on colors. Ultimately the Commission did not include color in the proposed code language, but has requested to the Council discuss the topic (staff will present this at the Public Hearing).

Tiny Houses

The Commission appreciated that standards for tiny houses were added to the code and that “Appendix Q” would be added to the building code. Appendix Q is an optional component of the State building code that allows for features specific to tiny houses (e.g. ladders, narrow stairways, lofts, etc.). The Commission requested a clarification regarding a “loft” in a tiny house versus a “mezzanine” and that was added to Section 17.138.520(C). The Commission also requested to add a parking requirement of one space for each tiny house.

Objective Development and Design Standards (ODDS)

The Commission appreciated the way the ODDS was integrated into the zoning code in a clear and straight forward manner. The Commission recommended the addition of graphics to the ODDS. Staff suggested working with the Commission in 2024 to develop an ODDS guidebook (versus overloading the code with numerous graphics).

Dark Sky

The Commission seeks to add additional dark sky provisions – particularly with regards to light temperature. As proposed, the code currently includes a definition for “fully shielded light fixture” which includes standards to direct lighting downward and to focus light where needed. A full complement of dark sky provisions are not currently included in the code. A true dark sky code would have reference to light temperature to avoid lights in the blue or white temperature (aka color) spectrum to avoid competing with starlight. Staff could develop additional code amendments related to dark sky, but it is recommended that these are done as a separate code amendment project.

The Planning Commission voted to forward a recommendation of approval of the ordinance amendments subject to the proposed Commission recommended changes with a 5-0 vote. One Commissioner was absent.

FISCAL IMPACT

n/a

ATTACHMENTS

- A. Ordinance
- B. Appendix Q

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING TITLE 17 (ZONING) AND TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE FAIRFAX MUNICIPAL CODE BY ADDING THE FOLLOWING NEW CHAPTERS: CHAPTER 17.010 (RULES OF MEASUREMENT), CHAPTER 17.026 (MINISTERIAL APPROVALS FOR QUALIFYING HOUSING DEVELOPMENTS), CHAPTER 17.027 (PROCEDURES FOR SB 330 APPLICATIONS FOR HOUSING DEVELOPMENTS), AND CHAPTER 17.050 (AFFORDABLE HOUSING DENSITY BONUS) AND AMENDING THE FOLLOWING CHAPTERS: SECTION 17.008.020 OF CHAPTER 17.008 (DEFINITIONS), CHAPTER 17.020 (DESIGN REVIEW REGULATIONS), CHAPTER 17.024 (REQUIRED PERMITS), CHAPTER 17.032 (USE PERMITS), CHAPTER 17.040 (GENERAL ZONE REGULATIONS), CHAPTER 17.044 (EXCEPTIONS MODIFICATIONS AND WAIVERS), CHAPTER 17.048 (RESIDENTIAL ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS), CHAPTER 17.052 (OFF-STREET PARKING AND LOADING REQUIREMENTS), CHAPTER 17.056 (TRAFFIC IMPACT PERMIT), CHAPTER 17.076 (RS-7.5 SINGLE-FAMILY RESIDENTIAL ZONE, MEDIUM DENSITY), CHAPTER 17.080 (RS-6 SINGLE-FAMILY RESIDENTIAL ZONE, HIGH DENSITY), CHAPTER 17.084 (RD 5.5-7 RESIDENTIAL ZONE, HIGH DENSITY), CHAPTER 17.088 (RM MULTIPLE-FAMILY RESIDENTIAL ZONE), CHAPTER 17.090 (RM-S MULTIPLE-FAMILY RESIDENTIAL – SENIOR – RESIDENTIAL ZONE), CHAPTER 116 (SF-RM SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT), CHAPTER 17.136 (FLOOR AREA), CHAPTER 17.138 (REGULATIONS APPLYING IN MULTIPLE ZONING DISTRICTS), AND CHAPTER 15.02 (CONSTRUCTION CODES) AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS, the Town of Fairfax, California (“Town”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, State law authorizes cities and towns to adopt and administer zoning ordinances to implement General Plans and requires that zoning regulations be consistent with the General Plan; and

WHEREAS, in recent years, the California Legislature has approved, and the Governor has signed into law, a number of bills that, among other things, amended the Government Code to streamline housing development approvals through use of objective standards for zoning, design review, and subdivision approvals, provide for affordable housing density bonuses and other incentives, require that certain types of housing be allowed by right (e.g., manufactured housing, qualifying housing developments with affordable units, residential care facilities, supportive housing, and

transitional housing), and impose new limits on local authority to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs); and

WHEREAS, the federal government and the California Legislature have adopted the federal Fair Housing Act, the Americans with Disabilities Act, the Religious Land Use and Institutionalized Persons Act, and the California Fair Employment and Housing Act which require that reasonable accommodations be provided for housing for persons with disabilities and for religious institutions where the Town's current development standards may unreasonably constrain construction meeting the needs of these protected people or institutions; and

WHEREAS, the Town desires to amend its local regulatory scheme for zoning regulations to implement the General Plan with the amended provisions of Government Code governing local zoning and development approvals; and

WHEREAS, there is a current and immediate threat to the public health, safety, or welfare if these regulations are not adopted within the timeframe set by the State for doing so, and the Town would thereafter be limited to applying the few default standards that are provided in Government Code; and

WHEREAS, on September 14, 2023, the Planning Commission of the Town of Fairfax conducted a duly noticed public hearing, considered public testimony, discussed to proposed code update and continued the discussion to September 21, 2023; and

WHEREAS, on September 21, 2023, the Planning Commission continued discussion on the code updates, received additional public testimony, consider amendment to code language and directed staff to make certain changes to the ordinance prior to the Town Council hearing and voted to recommend Town Council adoption of ordinance; and

WHEREAS, a duly and properly noticed public hearing regarding the Ordinance was conducted by the Town Council on October 18, 2023, and the Town Council carefully considered all pertinent testimony and the staff report offered at the public hearing.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are each incorporated by reference and adopted as findings by the Town Council.

SECTION 2. Adoption of this Ordinance does not constitute a "project" within the meaning of the California Environmental Quality Act of 1970 (CEQA) Guidelines Section 15061(b)(3).

SECTION 3. Title 7 of the Fairfax Municipal Code is hereby amended and restated to read in its entirety as provided in Exhibits A through F, attached hereto and incorporated

herein by reference (deletions shown in ~~striketrough~~ and additions shown in underline format). Ellipses (“...”) denote where text is not shown because no changes are proposed.

SECTION 4. This ordinance takes effect 30 days after second reading.

SECTION 5. The Town Clerk shall certify as to the adoption of this ordinance and within fifteen (15) days of its adoption shall post a certified copy of this ordinance in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building, located at 46 Park Road.

SECTION 6. The Town Clerk shall submit a copy of this ordinance to the California Department of Housing and Community Development within 60 days after adoption.

SECTION 7. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The Town Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

The foregoing ordinance was introduced at special meeting of the Town Council of the Town of Fairfax on the 18th day of October 2023 and duly passed, approved, and adopted at a regular meeting of the Council on the 1st day of November 2023, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Chance Cutrano, Mayor

Attest: _____
Michele Gardner, Town Clerk

EXHIBIT A (to Ordinance)

ADDING THE FOLLOWING NEW CHAPTERS: CHAPTER 17.010 (RULES OF MEASUREMENT), CHAPTER 17.026 (MINISTERIAL APPROVALS FOR QUALIFYING HOUSING DEVELOPMENTS), CHAPTER 17.027 (PROCEDURES FOR SB 330 APPLICATIONS FOR HOUSING DEVELOPMENTS), AND CHAPTER 17.050 (AFFORDABLE HOUSING DENSITY BONUS)

CHAPTER 17.010 RULES OF MEASUREMENT

Sections

<u>17.010.010</u>	<u>Purpose</u>
<u>17.010.020</u>	<u>General Provisions</u>
<u>17.010.030</u>	<u>Measuring Distances</u>
<u>17.010.040</u>	<u>Measuring Height</u>
<u>17.010.050</u>	<u>Determining Grade</u>
<u>17.010.060</u>	<u>Measuring Lot Width and Depth</u>
<u>17.010.070</u>	<u>Determining Average Slope</u>
<u>17.010.080</u>	<u>Determining Floor Area</u>
<u>17.010.090</u>	<u>Determining Floor Area Ratio</u>
<u>17.010.100</u>	<u>Determining Lot Coverage</u>
<u>17.010.110</u>	<u>Determining Lot Frontage</u>
<u>17.010.120</u>	<u>Determining Setbacks</u>
<u>17.010.130</u>	<u>Measuring Parking Lot Landscaping</u>
<u>17.010.140</u>	<u>Measuring Pedestrian Clearance</u>

§ 17.010.010 PURPOSE

The purpose of this chapter is to explain how various measurements referred to in this title and needed to determine compliance with objective standards and related requirements are to be calculated.

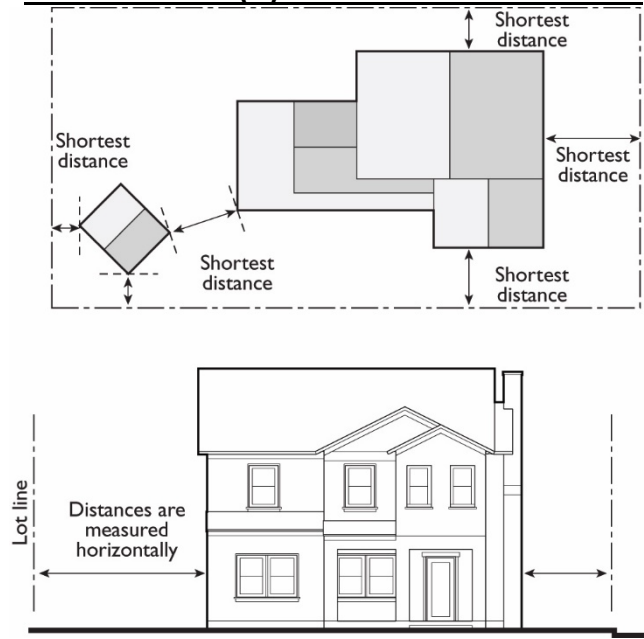
§ 17.010.020 GENERAL PROVISIONS

- (A) For all calculations, the applicant is responsible for supplying drawings illustrating the measurements that apply to a project. These drawings shall be drawn to scale and of sufficient detail to allow easy verification upon inspection by the Planning Director and the Planning Commission.
- (B) Whenever this title requires consideration of distances, parking spaces, dwelling units or other aspects of development or the physical environment expressed in numerical quantities, and the result of a calculation contains a fraction of a whole number, the results will be rounded as follows:
- (1) Fractions of one-half (0.5) or greater shall be rounded up to the nearest whole number, and fractions of less than one-half (0.5) shall be rounded down to the nearest whole number, except as otherwise provided.
 - (2) **Exception for State Affordable Housing Density Bonus:** the calculation of fractions related to permitted bonus density units for projects eligible for bonus density pursuant to Cal. Gov't Code § 65915 or any successor statute shall be done as provided by state law.

§ 17.010.030 MEASURING DISTANCES

- (A) When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.
- (B) When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography or slope of the land.
- (C) Unless otherwise specified, measurements involving a structure are made to the closest support element of the structure.
- (D) Measurement of a minimum travel distance for vehicles, such as garage entrance setbacks and stacking lane distances, are measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the center arc of the driveway or traffic lane.
- (E) When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject project, in all directions.

FIGURE 17.010 (A): MEASURING DISTANCES



§ 17.010.040 MEASURING HEIGHT

- (A) Building height shall be defined as the distance from finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest peak or gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building along the finished grade directly below. On lots with a grade change of 10 percent or more between the front and rear property lines, building height is measured from the

“grade plane” as determined in the following subsection, and height shall be measured from the measure point at the top of the building, as determined above, to the grade plane.

FIGURE 17.010 (B): MEASURING BUILDING HEIGHT

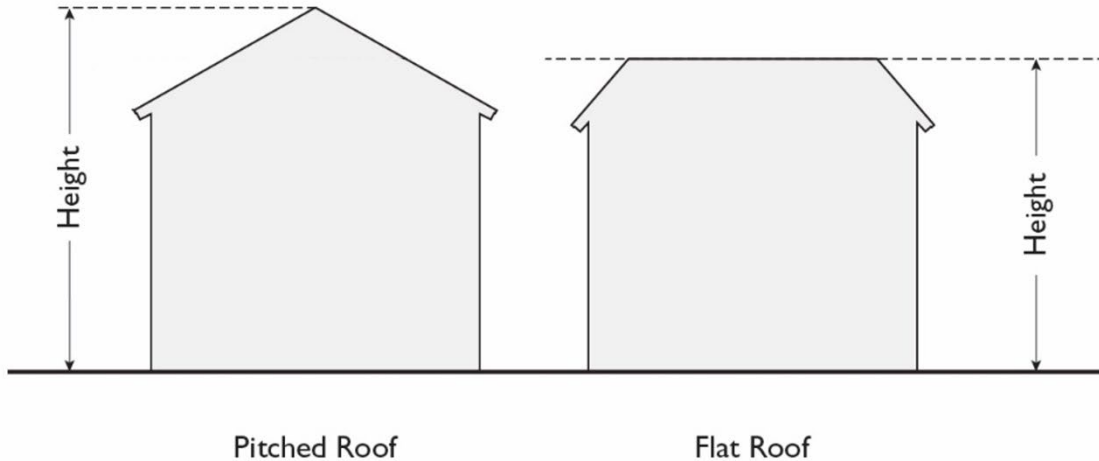
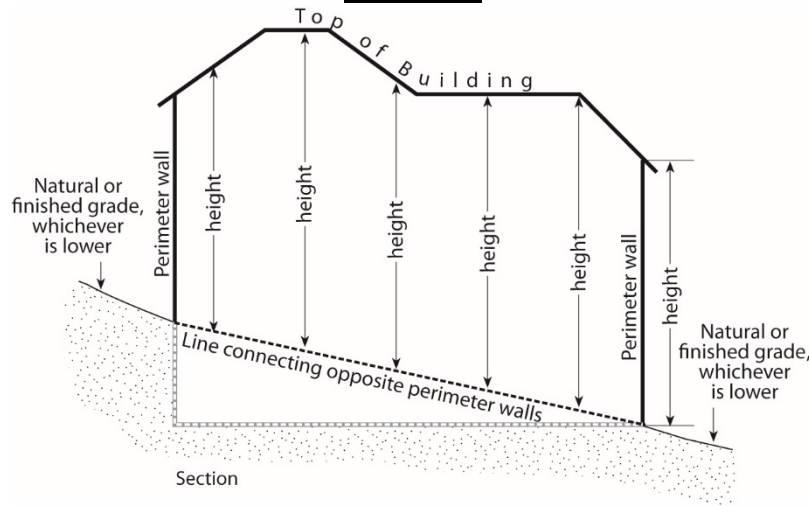


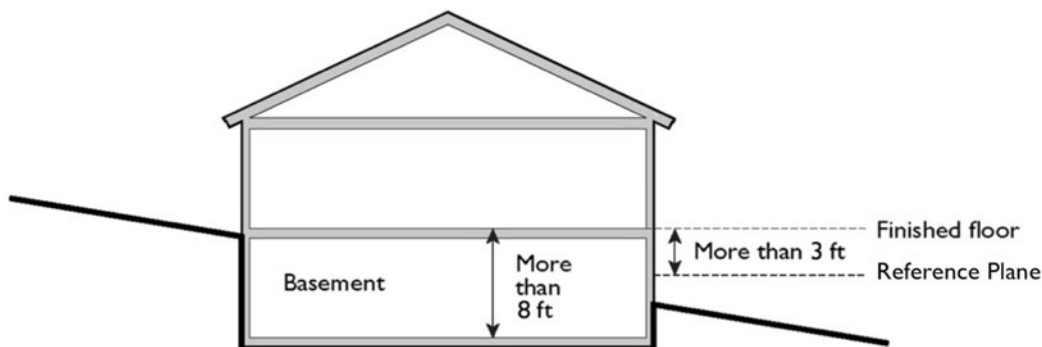
FIGURE 17.010 (C): MEASURING BUILDING HEIGHT OF A TERRACED OR STEPPED BUILDING



- (1) On lots with a grade change of 10 percent or more between the front and rear lot lines, or between the front lot line and its most distant point when there is no rear lot line, building height is measured from the adjacent natural or finished grade, whichever is lower, to the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.
- (2) **Exceptions.** Certain building features may exceed the height limits pursuant § 17.044.050.

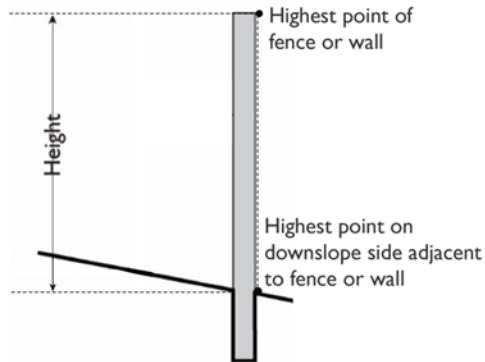
- (B) In measuring the height of a building in stories, the following measurement rules apply:
- (1) A mezzanine shall be counted as a full story if its floor area exceeds one-third of the total area of the nearest full floor directly below it or if it is enclosed on more than three sides.
 - (2) A basement shall be counted as a full story if the finished surface of the floor above the basement is:
 - (a) More than three feet above the reference plane established according to §17.010.050 (A)(1);
 - (b) More than eight feet above the basement floor at any point.

FIGURE 17.0410 (D): DETERMINING IF A BASEMENT IS A STORY



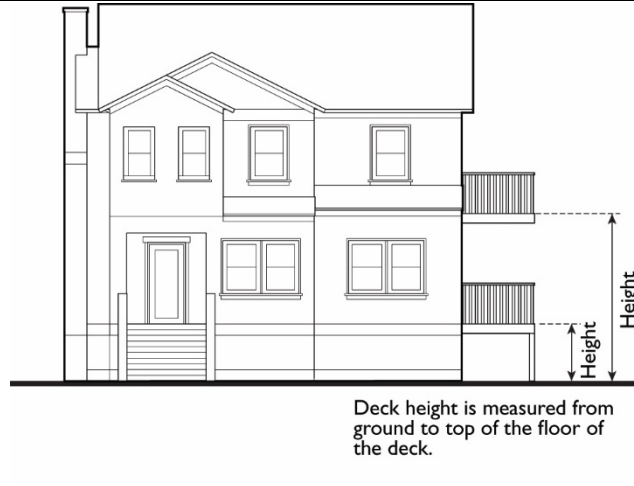
- (3) A story may not exceed 18 feet in height from the upper surface of the floor to the ceiling above.
- (C) The height of any fence or wall shall be determined from the downslope side of the wall by measuring the vertical distance from the highest finished grade adjacent to the fence or wall to the highest point of any portion of the fence or wall. In the case of fences or walls between the setback line and lot line, height shall be measured from highest finished grade on the downslope side adjacent to the fence or wall to the top of the fence or wall.
- (1) The height of a fence that is on top of a retaining wall is measured from the highest finished grade point on the downslope of any point on such fence to the highest point of the fence on the highest side of the wall. Any fence or railing required to comply with minimum height in applicable Building Code requirements is permitted.
 - (2) Any fence or railing required to comply with minimum height in applicable Building Code requirement is permitted.

FIGURE 17.010 (E): MEASURING HEIGHT OF FENCES AND WALLS



- (D) Deck height is the vertical distance from finished grade directly below the deck to the top of the floor of the deck.

