

CHAPTER 20.11

SPECIFIC USE DEVELOPMENT STANDARDS

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20.11.10 **PURPOSE AND INTENT**

It is the purpose and intent of this Chapter to identify land uses and activities which possess the potential to cause deleterious effects to the community in which they are located, and to subject such uses to specific regulations with the intent of minimizing, to the extent practical, these deleterious effects. Further, it is intended that in the zone districts in which these land uses are permitted, they are conducted in a manner which is consistent with the protection of the public health, safety, and welfare in accordance with the goals, policies, objectives and implementation programs contained in the General Plan.

It is further determined that it is in the interest of public health, safety and welfare of the citizens of the City to protect minors from viewing publicly displayed harmful matter, and that pursuant to Penal Code Section 313.1(d) and (e) the City is authorized to adopt ordinances which restrict the display of harmful matter to minors by the use of blinder racks. It has also been found that there exists an increasing trend toward the display of harmful matter, within the meaning of Penal Code Section 313, at grocery stores, convenience stores, video stores, and other retail outlets, as well as from newsracks, and that restriction of public display of such harmful matter will keep the adverse impacts of such harmful matter upon minors to a minimum.

20.11.20 **APPLICABILITY**

The provisions of this Chapter shall apply to the activities and land uses specified by this section in addition to any standards and regulations established by this Title which may also be applicable to these specified land uses or activities.

20.11.30 **ADULT-ORIENTED BUSINESSES**

1. Applicability. It is the intent of this Chapter to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can be brought about by the concentration of Adult-Oriented Businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, churches, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of Adult-Oriented Businesses causes an increase in the number of transients in the area, and an increase in the crime, and in addition the effects described above can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this Title to establish reasonable and uniform regulations to prevent the concentration of Adult-Oriented Businesses or their close proximity to incompatible uses, while permitting the location of Adult-Oriented Businesses in certain areas.
2. Findings of the City Council.
 - a. The City Council, in adopting this ordinance, takes legislative notice of the existence and content of the following studies concerning the adverse secondary side effects of Adult-Oriented Businesses in other cities: American Center for Law and Justice (1996); New York, New York (1994); State of New Jersey (1994); Garden Grove, California (1991); Tucson, Arizona (1990); Seattle, Washington (1989); Austin, Texas (1986); Oklahoma City, Oklahoma (1986); Indianapolis, Indiana (1984); Houston, Texas (1983); Beaumont, Texas (1982); Minneapolis, Minnesota (1980); Phoenix, Arizona (1979); Whittier, California (1978); Amarillo, Texas (1977), Cleveland, Ohio (1977); Los Angeles, California (1977). The City Council finds that these studies are relevant to the problems addressed by the City

in enacting this ordinance to regulate the adverse secondary side effects of Adult-Oriented Businesses, and more specifically finds that these studies provide convincing evidence that:

- (1) Adult-Oriented Businesses are linked to increases in the crime rates in those areas in which they are located and in surrounding areas.
 - (2) Both the proximity of Adult-Oriented Businesses to sensitive land uses and the concentration of Adult-Oriented Businesses tend to result in the blighting and deterioration of the areas in which they are located.
 - (3) The proximity and concentration of Adult-Oriented Businesses adjacent to residential, recreational, religious, educational and other Adult-Oriented Business uses can cause other businesses and residence to move elsewhere.
 - (4) There is substantial evidence that an increase in crime tends to accompany, concentrate around and be aggravated by Adult-Oriented Businesses, including, but not limited to, an increase in the crimes of narcotics distribution and use, prostitution, pandering and violence against persons and property. The studies from other cities establish convincing evidence that Adult-Oriented Businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values.
- b. Based on the foregoing, the City Council finds and determines that special regulation of Adult-Oriented Businesses is necessary to ensure that their adverse secondary side effects will not contribute to an increase in crime rates or to the blighting or deterioration of the areas in which they are located or surrounding areas. The need for such special regulations is based upon the recognition that Adult-Oriented Businesses have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to sensitive uses such as parks, schools, churches, thereby having a deleterious effect upon the adjacent areas. It is the purpose and intent of these special regulations to prevent the concentration of Adult-Oriented Businesses and thereby prevent such adverse secondary side effects.
- c. The locational requirements, established by this Chapter, do not unreasonably restrict the establishment or operation of constitutionally protected Adult Oriented Businesses that are provided by this ordinance.
- d. In developing this ordinance, the City Council has been mindful of legal principles relating to regulation of Adult-Oriented Businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendments of the United States and California Constitutions, but instead desires to enact reasonable time, place and manner regulations that address the adverse secondary effects of Adult Oriented Businesses. The City Council has considered decisions of the United States Supreme Court regarding local regulations of Adult-Oriented Businesses, including but not limited to: Young v. American Mini Theaters. Inc. 427 U.S. 50 (1976) (Reh. Denied 475 U.S. 1132); FWIPBS. Inc. v. Dallas. 493 U.S. 215 (1990);

Barnes v. Glenn Theater, 501 U.S. 560 (1991); United States Court of Appeals 9th Circuit decisions, including but not limited to: Topanga Press, et al. v. City of Los Angeles, 989 F.2d 1524 (1993); several California cases including but not limited to: City of National City v. Wiener, 3 Cal.4th 832 (1993); People v. Superior Court (Lucero) 49 Cal.3d 14 (1989); and City of Vallejo v. Adult Books et al., 167 Cal.App.3d 1169 (1985); and other federal cases including Lakeland Lounge v. City of Jacksonville (5th Cir. 1992) 973 F.2d 1255, Hang On, Inc. v. Arlington (5th Cir. 1995) 65 F.3d 1248, Mitchell v. Commission on Adult Entertainment (3d Cir. 1993) 10 F.3d 123, International Eateries v. Broward County (11th Cir. 1991) 941 F.2d 1157, and Star v. Satellite v. City of Biloxi (5th Cir. 1986) 779 F.2d 1074.

- e. The City Council also finds that locational criteria alone do not adequately protect the health, safety and general welfare of the citizens of the City, and thus certain requirements with respect to the ownership and operation of Adult-Oriented Businesses are in the public interest. In addition to the findings and studies conducted in other cities regarding increases in crime rates, decreases in property values and the blighting of areas in which such businesses are located, the City Council also takes legislative notice of the facts recited in the case of K v, Inc. v. Kitsav County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in secondary effects such as prostitution, drug dealing, and other law enforcement problems.
- f. The City Council finds the following, in part based upon its understanding of the documents and judicial decision in the public record:
- (1) Evidence indicates that some dancers, models and entertainers and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in Adult-Oriented Businesses (collectively referred to as 'performers') have been found to engage in sexual activities with patrons of Adult-Oriented Businesses on the site of the Adult-Oriented Business;
 - (2) Evidence has demonstrated that performers employed by Adult-Oriented Businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;
 - (3) Evidence indicates that performers at Adult-Oriented Businesses have been found to engage in acts of prostitution with patrons of the establishment;
 - (4) Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly, have been found to be used as a location for engaging in unlawful sexual activity;
 - (5) As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility of the occurrence of prostitution and casual sex acts at Adult-Oriented Businesses.
- g. Zoning, licensing and other police power regulations are legitimate, reasonable means of accountability to help protect the quality of life in the City and to help assure that all operators of Adult-Oriented Businesses comply with reasonable regulations and are located in places that minimize

the diverse secondary effects which naturally accompany the operation of such businesses.