FIGURE 17.010 (F): MEASURING HEIGHT OF DECKS

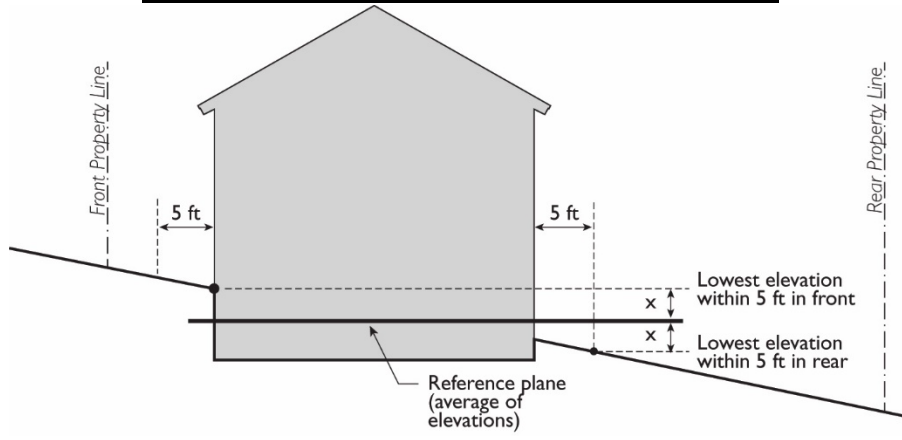


§ 17.010.050 DETERMINING GRADE

- (A) Grade is the location of the ground surface. For purposes of this chapter, the grade of a building used to determine building height shall be determined by one or more of the following:
- (1) **Existing Grade.** The existing elevation of the ground at any point on a lot. Existing grade also may be referred to as natural grade.
 - (2) **Finished Grade.** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the lot line, or when the lot line is more than five feet from the building, between the building and a line five feet from the building.

- (3) **Reference Grade Plane.** A reference grade plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference grade plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than five feet from the building, between the building and a point five feet from the building.

FIGURE 17.010 (G): REFERENCE GRADE PLANE



§ 17.010.060 MEASURING LOT WIDTH AND DEPTH

- (A) Lot width is the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- (B) Lot depth is measured along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line or to the most distant point on any other lot line where there is no rear lot line.

§ 17.010.070 DETERMINING AVERAGE SLOPE

The average slope of a parcel is calculated using the following formula: $S = 100(I)(L)/A$, where:

S = Average slope (in percent)

I = Contour interval (in feet)

L = Total length of all contour lines on the parcel measured from where the contour lines intersect with the property lines of the parcel (in feet)

A = Area of subject parcel (in square feet)

§ 17.010.080 DETERMINING FLOOR AREA

The floor area of a building is the sum of the gross horizontal areas of all floors of a building or other enclosed structure, measured from the outside perimeter of the exterior walls and/or the centerline of interior walls.

- (A) Floor area includes, but is not limited to, all habitable space (as defined in the Town's construction codes) that is below the roof and within the outer surface of the main walls of principal or accessory buildings, the centerlines of party walls separating such buildings or portions thereof, or lines drawn parallel to and two feet within the roof line of any building without walls. In the case of a multi-story building that has covered or enclosed stairways, stairwells, or elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.
- (B) Floor area does not include the following: mechanical, electrical, and communication equipment rooms that do not exceed two percent of the building's gross floor area; bay windows, decks, or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is 30 inches or greater; areas that qualify as usable open space; and, in non-residential buildings, areas used for off-street parking spaces or loading spaces, driveways, ramps between floors of a multi-level parking garage, and maneuvering aisles that are located below the finish grade of the property.
- (C) For non-residential uses, gross floor area includes interior walkways interior courtyards, walkways, paseos, and corridors covered by a roof or skylight. Non-residential gross floor area does not include arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.

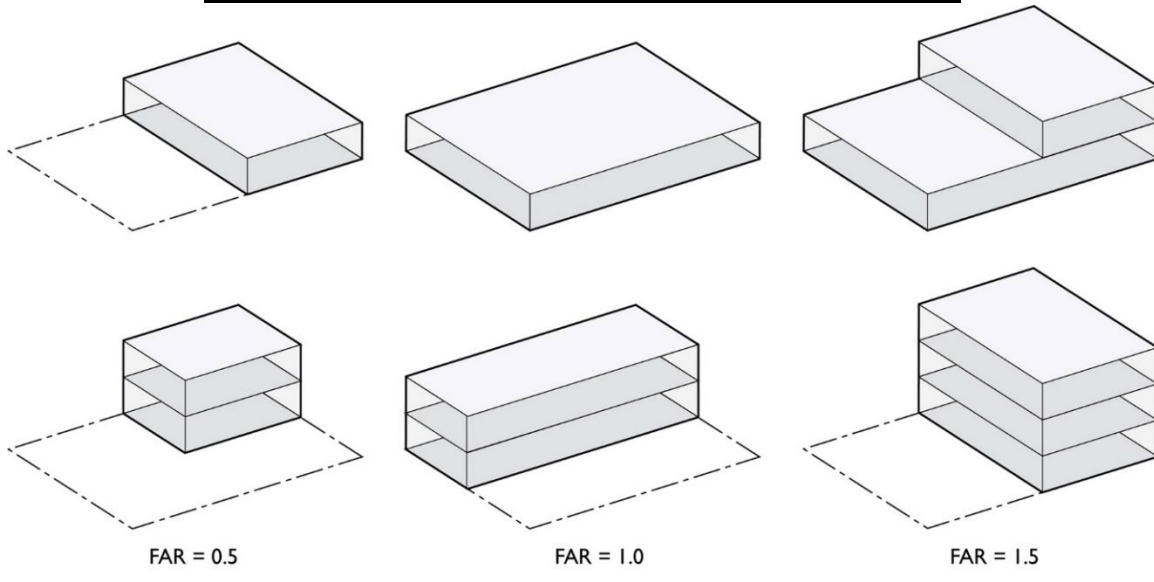
§ 17.010.090 DETERMINING FLOOR AREA RATIO

The floor area ratio (FAR) is the ratio of the floor area, excluding the areas described below, of all principal and accessory buildings on a site to the site area. To calculate the FAR, floor area is divided by site area, and typically expressed as a decimal. For example, if the floor area of all buildings on a site totals 20,000 square feet, and the site area is 10,000 square feet, the FAR is expressed as 2.0. See Chapter 17.136 for additional regulations that apply to existing structures. The following are excluded from the floor area when calculating FAR.

- (1) **Garages and Carports.** 500 square feet for a single-family residence; 800 square feet for garage space for a duplex; and 400 square feet for a townhouse constructed as a series of single-family dwellings.
- (2) **Parking for Multi-family Structures.** Parking areas located below finished grade or finished floor of habitable space where the vertical distance between finished grade and finished floor of the parking level is five feet or more.

Structured parking areas located above finished grade where the vertical distance between finished grade and the floor of the parking level is five feet or less.

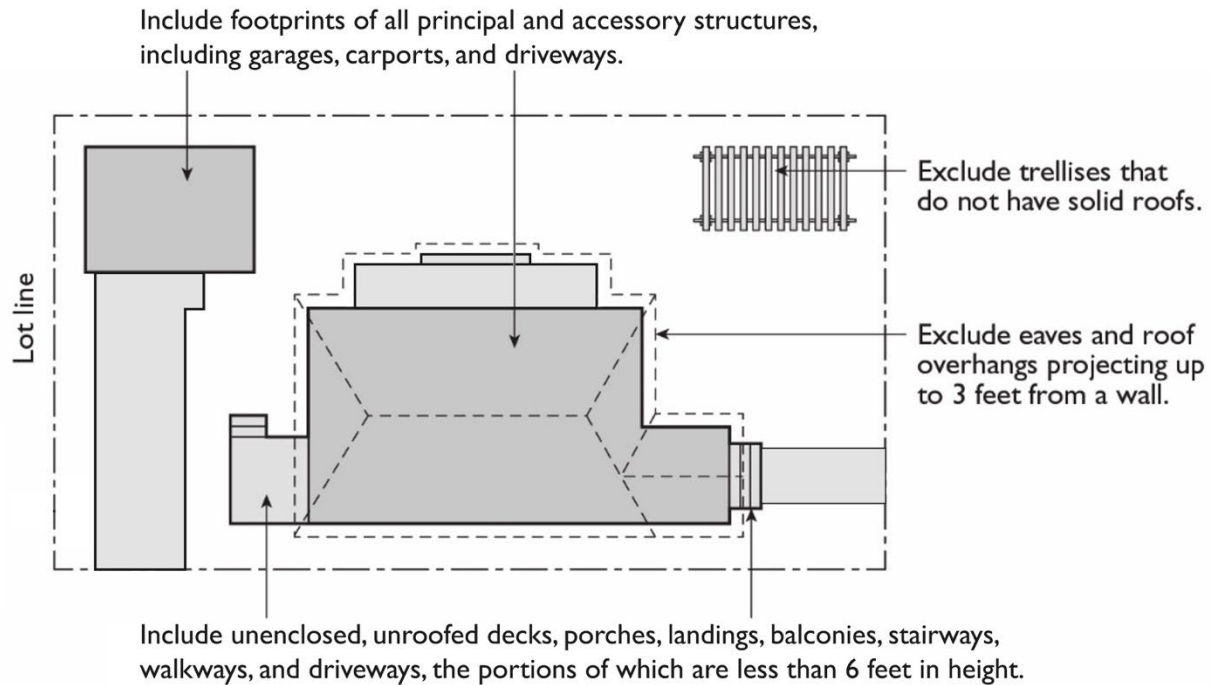
FIGURE 17.010 (H): DETERMINING FLOOR AREA RATIO



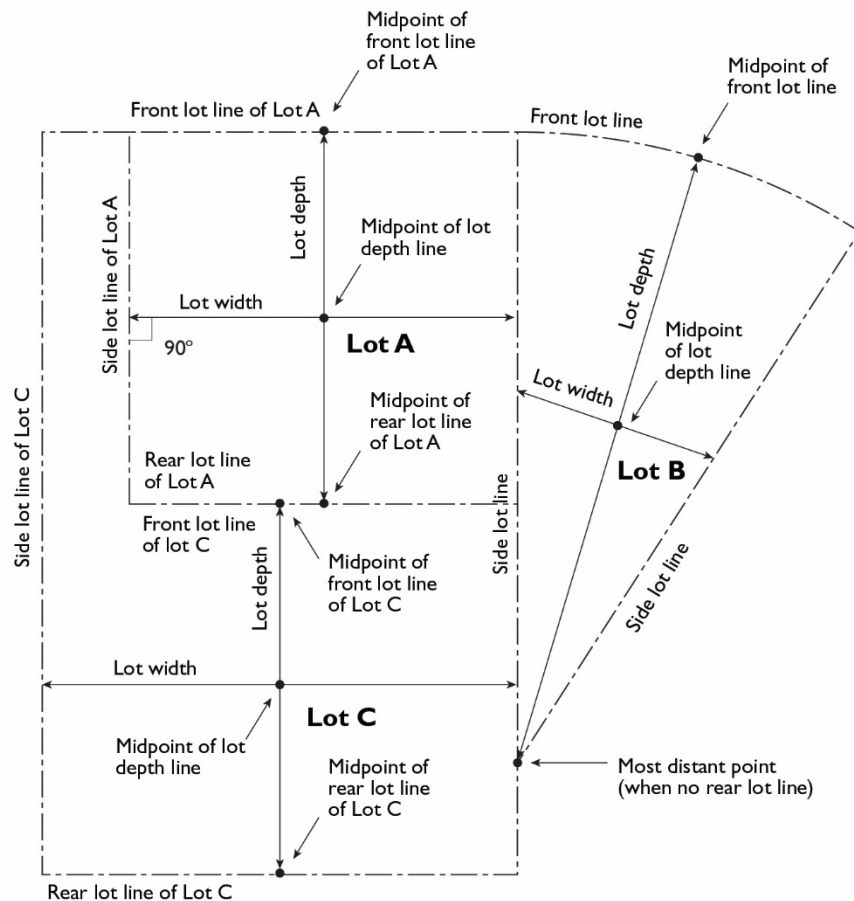
§ 17.010.100 DETERMINING LOT COVERAGE

Lot coverage is the ratio of the total footprint area of all impervious surfaces on a lot to the net lot area, typically expressed as a percentage. The footprints of all principal and accessory structures, including garages, carports, covered patios, and roofed porches, combined with all impervious driveways, walkway and other surfaces shall be summed in order to calculate lot coverage. The following shall be excluded from the calculation:

- (A) Eaves and roof overhangs projecting up to two feet from a wall;
- (B) Trellises and similar structures that have roofs that are at least 50 percent open to the sky with uniformly distributed openings;
- (C) Swimming pools and hot tubs that are not enclosed in roofed structures or decks; and
- (D) Driveway, walkways, patios, decks and other flat surfaces built with pervious materials.

FIGURE 17.010 (I): DETERMINING LOT COVERAGE**§ 17.010.110 DETERMINING LOT FRONTAGE**

- (A) The front of a lot that is not a corner lot or through lot is the lot line along the street frontage.
- (B) The front of a corner lot is the narrowest dimension of the lot with street frontage.
- (C) Except in the case of a panhandle lot, the front yard of a through lot is the one that abuts the street that adjoining lots use to provide primary access into the dwellings on these lots. The opposite yard is considered a rear yard.
- (D) In the case of a through lot, the narrowest dimension is the front yard (that is not a panhandle). If same dimension, staff shall determine the front yard.
- (E) If a panhandle lot, then the front yard is the one adjoining the widest portion of the lot that faces the street. (see graphic 17.010 (J)).

FIGURE 17.010 (J): MEASURING LOT WIDTH AND DEPTH

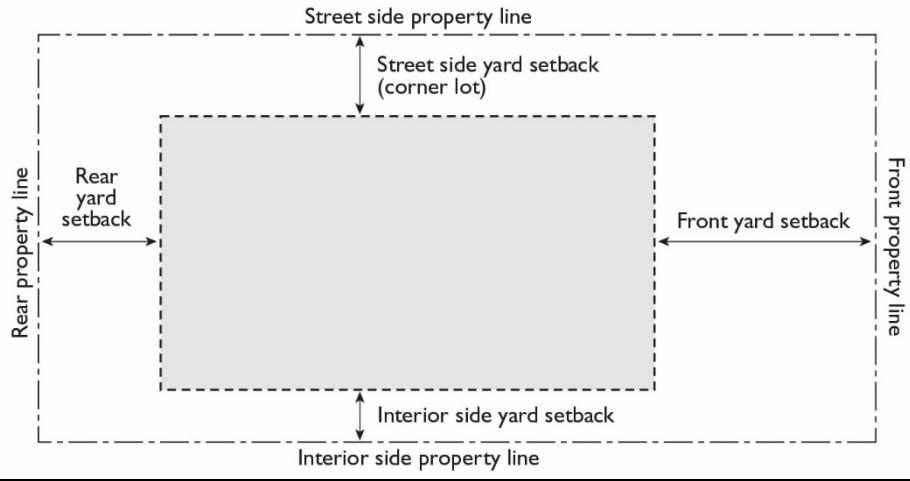
§ 17.010.120 DETERMINING SETBACKS

A setback line defining a required yard is parallel to and at the specified distance from the corresponding front, side, or rear lot line. The following regulations for determining yards apply when a lot abuts a proposed street or alley.

- (A) If a property abuts an existing or proposed street for which the existing right-of-way is narrower than the right-of-way ultimately required for the street, the required setback shall be established from the future right-of-way rather than the property line.
- (B) If a side lot line abuts an alley, the yard shall be considered an interior side yard rather than a corner side yard. In computing the minimum yard for any lot where such yard abuts an alley, no part of the width of the alley may be considered as part of the required yard.
- (C) Setbacks shall be measured as the distance between the nearest lot line and the closest point on the exterior of a building or structure along a line at right angles to

the lot line. Setbacks shall be unobstructed from the ground to the sky except where projections into yards are allowed by § 17.044.070.

FIGURE 171.020 (K): DETERMINING SETBACKS (YARDS)



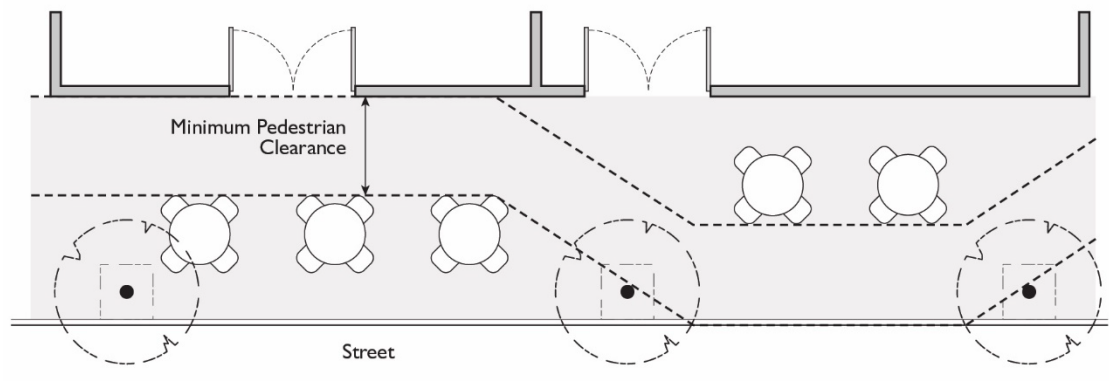
§ 17.010.130 MEASURING PARKING LOT LANDSCAPING

For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas.

§ 17.010.140 MEASURING PEDESTRIAN CLEARANCE

The minimum distance shall be measured from the edge of any table, chair, bench, planter, or other appurtenance used as part of an outdoor dining area to any obstruction within the sidewalk area. The distance from the back of a chair shall account for a seated person.

FIGURE 17.010 (L): MEASURING PEDESTRIAN CLEARANCE



CHAPTER 17.026: MINISTERIAL APPROVALS FOR QUALIFYING HOUSING DEVELOPMENTS

Sections

<u>17.026.010</u>	<u>Title</u>
<u>17.026.020</u>	<u>Purpose</u>
<u>17.026.030</u>	<u>Definitions</u>
<u>17.026.040</u>	<u>Applicability</u>
<u>17.026.050</u>	<u>Eligible projects</u>
<u>17.026.060</u>	<u>Application requirements; review and approval</u>

§ 17.026.010 TITLE

The provisions of this chapter shall be known as the “Streamlined Ministerial Approval Regulations”.

§ 17.026.020 PURPOSE.

The purpose of this chapter is to specify how the Town will implement ministerial review procedures required for qualifying housing projects, including mixed-use projects, that comply with Cal. Gov't Code § 65913.4 (“State Streamlined Ministerial Approval Process”). These procedures are intended to facilitate the development of affordable housing consistent with the goals, policies, and programs of the General Plan.

§ 17.026.030 DEFINITIONS

Terms defined in Cal. Gov't Code § 65913.4 shall apply to this chapter and shall control in the event of a conflict between definitions in this title and definitions in Cal. Gov't Code § 65913.4.

§ 17.026.040 APPLICABILITY

This chapter applies to housing development projects, including mixed use projects, applying for approval under Cal. Gov't Code § 65913.4 and replaces the Town's procedures for reviewing discretionary applications, including design review regulations.

§ 17.026.050 ELIGIBLE PROJECTS

A housing development, including a mixed-use project, is eligible for streamlined ministerial review if it:

- (A) Qualifies for streamlined ministerial approval under Cal. Gov't Code § 65913.4;
and

- (B) Is a multi-family housing development that contains two or more units on an infill site that is zoned for residential use or residential mixed use;
- (C) Is not located on a site with wetlands or a site that contains habitat for protected species or land that has been identified for conservation in a natural community conservation plan or habitat conservation plan adopted by the Town;
- (D) Is not located on a site with areas of special flood hazards which are established by Chapter 17.068, Floodplains unless the development has received a no-rise certification in accord with § 60.3(d)(3) of Title 44 or the Code of Federal Regulations and all requirements of Chapter 17.068 have been met;
- (E) Is not located within a delineated earthquake fault zone shown on maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission as modified by the Town's building code.
- (F) Is not located within a high or very high fire hazard severity zone, as determined by the California Department of Forestry and Fire Protection unless the site has been excluded from the specified hazard zones by the Town and will be subject to fire mitigation measures to protect the development.
- (G) Is not on land subject to a conservation easement;
- (H) is not located on a site that would require the demolition of the following types of housing:
 - (1) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (2) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - (3) Housing that has been occupied by tenants within the past 10 years.
 - (4) Housing that is occupied by tenants and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
- (I) Is on a site previously used for housing that was occupied by tenants that was demolished within the preceding 10 years;
- (J) Does not require the demolition of a historic structure that was placed on a national, state, or local historic register;
- (K) Does not require an exception, modification or any other discretionary entitlement;
- (L) Complies with the Town's objective zoning standards, objective subdivision standards, and objective design standards, excluding any additional density or other concessions, incentives, or waivers of standards requested under Chapter 17.050, Affordable Housing Density Bonus.

§ 17.026.060 APPLICATION REQUIREMENTS; REVIEW AND APPROVAL

- (A) An applicant shall file a notice of intent to submit an application in the form of a Preliminary Application that includes all of the information required by Cal. Gov't Code § 65941.1 as that section read on January 1, 2020. Complete Building Permit applications for the project shall be submitted concurrently with the Preliminary Application. Planning staff shall provide templates for Preliminary Applications to applicants on request and shall be available on the Town's website. The Preliminary Application shall be accompanied by the required fee as established by the Town.
- (B) Within 180 calendar days after filing a Preliminary Application, an applicant shall submit a Formal Application for Ministerial Review, provided scoping consultation has concluded consistent with Subsection (C), below.
- (C) Scoping Consultation
- (1) Upon receipt of the Preliminary Application, the Town shall contact the Native American Heritage Commission for assistance in identifying any California Native American tribe that should be notified. The Planning Director shall provide a formal notice of the applicant's intent to submit a formal application to each required California Native American tribe within 30 days of preliminary application submittal. The formal notice shall be consistent with Cal. Gov't Code § 65913.4(b).
 - (2) If within 30 days of receipt of the formal notice, any California Native American tribe that was formally noticed accepts the invitation to engage in scoping consultation, the Planning Director shall commence scoping consultation within 30 days of receiving that response.
 - (3) The scoping consultation shall be conducted consistent with Cal. Gov't Code § 65913.4(b). If, after scoping consultation is concluded, a development is not eligible for a streamlined ministerial approval, the Planning Director shall provide written documentation as required by Cal. Gov't Code § 65913.4(b) to the applicant and any California Native American tribe that is a party to that scoping consultation.
 - (4) Tribal consultation concludes either 1) upon documentation of an enforceable agreement regarding the treatment of tribal resources at the project site or 2) one or more parties to the consultation, acting in good faith and after a reasonable effort, conclude that a mutual agreement cannot be achieved.
- (D) If the development remains eligible to apply streamlined ministerial approval after scoping consultation has concluded, an applicant may file a Formal Application. Only the items necessary to determine compliance with the provisions contained in Cal. Gov't Code § 65913.4(a) and with any applicable objective standards shall be required.
- (E) The review of a Formal Application shall be done by the Planning Director to determine if the application complies with all of the provisions contained in this

chapter, Cal. Gov't Code § 65913.4(a), and applicable objective standards and shall occur within the following timeframes:

- (1) Within 90 calendar days of Formal Application submittal for applications that include 150 or fewer housing units.
 - (2) Within 180 calendar days of Formal Application submittal for applications that include 151 or more housing units.
- (F) If the Formal Application does not demonstrate compliance with all of the provisions contained in Cal. Gov't Code § 65913.4(a) and all applicable objective standards, the Planning Director shall provide the applicant with written documentation of which standards the development conflicts with and an explanation of the reasons the development conflicts with each standard. If the application can be brought into compliance with minor changes to the proposal (e.g., changes in building dimensions that are less than 10 percent), the Planning Director may allow the development proponent to correct any deficiencies within the timeframes for determining project consistency specified in E(2) above. For major changes, a new application will be required.
- (G) The Planning Director is the review authority for ministerial approvals for qualifying housing developments. The Planning Director shall approve a Formal Application upon finding that all of the requirements of Cal. Gov't Code § 65913.4 and this chapter have been met. The Planning Director may impose reasonable conditions of approval, provided those conditions of approval are objective and broadly applicable to development within the Town.
- (H) Any necessary subsequent permits shall be issued on a ministerial basis subject to applicable objective standards. If a public improvement is necessary to implement a development subject to this chapter, and that public improvement is located on land owned by the Town, the Town shall process any approvals needed as required by Cal. Gov't Code § 65913.4(h).
- (I) Post-Approval Modifications.
- (1) An applicant or the Planning Director may request a modification to an approved development if that request is made prior to the issuance of the final building permit.
 - (2) The Town shall only apply objective standards in effect when the original application was submitted, except that objective standards adopted after the date of original submittal may be applied in any of the following instances:
 - (a) The total number of residential units or total square footage of construction changes by 15 percent or more; or
 - (b) The total number of residential units or total square footage of construction changes by five percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the application was submitted in order to mitigate or avoid a specific adverse impact upon public health or safety, for which there is no feasible alternative method to satisfactorily mitigate or avoid; or

- (c) Objective building standards contained in the California Building Code, as adopted by the Town, may be applied to all modifications.
 - (3) The Planning Director shall determine if the modification is consistent with applicable objective standards and issue a decision on the applicant's modification request within 60 days after submittal.
 - (4) An application approved consistent with this chapter shall remain valid for three years; however, an application approval shall not expire if the development includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the area median income consistent with Cal. Gov't Code § 65913.4(e).
 - (5) At the discretion of the Director, a one-year extension may be granted consistent with Cal. Gov't Code § 65913.4(e).
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CHAPTER 17.027 PROCEDURES FOR SB 330 APPLICATIONS FOR HOUSING DEVELOPMENTS

Sections

17.027.010 Title
17.027.020 Purpose
17.027.030 Applicability
17.027.040 Definitions
17.027.050 Application Filing
17.027.060 Review Timeframes
17.027.070 Compliance Determination
17.027.080 Findings and Decision
17.027.090 Post-Decision Procedures

§ 17.027.010 TITLE

The provisions of this chapter shall be known as the “Procedures for SB 330 Applications for Housing Developments.”

§ 17.027.020 PURPOSE

The purpose of this chapter is to specify how the Town will implement streamlined review procedures and establish vested rights for qualifying housing developments, including mixed-use projects, pursuant to Senate Bill 330 (SB 330), the Housing Crisis Act of 2019.

§ 17.027.030 APPLICABILITY

- (A) This section applies to qualifying housing development projects as defined by Cal. Gov’t Code § 65589.5(h)(2), including multi-family development, mixed use projects with at least two-thirds of the building area devoted to residential uses, and/or transitional and supportive housing.
- (B) This section shall remain in effect for the same time period as provisions contained in the Cal. Gov’t Code §65589.5 (Housing Accountability Act). Any provisions that are not extended by the State Legislature shall be repealed as of the date those provisions in the Housing Accountability Act are deemed null and void.
- (C) This section provides additional procedures that shall be followed for qualifying housing development projects. If conflicts occur between other permitting and approval procedures in this title and the procedures of this section, this section shall control.

§ 17.027.040 DEFINITIONS

Terms defined in Cal. Gov't. Code §65589.5 shall apply to this Section and shall control in the event of a conflict between definitions in this title and definitions in Cal. Gov't. Code §65589.5.

§ 17.027.050 APPLICATION FILING

- (A) To receive the vested rights and benefit from the streamlining established for SB 330 applications, the applicant may initiate the process by filing a preliminary application consistent with Government Code §65941.1.
- (1) A preliminary application shall be filed on the standardized form adopted by the California Department of Housing and Community Development unless the Planning Commission has adopted a form for use for SB330 applications.
 - (2) Within 180 calendar days after submitting a preliminary application, an applicant shall submit a full application for the housing development.
- (B) An applicant may file a full application for a zoning permit for a qualifying housing development without filing a preliminary application. The full application shall be filed on a form provided by the Town of Fairfax accompanied by the required fee. Complete Building Permit applications for a qualifying housing project shall be submitted concurrently with the Full Application.
- (C) Compliance Review
- (1) Scope of Review
 - (a) A housing development for which a preliminary application was submitted shall only be subject to the ordinances, policies, and objective standards adopted and in effect when the preliminary application is submitted, except in the following circumstances:
 - (i) A fee, charge, or other monetary exaction increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or monetary exaction.
 - (ii) A preponderance of the evidence in the record establishes that subjecting the housing development to an ordinance, policy, or standard beyond those in effect when the preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
 - (iii) Subjecting the housing development to an ordinance, policy, standard, or any other measure, beyond those in effect when the preliminary application was submitted is necessary to avoid or substantially lessen an impact consistent with the California Environmental Quality Act.

- (iv) The housing development has not commenced construction within 2.5 years following the date of the housing development's final approval (as defined in Cal. Gov't. Code §65589.5(o)(1)(D)).
 - (v) The number of residential units or square footage of construction proposed changes by 20 percent or more, exclusive of any increase resulting from a density bonus, incentive, concession, waiver, or similar provision.
- (b) When no Preliminary Application was submitted, a housing development shall be subject to objective standards in effect when the full application was deemed complete.

§ 17.027.060 REVIEW TIMEFRAMES

- (A) Full applications for housing development containing 150 or fewer units shall be reviewed for compliance with applicable objective standards within 30 calendar days of being deemed complete.
- (B) Full applications for housing development containing more than 150 units shall be reviewed for compliance with applicable objective standards within 60 calendar days of being deemed complete.
- (C) The Planning Director shall be the Review Authority consistent with the Town of Fairfax's permitting procedures for the full application.

§ 17.027.070 COMPLIANCE DETERMINATION

- (A) The Review Authority shall identify the specific objective standard(s) that the project does not comply with and provide an explanation of the reason(s) why the housing development is considered to be inconsistent or non-compliant with identified provisions and shall provide the written determination to the applicant.
- (B) A housing development is considered in compliance with this title, and shall not require a Zoning Map Amendment, if the housing development complies with objective General Plan standards and land use designations, but the zoning for the housing development site is inconsistent with the General Plan.
- (C) If a housing development complies with all of the applicable objective zoning, design, and subdivision standards, the Town shall not conduct more than five public hearings (including continuances), workshops, study sessions, or similar meetings after the full application is deemed complete in connection with the approval of the housing development. This limitation is established by Cal. Gov't. Code § 65905.5. Meetings required by CEQA are exempt from the limit.

§ 17.027.080 FINDINGS AND DECISION

- (A) If the proposed housing development complies with applicable objective General Plan, zoning, design and subdivision standards, the Planning Commission may only deny the housing development or conditionally approve the housing development

at a lower density if it makes written findings supported by a preponderance of the evidence in the record that:

- (1) The housing development would have a specific, adverse impact upon the public health or safety unless the housing development is denied or conditionally approved at a lower density. A "specific, adverse impact" means a "significant, quantifiable, direct, and unavoidable impact, based on identified written public health or safety standards, policies, or conditions as they existed on the date that the project was deemed complete"; and
 - (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact other than the denial of the housing development or conditional approval of the housing development at a lower density.
- (B) If the housing development includes 20 percent of units affordable to very low or low- income households, 100 percent of units affordable or moderate- or middle-income households, or an emergency shelter, the Planning Commission shall approve the housing development unless the Commission makes written findings supported by a preponderance of the evidence in the record, as to at least one of the findings in Cal. Gov't. Code §65589.5(d).
- (C) The Planning Director shall approve or deny the housing development within the applicable time periods established in Cal. Gov't. Code §65950 and related sections.

§ 17.027.090 POST-DECISION PROCEDURES.

The Town's post-decision procedures for the required permit based on the full application shall be followed provided those procedures do not conflict with Cal. Gov't. Code §65589.5.

CHAPTER 17.050 AFFORDABLE HOUSING DENSITY BONUS

Sections

17.050.010: Title

17.050.020: Purpose

17.050.030: Definitions

17.050.040: Applicability; compliance with State law

17.050.050: Application requirements; review and approval

§ 17.050.010 TITLE

The provisions of this chapter shall be known as the “Affordable Housing Density Bonus Regulations”.

§ 17.050.020 PURPOSE

The purpose of this chapter is to provide for density bonuses, concessions, and incentives to developers who comply with Cal. Gov't Code §§ 65915 through 65918 (State Density Bonus Law) and to establish the standards and procedures for granting affordable housing density bonuses for housing developments in order to promote the development of affordable units in the Town consistent with the General Plan. This chapter shall be understood to be amended by operation of law in the event and to the extent the State Density Bonus Law is amended.

§ 17.050.030 DEFINITIONS

The definitions found in the State Density Bonus Law shall apply to the terms in this chapter and shall control in the event of a conflict between definitions in this title and definitions in Cal. Gov't Code §§ 65913.4 and 65915. They are hereby incorporated by reference.

§ 17.050.040 APPLICABILITY; COMPLIANCE WITH STATE LAW

- (A) This chapter shall apply to all zoning districts that permit housing at a prescribed density by the general plan land use designation and/or zoning district. Where the density allowed under the zoning district is inconsistent with the density allowed under the General Plan, the General Plan site designation density shall prevail.
- (B) When an applicant seeks a density bonus, incentive, or concession for a housing development, the Town will comply with the requirements in the State Density Bonus Law, follow the procedures for calculating the allowable density bonus using the procedures in the State Density Bonus Law, and grant a density bonus, concessions, and incentives in accord with the State Density Bonus Law.
- (C) No affordable housing impact fee, including any inclusionary fees and in-lieu fees that may be adopted by the Town, shall be imposed on the affordable units

approved under the housing development density bonus program established by this chapter.

§ 17.050.050 APPLICATION REQUIREMENTS; REVIEW AND APPROVAL

- (A) A developer seeking a state density bonus, incentive or concession, waiver or modification of a development standard, or a revised parking standard, shall submit an application for approval of a housing development with a density bonus. This application shall be processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the Planning Director and the application shall include, at a minimum, the following information:
- (1) A site plan showing the total number and location of all proposed housing units and the number and location of proposed housing units which qualify the housing development for density bonus housing units;
 - (2) The manner in which the applicant shall satisfy the affordability requirements for the housing units that qualify the housing development for density bonus units;
 - (3) A description of any requested incentives and concessions, waivers or modification of development standards, or modified parking standards;
 - (4) For all incentives and concessions, except mixed use development, the application shall include evidence deemed sufficient by the Planning Director to demonstrate that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. The Planning Director may require that an independent financial review be conducted at the expense of the applicant.
 - (5) For waivers or modifications of development standards, the application shall include evidence deemed sufficient by the Planning Director to demonstrate that the requested waivers or modifications are necessary to make the housing units economically feasible and that the development standard from which a waiver or modification is requested will have the effect of precluding the construction of the housing development at the densities to which the applicant is entitled pursuant to this chapter.
 - (6) If the application is requested for a project that will include housing units for extremely low income households, the applicant shall be entitled to a density bonus that is 50 percent greater than the bonus that would be granted if these units were for very low income households.
 - (7) If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the conditions pursuant to Cal. Gov't Code §§ 65915 (g)(2)(A through H) are met.
 - (8) If a density bonus or incentive or concession is requested for a child care facility pursuant to Cal. Gov't Code § 65915 (h), the application shall show the

- location and square footage of the child care facility and provide evidence that the community lacks adequate child care facilities.
- (9) A written acknowledgement that the project will be subject to a condition of approval and deed restriction to retain affordability of the affordable unit(s) for at least 55 years.
- (10) If the density bonus is requested for a proposed housing development that would result in the removal or conversion of existing rental dwelling units, or if the property upon which the housing development is proposed has within the past 5 years been occupied by rental dwelling units, the application shall include the following:
- (a) A description of the housing units removed, converted, proposed to be removed or proposed to be converted;
 - (b) The income levels of the persons occupying each unit removed, converted, proposed to be removed or proposed to be converted;
 - (c) The rental rates charged for the immediately preceding 5 years for each unit removed, converted, proposed to be removed or proposed to be converted.
- (11) Payment of fees set forth in a resolution adopted by the Town Council.
- (B) An application for a density bonus, incentive or concession, waiver or modification of a development standard, or revised parking standard shall be considered and acted upon by the Planning Commission based on its permit review authority for the housing development.
- (C) Before approving an application for a density bonus, incentive or concession, or waiver or modification of a development standard, the Planning Commission shall make the following findings:
- (1) If the density bonus is based all or in part on a donation of land, the conditions of Cal. Gov't Code § 65915 (g)(2)(A through H) are met.
 - (2) If the density bonus, incentive or concession is based all or in part on the inclusion of a child care facility, that the conditions included in Cal. Gov't Code § 65915 (h)(2)(A) and (B) are met.
 - (3) If the incentive or concession includes mixed use development, the findings included in Cal. Gov't Code § 65915 (k)(2) are met.
 - (4) If a waiver or modification of a development standard is requested, the developer has demonstrated, for each requested waiver or modification, that the waiver or modification is necessary to make the housing units economically feasible and that the development standards from which a waiver or modification is requested will have the effect of precluding the construction of a housing development at the densities to which the applicant is entitled pursuant to this chapter or with the concessions and incentives permitted by this chapter.

- (D) The Planning Commission may deny a concession or incentive if it makes a written finding based upon substantial evidence of either of the following:
- (1) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable rents or affordable housing costs as required by this chapter.
 - (2) The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower, very low-, or moderate-income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
- (E) The Planning Commission may deny a waiver or modification of a development standard only if it makes a written finding based upon substantial evidence of either of the following:
- (1) The waiver or modification would have a specific adverse impact upon health, safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to lower, very low- or moderate-income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.
 - (2) The waiver or modification would have an adverse impact on any real property listed in the California Register of Historical Resources.
- (F) If a density bonus or concession or incentive is based on the provision of childcare facilities, the Planning Commission may deny the density bonus or concession or incentive if it finds, based on substantial evidence, that the Town already has adequate childcare facilities.

EXHIBIT B (to Ordinance)

**AMENDMENTS
TO CHAPTER
17.008:
Definitions**

SECTION 17.008.020 DEFINITIONS

The following *underlined* terms are incorporated into and additive to Section 17.008.020 in the appropriate alphabetical order. **Affordable housing.** A housing unit that is available for rent or sale to households with income levels at the extremely low-, very low-, low-, or moderate-income level as those terms are defined in this chapter. See “Income (household)” definitions.

Affordable housing fund. The fund established in Chapter 17.140 to accept affordable housing in-lieu fees.

Affordable housing development. A development project of two or more residential units, including mixed-use developments, that includes affordable housing.

Affordable housing agreement. A legally binding agreement between an Applicant and the Town of Fairfax to ensure that continued affordability of affordable housing units that may be required by this Title persists and the units are maintained in accordance with this Title.

Affordable rent. Affordable rent means the total housing costs paid by a qualifying household, which shall not exceed a specified fraction of their gross income, adjusted for family size appropriate for the unit, using the calculation methodology in Section 50053(b) of the Cal. Health and Safety Code.

Affordable sales price. The maximum purchase price that can be charged for an affordable unit calculated in accordance with § 50052.5 of the Cal. Health and Safety Code. The affordable sales price is equal to the lesser of: 1) the sum of the assumed mortgage cost plus the benchmark down payment, which is used solely for calculation of the affordable sales price, or 2) the purchase price prospective buyers are willing to pay in return for purchasing a home that is subject to restrictive covenants. The benchmark down payment is set at five percent of the affordable sales price.

Applicant. A person, persons, or entity that applies to the Town for one or more permits, zoning approvals, or entitlements required for development. This term also includes the owner or owners of the property if the Applicant does not own the property on which the development is proposed.

Area median income. The median family income of a geographic area as determined annually by the Cal. Dept. of Housing and Community Development.

Balcony. A platform that projects from the wall of a building 30 inches or more above grade that is accessible from the building’s interior, is not accessible from the ground, and is not enclosed by walls on more than two sides (see also “Deck”).

Bedroom. A habitable space within a dwelling unit in which people sleep.

Canopy tree. Any tree that when fully grown will provide shade for the land beneath it while also allowing for passage of people and/or vehicles under its limbs.

Commercial linkage fee. The fee established by Chapter 17.142 to be paid by builders of commercial development projects to mitigate the impacts that such developments have on the demand for affordable housing in the Town.

Commercial/nonresidential linkage fee. See “Commercial linkage fee.”

Common ownership or control. Property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.