- h. The City Council recognizes the possible harmful effects on children and minors exposed to the effects of such Adult Oriented Businesses and the deterioration of respect for family values, and the need and desire of children and minors to stay away from and avoid such businesses, which causes children to be fearful and cautious when walking through or visiting the immediate neighborhood of such businesses; and the City Council desires to minimize and control the adverse secondary side effects associated with the operation of Adult-Oriented Businesses and thereby protect the health, safety, and welfare of the citizens of the City; protect the citizens from increased crime; preserve the quality of life; preserve the property values and the character of surrounding neighborhoods and businesses; deter the spread of urban blight and protect against the threat to health from the spread of communicable and sexually transmitted diseases.
- i. It is not the intent of the City Council in enacting this ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City Council recognizes that state law prohibits the distribution of the obscene materials and expects and encourages law enforcement officials to enforce state obscenity statutes against such illegal activities in the City.
- j. Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof.
- k. The City Council finds the following in part, based upon its understanding of the documents and judicial decisions in the public record:
 - (1) Evidence indicates that some dancers, models and entertainers and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in Adult-Oriented Businesses (collectively referred to as 'performers') have been found to engage in sexual activities with patrons of Adult-Oriented Businesses on the site of the Adult-Oriented Business;
 - (2) Evidence has demonstrated that performers employed by Adult-Oriented Businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;
 - (3) Evidence indicates that performers at Adult-Oriented Businesses have been found to engage in acts of prostitution with patrons of the establishment.
- l. In prohibiting public nudity in Adult-Oriented Businesses, the City Council does not intend to proscribe the communication of erotic messages or any other communicative element or activity, but rather only to prohibit public nudity due to the secondary impacts associated with such public nudity; and

- m. The City Council also finds, as a wholly independent basis, that it has a substantial public interest in preserving societal order and morality, and that such interest is furthered by a prohibition on public nudity; and
 - n. While the City Council desires to protect the rights conferred by the United States Constitution to Adult-Oriented Businesses, it does so in a manner that ensures the continued and orderly development of property within the City and diminishes, to the greatest extent feasible, those undesirable secondary effects which the aforementioned studies have shown to be associated with the development operation of Adult-Oriented Businesses; and
 - o. In enacting a nudity limitation, the City declares that the limitation is a regulatory licensing provision and not a criminal offense. The City has not provided a criminal penalty for a violation of the nudity limitation. The City adopts such a limitation only as a condition of issuance and maintenance of an Adult-Oriented Business permit issued pursuant to the City Code; and
 - p. The City Council finds that preventing the exchange of money between entertainers and patrons also reduces the likelihood of drug and sex transactions occurring in Adult-Oriented Businesses; and
 - q. Requiring separations between entertainers and patrons reduces the likelihood that such persons will negotiate narcotics sales and/or transact sexual favors within the Adult-Oriented Business; and
 - r. Enclosed or concealed booths and dimly lit areas within Adult Oriented Businesses greatly increase the potential for misuse of the premises, including unlawful conduct of a type which facilitates transmission of disease. Requirements that all indoor areas be open to view by management at all times, and that adequate lighting be provided are necessary in order to reduce the opportunity for, and therefore the incidence of illegal conduct within Adult-Oriented Businesses, and to facilitate the inspection of the interior of the premises thereof by law enforcement personnel.
3. Establishment of an Adult-Oriented Business, as used herein, shall mean and include any of the following:
- a. The opening or commencement of any Adult-Oriented Business as a new business;
 - b. The conversion of an existing business, whether or not an Adult-Oriented Business, to any Adult-Oriented Business defined herein;
 - c. The addition of any of the Adult-Oriented Businesses defined herein to any other existing Adult-Oriented business; or
 - d. The relocation of any such Adult-Oriented Business.
4. Definitions:
- a. Specified Anatomical Areas. As used herein, "specified anatomical areas" shall mean and include any of the following:

- (1) Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola;
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;
 - (3) Any device, costume or covering that simulates any of the body parts included in subdivision (a) or (b) above.
- b. Specified Sexual Activities. As used herein, "specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
 - (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) Masturbation, actual or simulated;
 - (4) Excretory functions as part of or in connection with any of the other activities described in subdivision (a) through (c) of this subsection
- c. Adult-Oriented Business. As used herein, "adult-oriented business" shall mean any of the following:
- (1) Adult Arcade. The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration one or more still or motion picture projectors, video cassettes, or other similar image producing devices are maintained to show images for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slide or other photographic reproductions twenty-five percent (25%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
 - (2) Adult Bookstore. The term "adult bookstore" as used in this chapter, is an establishment that sells or rents books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, slides, tapes, video cassettes, records, or any other form of visual or audio representation twenty-five percent (25%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
 - (3) Adult Cabaret. The term "adult cabaret" as used in this chapter means a nightclub, bar, restaurant, or similar business establishment which (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slide, or other photographic reproduction twenty-five percent (25%) or more of the number of which are distinguished or

- characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (4) Adult Hotel or Motel. The term "adult hotel or motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty percent (30%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (5) Adult Motion Picture Theater. The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and twenty-five percent (25%) or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (6) Adult Newstands. The term "adult newsstands" as used in the chapter, shall mean the following:
- (a) Any coin-operated machine or device that dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas;
- (b) Any shelf, countertop, or rack, indoor or outdoor, used for displaying for sale, rental, or other use to the public, magazines, newspapers, video cassettes, or other periodicals substantially devoted to the depiction of specified sexual activities or specified anatomical areas where twenty-five percent (25%) of the area is devoted to said uses in non-adult businesses. This does not apply to interior display fixtures in approved adult entertainment businesses.
- (7) Adult Theater. The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.
- (8) Church. The term "church" as used in this chapter, means an institution that people regularly attend to participate in or hold religious services, meetings, or other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.
- (9) Distinguished or Characterized by an Emphasis Upon. As used in this chapter, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when

the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3 151 (1981).

- (10) Modeling Studio. The term "modeling studio" as used in this chapter, means a business which provides, of pecuniary compensation, monetary or other consideration, hire or reward, figure models who for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."
- (11) Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; of four (4) or more occasions within a one hundred eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.
- (12) School. The term "school" as used in this ordinance is any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- (13) Semi-Nude. The term "semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

5. General Provisions

Adult oriented businesses may be permitted in compliance with the provisions of this Chapter where the Land Use Designation of the General Plan for the subject property is "Industrial" or "Community Retail Commercial" and where the zone district in which the subject property is located is "Industrial" or "Community Retail Commercial," subject to the limitations and design standards specified within said zone districts in accordance with the provisions of this Chapter.

6. Development Standards

a. Minimum Proximity Requirements

The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property upon which the proposed land use is to be located to the nearest point of the property from which the proposed land use is to be separated.

b. Adult-oriented businesses shall not be established or conducted within:

- (1) 1,000 feet of any residential use;
- (2) 1,000 feet of any funeral parlor, mortuary, or similar facility;
- (3) 1,000 feet of a public or private school for minors;
- (4) 1,000 feet of a licensed day care facility for minors;
- (5) 1,000 feet of a church, synagogue or other place of worship;
- (6) 1,000 feet from any other adult entertainment business; and
- (7) 1,000 feet of any publicly used facility, such as parks, libraries, any civic buildings, however, this subsection shall not apply to such uses as public utility facilities such as the Delano Airport, utility plants, and similar uses.

c. Exterior Display

No adult entertainment business shall be operated in a way that permits observation of material depicting or describing "Specified Anatomical Areas" or "Specified Sexual Activities," as defined in this Title, from any location outside of the building in which an adult entertainment business is operating.

d. Advertising structures, advertisements, displays or other promotional material depicting "specified anatomical areas" or "specified sexual activities" or displaying instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities" shall not be visible from the outside of a building. Further, no building shall be painted in garish colors or such other fashion that will effectuate the same purpose as a sign.

e. All building openings, entries and windows for adult-oriented businesses shall be located, covered, or screened in a manner to prevent a view into the interior from any exterior public or semipublic area.

f. No loudspeakers or sound equipment shall be used for adult-oriented businesses that can be discerned by the public from public and/or semipublic areas.

7. An interior sign, with a minimum surface area of four (4) square feet, shall be posted in a prominent location inside the adult entertainment business, stating, in English and Spanish as follows:

"Penal Code Section 314 (Indecent exposures: Exhibitions: Penalty.) Every person who willfully and lewdly, either:

- a. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,
- b. Procures, counsels, or assists any person to expose himself or take part in any model artist exhibition, to make any other exhibition of himself to public view, to view any number of persons engaged in actions deemed an offense to decency, or be adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor."