Concession or incentive. A reduction in a site development standard, such as minimum lot size, setbacks, or building height, or a modification of an objective design standard or an objective subdivision standard to enable construction of an affordable housing project. Incentives also may include approval of mixed-use zoning, expedited “fast track” processing, waiver or filing or processing fees or other modifications that result in identifiable cost reductions for affordable housing.

Deck. A platform, either freestanding or attached to a building that is supported by pillars or posts. See also “Balcony.”

Defensible space. Defensible space is used in regulations for fire hazard management in the Wildland Urban Interface (WUI) to describe the buffer created between a dwelling unit and the grass, trees, shrubs, and adjacent wildland area that surrounds it to help slow or stop the spread of wildfire and protect the dwelling from catching fire pursuant to Cal. Gov’t Code §51182.

Development. The placement or erection of any solid material or structure on land, in, or under water; discharge or disposal of any materials; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, without limitation, subdivision pursuant to the Subdivision Map Act, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; and change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation.

Development costs. The aggregate of all costs incurred in connection with a development which are reasonable and necessary, including, but not limited to, those costs listed in California Health and Safety Code Section 50065.

Development standard. A site or construction condition, including, but not limited to, height limits, required setbacks, maximum floor area ratio, on-site open-space requirement, or required parking that applies to a development pursuant to any ordinance, General Plan, Planned Development, or other local condition, law, policy, resolution, or regulation.

Discretionary approval. Any entitlement or approval, including but not limited to a use permit, variance, site approval, and subdivision map. Discretionary review involve judgment and deliberation to determine whether to grant an approval or establish conditions of approval.

Dwelling. ...

Single-Family Dwelling. A building designed for and **exclusively** occupied by one family, including supportive and transitional housing subject to the same restrictions and standards as a single-family dwelling and employee housing providing accommodations for six or fewer employees pursuant to § 17021.5 of the Cal. Gov't Code. This classification also includes individual manufactured housing units installed on a foundation installed on a foundation system pursuant to § 18551 of the Cal. Health and Safety Code.

Efficiency unit. A dwelling unit in a multi-family building with less than 500 square feet of space, meeting all Building Code requirements for such units.

Fair market value. The real estate market value of an affordable housing unit at the time of initial purchase of that unit without regard to any restrictions on sales price, as substantiated by an appraisal in a form and substance, and by an appraiser, acceptable to the Town.

Family. (1) An individual, or two or more persons related by blood, marriage or adoption living together as a single household unit; or

~~— (2) A group of persons, who need not be related by blood, marriage or adoption, living together as a single housekeeping unit.~~ (2) One or more individuals living together where the residents are a close group with social, economic and psychological commitments to each other and living together as a relatively permanent household.

Family Day Care, Large. A day-care facility licensed by the State of California that is located in a dwelling unit where a resident of the dwelling provides care and supervision for seven to 14 children under the age of 18 for periods of less than 24 hours a day, including children who reside at the home and are under the age of 10.

Family Day Care, Small. A day-care facility licensed by the State of California that is located in a dwelling unit where a resident of the dwelling provides care for up to six children or eight children including children who reside at the home and are under the age of 10.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Fully Shielded Light Fixture. A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected downward below the horizontal.

Housing In-Lieu Fee. A fee established by the Town pursuant to Chapter 17.142.

Inclusionary Housing Plan. A plan containing all the information specified in and submitted in conformance with § 17.140.080 specifying the manner in which Inclusionary Units will be provided.

Inclusionary Unit. A dwelling unit that is designated to meet the requirements set forth in Chapter 17.142 and made available, typically through a recorded deed restriction, at an affordable housing cost or an affordable rent to eligible moderate-, low- or very low-income households, as applicable to the unit.

Income (household), extremely low. A household whose gross income does not exceed the qualifying limits for extremely low income families as established and amended from time to time by the U.S. Secretary of Housing and Urban Development and defined in Section 5.603(b) of Title 24 of the Code of Federal Regulations.

Income (household), low. A household whose gross income does not exceed 80 percent of the area median income for Marin County, adjusted for family size, as published and periodically updated by the U.S. Dept. of Housing and Urban Development and the Cal. Dept. of Housing and Community Development pursuant to § 50079.5 of the Cal. Health and Safety Code.

Income (household), lower. A household whose gross income falls under the categories of very low-, or low-income as those terms are defined in this glossary.

Income (household), moderate. A household whose gross income does not exceed 120 percent of the area median income for the Marin County, adjusted for family size, as published and periodically updated by the State Dept. of Housing and Community Development pursuant to § 50093 of the Cali. Health and Safety Code.

Income (household), very low. A household whose gross income does not exceed 50 percent of the area median income for Marin County, adjusted for family size, as published and periodically updated by the U.S. Dept. of Housing and Urban Development and the Cal. Dept. of Housing and Community Development pursuant to § 50105 of the Cal. Health and Safety Code.

Infill site. A site where at least 75 percent of the perimeter adjoins lots and parcels that are developed for urban uses. Parcels that are only separated by a street are considered to be adjoining.

Low barrier. Under State housing law, low barrier means best practices to reduce barriers to entry to temporary living facilities for the homeless and may include, but is not limited to, the following:

- (A) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth;
- (B) Pets;

- (C) The storage of possessions; and
- (D) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

Low barrier navigation center. A housing-first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

Manufactured housing. A type of single family dwelling that is manufactured off-site and installed on a foundation on a lot pursuant to § 18551 of the Cal. Health and Safety Code.

Marin County area median income. The median income for Marin County published by the Cal. Dept. of Housing and Community Development ("HCD") each year as required by Cal. Code of Regulations, Title 25, § 6932 and Health and Safety Code § 50093.

Market rate unit. A dwelling unit that is not an affordable housing unit or an inclusionary unit.

Maximum allowable density. The maximum number of dwelling units per acre as allowed under the General Plan Land Use Designation. Where an Affordable Housing Development is permitted by an overlay to a Land Use Designation, the maximum allowable density shall be calculated in reference to the residential density allowance designated in the Zoning Code for the overlay zone. In non-residential zones, the Maximum Allowed Density shall be the maximum number of dwelling units, without the inclusion of Density Bonus Units or associated incentives, concessions, waivers, and reductions, that can be developed on the site in conformance with General Plan policies and applicable development standards.

Mezzanine. An intermediate level or levels between the floor and ceiling of any story (distinguished from a "loft" which is a term reserved for "Tiny Houses").

Ministerial approval. An administrative approval of an entitlement or permit application that involves little or no discretion to determine whether development standards and other applicable requirements are met based on the facts presented in an application. Ministerial approvals may include use of a checklist or similar compliance procedure.

Nonresidential development project. A project that includes new construction or alterations and additions of nonresidential space or the conversion of a residential use or residential structure to a nonresidential use.

Objective design standards. See "Objective Standard."

Objective standard. A standard that involves no personal or subjective judgement by a public official or decision-making authority and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official or decision-maker prior to submittal of

an application. This term includes “objective zoning standards,” “objective design standards”, and “objective subdivision standards.”

Objective subdivision standards. See “Objective Standard.”

Objective zoning standards. See “Objective Standard.”

Open Space, Common. Areas for outdoor living and recreation that are intended for the use of residents and guests of more than one dwelling unit. Common areas typically consist of landscaped areas, walks, patios, swimming pools, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the development. They also may include gyms and fitness facilities, recreation rooms, and indoor space for yoga, dance, and instruction.

Open Space, Private. Open areas for outdoor living and recreation that are adjacent and directly accessible to a single dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests. Private areas typically consist of courtyards, balconies, decks, patios, fenced yards, and other similar areas.

Patio. An outdoor seating area adjoining and directly accessible from a dwelling unit.

Rental unit. A dwelling unit that is intended to be offered for rent or lease and that cannot be sold individually.

Residential Care, General. Facilities that are licensed by the State of California to provide living accommodations and 24-hour, primarily non-medical care and supervision for more than six persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This use type includes facilities that are operated for profit as well as those operated by public or non-profit institutions, including hospices, nursing homes, convalescent facilities and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug abuse.

Residential Care, Limited. Small-scale facilities that are licensed by the State of California to provide living accommodations and 24-hour, primarily non-medical care and supervision six or fewer persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living.

Residential development project. A project to create one or more additional dwelling units, convert nonresidential space to dwelling units, or subdivide a parcel to create one or more separately transferrable parcels intended for residential development, including development constructed at one time and in phases.

Supportive housing. Dwelling units with no limit on length of stay that are occupied by the target population as defined in subdivision (d) of Section 50675.14(b) of the Cal. Health and Safety Code or individuals eligible for services provided pursuant to the Lanterman Development Disabilities Act (Division 45 of the Welfare and Institutions

Code), and that are linked to onsite or offsite services that assist supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, where possible, work in the community and where no onsite medical care is provided.

Transitional housing. Dwelling units configured as rental housing but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time, that shall be not less than six months from the beginning of assistance. Transitional housing may be designated for homeless or recently homeless individuals or families transitioning to permanent housing as defined in subdivision (h) of Section 50675.2 of the Cal. Health and Safety Code. Facilities may be linked to onsite or offsite supportive services designed to help residents gain skills needed to live independently. This classification includes domestic violence shelters.

Tiny house. A dwelling that is 400 square feet or less in area (excluding loft space) and meets the standards of the California Building Standards Code, as adopted by the town, and Appendix Q, Tiny Houses, of the International Residential Code.

Turf. A ground cover surface of mowed grass.

Urban Uses. Any current or former residential, commercial, industrial, institutional, or retail use or any combination of these uses. Vacant lots in a subdivision that have been approved residential or non-residential use are considered urban uses.

EXHIBIT C (to Ordinance)

UPDATING THE FOLLOWING CHAPTERS RELATED TO DESIGN REVIEW, PERMITTING AND ZONING ADMINISTRATION: CHAPTER 17.020 (DESIGN REVIEW REGULATIONS), CHAPTER 17.024 (REQUIRED PERMITS), CHAPTER 17.032 (USE PERMITS), CHAPTER 17.040 (GENERAL ZONE REGULATIONS), CHAPTER 17.044 (EXCEPTIONS AND MODIFICATIONS), CHAPTER 17.052 (OFF-STREET PARKING AND LOADING REGULATIONS) AND CHAPTER 17.056 (TRAFFIC IMPACT FEE PERMIT)

CHAPTER 17.020 DESIGN REVIEW REGULATIONS

Sections

17.020.010	Title
17.020.020	Purpose
17.020.030	Applicability
17.020.040	Design review criteria
17.020.050	Application
17.020.060	Preliminary plans
17.020.070	Application; filing fee
17.020.080	Procedure for consideration
17.020.090	Period of consideration
17.020.100	Public hearing; notice
17.020.110	Appeal to process
17.020.120	Enforcement
17.020.130	Time limits; extensions.

§ 17.020.010 TITLE

The provisions of this chapter shall be known as “Design Review Regulations.”

§ 17.020.020 PURPOSE

- (A) The purpose of these regulations is to effect design review of all developments, buildings, structures, signs, and other facilities constructed or modified in the Town of Fairfax, except as herein provided.
- (B) The purpose of this procedure is to foster a good design character through consideration of objective design standards for aesthetic and functional relationships to surrounding development and in order to further enhance the town’s appearance and the livability and usefulness of properties.
- (C) These review procedures are intended to ensure that new development supports the General Plan and more specifically to:
 - (1) Promote high quality, pedestrian-friendly, and sustainable design;
 - (2) Ensure that new development and uses will be compatible with the existing and potential development of the surrounding area; and
 - (3) Supplement other Town regulations and standards in order to ensure control of aspects of exterior design that are not otherwise addressed and have a bearing on land use compatibility and neighborhood fit.

§ 17.020.030 APPLICABILITY

The provisions of this chapter shall apply to:

- (A) New residences and alterations or additions constituting 50 percent remodels, as set forth in Town Code § 17.016.040(B), in all zones including Residential RD 5.5-7 Zones, Residential RS 6 Zones, Residential RS 7.5 Zones and Upland Residential UP Zones; and
- (B) New construction in Central Commercial, Limited Commercial, Highway Commercial, Service Commercial, Multiple Residential, Planned Development District, Single Family-Residential Master Plan zones, Workforce Housing Overlay zones (if adopted), duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor, as required in Chapter 17.060, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure.
- (C) Changes in the exterior color of a non-residential structure or the alteration of a significant design element which is a part of the design of the building in Limited Commercial CL, Highway Commercial CH, Central Commercial CC, Service Commercial CS, Commercial Recreation CR, Planned Development District PDD, Workforce Housing Overlays WHO-A and WHO-B (if adopted), Multiple Family Residential RM and Multiple Family Residential Senior-Residential RM-S Zones and for which an objective design standard has been established. A significant design element alteration is anything that changes the shape, line, ~~color~~, pattern, or texture of the exterior of a building, including, but not limited to, changes in any exterior building materials, roofline, window or door shape, size or location, and changes to awnings, excluding ordinary maintenance and repair.

§ 17.020.040 DESIGN REVIEW CRITERIA.

The following criteria shall be applied in considering an application for design review approval.

~~The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.~~

- (A) Only elements of design which have significant relationship to exterior appearance of structures and facilities shall be considered; these elements ~~may include~~ only height, building mass, building setbacks and arrangement on the site, texture, exterior building material, color, signs, landscaping, pedestrian access, and appurtenances for which objective design standards have been established in this title.

~~The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.~~

- (B) The proposed development shall conform with all ~~requirements~~ objective zoning standards for landscaping, screening, usable open space, and the design of parking and off-street loading areas set forth in this title.
- (C) Where the proposed development is located in an area where a neighborhood plan or precise plan has been adopted by the town, the design of the development shall

conform in all significant respects with the standards and design criteria in these plans.

~~There shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance.~~

- (D) Conformance to standards for the size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has a balance and unity among its external features so as to present a harmonious appearance.
- (E) The extent to which the structure conforms to the standards governing the general physical character of other structures in the vicinity, including their height, building mass, and relationship to the street and adjacent structures. ~~insofar as the character can be ascertained and is found to be architecturally desirable.~~
- (F) For non-residential development projects, the extent to which ornamentation is to be used and the extent to which temporary and second-hand materials, or materials which are imitative of other materials, are to be used.
- (G) The extent to which natural features, including trees, shrubs, creeks and rocks and the natural grade of the site are to be retained based on the standards for protecting these features established in this title.
- (H) ~~The~~ Conformance to the standards for accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets.
- (I) Conformance to the standards for ~~the~~ reservation of landscaping areas for the purpose of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, separating or screening parking lots from the street and adjoining building sites and separating building areas from paved areas to provide access from buildings to open space areas.
- (J) In the case of any commercial or industrial structure or mixed-use development, the Planning Commission shall consider its proximity to any residential district, conformance to standards for buffering and reduced height in transitional areas adjacent to this district and ~~shall consider~~ standards intended to mitigate the effect of the proposed structure, including building mass and window location, upon the privacy and sunlight access character and value ~~of~~ provided to the adjacent residential district area.
- (K) The Planning Commission and Town Council may adopt supplemental design standards and guidelines in order to further the objectives of this section and to illustrate design criteria.
- (L) The Planning Director shall create checklists for use for design review for projects that qualify for streamlined ministerial review under State law and Chapter 17.026, Ministerial Approvals for Qualifying Housing Developments, to determine compliance with objective development standards.

§ 17.020.050 APPLICATION

- (A) Application for consideration shall be made at a meeting of the Planning Commission by the owner of the affected property, or his or her authorized agent, on a form prescribed by the Planning Commission, and shall be filed with the Planning Department no later than 30 days prior to the next Planning Commission meeting.
- (B) The application shall be accompanied by the information as may be required to allow applicable design review criteria and objective design standards to be applied to the proposed action. This information may include site and building plans, drawings and elevations, landscaping plans and operational data.

§ 17.020.060 PRELIMINARY PLANS

- (A) Applicants are encouraged to submit preliminary plans prior to filing an application for approval so that preliminary agreement between the Planning Commission and the applicant may be achieved based on compliance with the town's objective zoning standards and objective design standards, unless an exception or waiver has been granted under Chapter 17.040, Exceptions, Modifications, and Waivers.
- (B) Approval by the Planning Commission shall be certified to the appropriate town officials prior to the issuance of a building permit, or business license if necessary, as the case may be.

§ 17.020.070 APPLICATION; FILING FEE

At the time of filing, the applicant shall pay a filing fee set in accordance with a schedule set by resolution of the Town Council.

§ 17.020.080 PROCEDURE FOR CONSIDERATION

- (A) An application for design review shall be considered by the Planning Commission, which shall determine whether the proposed design conforms to the design review criteria set forth in § 17.020.040 and to any other applicable specific design review criteria.
- (B) The Planning Commission may approve or disapprove the design or require the changes as are, in its judgment, necessary to accomplish the general purposes of this title and ensure conformance with the objective zoning standards and objective design standards that apply to the type of development proposed and to the zone where the project will be built.
- (C) The determination of the Planning Commission shall become effective ten calendar days after the date of decision unless appealed to the Town Council.
- (D) Any project requiring both design review and other permits or entitlements from the Town of Fairfax shall be considered by the Planning Commission at the same time it considers the other permits or entitlements.

§ 17.020.090 PERIOD OF CONSIDERATION

- (A) A decision shall be rendered by the Planning Commission within six months after the application is deemed complete, unless a shorter time period is established in State law for a specific type of permit application.
- (B) This time limit may be extended by agreement between the Planning Commission and the applicant.
- (C) If no agreement is in effect and a decision is not rendered within six months after the application is deemed complete, the application shall be deemed approved.

§ 17.020.100 PUBLIC HEARING; NOTICE

- (A) Applications for design review shall not be acted upon until a public hearing thereon is held, except for design review of sign permit exception applications and projects that qualify for streamlined ministerial review and for which no public hearing can be held, as required by Cal. Gov't Code § 65913.4 ("State Streamlined Ministerial Approval Process"). Notice of the time and place of the public hearing, together with a brief statement of the nature of the application, shall be given in the same manner as provided in § 17.004.070.
- (B) Additional notice of the public hearing may be given to owners and renters of other property within 500 feet of applicant's parcel when, in the opinion of the Planning Commission, the properties would be affected by the proceedings so noticed. The subject property shall be posted by the applicant in a manner described in the Town of Fairfax submittal packet at least ten days prior to the public hearing.
- (C) Any error, irregularity, informality or omission as to noticing shall not void or invalidate the proceedings, considerations or disposition of a design review application, except as may be otherwise provided under Cal. Gov't Code § 65010.

§ 17.020.110 APPEAL PROCESS

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CHAPTER 17.024 REQUIRED PERMITS

Sections

- 17.024.010 Zoning permit; purpose
- 17.024.020 Zoning permit; restrictions; display
- 17.024.030 Zoning permit; issuance
- 17.024.040 Zoning permit; expiration for non-use
- 17.024.050 Use permit; required
- 17.024.060 Building permit; required
- 17.024.070 Moving permit; required
- 17.024.080 Authority to revoke or modify
- 17.024.090 Grounds for revocation
- 17.024.100 Grounds for modification
- 17.024.110 Initiation of proceedings and hearings
- 17.024.120 Appeals

§ 17.024.010 ZONING PERMIT; PURPOSE

- (A) The purpose of a zoning permit is to determine compliance with the provisions of this title.
- (B) No owner shall use or permit the use of any land, structure or building, or part thereof, hereafter created, erected, moved, changed, converted or enlarged wholly or partly, until a zoning permit has been issued by the planning staff; provided, however, that, no zoning permit shall be required for the growing of field, garden or tree crops, except when a use permit is also required.

§ 17.024.020 ZONING PERMIT; RESTRICTIONS; DISPLAY

- (A) Land or buildings may be occupied and used only for the use for which the zoning permit is issued.
- (B) The zoning permit shall be displayed on site.

§ 17.024.030 ZONING PERMIT; ISSUANCE

It is the duty of the planning staff to issue a zoning permit after discretionary or ministerial review, provided the staff is satisfied that the structure, building or premises and proposed use thereof conform with all the requirements of this title, including compliance with all objective standards that apply, and that all other reviews and actions, if any, called for in this title have been complied with and all necessary approvals secured. The planning staff may impose reasonable conditions of approval, provided those conditions of approval are objective and broadly applicable to development and land uses within the Town.

§ 17.024.040 ZONING PERMIT; EXPIRATION FOR NON-USE

...

17.024.050 USE PERMIT; REQUIRED

...

§ 17.024.060 BUILDING PERMIT; REQUIRED

...

§ 17.024.070 MOVING PERMIT; REQUIRED

...

§ 17.024.080 AUTHORITY TO REVOKE OR MODIFY

The Planning Commission may revoke or modify any zoning permit, conditional use permit or other permit, approval, or entitlement on any one or more of the grounds named in this section, after a hearing held and conducted as provided in Chapter 17.032.

- (A) The Planning Director has the authority to approve minor modifications to approved plans without notice or a public hearing if they are consistent with the original findings and conditions of approval and do not involved an increase in the number of dwelling units or the floor area for a non-residential use, a change that would affect compliance with an objective zoning standard or objective design standard, or a change that would negatively impact infrastructure or utilities or burden circulation adjacent to the project site.
- (B) The Planning Director, at his/her discretion, may refer a request for approval of a minor modification that may generate substantial public interest to the Planning Commission rather than acting on it himself/herself.

§ 17.024.090 GROUNDS FOR REVOCATION

The grounds for revocation shall be any of the following:

- (A) Approval was obtained by means of fraud or misrepresentation of a material fact;
- (B) The permittee or holder of the permit has failed to undertake the use in question for an unreasonable period of time;
- (C) The use in question has ceased to exist or has been suspended for six months or more;
- (D) The use, building, or structure has been substantially expanded beyond what was set forth in the original permit, thereby causing substantial adverse impacts on the surrounding neighborhood;

- (E) There is or has been a violation of, or failure to observe or comply with, any applicable objective zoning standards or objective design standards, the terms or conditions of the permit, the terms or conditions of any applicable Density Bonus Agreement or Agreement for Continued Affordability for Affordable Housing, or the use has been conducted in violation of the provisions of this title, law or regulation; and
- (F) The use to which the permit applies has been conducted in a manner detrimental to the public health, safety, or welfare or so as to be a nuisance.

§ 17.024.100 GROUNDS FOR MODIFICATION

The grounds for modification shall be any of the following:

- (A) The grounds which would otherwise justify a revocation of the permit can be corrected or cured by a modification imposing new or additional conditions;
- (B) Improvement of methods or technological advances permit conduct of the use with adequate safeguards under the proposed modification; and/or
- (C) One or more of the original conditions of the permit or variance is unworkable, impractical or otherwise fails to accomplish the original aims and ensure compliance with the standards and regulations of this title.

§ 17.024.110 INITIATION OF PROCEEDINGS AND HEARINGS

Proceedings for the revocation or modification may be initiated, and shall be set for hearing, noticed, heard, and determined in substantially the same manner as provided in Chapter 17.032 of this title. A request for a minor modification may be acted on by the Planning Director without notice or a public hearing.

§ 17.024.120 APPEALS

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CHAPTER 17.032 USE PERMITS

Sections

- 17.032.010 Purpose
- 17.032.020 Granting authority; consideration; conditions
- 17.032.030 Application
- 17.032.040 Action by Planning Commission
- 17.032.050 Public hearing; notice
- 17.032.060 Required findings
- 17.032.070 Permit issuance
- 17.032.080 Zoning permit issuance
- 17.032.090 Appeals
- 17.032.100 Time limits; extensions

§ 17.032.010 PURPOSE

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§ 17.032.020 GRANTING AUTHORITY; CONSIDERATION; CONDITIONS

...

§ 17.032.030 APPLICATION

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§ 17.032.040 ACTION BY PLANNING COMMISSION

...

§ 17.032.050 PUBLIC HEARING; NOTICE

...

§ 17.032.060 REQUIRED FINDINGS

The final disposition of each use permit shall be in accord with the facts of the particular case and the facts shall support the following determinations and findings before a use permit may be approved. They may refer to a Town resolution, ordinance, or record of the action on the application.

- (A) The location, size, design, and operating characteristics of the use conform to the General Plan and the land use designations for the project site and to the objective zoning standards and objective design standards that apply to the proposed use at the proposed location;
- (B) ~~(A)~~ The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment;
- (C) ~~(B)~~ The development and use of property, as approved under the use permit, shall not create a public nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding ambient conditions or

applicable performance standards, ~~cause excessive or unreasonable detriment to adjoining properties or premises,~~ or cause significant adverse physical or economic environmental effects ~~thereto~~ to abutting or adjoining properties and the surrounding neighborhood, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit;

- (D) ~~(G)~~ Approval of the use permit is not contrary to those objectives, goals or objective standards pertinent to the particular ~~case~~ use and location and contained or set forth in the General Plan, this title, any master plan, development plan or other plan or policy, officially adopted by the town; and
- (E) ~~(D)~~ Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.

§ 17.032.065 ~~PERMIT ISSUANCE~~ CONDITIONS OF APPROVAL

The Planning Commission has the authority to impose reasonable conditions that are related and proportionate to what is being requested by the applicant, as deemed necessary and appropriate to ensure that the provisions of the General Plan, any applicable master plan or precise development plan adopted by the Town Council, and this title are met. The Commission may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

§ 17.032.070 PERMIT ISSUANCE

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CHAPTER 17.040 GENERAL ZONE REGULATIONS

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§ 17.040.010 LOT COVERAGE

In all residential zones, no permit shall be granted for the erection or construction of any building or structure where the total area of all existing and/or proposed buildings, structures or accessory structures exceeds 35 percent of the total lot area, save and except that a swimming pool shall not be computed as a part of the percentage, or unless additional coverage is allowed by variance or by a waiver granted under Chapter 17.044 or a concession or incentive granted for a density bonus for an affordable housing project under Chapter 17.050.

CHAPTER 17.044 EXCEPTIONS, ~~AND~~-MODIFICATIONS AND WAIVERS

Sections

- 17.044.010 ~~Generally~~ Purpose
- 17.044.020 Public utility lines
- 17.044.030 Single-family dwellings on irregular lots
- 17.044.040 Transfer of portion of lot
- 17.044.050 Height limits
- 17.044.060 Yards and open space
- 17.044.070 Projections into required yards
- 17.044.080 Fences, walls, hedges and bulkheads
- 17.044.090 Authority to grant waivers
- 17.044.100 Application requirements and review procedures for waivers

§ 17.044.010 ~~GENERALLY~~ PURPOSE

The general requirements and regulations set forth in this title shall be subject to the specific modifications, allowable waivers, and interpretation set forth in this chapter. This chapter is intended to provide an alternate means of granting relief from the requirements of this title for minor deviations from dimensional and objective zoning and design standards when so doing would be consistent with the purposes of this title and it is not possible to grant a variance. Further to this end, it is the policy of the Town to comply with the federal Fair Housing Act, the Americans with Disabilities Act, the Religious Land Use and Institutionalized Persons Act, and the California Fair Employment and Housing Act to provide reasonable accommodation for protected uses and for persons with disabilities seeking fair access to housing through a waiver of the application of the City's zoning regulations. This chapter authorizes the Planning Director to grant administrative relief from the dimensional requirements in this title to achieve these objectives.

§ 17.044.020 PUBLIC UTILITY LINES

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§ 17.044.030 SINGLE-FAMILY DWELLINGS ON IRREGULAR LOTS.

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§ 17.044.040 TRANSFER OF PORTION OF LOT

...

§ 17.044.050 HEIGHT LIMITS

...

§ 17.044.060 YARDS AND OPEN SPACE

...

§ 17.044.070 PROJECTIONS INTO REQUIRED YARDS

...

§ 17.044.080 FENCES, WALLS, HEDGES AND BULKHEADS

...

§ 17.044.090 AUTHORITY TO GRANT WAIVERS

The Planning Director may grant relief from certain dimensional requirements specified in this title if the required findings are made. The Planning Director also may grant a waiver that would exceed 10 percent where such a waiver is necessary to comply with the reasonable accommodation provisions of State and/or federal law, based on a determination that the specific circumstances of the application warrant such an accommodation. More specifically, waivers may be granted for:

- (A) **Setbacks.** Up to 10 percent of front, side, and rear yard setback standards.
- (B) **Build-to Lines.** Up to 10 percent of any standard for building façade location.
- (C) **Parking.** Up to 10 percent of the dimensional standards for parking spaces, aisles, driveways, landscaping, garages on sloping lots, and parking facility design.
- (D) **Fences.** Up to 10 percent of the standards for the maximum height and location of fences.
- (E) **Lot Coverage.** Up to 10 percent of the maximum amount of lot coverage. A waiver of up to 20 percent of the maximum amount of lot coverage may be granted for multiple family housing developments to accommodate driveways and walkways, impervious surface for common open space, decks, patios, and surface parking.
- (F) **Height.** Up to 10 percent or two feet of the maximum building height or other height limitations, whichever is less, excluding height limits for accessory dwelling units.
- (G) **Landscaping.** Up to 10 percent of the required landscaping and up to 10 percent of the performance standard for water use.
- (H) **Transparency.** Up to 10 percent of the minimum ground-floor building transparency requiring views into buildings.
- (I) **Other Standards.** Up to 10 percent of any other objective development standard not listed in subsection (J) below.
- (J) **Exclusions.** Waivers cannot be granted for any of the following standards:
 - (1) Lot area, width, or depth;
 - (2) Maximum number of stories;
 - (3) Minimum number of required parking spaces;
 - (4) Minimum or maximum residential density; or

- (5) Maximum floor area ratio (FAR).

§ 17.044.100 APPLICATION REQUIREMENTS AND REVIEW PROCEDURES FOR WAIVERS

The Planning Director shall approve, conditionally approve, or deny applications for waivers based on the standards and limitations of the requirements of this chapter and the following procedures.

- (A) An application for a waiver shall be filed and processed on a form provided by planning staff accompanied by the required fee. In addition to any other application requirements, the application for a waiver shall include data or other evidence explaining why the findings necessary to grant the waiver, set forth below, are satisfied.
- (B) An application for a waiver based on a request for a reasonable accommodation to ensure access to housing may include a request to exceed the limits in §17.044.090. The Planning Director shall issue a written decision within 45 days of the date the application for a reasonable accommodation is deemed complete, and may grant the reasonable accommodation request, grant with modifications, or deny the request. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process.
- (C) If a request for waiver is being submitted in conjunction with an application for another approval, permit, or entitlement under this title, it shall be heard and acted upon at the same time and in the same manner as that application.
- (D) A decision to grant a waiver shall be based on the following findings:
- (1) The waiver is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;
 - (2) There are no alternatives to the requested waiver that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public;
 - (3) The granting of the requested waiver will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this title; and
 - (4) If the waiver requested is to provide reasonable accommodation pursuant to State or federal law, the Planning Director shall also make one or more of the following findings in addition to any other findings that this title requires:
 - (a) That the housing or other property that is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;

- (b) If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or federal law;
 - (c) That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
 - (d) That denial of the requested waiver would impose a substantial burden on religious exercise or would conflict with any State or federal statute requiring reasonable accommodation to provide access to housing.
- (E) The Planning Director has the authority to impose reasonable conditions that are related and proportionate to what is being requested by the applicant, as deemed necessary and appropriate to ensure that the provisions of the General Plan, any applicable master plan or precise plan, and this title are met. The Planning Director may require reasonable guarantees and evidence that such conditions are being, or will be, complied with. Waivers approved based on State or federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.
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CHAPTER 17.052 OFF-STREET PARKING AND LOADING REQUIREMENTS

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§ 17.052.030 REQUIRED PARKING SPACES

Off-street parking spaces shall be provided according to the following schedule, and where a parcel includes two or more uses, the parking requirements shall be the aggregate of the requirement for the various uses. Fractional numbers shall be rounded up to the next highest value:

(A)

- (1) Dwellings, including one-family and two-family dwellings, apartments and mobile homes:
 - (a) Studio units without separate bedrooms or Tiny Houses: one space.
 - (b) One-bedroom units: ~~two~~ 1.5 spaces (except for single family detached homes which shall require 2 spaces).
 - (c) Two-bedroom units: two spaces.
 - (d) Units with three or more bedrooms: two spaces.

...

CHAPTER 17.056 TRAFFIC IMPACT PERMIT

Sections

- 17.056.010 Intent
- 17.056.020 Definitions
- 17.056.030 Required
- 17.056.040 Term
- 17.056.050 Applicable projects
- 17.056.060 Application
- 17.056.070 Traffic study
- 17.056.080 Traffic impact mitigation plan
- 17.056.090 Planning Commission hearing
- 17.056.100 Town Council hearing
- 17.056.110 Required findings

§ 17.056.010 INTENT

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§ 17.056.080 TRAFFIC IMPACT MITIGATION PLAN

- (A) The project proponent may submit with the traffic study a plan detailing measures that will mitigate the project's adverse circulation impacts. If the plan is submitted it shall include the following:
- (1) The plan will provide details of mitigation measures, such mitigation measures including, but not limited to any of the following types:
 - (a) Physical improvements to street systems, such as intersection designs, signalization, turn or deceleration lanes and the like (e.g., bike path systems and the like);
 - (b) Transportation system management programs;
 - (c) In-lieu fees for permanent circulation improvements;
 - (d) Annual contributions for transit operation programs; and
 - (e) Reduction in the scale or density of a project or the intensity of the proposed types of uses.
 - (2) A time schedule for the implementation of the proposed mitigation measures;

- (3) The comments of other responsible agencies on any mitigation improvements proposed outside the town.
- (B) Prior to issuance of a building, grading or occupancy permit, or approval of a tentative or final subdivision map, the project proponents shall either implement any approved improvement plan or provide the town with adequate guarantees of its implementation in a manner acceptable to the town. The guarantees shall be set forth in an agreement between the town and the applicant and supported by bonds or other securities acceptable to the town, guaranteeing the faithful performance of the work and payment for the labor and materials. The agreement shall provide for a time limit to perform the work; the time limit shall be as determined adequate by the town, but shall not exceed two years. The permit may be extended by the town for reasonable cause.
- (C) Pursuant to State law, no project that qualifies for a density bonus for affordable housing under Chapter 17.050 or a project with at least 10 percent of the units reserved for lower income tenants or purchasers shall be required to pay a transportation impact fee or in-lieu fee for traffic impact mitigation.

§ 17.056.090 PLANNING COMMISSION HEARING

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§ 17.056.100 TOWN COUNCIL HEARING

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§ 17.056.110 REQUIRED FINDINGS

To approve the traffic impact permit, the Planning Commission and Town Council must make one of the following findings.

- (A) The project’s average daily traffic, when added to the existing daily traffic, plus projected traffic, will not cause the performance of intersection of roadway linkages to fall below the acceptable level of service or otherwise further reduce the system performance if it is already below the acceptable level of service; nor will it cause a significant degradation in service levels for impacted intersections at their peak traffic periods.
- (B)
 - (1) The traffic impact mitigation plan approved by the Planning Commission and Town Council will adequately mitigate the project’s adverse traffic impacts.
 - (2) This plan is consistent with the goals and objectives of the Fairfax general plan or applicable specific plans and the intent of the zoning district in which the project is situated, and of this chapter.
- (C) The project’s average daily traffic will not increase the traffic volume on any roadway segments or intersection approaches of the town’s principal circulation system by more than one percent or by more than 100 vehicles, whichever is less.

- (D) The project will provide an overriding public benefit that will sufficiently offset its adverse traffic impacts. Any affirmative decision of the Planning Commission or the Town Council based upon this finding shall be approved by a five-sevenths majority of the Planning Commission and a four-fifths majority of the Town Council. The grounds for making this finding shall be set forth in the approving motion.
- (E) The traffic impact mitigation plan approved by the Planning Commission and Town Council will adequately mitigate the project's adverse traffic impacts but no transportation impact fee or in-lieu fee for traffic impact mitigation will be levied because the project will provide affordable housing for lower income households, either through the Town's density bonus program or with a minimum of 10 percent of the units reserved for lower income households, and only physical improvements directly related to access to the project site for vehicles, bicycles, and pedestrians and reasonable off-site improvements needed to mitigate impacts on the Town's street systems, such as intersection designs, signalization, turn or deceleration lanes and the like (e.g., bike path systems and the like) and maintain acceptable levels of service shall be required to offset identified traffic impacts. An agreement guaranteeing continued affordable for lower income units that is approved by the Town Attorney and Town Council shall be required as a condition of approval of a traffic impact permit.

EXHIBIT D (to Ordinance)

**AMENDING CHAPTER 17.048 (RESIDENTIAL ACCESSORY DWELLING UNITS
AND JUNIOR ACCESSORY DWELLING UNITS)**

CHAPTER 17.048 RESIDENTIAL ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Section

17.048.010 Accessory Dwelling Units

§ 17.048.010 ACCESSORY DWELLING UNITS

- (A) *Purpose.* The purpose of this section is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Cal. Gov't Code §§ 65852.2 and 65852.22.
- (B) *Effect of conforming.* An ADU or JADU that conforms to the standards in this section will not be: ...
- (C) Definitions. ...
- (D) *Approvals.* The following approvals apply to ADUs and JADUs under this section:
- (1) *Building-permit only.* If an ADU or JADU complies with each of the general requirements in division (E) below, it is allowed with only a building permit in the following scenarios:
 - (a) *Converted on single-family lot.* One ADU as described in this division (D)(1)(a) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - (i) Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - (ii) Has exterior access that is independent of that for the single-family dwelling; and
 - (iii) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes; and
 - (iv) The ADU does not exceed 50 percent of the floor area or the existing or proposed single-family dwelling, except that a one bedroom unit that is up to 850 square feet shall be allowed and a two or more bedroom unit that is up to 1,000 square feet shall be allowed, not withstanding any floor area restrictions; and
 - (v) The JADU complies with the requirements of Government Code Section 65852.22.
 - (b) *Limited detached on single-family lot.* ~~One~~ Up to two detached, new-construction ADUs on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established

on the lot under division (D)(1)(a) above), if ~~the~~ each detached ADU satisfies the following limitations:

- (i) The side- and rear-yard setbacks are at least four feet.
- (ii) The total floor area is ~~800~~ 1,200 square feet or smaller.
- (iii) The peak height above grade is 16 feet or less does not exceed the applicable height limit in division (E)(2) below.
- (iv) Only lots that are larger than 10,000 square feet may have a second detached ADU.

(c) Converted on multi-family lot. ...

(d) Limited detached on multi-family lot. ...

(2) ADU permit. ...

(3) Process and timing. ...

(E) *General ADU and JADU requirements.* The following requirements apply to all ADUs and JADUs that are approved under divisions (D)(1) or (D)(2) above:

(1) Zoning.

(a) An ADU or JADU subject only to a building permit under division (D)(1) above may be created on a lot in a residential or mixed-use zone.

(b) An ADU or JADU subject to an ADU permit under division (D)(2) above may be created on a lot that is zoned to allow single-family dwelling residential use or multi-family dwelling residential use.

(2) Height.

(a) Except as otherwise provided by divisions (E)(2)(b) and (E)(2)(c) below, a detached ADU created on a lot with an existing or proposed single-family or multifamily dwelling unit ~~may~~ shall not exceed 16 feet in height.

(b) A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop of a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.

(c) A detached, ~~and the~~ ADU may be up to two additional feet in height (for a maximum of ~~20~~ 18 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.

(d) A detached ADU created on a lot with an existing or proposed multifamily dwelling unit that has more than one story above grade ~~may~~ shall not exceed 18 feet in height.

(e) An ADU that is attached to the primary dwelling unit may not exceed 25 feet in height or the height limitation imposed by the underlying

zone that applies to the primary dwelling unit, whichever is lower. Notwithstanding the foregoing, ADUs subject to this division (E)(2)(d) may not exceed two stories.