8. Operational Requirements

- a. All activities pertaining to the operation of an adult entertainment business shall be conducted inside the walls of the proposed building and shall be out of sight and sound from any location outside the building. This shall not apply to approved outdoor signage, for the purpose of notifying potential customers of the business.
- b. Within the adult entertainment business, all image producing devices shall be located so that the machines are open to view from any side and are without obstructions or separations that would block from open sight, any patrons using said machines.
- c. A responsible adult shall be present on the premises at all times and shall observe and supervise the use of all image-producing devices and all areas of the business available to public access. Adult entertainment businesses containing over forty (40) image-producing machines shall require the presence of two (2) responsible adults to observe and supervise all areas of the business available to public access.
- d. Facility Design Requirements: All adult entertainment businesses, other than such businesses that are established as a tenant within an industrially zoned center containing multiple tenants, shall be designed and constructed to blend into, and appear as an integral part of, the built environment that characterizes the surrounding area.
- e. Exclusion of Minors: Access to any adult entertainment business by a minor shall be prohibited. A sign shall be posted on all entrances restricting inclusion or entrance of minors. No minors shall be employed by any adult entertainment business nor permitted entrance into the premises.
- f. Minimum Lighting; No person shall operate an adult entertainment business, excluding Adult Motion Picture Theaters, unless a light level of not less than two (2) foot candles at floor level is maintained in every portion of said establishment to which the public is admitted.
- g. Maximum Occupancy Load: No person shall operate an adult entertainment business in which the number of persons in any room or partitioned portion of a room where an image-producing device is located exceeds one (1) person per thirty (30) square feet. The maximum occupancy permitted in any room or partitioned portion of a room in which any image-producing device is located shall be conspicuously posted by the operator and shall remain posted at the entrance of said room.

- h. Maximum Number of Devices: No person shall operate an adult entertainment business in which the number of image-producing devices exceeds the maximum occupancy load permitted in any room or partitioned portion of a room in which an image-producing device is located.
- i. Free Access to Law Enforcement, Fire, Health and Safety Personnel, City Inspectors: No person shall deny access to an adult entertainment business for the purpose of a reasonable inspection to enforce compliance with building, fire, electrical, health or plumbing regulations or California State Law.
- j. Other Remedies: The provisions of subsection "j" are to be construed as added remedies not in conflict with or derogation of any other actions or proceedings or remedies otherwise provided by law.

9. Non-Conforming Establishments

- a. Any adult entertainment business established and conducted as a lawful business and a lawful use at the time this Title became effective, has been in continuous operation since that time, and is not in conformance with the requirements of this title shall be recognized as a legal non-conforming use.
- b. Any non-conforming adult entertainment use shall not be enlarged or changed by any of the following means, unless such a change will bring the business into full compliance with the requirements of this section.
 - (1) Increase in the size of the floor area or use area of a building or portion of a building in which the business is located;
 - (2) Use of an adjacent building in whole or part, whether on the same lot or an adjacent lot.
 - (3) Conversion of an existing adult entertainment business to any other adult entertainment business; and
 - (4) Addition of another adult entertainment business to an existing adult entertainment business.
- c. The establishment of any land use specified in section 20.11.30.3.b of this Chapter, within the prescribed distances to an existing adult-oriented business, shall not, by establishment of that land use, require the removal of the adult-oriented business, provided that the adult-oriented business is a legal use or a legal non-conforming use and is in conformance with all provision of this Title and other applicable ordinances and statutes.

10. Amortization of Non-Conforming Adult-Oriented Business Uses

Any use of real property existing on the effective date of this Title, which does not conform to the provisions of section 20.11.30 of this Chapter but which was constructed, operated and maintained in compliance with all previous regulations, shall be regarded as a non-conforming use which may be continued for ten (10) years after the effective date of this ordinance. On or before such date, all such non-conforming uses shall be terminated unless an extension of time has been approved by the City Council in accordance with the provisions of this Chapter.

- a. Abandonment. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an Adult-Oriented Business shall result in a loss of legal non-conforming status of such use.
- b. Amortization - Annexed Property. Any Adult-Oriented Business which was a legal use at the time of annexation of the property and which is located in the City, but which does not conform to the provisions of this Chapter shall be terminated within ten (10) years following the date of annexation unless an extension of time has been approved by the City in accordance with the provisions of this Chapter.

11. Extension of time for termination of non-conforming use.

The owner or operator of a non-conforming use as described in this Chapter may apply under the provisions of this section to the City Council for an extension of time within which to terminate the non-conforming use.

- a. Time and Manner of Application. An application for an extension of time within which to terminate a use made non-conforming by the provisions of this Chapter may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with Community Development Department at least ninety (90) days but no more than one hundred eighty (180) days prior to the time in which to terminate such use.
- b. Content of Application; Fees. The application shall state the ground for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the City Council.
- c. Hearing Procedure. The City Manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within forty-five (45) days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to Code of Civil Procedure section 1094.6.
- d. Approval of Extension; Findings. An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings or such other findings as are required by law.
 - (1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the non-conforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to the effective date of this section 20.11.30 of this Chapter.

- (2) The applicant will be unable to recoup said investment as of the date established for termination of the use; and
 - (3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with the provisions of this Chapter.
12. Regulations Non-Exclusive
 - a. Nothing in this section is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or Statute of the State of California regarding public nuisance, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.
 - b. The regulations set forth in this section are not intended to be exclusive and compliance therewith shall not excuse non-compliance with any other regulations pertaining to the operation of adult entertainment establishments set forth elsewhere in applicable ordinances.
13. Display of harmful material to minors prohibited.
 - a. It shall be unlawful to display, cause to be displayed, or permit to be displayed for commercial purposes any harmful matter in any public place except for a public place from which minors are excluded.
 - b. Harmful matter is not considered to be displayed if it is located in an area that places such material reasonably beyond the reach of a minor and a device, commonly known as a blinder rack, is placed in front of such harmful matter.
 - c. Any person who sells or rents video recordings containing harmful matter shall comply with Penal Code Section 313.1.(e) which requires the creation of a separate area within a business establishment for the placement of such video recordings for display of any material advertising the sale or rental of such video recordings. Additionally, any harmful matter, placed or displayed in that separate area, must be obscured by a blinder rack if the harmful matter can be viewed by persons outside that area.
 - d. Any newsrack, which offers harmful matter for sale, must place a blinder rack in front of such harmful matter so as to obscure the lower two-thirds of the material displaying said harmful matter. For purposes of this subsection, a wrapper which obscures the lower two-thirds of the material and which is fastened securely to the material may be used in lieu of a blinder rack.

20.11.40 KEEPING OF ANIMALS

1. Intent

This section is intended to ensure that keeping of animals or husbandry land uses do not create adverse impacts to adjacent properties such as dust, noise, odor, fumes, bright light, visual blight, or insect infestation.

2. Applicability

All keeping of animals or husbandry land uses conducted shall comply with the provisions of this section in addition to applicable provisions of the zone district in which the said use is located.

3. Pre-Existing Uses

Legally established keeping of animals and husbandry use which would, as a result of the adoption of this Chapter become non-conforming with this section, be permitted to continue as a "legal non-conforming use", provided, that the use meets the criteria for legal non-conforming uses, pursuant to section 20.2.120 (Non-Conforming Use and Structure Provisions) of this Title.

4. Permitted Uses

The following uses are permitted uses on each residential parcel in the City. For purposes of calculating allowed number of animals, remainders of area or of animals shall be rounded down.

a. The following standards apply to the keeping of domestic pets within R-A, R-1, R-2, and R-3 zone districts.

- (1) On lots smaller than one-quarter (1/4) acre, the keeping of dogs or cats shall not exceed two (2) adult dogs or two (2) adult cats or a combination totaling not more than four adult animals on any one lot.
- (2) On lots of one-quarter (1/4) acre or greater, two (2) adult dogs or two (2) adult cats or a combination totaling not more than four (4) adult animals may be kept on a parcel for each one-quarter (1/4) acre of net lot area, up to a maximum of six (6) adult dogs or six (6) adult cats; or a combination totaling not more than eight (8) adult animals.
- (3) The keeping of up to five (5) domestic, adult household pets, other than dogs and cats, including domestic birds, rabbits, hamsters, rats, mice, etc. shall be permitted in any combination of species for each one-quarter (1/4) acre of net lot area, provided the total number of adult household pets kept does not exceed ten (10) animals on any one lot.

b. The following standards apply to the non-commercial keeping of horses within the R-A zone district.

One horse or pony may be kept on any lot with an area no less than one (1) acre. One additional horse or pony, or combination thereof, may be kept for each additional one-half (1/2) acre on the same lot up to a maximum of six (6) such animals.

c. Non-commercial keeping of the following animals, in any combination, may be permitted within the "R-A" zone district:

- (1) Goats, sheep, and other small sized cleft hoof animals.