- (f) For purposes of this division (E)(2), height is measured above ~~existing legal~~ finished grade within five feet of the building or, if the lot line is more than five feet from the building, between the building and a line five feet from the building to the peak of the structure.
 - (3) Fire sprinklers. ...
 - (4) Rental term. ...
 - (5) No separate conveyance. ...
 - (6) Septic system. ...
 - (7) Owner occupancy. ...
 - (8) Deed restriction. ...
 - (9) Submittal requirements. ...
 - (10) Building and safety. ...
- (F) *Specific ADU requirements.* The following requirements apply only to ADUs that require an ADU permit under division (D) above.
- (1) Maximum size.
 - (a) The maximum size of a detached or attached ADU subject to this division (F) is 850 square feet for a studio or one-bedroom unit and ~~1,000~~ 1,200 square feet for a unit with two bedrooms.
 - (b) An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling.
 - (c) Application of other development standards in this division (F), such as FAR or lot coverage, might further limit the size of the ADU, but no application of the percent-based limit in division (F)(1)(b) above or of an FAR or lot coverage limit, or open-space requirement, may require the ADU to be less than ~~800~~ 850 square feet for a one-bedroom unit or 1,200 square feet for a two-bedroom unit.
 - (2) *Floor area ratio (FAR).* No ADU subject to this division (F) may cause the total FAR of the lot to exceed 40 percent, subject to division (F)(1)(c) above.
 - (3) *Lot coverage.* No ADU subject to this division (F) may cause the total lot coverage of the lot to exceed 35 percent, subject to division (F)(1)(c) above. A waiver of the lot coverage standard may be granted by the Planning Director under Chapter 17.044.
 - (4) *Minimum open space.* Subject to division (F)(1)(c) above, no ADU on a lot subject to this division (F) may cause the open space area to fall below 300 square feet per unit. "Open space area" shall not include any required yard

or setback, required building separation, access area, or area with dimensions of less than ten feet or slope of greater than ten percent, subject to division (F)(1)(c) above. Landscape areas having minimum dimensions of less than ten feet but at least five feet at any point which are contiguous with and an integral part of the open space area or are connected to the open space area by walkways, may be included in calculating the area of such space.

- (5) *Height. See division (E)(2) and.*
- (a) A single story attached or detached ADU ~~may~~ shall not exceed 16 feet in height above grade, measured to the peak of the structure. A detached ADU may be up to two additional feet in height (for a maximum of 18 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
 - (b) A second story or two story attached ADU ~~may~~ shall not exceed the height of the primary dwelling.
 - (c) A detached /ADU ~~may~~ shall not exceed one story.
- (6) Passageway. ...
- (7) Parking. ...
- (8) Stream buffer. ...
- (9) Architectural requirements. ...
- (10) Landscape requirements. ...
- (11) Historical protections. ...
- (12) Setbacks. ...
- (G) Fees. ...
- (H) Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures. ...
- (I) *Nonconforming ADUs and discretionary approval.* Any proposed ADU or JADU that does not conform to the objective standards set forth in divisions (A) through (G)(2) of this section may be allowed by the town with a variance or conditional use permit or waiver, as applicable, in accordance with the other provisions of this title.
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EXHIBIT E (to Ordinance)

AMENDING CHAPTERS 17.076 TO 17.090 AND 17.116 RELATED TO RESIDENTIAL ZONES, CHAPTER 17.136 (FLOOR AREA), AND CHAPTER 17.138 (REGULATIONS APPLYING IN MULTIPLE ZONING DISTRICTS)

CHAPTER 17.076 RS-7.5 SINGLE-FAMILY RESIDENTIAL ZONE, MEDIUM DENSITY

Sections

- 17.076.010 Generally
- 17.076.020 Principal permitted uses and structures
- 17.076.030 Conditional uses and structures
- 17.076.040 Accessory uses and structures
- 17.076.050 Building site requirements
- 17.076.060 Height regulations
- 17.076.070 Yards
- 17.076.075 Driveway standards
- 17.076.080 Signs
- 17.076.090 Off-street parking
- 17.076.100 Traffic impact permit
- 17.076.110 Variances

§ 17.076.010 GENERALLY

No premises in the RS-7.5 single-family residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

§ 17.076.020 PRINCIPAL PERMITTED USES AND STRUCTURES

Uses in the RS-7.5 zone shall be conducted entirely within a building and restricted to a single-family dwelling and accessory dwelling units on each building site. Also permitted by-right are small family day care and limited residential care. Large family day care, supportive housing for six or fewer persons, and transitional housing for six or fewer persons also are allowed with a zoning permit, and no discretionary review is required, provided the objective standards of Chapter 17.138 are met.

§ 17.076.030 CONDITIONAL USES AND STRUCTURES

Conditional uses and structures in the RS-7.5 zone are as follows:

...

§ 17.076.040 ACCESSORY USES AND STRUCTURES

Accessory uses in the RS-7.5 zone are as follows:

- (A) Home occupations;
- (B) Cabanas, greenhouses, patios, lath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances;
- (C) Private garages, parking spaces and swimming pools for the exclusive use of the residents of the premises and their guests;

- (D) ~~One~~ Up to two residential accessory dwelling units or one junior accessory dwelling unit, which shall be approved in accordance with the procedures and standards in Chapter 17.048 of this title; and
- (E) Short-term rental uses that include only one short-term rental unit per single-family zoned property contained within an existing structure permitted for residential use as long as that structure is not an ADU/JADU created after January 1, 2020.

§ 17.076.050 BUILDING SITE REQUIREMENTS

Except as otherwise provided in §§ 17.044.030 through 17.044.050 of this title, a use permit or hill area residential development permit (HRD) shall be first secured in the RS-7.5 zone for any use, occupancy or physical improvement of or on a building site failing to meet the following minimum requirements:

...

§ 17.076.060 HEIGHT REGULATIONS

The following height regulations apply in the RS-7.5 zone.

- (A)
 - (1) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories.
 - (2) On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street shall not exceed 28.5 feet in height nor contain more than three stories.
 - (3) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed 15 feet in height nor contain more than one story; provided that, handrails required by the Uniform Building Code shall not be included in measuring height. The height of accessory dwelling units is governed by Chapter 17.048.

§ 17.076.070 YARDS

- (A) Except as otherwise permitted by variance, each building in the RS-7.5 zone having a slope of not more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined depth of not less than 30 feet, but neither yard having a depth of less than ten feet; and/or
 - (2) Two side yards having a combined width of not less than 20 feet, but neither yard having a width of less than five feet.

- (B) Except as otherwise permitted by variance, each building site in the RS-7.5 zone having a slope of more than ten percent shall have yards as follows:
 - (1) A front and rear yard having a combined depth of not less than 40 feet, but the front yard having a depth of not less than six feet and the rear yard a depth of not less than 15 feet;
 - (2) Two side yards having a combined width of not less than 25 feet, but neither yard having a width of less than ten feet.
- (C) Setback standards for accessory dwelling units are established in Chapter 17.048.

§ 17.076.075 DRIVEWAY STANDARDS

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§ 17.076.080 SIGNS

...

§ 17.076.090 OFF-STREET PARKING

Off-street parking spaces and facilities in the RS-7.5 zone shall be provided as required or allowed by the provisions of Chapter 17.052 of this title and, for accessory dwelling units, as required by Chapter 17.048.

§ 17.076.100 TRAFFIC IMPACT PERMIT

...

§ 17.076.110 VARIANCES

...

CHAPTER 17.080 RS-6 SINGLE-FAMILY RESIDENTIAL ZONE, HIGH DENSITY

Sections

- 17.080.010 Generally
- 17.080.020 Principal permitted uses and structures
- 17.080.030 Conditional uses and structures
- 17.080.040 Accessory uses and structures
- 17.080.050 Building site requirements
- 17.080.060 Height regulations
- 17.080.070 Yards
- 17.080.075 Driveway standards
- 17.080.080 Signs
- 17.080.090 Off-street parking
- 17.080.100 Traffic impact permit
- 17.080.110 Variances

§ 17.080.010 GENERALLY

No premises in the RS-6 single-family residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

§ 17.080.020 PRINCIPAL PERMITTED USES AND STRUCTURES

Uses within the RS-6 zone shall be conducted entirely within a building and are restricted to a single-family dwelling and accessory dwelling units on each building site. Also permitted by-right are small family day care and limited residential care. Large family day care, supportive housing for six or fewer persons, and transitional housing for six or fewer persons also are allowed with a zoning permit, and no discretionary review is required, provided the standards of Chapter 17.138 are met.

§ 17.080.030 CONDITIONAL USES AND STRUCTURES

Conditional uses in the RS-6 zone are as follows:

...

§ 17.080.040 ACCESSORY USES AND STRUCTURES

Accessory uses in the RS-6 zone are as follows:

- (A) Home occupations;
- (B) Cabanas, greenhouses, patios, bath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances;
- (C) Private garages, parking spaces and swimming pools for the exclusive use of the residents of the premises and their guests;

- (D) ~~One~~ Up to two residential accessory dwelling units or one junior accessory dwelling unit, which shall be approved in accordance with the procedures and standards in Chapter 17.048 of this title; and
- (E) Short-term rental uses that include only one short-term rental unit per single-family zoned property contained within an existing structure permitted for residential use as long as that structure is not an ADU/JADU created after January 1, 2020.

§ 17.080.050 BUILDING SITE REQUIREMENTS

Except as otherwise provided in §§ 17.044.030 through 17.044.050 of this title, a use permit or hill area residential development permit (HRD) shall be first secured in the RS-6 zone for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:

...

§ 17.080.060 HEIGHT REGULATIONS

Height regulations in the RS-6 zone are as follows:

- (A) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories. On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street shall not exceed 28.5 feet in height nor contain more than three stories.
- (B) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed 15 feet in height nor contain more than one story; provided that, handrails required by the Uniform Building Code shall not be included in measuring height. The height of accessory dwelling units is governed by Chapter 17.048.

§ 17.080.070 YARDS

- (A) Except as otherwise permitted by variance, each building site in the RS-6 zone having a slope of not more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined depth of not less than 25 feet, but neither having a depth of less than six feet; and
 - (2) Two side yards having a combined width of not less than 15 feet, but neither yard having a width of less than five feet.
- (B) Except as otherwise permitted by variance, each building site in the RS-6 zone having a slope of more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined depth of not less than 35 feet, but the front yard having a depth of not less than six feet and the rear yard of not less than 12 feet; and

- (2) Two side yards having a combined width of not less than 20 feet, but neither yard having a width of less than five feet.
- (C) On all corner lots, all street frontage of any corner lot shall have a yard setback of ten feet.
- (D) Setback standards for accessory dwelling units are established in Chapter 17.048.

§ 17.080.075 DRIVEWAY STANDARDS

...

§ 17.080.080 SIGNS

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§ 17.080.090 OFF-STREET PARKING

Off-street parking spaces and facilities shall be provided in the RS-6 zone as required or allowed by the provisions of Chapter 17.052 of this title and, for accessory dwelling units, as required by Chapter 17.048.

§ 17.080.100 TRAFFIC IMPACT PERMIT

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§ 17.080.110 VARIANCES

...

CHAPTER 17.084 RD 5.5-7 RESIDENTIAL ZONE, HIGH DENSITY

Sections

- 17.084.010 Generally
- 17.084.020 Principal permitted uses and structures
- 17.084.030 Conditional uses and structures
- 17.084.040 Accessory uses and structures
- 17.084.050 Building site requirements
- 17.084.060 Height regulations
- 17.084.070 Yards
- 17.084.075 Driveway standards
- 17.084.080 Signs
- 17.084.090 Off-street parking
- 17.084.100 Traffic impact permit
- 17.084.110 Variances

§ 17.084.010 GENERALLY

No premises in the RD 5.5-7 residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

§ 17.084.020 PRINCIPAL PERMITTED USES AND STRUCTURES

Uses within the RD 5.5-7 zone shall be conducted entirely within a building and are restricted to the following:

- (A) A single-family dwelling on each building site;
- (B) A duplex on each building site having a minimum lot area of 7,000 square feet; ~~and~~
- (C) Boardinghouse or lodging house, not to exceed five guests;
- (D) Small family day care and large family day care, subject to the standards of Chapter 17.138;
- (E) Limited residential care; and
- (F) Supportive housing for not more than six persons and transitional housing for no more than six persons, subject to the standards of Chapter 17.138.

§ 17.084.030 CONDITIONAL USES AND STRUCTURES

The following are conditional uses in the RD 5.5-7 zone:

- (A) Agricultural uses, including crop and tree farming and viticulture, but not including the raising of animals or fowl for commercial purposes or the sale of any products on the premises;

- (B) Public or quasi-public buildings and uses of an educational, religious, cultural or public service type, not including corporation yards, storage or repair yards, warehouses or similar uses;
- (C) Temporary tract offices;
- (D) Public and private noncommercial recreation area and facilities, such as country clubs, golf courses and swimming pools;
- (E) Private stables and corrals;
- (F) Public utility buildings, structures or facilities, except transmission lines;
- (G) Living quarters of persons regularly employed on the premises;
- (H) Accessory uses other than those specifically listed in § 17.084.040; and
- (I) General residential care, subject to the standards of Chapter 17.138.
- (J) Other uses which are determined by the Planning Commission to be of the same general character as those enumerated in this section.

§ 17.084.040 ACCESSORY USES AND STRUCTURES

The following are accessory uses in the RD 5.5-7 zone:

- (A) Home occupations;
- (B) Cabanas, greenhouses, patios, bath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances;
- (C) Private garages, parking spaces and swimming pools for the exclusive use of the residents of the premises and their guests; and
- (D) ~~One~~ Up to two residential accessory dwelling units or one junior accessory dwelling unit, which shall be approved in accordance with the procedures and standards in Chapter 17.048 of this title.

§ 17.084.050 BUILDING SITE REQUIREMENTS

In the RD 5.5-7 zone, a use permit or hill area residential development permit (HRD) shall be first secured for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:

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§ 17.084.060 HEIGHT REGULATIONS

Height regulations in the RD 5.5-7 zone are as follows.

- (A)
 - (1) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories.

- (2) On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street shall not exceed 28.5 feet in height nor contain more than three stories.
- (B) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed 15 feet in height nor contain more than one story; provided that, handrails required by the Uniform Building Code shall not be included in measuring height. The height of accessory dwelling units is governed by Chapter 17.048.

§ 17.084.070 YARDS

- (A) Except as otherwise permitted by variance, each building site in the RD 5.5-7 zone having a slope of not more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined depth of not less than 25 feet, but neither yard having a depth of less than six feet; and
 - (2) Two side yards having a combined width of not less than 15 feet, but neither yard having a width of less than five feet.
- (B) Except as otherwise permitted by variance, each building site in the RD 5.5-7 zone having a slope of more than ten percent shall have yards as follows:
 - (1) A front and a rear yard having a combined width of not less than 35 feet, but the front yard having a width of not less than six feet and the rear yard of not less than ten feet; and
 - (2) Two side yards having a combined width of 20 feet, but neither yard having a width of less than five feet.
- (C) On all corner lots, all street frontage of any corner lot shall be a yard setback of ten feet.
- (D) Setback standards for accessory dwelling units are established in Chapter 17.048.

§ 17.084.075 DRIVEWAY STANDARDS

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§ 17.084.080 SIGNS

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§ 17.084.090 OFF-STREET PARKING

Off-street parking spaces shall be provided in the RD 5.5-7 zone as required or allowed by the provisions of Chapter 17.052 of this title Setback standards for accessory dwelling units are established in Chapter 17.048.

§ 17.084.100 TRAFFIC IMPACT PERMIT

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§ 17.084.110 VARIANCES

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CHAPTER 17.088 RM MULTIPLE-FAMILY RESIDENTIAL ZONE

Sections

- 17.088.010 Generally
- 17.088.020 Principal permitted uses and structures
- 17.088.030 Conditional uses and structures
- 17.088.040 Accessory uses and structures
- 17.088.050 Building site requirements
- 17.088.060 Height regulations
- 17.088.070 Yards
- 17.088.075 Driveway standards
- 17.088.080 Signs
- 17.088.090 Off-street parking
- 17.088.100 Traffic impact permit
- 17.088.110 Variances

§ 17.088.010 GENERALLY

No premises in the RM multiple-family residential zone may be used for any purpose or in any manner, except as set forth in this chapter.

§ 17.088.020 PRINCIPAL PERMITTED USES AND STRUCTURES

Permitted uses in the RM zone are multiple dwellings and apartments at a density of not more than one living unit for 4,356 square feet of land areas, except by use permit under the provisions of § 17.088.030 unless a density bonus for affordable housing has been granted under the provisions of Chapter 17.050. Large family day care, supportive housing, and transitional housing also are allowed with a zoning permit, and no discretionary review is required, provided the standards of Chapter 17.138 are met.

§ 17.088.030 CONDITIONAL USES AND STRUCTURES

Conditional uses and structures in the RM zone are as follows:

- (A) Multiple dwellings and apartments at a density of not more than one living unit for each 3,000 square feet of land areas provided the development is consistent with the Fairfax Area General Plan and its elements;
- (B) A single duplex on a building site;
- (C) Public or quasi-public buildings and uses of an educational, religious, cultural or public service type, not including corporation yards, storage or repair yards, warehouses or similar uses;
- (D) Temporary tract offices;
- (E) Public utility buildings, structures or facilities, except transmission lines;
- (F) Other uses which are determined by the Planning Commission to be of the same general character as those enumerated in this section; and

- (1) Accessory uses other than those specifically listed in § 17.088.040; and
- (2) General residential care, subject to the standards of Chapter 17.138.

§ 17.088.040 ACCESSORY USES AND STRUCTURES

Accessory uses and structures in the RM zone are as follows:

- (A) Cabanas, greenhouses, patios, lath houses, tool sheds, playhouses, barbecue pits, fences, walkways, hedges and similar improvements and appurtenances;
- (B) Private garages, parking spaces and swimming pools for the exclusive use of the residents of the premises and their guests; and
- (C) ~~One~~ Up to two residential accessory dwelling units or one junior accessory dwelling unit, which shall be approved in accordance with the procedures and standards in Chapter 17.048 of this title.

§ 17.088.050 BUILDING SITE REQUIREMENTS

Building site requirements in the RM zone are as follows.

- (A) A use permit or hill area residential development permit (HRD) shall be first secured for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:
 - (1) Minimum area of 7,500 square feet and a minimum width of 60 feet with a slope of ten percent or less;
 - (2) The minimum building site area shall be increased by 600 square feet for each one percent increase in slope over ten percent to and including 15 percent, and the minimum width shall be increased by eight feet for each 600 square feet of additional area required, so that a building site having a slope of 15 percent shall have a minimum area of 10,500 square feet and a minimum width of 100 feet;
 - (3) Building sites having a slope of more than 15 percent shall increase in area above 10,500 square feet and a minimum width above 100 feet, at the rate of 1,200 square feet of area and five feet of width for each one percent increase in slope.
- (B) Each building site containing three or more dwelling units shall contain not less than 300 square feet of common or private open space for each dwelling unit, of which at least 60 square feet shall be private open space serving individual dwelling units. The open space shall conform to the following standards:
 - (1) None of the following shall be counted as a part of the open space required by this section: required yards or setbacks from a property line; separations required between buildings containing dwelling units; an open area, access area or other space required by any other ordinance of the town, such as a

building code or safety code (parking areas and driveways); any area less than ten feet in width; any area having a finished grade of more than ten percent;

- (2) The following shall be counted as a part of the open space required by this section: patios ~~and balconies~~ with a minimum dimension of ten feet and decks and balconies with a minimum dimension of six feet which serve individual dwelling units; courtyards or other open spaces having minimum dimensions of 10 feet, uncovered swimming pools, tennis courts, gym and fitness facilities, indoor space for yoga, dance and instruction, and similar recreation areas, and tot lots; landscape areas having minimum dimensions of less than 10 feet but at least five feet at any point which are contiguous with and an integral part of the common open space or are connected to the common open space by walkways, may be included in calculating the area of such space.
- (3) Any area or space which qualifies as a part of the open space required by this section shall continue to be counted as such if it is landscaped;
- (4) Not more than two-thirds of the total amount of open space required on any building site may be consolidated into a single open area; and
- (5) The amount of open space required for a building site by this section is a minimum requirement and cannot be reduced unless needed as a concession or incentive for an affordable housing density bonus under the provisions of Chapter 17.050 or a waiver is granted under the provisions of Chapter 17.044, which include waivers to comply with reasonable accommodation provisions of State and/or federal law under the provisions of Chapter 17.044.