- (a) No goats, sheep or other small sized cleft hoof animals shall be kept on any lot with a net area of less than one-half (1/2) acre.
 - (b) Two adult goats, sheep or other small sized cleft hoof animals may be kept for each additional one-quarter (1/4) acre up to a maximum of eight (8) adult animals total, in any combination thereof.
 - (2) Cattle (Bovines)
 - (a) No cattle or bovines shall be kept on any lot or parcel with a net area of less than one (1) acre.
 - (b) One bovine may be kept for each additional one-half (1/2) acre up to a maximum of six (6) bovine.
 - (3) Minimum distance for structures used for habitation of animals, such as stalls, pens, coops, but not including property line fences, shall be as follows: ten (10) feet from a residential building on the same lot; thirty (30) feet from off-site residential structures or other structures used for human habitation; one-hundred (100) feet from the front lot line; twenty-five (25) feet from a street side lot line on a corner lot; and seventy-five (75) feet from a public park, school, hospital, or similar institution.
- d. Student Oriented Projects

The breeding and raising of livestock, in greater numbers than allowed in this Chapter, by minors in conjunction with a student-oriented fair project sponsored by a bona fide agricultural organization shall be permitted upon application to and approval by the Community Development Director.

- (1) Application Contents. An application for a Temporary Animal Permit shall include the following:
 - (a) The name and address of the applicant.
 - (b) The name(s) and address(es) of the property owner(s).
 - (c) Assessor's parcel number(s).
 - (d) Legal description of the subject property.
 - (e) Name of the organization sponsoring the applicant.
 - (f) A plot plan showing the location of proposed pens, coops, or areas for the breeding and raising of animals in relation to existing residence(s) and other buildings and structures within one hundred (100) feet of pens, coops, or areas housing livestock.
 - (g) The signature of each owner of the real property abutting the subject lot consenting to the granting of the Temporary Animal Permit.

- (2) Development Standards and Conditions. The breeding and raising of animals on a temporary basis shall comply with the following standards and conditions:
- (a) Applicant shall be sponsored by a bona fide organization, such as, but not limited to, Future Farmers of America, 4-H Club, Cow-Belles, or Junior Farmers.
 - (b) The increase in animal density shall not exceed one (1) horse, donkey, mule, cow, dairy stock, goat, hog, sheep, or other similar animal per one-quarter (1/4) acre of lot area. In any case, no more than six (6) additional animals shall be allowed.
 - (c) A Temporary Animal Permit shall be effective for a period of six (6) months from the effective date of the permit. No more than one (1) such permit shall be approved for any lot within a one (1) year period.
 - (d) The written consent of each abutting property owner consenting to the granting of a Temporary Animal Permit must be obtained.
 - (e) The applicant shall allow inspection of animal maintenance facilities by the Kern County Health Department and City staff.
 - (f) The Community Development Director may revoke a Temporary Animal Permit at any time for non-compliance with this Title or upon receipt of a recommendation for revocation from the Kern County Health Department.
 - (g) Each additional animal authorized by a Temporary Animal Permit over the allowable animal density specified herein shall be removed upon expiration of the permit.

e. Conditionally Permitted Uses

The following shall be subject to the conditional use permit procedure as provided in section 20.2.50 of this Chapter.

- (1) Exotic or wild animals; as defined in Chapter 20.1 of this Title.
- (2) On lots one-half (1/2) acre or greater, frog farms or the raising of earthworms may be permitted, provided that the area devoted to such use or uses shall not exceed ten percent (10%) of the net lot area.
- (3) Fish hatcheries or farms for stocking, breeding or commercial sale.
- (4) The raising of rabbits, chinchilla, nutria, hamsters, guinea pigs, and other animals similar in size and appearance for commercial purposes.

- (5) Non-commercial aviaries (not including chickens) provided that the number of birds shall not exceed ten (10) birds for each one-quarter (1/4) acre of net lot area.
- (6) Non-commercial apiary (beekeeping) provided that hives and/or boxes shall be placed a minimum of four hundred (400) feet from any street, road, highway, public school, park or any occupied dwelling, except for the owner or caretaker of the apiary.
- (7) Homing or Racing Pigeons (Pigeons). The raising of pigeons may be allowed in conjunction with any single-family residence within the City subject to approval of a conditional use permit. Conditions of the conditional use permit shall include but not be limited to the following:
 - (a) No person shall keep, maintain, or harbor pigeons unless such pigeons are kept, or maintained in an approved pigeon loft as defined herein.
 - (b) A pigeon loft shall contain no more than twenty-five (25) such adult pigeons and no more than twenty-five (25) such young birds of not over one (1) year of age on any residential lot. Each pigeon shall wear a metal or plastic leg band to identify the owner or keeper thereof. The owner shall maintain a record of the age and date of acquisition of such pigeons and such records shall be open for inspection by the City's animal control officer.
 - (c) Pigeons kept in a pigeon loft may not be allowed by the owner or keeper to perch or linger on the buildings, or property of others in the vicinity of such pigeon loft. The pigeon loft shall be maintained in a clean, sanitary and wholesome manner at all times and shall be subject to periodic inspection by the animal control officer of the City.
 - (d) No such pigeon loft shall be permitted with two-hundred (200) feet of any commercially zoned district within the City.
 - (e) Pigeon lofts shall not be located any closer to any residence on adjacent parcels, than twenty-five (25) feet or within fifty (50) feet of the front property line.

f. Animal Offspring

Offspring born to permitted or conditionally permitted animals kept on any given site may be maintained on said site until weaned without being counted against the maximum number of animals permitted on the site as follows:

- (1) Cats and dogs; six (6) months;
- (2) Horses and ponies; twelve (12) months;
- (3) All other equine and cleft-hoofed animals; six (6) months.

20.11.50 ALCOHOLIC BEVERAGE OUTLET REGULATIONS**1. Purpose**

It has been found that business establishments and organizations engaged in the sale of alcoholic beverages for consumption frequently generate or contribute to problems which adversely affect the health, peace or safety of the city's residents, property owners, businesses, visitors and workers. Such problems include, but are not limited to: loitering, obstruction of pedestrian and vehicular traffic, defacement of buildings, disturbances of the peace, illegal drug activity, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, excessive littering, illegal parking, excessive loud noises in the late night and early morning hours, traffic violations, lewd conduct, police detections or arrests, and the deterioration of neighborhoods in which such establishment and business premises are located.

The purpose of this section is to protect the health, safety and welfare of the City by:

- a. Imposing restrictions on the location of such establishments in relation to one another and in relation to certain public and private facilities and structures; and
- b. Requiring that each such establishment or organization obtain a conditional use permit in connection with its business operations or its events and activities which involve the sale of alcoholic beverages.

2. Conditional Use Permit Required

Except as otherwise provided herein, no establishment may sell alcoholic beverages for either on-site or off-site consumption unless a conditional use permit has been approved for such an establishment. A conditional use permit shall not, however, be required if the establishment falls within the following categories:

- a. A retail store having ten thousand (10,000) square feet or more of floor area which does not devote more than five percent (5%) of such floor area to the sale, display, and storage of alcoholic beverages, or
- b. A bona fide restaurant.
- c. A special event function; such as neighborhood or community festivals, provided all of the following criteria are met:
 - (1) The person, group, business, or organization sponsoring the event secures all applicable permits from the City;
 - (2) The person, group, business, or organization sponsoring the event obtains a temporary on-sale license from the State of California Department of Alcoholic Beverage Control for each of the dates the event will be held; and
 - (3) The duration of the event does not exceed three (3) consecutive days or five (5) days in any single calendar year.