§ 17.088.060 HEIGHT REGULATIONS

Height regulations in the RM zone are as follows:

(A)

- (1) Except as otherwise permitted by variance, no building or structure occupied by a principal use on a lot having a slope of ten percent or less shall exceed a height of 28.5 feet nor contain more than two stories. Additional height, up to 36 feet, and an additional story, which shall not include more than 80 percent of the floor area of the story below and shall be set back at least 10 feet from the front and rear walls of the story below, may be approved for a density bonus project with affordable housing under the provisions of Chapter 17.050.
- (2) On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall exceed 35 feet in height, and if situated on the uphill side of the street shall not exceed 28.5 feet in height nor contain more than three stories. Additional height, up to 40 feet on the downhill side and 36 feet on the uphill side may be approved for a density bonus project with affordable housing under the provisions of Chapter 17.050, provided the density bonus floor area on a third story is setback 10 feet from the front and

rear walls of the floor below. A 10-foot interior side setback at the third story also shall be required when the abutting lot is in an RS zone.

- (B) Except as otherwise permitted by variance or by the provisions of § 17.052.020 of this title, no accessory building or structure on any lot shall exceed 16 feet in height nor contain more than one story; provided that handrails required by the California Building Code and the California Residential Code, as adopted by the Town are not included in measuring height.

§ 17.088.070 YARDS

Except as otherwise permitted by variance, each building site in the RM zone having a slope of not more than ten percent shall have yards as follows:

- (A) (A) A front and rear yard having a combined depth of not less than 40 feet, but neither yard having a depth of less than ten feet and a minimum setback for garages of 18 feet; The combined depth may be reduced to 35 feet for an affordable housing project with a density bonus approved under Chapter 17.050.
- (B) (B) Two side yards having a combined width of not less than 25 feet, but neither yard having a width of less than ten feet; ~~and~~ and a minimum setback for garages of 18 feet. The combined width may be reduced to 15 feet with a minimum interior yard width of five feet for an affordable housing project with a density bonus approved under Chapter 17.050.
- (C) On all corner lots, all street frontage of any corner lot shall have a yard setback of ten feet.
- (D) Setback standards for accessory dwelling units are established in Chapter 17.048.

§ 17.088.075 DRIVEWAY STANDARDS

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§ 17.088.080 SIGNS

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§ 17.088.090 OFF-STREET PARKING

Off-street parking spaces and facilities in the RM zone shall be provided as required or allowed by the provisions of Chapter 17.052 of this title, by Chapter 17.048 for accessory dwelling units, and the following standards:

- (A) A minimum of 10 percent of the interior of any parking lot area shall be landscaped;
- (B) A landscaped island at least six feet in all interior dimensions and containing at least one 15-gallon tree shall be provided at the end of each interior row of parking stalls;
- (C) One canopy tree shall be provided for each five parking stalls;
- (D) A landscaped area at least five feet wide shall be provided between any surface parking area and the property line adjacent to a public street; and

- (E) A landscaped area at least three feet shall be provided between any surface parking area and an interior property line.

§§ 17.088.100 TRAFFIC IMPACT PERMIT

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§§ 17.088.110 VARIANCES

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CHAPTER 17.090 RM-S MULTIPLE-FAMILY RESIDENTIAL - SENIOR - RESIDENTIAL ZONE

Sections

- 17.090.010 Generally
- 17.090.020 Principal permitted uses and structures
- 17.090.030 Conditional uses and structures
- 17.090.040 Accessory uses and structures
- 17.090.050 Design review
- 17.090.060 Building site requirements
- 17.090.070 Height regulations
- 17.090.080 Yards
- 17.090.085 Driveway standards
- 17.090.090 Signs
- 17.090.100 Off-street parking
- 17.090.110 Traffic impact permit
- 17.090.120 Variances
- 17.090.130 Additional regulations
- 17.090.140 Severability

§ 17.090.010 GENERALLY

- (A) The RM-S residential zone is intended to create use and development standards for senior residential housing in a way that preserves and enhances its surroundings; recognizes the requirements of state and federal housing laws (including the Federal Fair Housing Act [42 U.S.C. §§ 3601-3631], the California Fair Employment and Housing Act [Cal. Gov't Code §§ 12900-12995], and the California Unruh Civil Rights Act [Cal. Civil Code §§ 51-53]); and to encourage the development of senior housing. No premises in the RM-S senior residential zone may be used for any purpose or in any manner, except as set forth in this chapter.
- (B) All structures, physical improvements and modifications involving soil or drainage modifications that fall into any of the categories listed in § 17.072.020 are subject to the Hill Area Residential Development permit requirements.

§ 17.090.020 PRINCIPAL PERMITTED USES AND STRUCTURES.

- (A) Permitted uses in the RM-S zone are multiple dwellings and apartments for the exclusive use and occupancy of residents who can establish eligible occupancy, as defined herein, at a density of not more than 10 dwelling units per acre, or as may otherwise be established in the Fairfax General Plan and this title for affordable housing density bonuses. Supportive housing and transitional housing also are allowed with a zoning permit, and no discretionary review is required, provided the standards of Chapter 17.138 are met.
- (B) For purposes of this chapter, the following definitions shall apply:

- (1) "Eligible occupancy" requires that the persons commencing any occupancy of a dwelling unit in the RM-S zone include a senior citizen who intends to reside in the unit as his or her primary residence on a permanent basis. The residency of any onsite staff shall comply with the state and federal laws identified in § 17.090.010 above.
- (2) "Senior citizen" has the meaning set forth in Cal. Civil Code § 51.3(b)(1).

§ 17.090.030 CONDITIONAL USES AND STRUCTURES.

General residential care is allowed with approval of a conditional use permit, subject to the standards of Chapter 17.138. There shall be no other conditional uses or structures in the RM-S zone.

§ 17.090.040 ACCESSORY USES AND STRUCTURES.

Accessory uses and structures in the RM-S zone are as follows:

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§ 17.090.050 DESIGN REVIEW.

All structures, physical improvements and exterior modifications or building in the RM-S zone are subject to design review, unless specifically exempted in each instance by the Planning Commission or by other provisions of this chapter.

§ 17.090.060 BUILDING SITE REQUIREMENTS.

Building site requirements in the RM-S zone are as follows:

- (A) A use permit or hill area residential development permit (HRD) shall be first secured for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:

...

- (B) Each building site containing three or more dwelling units shall contain not less than 300 square feet of common and private open space for each dwelling unit. The open space shall conform to the following standards:

- (1) None of the following shall be counted as a part of the open space required by this section: required yards or setbacks from a property line; separations required between buildings containing dwelling units; an access area or other space required by any other ordinance of the town/such as a building code or safety code (parking areas and driveways); any area less than ten feet in width;
- (2) The following shall be counted as a part of the open space required by this section: patios ~~and balconies~~ with a minimum dimension of ten feet and decks and balconies with a minimum dimension of six feet which serve individual dwelling units; courtyards or other open spaces having minimum dimensions of 10 feet, uncovered swimming pools, tennis courts, gym and fitness facilities, space for yoga, dance and instruction, and similar recreation areas; landscape areas having minimum dimensions of less than 10 feet but at least five feet at any point which are contiguous with and an integral part of the common open

space or are connected to the common open space by walkways, may be included in calculating the area of such space.

- (3) Any area or space which qualifies as a part of the open space required by this section shall continue to be counted as such if it is landscaped. At least 80 percent of the open space provided shall have a finished grade of no more than ten percent.

§ 17.090.070 HEIGHT REGULATIONS.

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§ 17.090.080 YARDS.

Except as otherwise permitted by variance, each building site in the RM-S zone shall have yards as follows:

- (A) A front and rear yard having a combined depth of not less than 40 feet, but neither yard having a depth of less than ten feet and a minimum setback for garages of 18 feet;
- (B) Two side yards having a combined width of not less than 25 feet, but neither yard having a width of less than ten feet and a minimum setback for garages of 18 feet; and
- (C) On all corner lots, all street frontage of any corner lot shall have a yard setback of ten feet.

§ 17.090.085 DRIVEWAY STANDARDS.

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§ 17.090.090 SIGNS.

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§ 17.090.100 OFF-STREET PARKING

Off-street parking spaces and facilities in the RM-S zone shall be provided as required or allowed by the provisions of Chapter 17.052 of this title and the following standards:

- (A) A minimum of 10 percent of the interior of any parking lot area shall be landscaped;
- (B) A landscaped island at least six feet in all interior dimensions and containing at least one 15-gallon tree shall be provided at the end of each interior row of parking stalls;
- (C) One canopy tree shall be provided for each five parking stall;
- (D) A landscaped area at least five feet wide shall be provided between any surface parking area and the property line adjacent to a public street; and
- (E) A landscaped area at least three feet shall be provided between any surface parking area and an interior property line.

§ 17.090.110 TRAFFIC IMPACT PERMIT

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§ 17.090.120 VARIANCES.

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§ 17.090.130 ADDITIONAL REGULATIONS.

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§ 17.090.140 SEVERABILITY.

...

CHAPTER 17.116 SF-RMP SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT

Sections

- 17.116.010 Purpose
- 17.116.020 Division of property
- 17.116.030 Uses permitted outright
- 17.116.040 Principal permitted uses
- 17.116.050 Accessory uses
- 17.116.060 Design standards
- 17.116.070 Site preparation
- 17.116.080 Project design
- 17.116.090 Master plan
- 17.116.100 Master plan; required findings
- 17.116.110 Master plan; required findings for approval
- 17.116.120 Master plan; modification
- 17.116.130 Master plan; action by Town Council
- 17.116.140 Precise development plan approval
- 17.116.150 Special regulations
- 17.116.160 Traffic impact permit

§ 17.116.010 PURPOSE

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§ 17.116.020 DIVISION OF PROPERTY

...

§ 17.116.030 USES PERMITTED OUTRIGHT

The following uses are permitted in the SF-RMP district without planned district approval as required in this chapter:

- (A) Agriculture; ~~and~~
- (B) One single-family dwelling on any single holding land zoned SF RMP;
- (C) Up to two accessory dwelling units, subject to the standards and requirements of Chapter 17.048;
- (D) Small family day care; and
- (E) Limited residential care.

§ 17.116.040 PRINCIPAL PERMITTED USES

The following uses in the SF-RMP district are subject to planned district approval:

(A) On each legal building site, as determined by the town, either one residential second unit (in addition to the allowed density) or one junior second unit, either of which must be approved in accordance with the procedures and standards in [Chapter 17.048](#) of this title;

(B) Public and private stables and riding academies;

(C) Sale of agricultural products on the premises; provided that, no building or structure shall be erected or maintained primarily for any such sale, except that a temporary shelter may be erected for the sale;

(D) The grazing or breeding of cattle, sheep or horses is allowed subject to the following provisions:

(1) One grazing animal per acre will be allowed, or such number as determined by the Marin County farm advisor that can be supported by the range; and

(2) Corral and stable areas shall conform to the standards in this code.

(E) Public or quasi-public buildings and uses of an educational, cultural or public service type, not including corporation yards, storage or repair yards, warehouses or similar uses;

(F) Temporary tract offices;

(G) Public and private non-profit recreation areas and facilities, such as country clubs, golf courses and swimming pools;

(H) Public utility buildings, structures or facilities, except transmission lines;

(I) Living quarters of persons regularly employed on the premises; ~~and~~

(J) ~~Reserved.~~ Large family day care, subject to the standards of Chapter 17.138; and

(K) Other uses which are determined by the Planning Commission to be of the same general character of those enumerated in this section.

CHAPTER 17.136: FLOOR AREA

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§ 17.136.030 MAXIMUM FLOOR AREA AND FLOOR AREA RATIO.

- (A) The maximum floor area ratio for any lot containing a single-family residence or duplex shall be no greater than 0.40. See Section 17.010.080 for the Floor Area calculation and Section 17.010.090 for the Floor Area Ratio calculation.
- (B) The maximum floor area for any lot containing a single-family residence, ~~or duplex,~~ or townhouse shall not exceed 3,500 square feet regardless of lot size. The maximum floor area limit shall exclude the floor area of: (1) one accessory structure containing 120 square feet or less and featuring no utilities; (2) one or two accessory dwelling units pursuant to Chapter 17.048; and garages space as defined in Section 17.010.080 and Section 17.010.090.

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CHAPTER 17.138: REGULATIONS APPLYING IN MULTIPLE ZONING DISTRICTS

Sections

Article I: Emergency Homeless Shelters

17.138.010 Emergency homeless shelter standards

Article II: Small Residential Rooftop Solar and Renewable Energy Systems

17.138.200 Purpose
17.138.210 Definitions
17.138.220 Applicability
17.138.230 Small residential rooftop solar energy system requirements
17.138.240 Applicant obligations
17.138.250 Processing of small residential rooftop solar energy system applications
17.138.260 Application review
17.138.270 Inspections

Article III: Standards for Protected Residential Uses

17.138.310 Purpose
17.138.320 Low-Barrier Navigation Centers
17.138.330 Residential Care
17.138.340 Supportive Housing
17.138.350 Transitional Housing

Article IV: Design Standards for Multi-Family Housing Developments

17.138.410 Purpose
17.138.420 Required Side and Rear Setbacks for Dwelling Units
17.138.430 Building Mass and Scale
17.138.440 Building Materials and Lighting
17.138.350 Pedestrian Orientation and Accessible Pedestrian Facilities on Design Streets
17.138.360 Parking
17.138.370 Landscaping
17.138.380 Buffering and Screening

Article V: Development Standards for Manufactured Housing and Tiny Houses

17.138.500 Purpose
17.138.510 Manufactured Housing
17.138.520 Tiny Houses

ARTICLE I: EMERGENCY HOMELESS SHELTERS

§ 17.138.010 EMERGENCY HOMELESS SHELTER STANDARDS.

Each emergency homeless shelter shall comply with the following standards:

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ARTICLE II: SMALL RESIDENTIAL ROOFTOP SOLAR AND RENEWABLE ENERGY SYSTEMS

§ 17.138.200 PURPOSE.

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ARTICLE III: STANDARDS FOR PROTECTED RESIDENTIAL USES

§ 17.138.310 PURPOSE

The purpose of this Article is to establish objective standards for specific residential uses and activities that are permitted in several zoning districts to ensure that protection required by State and federal law is provided. These provisions are intended to minimize the impacts of these uses and activities on surrounding properties and the town at large and to protect the health, safety, and welfare of their occupants and of the general public.

§ 17.138.320 LOW-BARRIER NAVIGATION CENTERS.

Low barrier navigation centers (LBNCs) shall be located, developed, and operated in compliance with the development standards of the zone where they are located and with the following operational requirements; they are then allowed by right with a zoning permit in areas zoned for multi-family and residential mixed use development.

- (A) LBNCs shall comply with the requirements of Cal. Gov't Code § 65660 as follows:
- (1) LBNCs shall offer services to connect people to permanent housing through a services plan that identifies services staffing.
 - (2) LBNCs shall be linked to a coordinated entry system, so that staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. In this context, a "coordinated entry system" means a centralized or coordinated assessment system developed pursuant to § 576.400(d) or § 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as amended, and any related requirements, intended to coordinate participant intake, assessment, and referrals.
 - (3) LBNCs shall comply with Chapter 6.5 (commencing with § 8255) of Division 8 of the California Welfare and Institutions Code.

- (4) LBNCs shall have a working system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by § 578.3 of Title 24 of the Code of Federal Regulations.
- (B) The time periods for determining whether an LBNC application is complete and making a decision on a proposed LBNC shall be those set for in Cal Gov't. Code § 65664.

§ 17.138.330 RESIDENTIAL CARE

General residential care facilities shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 17.076, 17.080, 17.084, 17.088, and 17.090:

- (A) Minimum distance from any other residential care facility: 300 feet.
- (B) At least 20 square feet of common open space on-site shall be provided for each person who resides in the facility. Common open space shall include landscaped areas and walks and other amenities, such as, patios, swimming pools, barbeque areas, or other such improvements as are appropriate to enhance the outdoor environment of the residential care facility for its residents and visitors. Landscaped courtyard entries that are oriented towards the public street which create a welcoming entry feature are also considered common areas. All areas not improved with buildings, parking, vehicular accessways, trash enclosures, and similar items shall be developed as common areas with the types of attributes described above.
- (1) Minimum horizontal dimension: 15 feet
- (2) Usability: a surface shall be provided that provides for convenient use for outdoor living and/or recreation.
- (C) At least 15 percent of the common open space shall be shaded for seating areas. Such shading may be provided by canopy trees or shade structures.

§ 17.138.340 SUPPORTIVE HOUSING

Supportive housing shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 17.076, 17.080, 17.084, 17.088, and 17.090:

- (A) Supportive housing shall only be subject to the development standards that apply to other residential uses in the zone where such housing is proposed. The maximum number of allowable dwelling units or guest rooms for supportive housing shall be the same as number allowed for residential development projects in the zone where the supportive housing project is proposed unless a density bonus is granted under Chapter 17.050 or the land use regulations for specific zone specify another limit.
- (B) Supportive housing may be provided in a multiple-unit structure or group residential facility.

- (C) Only a zoning permit and design review is required for supportive housing projects.
- (D) Applicants shall comply with all federal and California state licensing requirements and applicable building codes and fire codes, including maximum occupancy restrictions. No limits shall be established on the length of stay.
- (E) Supportive housing facilities shall have the minimum amount of living space that meets the standards for an efficiency unit, shower and toilet facilities, laundry facilities, and secure storage areas for intended residents.
- (F) Recreation rooms at least 600 square feet in area for a development of 16 or more dwelling units or guest rooms, or at least 400 square feet in area for a development of fewer than 16 dwelling units or guest rooms, may qualify as common open space, but shall not qualify for more than 40 percent of the total required open space.
- (G) At least 90 square feet of space shall be provided as office space for on-site supportive services, which may include counseling, access to social services, medical and mental health care, housing and employment opportunities. Supportive services provided on-site are considered an accessory use and not subject to any additional standards or permitting requirements.

§ 17.138.350 TRANSITIONAL HOUSING

Transitional housing shall be located, developed, and operated in compliance with the following standards, where allowed by the land use regulations in chapters 17.076, 17.080, 17.084, 17.088, and 17.090:

- (A) Transitional housing shall only be subject to the development standards that apply to other residential uses in the zone where such housing is proposed. The maximum number of allowable dwelling units for transitional housing shall be the same as number allowed for residential development projects in the zone where the transitional housing project is proposed unless a density bonus is granted under Chapter 17.050 or the land or the land use regulations for specific zone specify another limit.
- (B) Transitional housing may be provided in a variety of rental housing types (e.g., multiple-unit dwelling, single-room occupancy, group residential, or single unit dwelling).
- (C) Transitional housing providing accommodations for six or fewer individuals shall be deemed a single-family use; only a zoning permit and design review is required.
- (D) Transitional housing providing accommodations for more than six individuals also is a permitted use in zones where multi-family and mixed use development is allowed and shall require a zoning permit and design review.
- (E) No individual or family shall reside in transitional housing for more than 24 months. A minimum of 60 days shall be required between stays. The operator of the transitional housing shall maintain adequate documentation to demonstrate compliance with this provision.

- (F) Applicants shall comply with all federal and California state licensing requirements and applicable building codes and fire codes, including maximum occupancy restrictions.
- (G) Transitional housing facilities shall have the minimum amount of living space that meets the standards for an efficiency unit, shower and toilet facilities, laundry facilities, and secure storage areas for intended residents.
- (H) Transitional housing may include office space for on-site supportive services, such as counseling, access to social services, medical and mental health care, housing and employment opportunities. On-site supportive services are considered an accessory use and not subject to any additional standards or permitting requirements.

ARTICLE IV DESIGN STANDARDS FOR MULTI-FAMILY HOUSING DEVELOPMENTS

§ 17.138.410 PURPOSE

The purpose of this article is to establish objective development standards for multi-family housing to determine compliance with design criteria. These standards are intended to implement the General Plan and ensure that the desired character and land use compatibility for multi-family housing developments are achieved.