3. Standard Conditions for conditional use permit approval for alcohol-related land uses.
 - a. The applicant shall furnish the City a copy of the ABC license and a copy of the conditions placed on the license by the Department of Alcoholic Beverage Control prior to public hearing on any application for a conditional use permit.
 - b. The applicant shall comply with all restrictions placed upon the license issued by the State of California Department of Alcoholic Beverage Control.
 - c. The conditional use permit shall not become effective for any purpose unless an "Acceptance of Conditions" form has been signed by the applicant in the presence of the Community Development Director, or notarized and returned to the Community Development Department.
 - d. A modification of an approved conditional use permit, as provided in this Title, shall be obtained when:
 - (1) The establishment proposes to change its type of liquor license.
 - (2) The establishment proposes to modify any of its current conditions of approval.
 - (3) There is a substantial change in the mode or character of operations of the establishment.
 - e. Exterior lighting in the parking area shall be designed to provide adequate lighting for patrons, while not unreasonably disturbing surrounding properties. A lighting plan, subject to review and approval by the Community Development Director, shall be implemented prior to sale of any alcoholic beverage.
 - f. In the event City staff determines that security problems exist on the site, the conditions of this permit may be amended, under the provisions of this Title, to require additional security.
 - g. The establishment shall have a public telephone listing.
 - h. It shall be the responsibility of the applicant/licensee to provide all employees that sell or serve alcoholic beverages with the knowledge and skill that will enable them to comply with their responsibilities under State law. This includes, but is not limited to the following:
 - (1) State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operations, and penalties for violations of these laws.
 - (2) The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill, or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages.

- (3) Alcohol as a drug and its effects on the body and behavior, including the operation of motor vehicles.
 - (4) Methods for dealing with intoxicated customers and recognizing underage customers.
 - i. Litter and trash receptacles shall be located at convenient locations inside and outside the establishment, and operators of such establishments shall remove trash and debris in a manner to eliminate a health problem. There shall be no dumping of trash and/or glass bottles outside the establishment between the hours of 10:00 p.m. and 7:00 a.m.
 - j. The City Council has the right to hold a public hearing to revoke or modify any conditional use permit pursuant to the provisions of this Title if harm or retail-related problems are demonstrated to occur as a result of criminal or anti-social behavior, including but not limited to the congregation of minors, violence, public drunkenness, vandalism, solicitation and/or litter.
 - k. A conditional use permit which has been approved or conditionally approved for alcohol-related land uses shall become null and void unless exercised within one (1) year of the date of final approval, or such extension of time as may be granted by the City Council pursuant to a written request for extension submitted to the Community Development Department a minimum of sixty (60) days prior to such expiration date.
- 4. Additional standard conditions of approval for alcohol related land uses for on-site sales.
 - a. All alcoholic beverages sold in conjunction with an on-site licensed establishment must be consumed entirely on the premises prior to closing time, and no alcoholic beverage shall be sold as take-out.
 - b. There shall be no live entertainment, amplified music, or dancing permitted on the premises at any time, unless specifically authorized by a conditional use permit issued by the City. Furthermore, the proposed uses shall be consistent with the license conditions imposed by the State of California Department of Alcoholic Beverage Control.
 - c. The establishment shall comply with the provision of section 20.10.180 (Noise Hazards) of this Chapter.
 - d. In addition to the knowledge and skills deemed necessary for responsible alcoholic beverage services, as set forth in this Chapter, the following additional topics and skills shall be required:
 - (1) Methods to appropriately pace customer drinking to reduce the risk that a customer may leave the premises in an intoxicated manner.
 - (2) Knowledge of mixology, including marketable alternatives to alcoholic beverages.
- 5. Additional standard conditions of approval for alcohol related land uses for on-site sales in outdoor dining areas.

- a. Whenever an outdoor dining area is being utilized for the sale, service or consumption of alcoholic beverages, an employee shall be in attendance and maintain continuous supervision at all times to ensure the outdoor dining area does not create a public nuisance contrary to public welfare and morals.
 - b. All alcoholic beverages served in an outdoor dining area must be served in glass containers.
 - c. All outdoor dining areas shall be surrounded by an enclosure of a design and height satisfactory to the City Council.
 - d. Any canopy constructed over an outdoor dining area shall comply with all requirements of the Building and Fire Departments.
6. Additional standard conditions of approval for alcohol-related land uses for off-site sales.
- The sale of alcoholic beverages for consumption on the premises shall be prohibited and there shall be appropriate posting of signs both inside and outside the licensed premises stating that drinking of alcoholic beverages on the premises is prohibited by law. These premises shall include the licensed premises proper, appurtenant and required parking areas, and appurtenant common areas if located in a commercial center.
7. Depending upon the complexity of the issue under consideration by the City Council, additional conditions of approval may be added to the above listing of items in order to fully ensure that the proposed issuance of a land use approval for an alcohol-related use is fully compatible with the surrounding neighborhood and that all adverse environmental impacts are mitigated to the fullest extent possible.

20.11.60**KENNELS (COMMERCIAL AND NON-COMMERCIAL)****1. Intent**

This section is intended to ensure that the operation and maintenance of commercial and non-commercial kennels, as defined in section 20.1.190 (Definitions) of this Title, does not create a nuisance or otherwise impair the enjoyment of surrounding properties.

2. Applicability

All kennels, both non-commercial and commercial, shall comply with the provisions of this section and all other standards and permit procedures pursuant to the zone district in which such kennel is located.

3. Performance Standards for Commercial and Non-Commercial Kennels**a. Animal runs shall meet the following criteria:**

- (1) All animal runs shall be of adequate size for animals held therein.
- (2) All animal runs shall be constructed and/or coated with non-porous material to discourage the breeding of ticks and other similar pests.

- (3) All animal runs and animal holding areas shall have concrete or other durable flooring which is sloped for proper drainage.
 - (4) All animal runs shall have adequate enclosures to provide protection from inclement weather.
 - (5) All animal runs shall be provided with sufficient drains to control drainage and daily washing of the runs.
- b. All kennels shall be served by sewer or all excrement produced by said kenneled animals shall be properly disposed of on a regular basis to control flies and odor.
 - c. The kennel area shall be so located and sound attenuated, if necessary, so that noise levels measured at the property line do not exceed standards set for the adjacent use.
 - d. No animal runs, exercise areas, or keeping of the kenneled animals for commercial or non-commercial purposes shall be located within a required setback area.

20.11.70 EXOTIC ANIMALS

1. The keeping of exotic animals, as defined in section 20.1.190 (Definitions) of this Title, shall be permitted only in R-A and R-1 zone districts, subject to the following regulations.
2. Requirements
 - a. Prior to giving notice in accordance with the provisions of section 20.2.140 (Public Hearing and Notification Procedures) of this Title, the reviewing authority shall request that the County Veterinarian submit a statement regarding the particular animal's mature behavior and personality characteristics. Notice given to adjacent property owners shall include a description of the type of animal and its behavioral characteristics.
 - b. Any action to approve a request for keeping an exotic animal shall not be effective until written evidence is received by the Community Development Director that:
 - (1) The applicant has applied for and obtained a permit from the Public Health Department.
 - (2) The applicant has applied for and obtained a permit from the State Department of Fish and Game, if required.
 - c. Conditions

Any action to approve a request for an exotic animal shall include the following conditions in addition to any conditions deemed appropriate by the reviewing authority:

- (1) The keeping of the animal must comply with the provisions of this Title, and any other applicable City Code, including setbacks from property lines and other dwellings.
- (2) The keeping of an animal must comply with all applicable Federal and State requirements.
- (3) No more than two (2) exotic animals over the age of six (6) months may be kept unless a conditional use permit for a menagerie or zoo has been approved.

20.11.80 ANTENNAS AND SATELLITE DISHES

1. Intent

This section is intended to reduce the potential safety, aesthetic, and view blocking impacts of antennas and satellite dishes, and to integrate such structures into neighborhoods with the least possible impact.

2. Applicability

- a. This section applies to every antenna and satellite dish installed or modified on or after the effective date of this Title.
- b. Except as otherwise provided for in this section, no antenna or satellite dish shall be installed or modified prior to approval by the Community Development Director, including an antenna or satellite dish proposed as an accessory structure to an existing use for which a conditional use permit was required.

3. Development Standards

a. Residential Districts

Every satellite dish installed, modified, and maintained in a residential zone district shall be in accordance with the provisions of this section.

- (1) Only one (1) per parcel is permitted.
- (2) The diameter of the dish shall not exceed five (5) feet.
- (3) The dish shall not be located in the front yard of the parcel.
- (4) The dish shall comply with all height and setback requirements specified for accessory structures within the applicable district.
- (5) Dishes less than three (3) feet in diameter may be roof mounted, provided that the top of the dish is mounted on the rear of the building, below the peak of the roof line in such a manner as to be screened from view from a public street, and is no greater than twenty-three (23) feet in total height. Dishes with a diameter of three (3) feet or greater shall be ground-mounted and shall be no greater than eight (8) feet in height.