§17.138.420 REQUIRED SIDE AND REAR SETBACKS FOR DWELLING UNITS

In order to provide light and air for multi-family living units and additional separation for rooms that contain areas that require additional privacy considerations, the following minimum setbacks shall apply to any building wall containing windows and facing an interior side or rear yard. The required setbacks apply to that portion of the building wall containing and extending 3 feet on either side of any window.

- (A) For any wall containing living room or other primary room windows, a setback of at least 15 feet shall be provided.
- (B) For any wall containing sleeping room windows, a setback of at least 10 feet shall be provided.
- (C) For all other walls containing windows, a setback of at least 5 feet shall be provided.

§ 17.138.430 BUILDING MASS AND SCALE

- (A) To reduce upper-story building mass, floorplates for the third story and above shall not exceed 80 percent of the ground-floor floorplate. The Planning Director may waive this requirement under the authority established in Chapter 17.044 upon finding the architectural articulation of exterior walls and a sloped roof modulates the visual mass of the top of the building and avoids the appearance of a box-like structure.
- (B) Buildings that are more than 150 feet in length shall include a minimum 2-foot vertical variation in height for at least 50 feet.

§ 17.138.440 BUILDING MATERIALS AND LIGHTING

- (A) A diversity of building materials is allowed provided are compatible with existing building materials used in the surrounding neighborhood and in high and very-high wildfire hazard areas are fire-resistant. These include wood, composite wood, fiber cement, metal, brick, stone, and stucco. For roofing, asphalt shingles, standing seam metal, terracotta clay barrel tiles and slate are allowed.
- (B) Mirrored glass, stony reflective metal, unfinished galvanized metal siding, and plain concrete block are prohibited for use as exterior building materials.
- (C) No barbed wire or razor wire shall be used for fencing or screening.
- (D) All outdoor lighting except for holiday lighting shall be fully-shielded so as to project against glare and direct light where needed. All entries shall be lighted with low-intensity fixtures to ensure the safety of persons and the security of the building.

§ 17.138.450 PEDESTRIAN ORIENTATION AND ACCESSIBLE PEDESTRIAN FACILITIES ON DESIGNATED STREETS

Along Bolinas Road, Broadway, School Street, and Sir Francis Drake Boulevard, all housing development on sites over one acre in size shall incorporate such features as plazas, interior walkways, canopies, arcades, courtyards, ornamental gates, trellises, lighting, plant materials, seating, fountains, or other similar features, as appropriate, to support and enhance pedestrian spaces.

- (A) Outdoor pedestrian space shall be landscaped and shall include appropriate street furniture to encourage pedestrian activity.
- (B) Clearly marked pedestrian connections shall be provided between parking areas and buildings.
- (C) All sidewalks, crosswalks, courts, plazas and residential buildings shall be designed to be safe, accessible, and convenient for individuals of all abilities, whether travelling by foot, wheelchair, or other mobility aid.

§ 17.138.460 PARKING

- (A) Parking areas are prohibited between the building and primary street edge. On-site parking shall be in the rear half of the site or within a parking structure.
- (B) Multi-story parking structures within 25 feet of a street frontage shall be lined with foundation landscaping at the ground floor.
- (C) At least 10 percent of the parking spaces shall be designed to meet the standards for electric vehicle (EV) charging spaces established in the California Building Code and the California Green Building Standards Code for new multi-family dwellings, which are incorporated by reference.

- (D) Building siting and parking design shall maximize opportunities for shared parking, access entries, and driveways in order to minimize the number of curb cuts and thus limit possible conflict between pedestrians and automobiles.
- (E) Whenever possible, vehicle access shall be provided from side streets and alleys to limit the number of driveways along arterial streets.

§ 17.138.470 LANDSCAPING

- (A) Landscaping may consist of a combination of ground cover materials, shrubs, and trees. Ground cover may include grasses, shrubs, perennials, vines, or other herbaceous or non-herbaceous plants. Ground cover also includes mulch, such as gravel, rock, cinder, bark, or other permeable materials, provided that such materials are fire-resistant. Landscaping may also include incidental features, such as stepping-stones, site furniture, water features, art, or other ornamental features placed within a landscaped setting.
- (B) A minimum of 15 percent of the site shall be landscaped, consisting of ground cover plant materials, shrubs, and trees.
 - (1) In order to conserve water, not more than 50 percent of the landscaped area may be turf.
 - (2) One tree is required for every 1,000 square feet of lot area.
 - (3) Waivers of these standards may be requested under Chapter 17.044.
- (C) Any plant that is not specifically prohibited may be selected for landscaping. Criteria for selection of plants shall include:
 - (1) Protection and preservation of native species and natural vegetation;
 - (2) Fire-resistance;
 - (3) Drought-tolerance;
 - (4) Local climate suitability, disease and pest resistance; and
 - (5) Selection of trees based on size at maturity as appropriate for the planting area.
- (D) A landscape documentation package shall be provided with the development application that complies with the standards of the “Model Water Efficient Landscape Ordinance” (MWELo) adopted by the Cal. Dept. of Water Resources in Chapter 2.7 of Div. 2 of Title 23 of the Cal. Code of Regulations, which is hereby adopted by reference and shall apply the MWELo to all new residential development projects with 500 square feet or more of landscape area. If the total landscaped area is 2,500 square feet or less, an applicant may use the prescriptive compliance option provided in Appendix D of the MWELo to streamline the review process. Under this option, turf shall not exceed 25 percent of the landscape area.
- (E) To conserve water, the Town has set a performance requirement that that estimated total water use for landscape plans subject to the MWELo shall be at

least 10 percent lower than the maximum applied water allowance established by the MWELo unless a waiver is granted under Chapter 17.044.

- (F) A signed certificate of compliance, in the form required by the Planning Director, shall be submitted to the town upon completion of a landscape installation. The Director shall approve or deny the certificate within 10 days of receipt. If the certificate is denied, the Director shall notify the applicant of the deficiencies and the appeal procedures. A landscape irrigation audit conducted by a third party certified by the town also may be required to be submitted with the certificate of compliance.
- (G) Along street frontages, at least 50 percent of the required setback shall be landscaped.
- (H) All landscaping shall comply with the water conservation and dry year water use reduction program and related water conservation measures of the Marin Municipal Water District (MMWD) in Chapter 13.02 of the MMWD Code.
- (I) Within the Wildland-Urban Interface zone, all landscaping is subject to vegetation management; see Article VI (Sections 17.138.600 through 17.138.620) of this chapter for details.
- (J) Street trees shall be included along all street frontages with multi-family housing development. Trees shall be selected shall be approved by the Planning Director prior to installation. Trees selected shall not include trees listed in the Town of Fairfax Municipal Code, Chapter 8.36 Trees that are "Undesirable Trees Species".
- (K) Where pedestrian paths or walkways cross parking areas or driveways, the paths shall incorporate landscaping and decorative paving to define the pedestrian space. Walkways shall be hard-surfaced and at least four feet wide.

§ 17.138.480 BUFFERING AND SCREENING

- (A) A 10-foot wide landscaped buffer yard shall be provided wherever a multi-family housing development abuts a single-family residential use. This buffer shall include for each 100 lineal feet or fraction thereof at least two canopy trees that will be at least 40 feet high at maturity or three canopy trees with a lower height at maturity and six shrubs with a mature height of two feet or more. If an equivalent landscape buffer exists on the adjacent lot, the width of the required buffer may be reduced by 50 percent.
- (B) All exterior mechanical equipment, whether on a roof, on the side of a structure, or located on the ground, shall be screened from public view. Exterior mechanical equipment to be screened includes, without limitation, heating, ventilation, air conditioning, refrigeration equipment, plumbing lines, ductwork, transformers, smoke exhaust fans, water meters, backflow preventers, service entry section, and similar utility devices.
- (C) Screening shall be architecturally integrated into the main structure with regard to materials, color, shape, and size to appear as an integral part of the building or structure.

- (D) Equipment shall be screened on all sides, and screening materials shall be opaque. The use of wood, expanded metal lath, and chain link for the purpose of screening is prohibited.
- (E) When screening with plants, evergreen types of vegetation shall be planted and maintained. Plant material sizes and types shall be selected and installed so that, at the time of building occupancy, such plants effectively screen their respective equipment.
- (F) Whenever feasible, roof-mounted equipment screening shall be constructed as an encompassing monolithic unit or a series of architecturally similar screening units on large roofs, rather than as several individual screens (i.e., multiple equipment screens, or “hats,” surrounding individual elements will not be permitted). The height of the screening element shall equal or exceed the height of the structure’s tallest piece of installed equipment.
- (G) Ground-mounted equipment that faces a street shall be screened to a height of 12 inches above the equipment, unless such screening conflicts with utility access, in which case reasonable accommodation shall be allowed. Acceptable screening devices consist of decorative walls and/or berms (3:1 maximum slope) with supplemental plant materials, including trees, shrubs, and groundcovers. For screen walls that are three feet high or lower, vegetative materials may be substituted for 50 percent of the screening device. This requirement does not apply to incidental equipment in the interior of a lot that is not visible from a public street.
- (H) Wall-mounted equipment, including, without limitation, electrical meters, electrical distribution cabinets, service entry sections, and valves and cabinets that face a public street and are not recessed and/or separated from the street by intervening building(s) or walls or gates, shall be screened. Screening devices shall incorporate elements of the building design (e.g. shape, color, texture and material). For screen walls that are three feet in height or lower, vegetative materials may be substituted for 50 percent of the screening device. This requirement does not apply to fire-related elements.

ARTICLE V DEVELOPMENT STANDARDS FOR MANUFACTURED HOUSING AND TINY HOUSES

§ 17.138.500 PURPOSE

The purpose of this article is to establish objective development standards for manufactured housing and tiny houses. These standards are intended to implement the General Plan and ensure land use compatibility for these housing types, consistent with federal and State law.

§ 17.138.510 MANUFACTURED HOUSING

Manufactured homes may be located, developed, and operated in compliance with the following standards. Manufactured homes are permitted by right wherever single family

dwelling are allowed under the provisions of Chapters 17.076, 17.080, 17.084, 17.116, and 17.124, provided that all of the development standards that apply to a single family dwelling are met.

- (A) A manufactured home shall be certified under the standards set forth in the National Manufactured Housing Construction and Safety Standards Act of 1976, as amended, at the time of any application for placement of such manufactured home.
- (B) The manufactured home shall be placed on a permanent foundation in accordance with the standards set forth in the Town's construction codes.
- (C) No more than 10 years may elapse between the date of the manufacture of the manufactured home and the date of the application for issuance of a permit to install a home on a lot in the Town.
- (D) Each manufactured home shall be provided permanent hookups for electricity, gas, water, and sewer connections in the same manner applicable to permanent buildings. Gas shutoff valves, meters, and regulators shall not be located beneath the manufactured home, in compliance with the requirements of the Town's construction codes for comparable residential structures.

§ 17.138.520 TINY HOUSES

Tiny houses may be located, developed, and operated in compliance with the following standards. Manufactured homes and tiny houses are permitted by right wherever single family dwelling are allowed under the provisions of Chapters 17.076, 17.080, 17.084, 17.116, and 17.124, provided that all of the development standards that apply to a single family dwelling are met.

- (A) **Maximum floor area:** 400 square feet, excluding loft area.
- (B) **Minimum ceiling height:** 6 ft. 8 inches (not required for lofts).
- (C) **Minimum dimensions for lofts** (defined as a floor level located more than 30 inches above the main floor used as a living or sleeping space): 5 feet in any horizontal dimension and 35 square feet in floor area. Portions of a loft with a sloped ceiling measuring less than three feet above the finished floor of the loft shall not be considered as contributing to the minimum floor area for a loft. No loft shall exceed 150 square feet in floor area.
- (D) **Construction standards.** A tiny house shall comply with the standards for construction, loft access and egress, energy conservation, landings and landing platforms, handrails, stairway guards, ladders, and emergency escape and rescue opening platforms established in Appendix Q (Tiny Houses) of the International Residential Code as amended, which are hereby incorporated by reference.

ARTICLE VI VEGETATION MANAGEMENT IN THE WILDLAND URBAN FIRE HAZARD INTERFACE ZONE

§ 17.138.600 PURPOSE

The purpose of this article is to supplement amendments of the International Wildland-Urban Interface Code (IWUIC), as adopted by the Town in § 8.04.100, to ensure adequate fire protection for housing development.

§ 17.138.610 VEGETATION MANAGEMENT PLAN REQUIRED

A vegetation management plan (VMP) meeting the required of § 406 of the IWUIC, as adopted by the Town, shall be submitted to the Planning Director for review and approval as part of any application for housing development in the Wildland Urban Interface Zone. In addition to the requirements of § 406, the VMP shall include:

- (A) A copy of the site plan with all existing and proposed planting identified, including whether the plants are fire-resistant or fire-prone according to classifications available from FireSafe Marin.
- (B) Methods and timetables for controlling, changing, or modifying plant materials on the site to create defensible space, as required by § 603 of the IWUIC and Cal. Gov't Code § 51182.1 and to reduce fire hazards as required by § 8.06.011.
 - (1) Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Deadwood and litter shall be regularly removed from trees.
 - (2) Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.

§ 17.138.620 GUIDELINES AND CHECKLISTS.

The Planning Director shall maintain and make available to applicants on request fire hazard reduction guidelines and checklists for defensible space zones around residences based on information available from FireSafe Marin, Ross Valley Fire Department, and other public agencies.

EXHIBIT F (to Ordinance)

AMENDING CHAPTER 15.04 CONSTRUCTION CODES

CHAPTER 15.04 CONSTRUCTION CODES

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§ 15.04.010 ADOPTION OF CONSTRUCTION CODES.

- (A) The following parts of Title 24, California Code of Regulations are adopted by reference as construction codes for the Town of Fairfax, subject to the modifications included later in this [Chapter 15.04](#):
- (1) 2022 edition of the California Administrative Code (Title 24 Part 1);
 - (2) 2022 edition of the California Building Code (Title 24 Part 2) based upon the 2021 International Building Code (IBC), including:
 - (a) Division II of Chapter 1, but not Section 113;
 - (b) Appendix Chapter A, Employee Qualifications;
 - (c) Appendix Chapter G, Flood-Resistant Construction;
 - (d) Appendix Chapter H, Signs;
 - (e) Appendix Chapter I, Patio Covers; and
 - (f) Appendix Chapter J, Grading.
 - (3) 2022 edition of the California Residential Code (Title 24 Part 2.5) based on the 2021 International Residential Code (IRC) including:
 - (a) Division II of Chapter 1, but not Section 112;
 - (b) Appendix Chapter V Swimming Pools, Spas and Hot Tubs;
 - (c) Appendix Chapter H Patio Covers; ~~and~~
 - (d) Appendix Chapter J Existing Buildings and Structures; and
 - (e) Appendix Q (Tiny Houses).

APPENDIX Q TINY HOUSES

This provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

User note:

About this appendix: Appendix Q relaxes various requirements in the body of the code as they apply to houses that are 400 square feet in area or less. Attention is specifically paid to features such as compact stairs, including stair handrails and headroom, ladders, reduced ceiling heights in lofts and guard and emergency escape and rescue opening requirements at lofts.

SECTION AQ101 GENERAL

AQ101.1 Scope.

This appendix shall be applicable to *tiny houses* used as single *dwelling units*. *Tiny houses* shall comply with this code except as otherwise stated in this appendix.

SECTION AQ102 DEFINITIONS

AQ102.1 General.

The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

EGRESS ROOF ACCESS WINDOW. A *skylight* or roof window designed and installed to satisfy the emergency escape and rescue opening requirements of Section R310.2.

LANDING PLATFORM. A landing provided as the top step of a stairway accessing a *loft*.

LOFT. A floor level located more than 30 inches (762 mm) above the main floor, open to the main floor on one or more sides with a ceiling height of less than 6 feet 8 inches (2032 mm) and used as a living or sleeping space.

TINY HOUSE. A *dwelling* that is 400 square feet (37 m²) or less in floor area excluding *lofts*.

SECTION AQ103 CEILING HEIGHT

AQ103.1 Minimum ceiling height.

Habitable space and hallways in *tiny houses* shall have a ceiling height of not less than 6 feet 8 inches (2032 mm). Bathrooms, toilet rooms and kitchens shall have a ceiling height of not less than 6 feet 4 inches (1930 mm). Obstructions including, but not limited to, beams, girders, ducts and lighting, shall not extend below these minimum ceiling heights.

Exception: Ceiling heights in *lofts* are permitted to be less than 6 feet 8 inches (2032 mm).

SECTION AQ104 LOFTS

AQ104.1 Minimum loft area and dimensions.

Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AQ104.1.1 through AQ104.1.3.

AQ104.1.1 Minimum area.

Lofts shall have a floor area of not less than 35 square feet (3.25 m²).

AQ104.1.2 Minimum dimensions.

Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

AQ104.1.3 Height effect on loft area.

Portions of a *loft* with a sloped ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

Exception: Under gable roofs with a minimum slope of 6 units vertical in 12 units horizontal (50-percent slope), portions of a *loft* with a sloped ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the *loft*.

AQ104.2 Loft access.

The access to and primary egress from *lofts* shall be of any type described in Sections AQ104.2.1 through AQ104.2.4.

AQ104.2.1 Stairways.

Stairways accessing *lofts* shall comply with this code or with Sections AQ104.2.1.1 through AQ104.2.1.5.

AQ104.2.1.1 Width.

Stairways accessing a *loft* shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The width below the handrail shall be not less than 20 inches (508 mm).

AQ104.2.1.2 Headroom.

The headroom in stairways accessing a *loft* shall be not less than 6 feet 2 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

AQ104.2.1.3 Treads and risers.

Risers for stairs accessing a *loft* shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus four-thirds of the riser height.
2. The riser height shall be 15 inches (381 mm) minus three-fourths of the tread depth.

AQ104.2.1.4 Landing platforms.

The top tread and riser of stairways accessing *lofts* shall be constructed as a *landing platform* where the *loft* ceiling height is less than 6 feet 2 inches (1880 mm) where the stairway meets the *loft*. The *landing platform* shall be 18 inches to 22 inches (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the *loft*, and 16 to 18 inches (406 to 457 mm) in height measured from the *landing platform* to the *loft* floor.

AQ104.2.1.5 Handrails.

Handrails shall comply with Section R311.7.8.

AQ104.2.1.6 Stairway guards.

Guards at open sides of stairways shall comply with Section R312.1.

AQ104.2.2 Ladders.

Ladders accessing *lofts* shall comply with Sections AQ104.2.1 and AQ104.2.2.

AQ104.2.2.1 Size and capacity.

Ladders accessing *lofts* shall have a rung width of not less than 12 inches (305 mm), and 10-inch (254 mm) to 14-inch (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200-pound (75 kg) load on any rung. Rung spacing shall be uniform within $\frac{3}{8}$ inch (9.5 mm).

AQ104.2.2.2 Incline.

Ladders shall be installed at 70 to 80 degrees from horizontal.

AQ104.2.3 Alternating tread devices.

Alternating tread devices accessing *lofts* shall comply with Sections R311.7.11.1 and R311.7.11.2. The clear width at and below the handrails shall be not less than 20 inches (508 mm).

AQ104.2.4 Ship's ladders.

Ship's ladders accessing *lofts* shall comply with Sections R311.7.12.1 and R311.7.12.2. The clear width at and below handrails shall be not less than 20 inches (508 mm).

AQ104.2.5 Loft Guards.

Loft guards shall be located along the open side of *lofts*. *Loft* guards shall be not less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less.

**SECTION AQ105
EMERGENCY ESCAPE AND RESCUE OPENINGS**

AQ105.1 General.

Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings.

Exception: *Egress roof access windows* in *lofts* used as sleeping rooms shall be deemed to meet the requirements of Section R310 where installed such that the bottom of the opening is not more than 44 inches (1118 mm) above the *loft* floor, provided the egress roof access window complies with the minimum opening area requirements of Section R310.2.1.