- (6) The dish shall be finished in a color to neutralize and blend it with the immediate surroundings.
- (7) The dish shall be screened and landscaped along all sides when visible from the street except the reception window for which low-level landscape treatment shall be applied along the dish's base. Such treatments shall completely enclose the dish.
- (8) The installation shall be so located to prevent obstruction of the dish's reception window from potential development on adjoining parcels of land.
- (9) A building permit shall be obtained.
- (10) The display of signs or other graphics on a satellite dish is prohibited.

b. Non-Residential Districts

Every satellite dish installed, modified and/or maintained in a non-residential zone district shall be in accordance with the provisions of this Section.

- (1) Only one (1) dish greater than five (5) feet in diameter per parcel may be permitted.
- (2) The diameter of any dish shall not exceed ten (10) feet.
- (3) Dishes shall comply with all height and setback requirements specified for accessory structures for the applicable zone district.
- (4) Dishes shall be finished in a color to neutralize and blend it with the immediate surroundings.
- (5) The installation shall not be located in a way that prevents obstruction of the dish's reception window from potential development on adjoining parcels.
- (6) Dishes shall not be located in front of the primary structure on the parcel, and shall not be visible from a primary access street.
- (7) A building permit shall be obtained.
- (8) The display of signs, lighted displays, or other graphics on a satellite dish is prohibited.

c. Standards for Antennas in All Districts

The installation of one (1) antenna which exceeds the maximum height for the district within which the antenna is to be located may be permitted subject to the following limitations, and the approval of a conditional use permit pursuant to section 20.2.50 of this Title.

- (1) Any operation of citizen's band or other radio transmitting equipment, excluding public service, public safety, or emergency

radio services, shall be subject to the provisions of Chapter 20.12 (Performance Standards) of this Title.

- (2) Microwave, mobile phone antenna, and antenna repeater stations are subject to the provisions of section 20.11.85 (Antennas and Wireless Telecommunication Facilities) of this Chapter.
- (3) Antenna for non-commercial use shall not exceed ten (10) feet over the height limit for the district in which it is located, unless such antenna is found by the City Council to be necessary to protect the public health, safety and welfare.

20.11.85 ANTENNAS AND WIRELESS TELECOMMUNICATION FACILITIES

Wireless Communication Facilities, hereinafter referred to as Facilities, as defined by section 20.1.190 (Definitions) of this Title are permitted subject to the following:

Applications for Facilities: Applications for Facilities are subject to a two-tier review process as provided in this Section. Applications for Facilities are subject to either (i) Community Development Director approval or (ii) a conditional use permit (CUP), subject to City Council approval. Those development plan applications that meet the design and development guidelines outlined in Tier 1, section 20.11.85.1.a.(1) of this Chapter will require approval by the Community Development Director. Those applications that do not meet the design and development guidelines outlined in Tier 1, section 20.11.85.1.a(1) and do fall within the design and development guidelines outlined in Tier 2, section 20.11.85.1.a(2) require a CUP and require review and approval by the City Council at a noticed public hearing.

1. **TIER 1 - Community Development Director review:** The Community Development Director shall approve Facilities only if it finds as follows:
 - a. Antennae are located in a commercial or industrial zone.
 - b. Building or roof mounted antennae do not exceed fifteen (15) feet in height and are architecturally screened from view.
 - c. Antennae are in stealth design in connection with a building or structure so as not to be recognized as an antenna.
 - d. Support equipment is located within a completely enclosed structure or otherwise screened from view.
 - e. Antennae meet all development standards within the applicable zone as required by this Code.
 - f. Antennae will be, if reasonably possible, co-located with an existing site in an industrial or commercial zone.
2. **TIER 2 – City Council Review:** Facilities which cannot be approved by the Community Development Director, in accordance with the Tier 1 criteria, are subject to CUP procedures, as outlined in section 20.2.50 of this Title. The following are also subject to a CUP.
 - a. Ground-mounted antennae.

- b. Facilities which do not comply with all development standards within the applicable zone require a variance. The variance request must meet the applicable findings outlined in Section 20.2.60 of this Title.
 - c. Proposed Facilities that create more than a minimal visual impact on surroundings, as determined by the Community Development Director. In determining where more than a minimal visual impact exists, the following factors should be considered: location of Facility, size, and view of Facility from adjacent properties, and contrast between the Facility and other external structural equipment attached to the property.
 - d. Facilities located adjacent to a residential zone (R-A, R-1, R-2, R-3), provided that the property has multiple family grouped units and the Facility is: (1) stealth design, (2) building or roof mounted and integrated into the architecture of the building, or (3) co-located.
 - e. Facilities located within the line of sight of any scenic corridor.
3. Submittal Requirements: In addition to the submittal requirements as outlined in a development plan and CUP applications, applications for Facilities must contain the following additional information:
- a. All individuals, companies and providers of Facilities doing business within the City shall process a master plan of all existing and proposed Facilities sites. The Facilities master plan shall be reviewed and approved by the Community Development Director in accordance with the written criteria established for such review by the Community Development Director.
 - b. The applicant shall supply verification of the proposed Facilities, compliance with the American National Standards Institute (ANSI) and Institute of Electrical and Electronics Engineers (IEEE) by providing a copy of its FCC License Agreement for review by staff.
 - c. The applicant shall supply verification of compliance with the Federal Aviation Administration (FAA).
 - d. At the time of submittal of a development plan or a CUP application for Facilities, the applicant shall submit information indicating the type of Facilities, its height above ground level, and its cell coverage.
4. Location Guidelines: All applications for Facilities are subject to the following location guidelines:
- a. The preferred order of placement of Facilities is as follows: (i) industrial zones, (ii) rural-agricultural zones, (iii) commercial zones, (iv) community facilities zones.
 - b. Facilities can be approved within a residential zone provided the property is not developed with a single family dwelling unit. Consideration of potential impacts on any adjacent residential property will be evaluated. The location of Facilities will be conditioned on the utilization of stealth design technology and/or building or roof mounted design.
 - c. Facilities should (i) be co-located with another structure, where appropriate (ii) be utilized as stealth designs, (iii) be roof or wall mounted as an integral

- architectural element on an existing structure, and (iv) utilize state-of-the-art wireless technology.
- d. The applicant is to investigate the feasibility of co-locating additional antennae on the tops of buildings, on existing monopoles, and/or clustering Facilities. If co-location or clustering is not possible in the case of a particular proposal, the applicant shall submit such evidence at the time of submittal. With the submittal of a CUP application, the applicant is to submit a copy of the appropriate portions of the tentative lease agreement indicating that no exclusive agreements have been made to prevent future carriers to locate on the same site or Facilities, as well as submit a design plan which does not preclude potential additional users.
 - e. Monopoles shall be separated a minimum of one-thousand (1,000) feet from any existing monopole.
5. Development and Design Guidelines: All applications for Facilities shall be submitted to the Community Development Department and shall contain the information required by section 20.11.85 of this Chapter. The applicant shall submit plans that will be reviewed for all applicable zoning codes and standards. The following are intended to provide high quality guidelines to ensure compatibility with the community for the placement of Facilities.
- a. Support structures shall be screened from view by siting them next to tall buildings or structures, or placed near existing tall trees. Where applicable, the support structures are to be screened from public view with dense landscaping.
 - b. Facilities must meet all applicable zoning setback and height regulations of the underlying zone district. All proposed Facilities that exceed the maximum height established by the underlying zone district are subject to FAA approval.
 - c. Facilities may be designed as or within a piece of public art such as a clock tower or historical monument for public benefit.
 - d. The height of the support structures must be the minimum necessary to provide the required coverage. However, an antenna or its support structure shall not exceed the height in any zone as prescribed by the zoning code.
 - e. Safety lighting or colors, if prescribed by the City or other approving agency (i.e. FAA), may be required for support structures.
 - f. Support structures shall be either galvanized steel or painted an unobtrusive color to neutralize and blend with surroundings. Where an equipment building accompanies the support structure, it shall be designed, colored and textured to match adjacent architecture or blend in with surrounding development.
 - g. Proposed Facilities shall not create any non-conforming situations to the site such as a reduction in parking, landscaping, loading zones, and/or elimination of loading zones. Facilities are to be installed and maintained in compliance with the requirements of the Uniform Building Code, Uniform Electrical Code, Noise Standards and all other applicable code.

- h. The City Council may condition approval of Facilities on a five (5) year term or other review process.
- i. Whip and microwave dish antennae are permitted only if integrated into the design of the structure and/or fully screened from public view.
- j. All utilities associated with Facilities shall be placed underground.
- k. Chain link fencing is not permitted for containment of Facilities, unless such fencing is located in the rear portion of property not visible from a public right-of-way and is installed with tennis screen material on all facades of the fence.
- l. Temporary monopoles, if associated with an approved Facilities application, may be permitted, if justified to the satisfaction of the Community Development Director, for a period of up to three (3) months, provided that screening is installed to prevent view of the monopole and related facilities from any and all public rights-of-way.
- m. Lattice towers shall not be permitted within the City boundaries.
- n. The operator or property owner is responsible for maintaining the Facilities in an appropriate manner consistent with the original approval of the Facilities. Should the use be replaced or discontinued for a period of six (6) months, the approvals will lapse.

20.11.90 ARCADES AND VIDEO MACHINES

1. Intent

This section is intended to establish standards which will mitigate the noise and loitering commonly associated with arcades and video machines. Regulations controlling the specific location and development of these uses are established by this section.

2. Applicability

Arcades, as defined in section 20.1.190 (Definitions) of this Title, shall be permitted only in the General Commercial (GC), Neighborhood Commercial (NC), Downtown Commercial (DC), and Community Retail Commercial (CRC) zone districts subject to the approval of a conditional use permit in compliance with the provisions of section 20.2.50 of this Title. A conditional use permit shall also be required at such a time as application is made to the City to expand an existing arcade.

3. Minimum Development and Performance Standards

a. Maximum Number of Machines

The number of video machines permitted shall not exceed one (1) machine per each thirty (30) square feet of floor area.

b. Lighting

The arcade shall be fully and adequately lighted for easy observation of all areas of the premises.

c. Bicycle Racks

Bicycle storage racks shall be maintained off the public sidewalk at the ratio of one-half (1/2) bicycle space per machine to adequately accommodate bicycles utilized by arcade patrons.

d. Telephones

At least one (1) public telephone shall be provided at each arcade. All telephones shall be located within the building.

e. Hours of Operation

Hours of operation shall be limited to between 8:00 A.M. and 10:00 P.M., every day of the week.

f. Adult Supervision

(1) An employed adult supervisor shall be able to readily observe all video machines and all areas of business.

(2) The adult supervisor shall be present at all times during hours of operation, and, if the number of video machines exceeds forty (40), there shall be two (2) adult supervisors present at all times during hours of operation.

g. Noise

No sound created by any arcade, or its patrons, shall be detectable from the exterior of the arcade or from adjacent uses.

h. Litter

The premises shall be continuously maintained in a safe, clean, and orderly condition.

20.11.100 AUTOMOBILE DEALERSHIPS

1. Intent

This section is intended to ensure that automobile dealerships do not create adverse impacts on adjacent properties and surrounding neighborhoods due to insufficient on-site customer and employee parking, traffic generation, including road testing of vehicles, obstruction of traffic, visual blight, bright lights, noise, fumes, or drainage run-off. The following special conditions shall apply to automobile dealerships.

2. Development Standards

All dealerships shall comply with the provisions of this section in addition to the development standards and permit procedures of the zone district in which it is located.

a. Minimum Lot Size

The minimum lot size for automobile dealerships shall be twenty thousand (20,000) square feet.

b. Parking

Areas designated for employee and customer parking shall not be used for vehicle storage or display.

c. Landscaping

A minimum five (5) foot landscape strip shall be provided outside the public right-of-way along the street frontage perimeter of all vehicle display areas.

d. Washing of Vehicles

All washing, rinsing, or hosing down of vehicles and of the property shall comply with the requirements specified in Section 20.11.260 (Vehicle Repair Facilities) of this Chapter.

e. Loading and Unloading of Vehicles

Loading and unloading of vehicles shall be conducted in accordance with the following provisions:

- (1) The dealership operator is deemed to be responsible and liable for any activities of a common carrier, operator, or other person controlling such loading or unloading activities, to the extent any such activities violate the provisions of this subsection.
- (2) Off-loading locations shall be established either on site or off site, and shall be subject to the approval of the City Engineer if within the public right-of-way. Loading and unloading activities shall not block the ingress or egress of any adjacent property.

f. Storage of Vehicles to be Repaired

Vehicles brought on site for repair purposes shall not be parked or stored on any public street or alley, and should be parked in required parking spaces, reserved for such purposes.

g. Repair of Vehicles

The repair and service facility portion of any automobile dealership shall comply with the provisions of section 20.11.250 (Vehicle Repair Facilities) of this Chapter.

h. Queuing of Vehicles

On-site queuing area or lanes for service customers shall be provided which shall be large enough to accommodate a minimum of one and a half (1½) vehicles for each service bay in the facility. On-site driveways may be used for queuing, but may not interfere with access to required parking spaces. Regular parking spaces may not double as queuing spaces.

i. Noise Control

(1) Loudspeakers are permitted provided that noise levels are maintained below fifty-five (55) dBA at any boundary.

(2) All noise generating equipment exposed to the exterior shall be muffled with sound absorbing materials to reduce noise levels below fifty-five (55) dBA at the property boundary.

j. Toxic Waste Storage and Disposal

Gasoline storage tanks shall meet all applicable State and local health regulations, and shall be constructed and maintained under the same conditions and standards that apply to service stations.

k. Air Quality

(1) Brake washers shall be installed and utilized in all service stalls or areas which perform service on brakes containing asbestos or other materials known to be harmful when dispersed in air.

(2) Mechanical ventilating equipment shall direct exhaust away from adjacent residential properties.

(3) Exhaust systems shall be equipped with appropriate and reasonably available control technology to minimize or eliminate noxious pollutants which would otherwise be emitted.

20.11.110 AUTOMOBILE RENTAL AGENCIES

1. Intent

This section is intended to ensure that automobile rental agencies do not create adverse impacts on adjacent properties and surrounding neighborhoods due to insufficient on-site customer and employee parking, traffic generation including road testing of vehicles, obstruction of traffic, visual blight, bright lights, noise, fumes, or drainage run-off.

2. Development Standards

a. Washing of Vehicles

All washing, rinsing, or hosing down of vehicles and of the property shall comply with the requirements of section 20.11.260 (Vehicle Repair Facilities) of this Chapter.

b. Repair of Vehicles

No vehicle repair work shall occur on the premises unless all repair work and storage of parts is contained entirely within an enclosed building and the rental agency is otherwise permitted and licensed by the State of California to repair motor vehicles.

c. Storage of Vehicles

No vehicles to be displayed, sold, rented, or repaired shall be parked or stored on any street or alley. In addition, no rental cars shall be stored or parked within parking areas intended to comply with the provisions of Chapter 20.13 (Parking Regulations), of this Title.

20.11.120 BED AND BREAKFAST USES

1. Intent

This section is intended to control the establishment and operation of bed and breakfast uses to ensure that such uses do not adversely effect the surrounding neighborhood.

2. Applicability

All bed and breakfast uses, as defined herein, shall comply with the provisions of this section and the zone district in which the use is located.

3. General Regulations

a. Bed and breakfast uses may be permitted in all residential and commercial zone districts in which residential (permanent and transient) uses are either permitted or are permitted subject to an approved conditional use permit.

b. This use shall be conducted as an accessory use only; the residential structure shall serve as the primary residence of the owner. If a corporation is the owner, a majority shareholder of the corporation shall reside in the residential structure where said use is proposed.

(1) All bed and breakfast uses shall be subject to:

a) A conditional use permit, as specified in section 20.2.50 of this Title.

b) A health permit, as specified in the Kern County Code.

c) A transient occupancy tax (bed tax).

(2) Application for a permit shall be made by the resident property owner or his/her legal agent having power of attorney to make such application.

4. Development Standards

a. Structural Features

- (1) All dwelling units proposed for a bed and breakfast use shall comply with standards and specifications of the Uniform Building Code, and shall also be subject to the Room Occupancy Standard outlined in the State Housing Law (as amended).
 - (2) Each guest room shall be equipped with a fire extinguisher and a smoke detector conforming to Uniform Building Code Standards. An exit/egress and an emergency evacuation map shall be displayed in a prominent location in each guest room.
- b. Accesses and driveways. The owner shall ensure that all required accesses, driveways and parking spaces remain clear and unobstructed, and are available and ready for the occupants' use at all time.
- c. Design Standards
- (1) Alterations and modifications may be made to the structures and the site but such alterations shall be compatible with the character of the neighborhood. Such alterations and modifications shall also comply with all applicable City provisions, requirements and standards and ordinances.
 - (2) Additional landscaping may be required to screen parked vehicles from direct view of the neighbors, particularly where such parking is located within a front yard setback.
 - (3) Any lights used to illuminate the site shall be designed and placed to reflect away from adjoining properties and public thoroughfares.
 - (4) A non-illuminated identification sign, not to exceed six (6) square feet in area is permitted. If not attached to the residence, such sign shall not exceed six (6) feet in height and must blend with the architectural style of the structure and the neighborhood.
- d. Kitchen Facilities
- (1) There shall be no cooking facilities permitted in guest rooms.
 - (2) The sale of food or other materials in residential districts is limited to guests who are currently occupying the premises where the use is located and not to the general public.
- e. Miscellaneous Standards
- (1) The land use shall not involve the use of commercial vehicles for delivery of materials to or from the premises except for those commercial vehicles normally associated with residential use deliveries.
 - (2) There shall be no outdoor storage of materials or equipment, nor shall merchandise be visible from outside the home.
 - (3) The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character

either by use of colors, materials, lighting, signs, or the emission of sounds, noises and vibrations.

- (4) The use of utilities and community facilities shall be limited to that normally associated with the use of a property for residential purposes.

f. Penalty for Non-Compliance

The City Council may void any conditional use permit for a bed and breakfast use for non-compliance with the conditions set forth in the approving permit. Notice of such a pending action shall be given to the permittee prior to any action being taken.

g. Findings

Prior to acting upon an application for a conditional use permit for a bed and breakfast use, the City Council shall find that all the following are true:

- (1) That the site upon which the bed and breakfast use is to be established, shall conform to all standards of the zone district in which it is located, that the site for the proposed use is adequate in size and shape to accommodate said use, and all yards, building coverage, setbacks, parking areas and other applicable requirements of this Title are met.
- (2) That the residential character of the neighborhood in which the use is located is maintained and preserved and that the issuance of the permit shall not be significantly detrimental to the public health, safety and welfare or injurious to the vicinity and district in which the use is located.

20.11.130 DAY CARE FACILITIES

1. Intent

This section is intended to ensure that day care facilities, as defined in section 20.1.190 of this Title, which provide child care in residential districts, do not adversely impact the adjacent neighborhood. While family day care facilities are needed by City residents in close proximity to their homes, care must be taken to prevent the potentially adverse traffic conditions, noise, and safety impacts this land use could have on the community. It is further the intent of this section to allow day care operations in residential surroundings to give children a home environment which is conducive to healthy and safe development.

2. Performance Standards for Small Day Care Facilities

a. General Requirements

A small family day care facility shall conform to all property development standards and permit procedures of the zone district in which it is located in addition to the provisions of this Section and any requirements governed by California Health and Safety Code Section 1597.46.

b. Outdoor Play Area

An outdoor play area shall be provided which complies with the provisions of the California Health and Safety Code governing child day care homes. Stationary play equipment shall not be located in required front or side yard setbacks.

c. Fences and Walls

When located within or adjacent to a non-residential district, a six (6) foot high solid fence or wall shall be constructed on all such property lines, except within the front yard area where the fence or wall shall not exceed forty (40) inches in height. Materials, textures, colors, and design of the fence or wall shall be compatible with on-site development and adjacent properties. All fences or walls shall provide for child safety with controlled points of entry.

d. Landscaping

On-site landscaping shall be maintained in good physical condition.

e. On-Site Parking

On-site parking for home-based day care facilities located within residential zone districts shall require no more than two (2) on-site spaces.

f. Passenger Loading

A passenger loading/unloading plan shall be reviewed and approved by the City Engineer.

g. Lighting

All lighting shall comply with the provisions of section 20.12.80 (Light & Glare) of this Title, except that when located within a residential district, lighting shall be directed away from adjacent properties and public right-of-way, except for passenger loading areas.

h. Hours of Operation

For the purposes of noise abatement, day care facilities in residential districts may only operate between the hours of 6:00 A.M. and 7:00 P.M., seven days a week.

i. Outdoor Activity

For the purposes of noise abatement, outdoor activities for day care facilities in residential districts may only be conducted between the hours of 8:00 A.M. to 7:00 P.M.

j. State and Other Licensing Requirements

All day care facilities shall be State licensed and shall be operated according to all applicable State and City regulations.

3. Performance Standards for Large Family Day Care Facilities

Applicants for a large family day care facility, nine (9) to fourteen (14) children, shall be required to submit an application to the Community Development Department for a large family day care facility. This application, which may be obtained at the office of the Community Development Department, requires the applicant's signature to acknowledge that the following conditions shall be adhered to if the permit to operate is to remain valid.

- a. The facility is a single family dwelling and is the principal residence of the provider. This use as a family day care home is clearly incidental and secondary to the use of the property for residential purposes.
- b. No structural changes or signage is proposed which will alter the character of the single family residence.
- c. In addition to the required off-street parking for the residence, a minimum of one (1) off-street parking space per employee is required. The residential driveway is acceptable as such a parking space if said parking space will not conflict with any required child drop-off/pick-up area and does not block the public sidewalk or any portion of the City right-of-way.
- d. The operation of the large day care facility shall comply with noise standards contained in the Noise Element of the General Plan and with Section 20.10.180 (Noise Hazards) of this Title.
- e. Any residence located on an arterial street must provide a drop-off/pick-up area designed to prevent vehicles from backing onto an arterial roadway. Curb-side drop-off/pick-up is acceptable if a curbside parking lane exists adjacent to the property. If existing curbside parking (drop-off/pick-up) is converted to a travel lane, this permit shall be terminated unless an adequate drop-off/pick-up area can be provided elsewhere to the satisfaction of the City Engineer.
- f. The provider shall comply with all applicable Building Code and Fire Code regulations regarding health and safety requirements. Provider shall, prior to operating the facility, apply for and receive a Change of Occupancy Permit from the Building Official.
- g. The provider has secured a large family day care facility (home) license from the State of California, Department of Social Services.
- h. The facility shall be operated in a manner which will not adversely affect adjoining residences or be detrimental to the character of the residential neighborhood in which it is located.
- i. In addition to the provisions of this section 20.11.130.3., all provisions of section 20.11.130.2. of this Chapter, not in conflict with this Section, shall apply.

20.11.140 **DEPENDENT HOUSING**

1. A detached dependent housing unit may be temporarily permitted in any single family residential zone district subject to an approved conditional use permit as an

accessory use to any permitted single-family residential primary land use; provided, however, that there is only one primary residential land use occupying the site. Residential occupancy of a temporary accessory living unit located on the same parcel as the principal unit, which is occupied by one or two adults, who: (1) have reached the age of 60, or (2) are dependents of the residents of the principal unit, or (3) are court-appointed conservatees of a resident of the principal unit. For the purposes of this section, "Dependent" means a related individual who is dependent upon the resident of the principal unit for financial support or health care. An individual will be determined to be a dependent for health care reasons if he or she is considered blind or disabled as defined in Section 1614(a) of Part A of Title XVI of the Social Security Act.

2. Requirements

- a. The permittee shall occupy at least one of the dwelling units on the premises.
- b. Applications for a permit shall be made by a resident owner of the subject property, or his legal agent having power of attorney to make such application, on which the dependent housing unit is to be located.
- c. The applicant must obtain a temporary occupancy permit, pursuant to Section 20.2.90 of this Title.
- d. Each year, prior to the anniversary of the approval, the applicant shall submit a letter from an attending physician stating that a medically related reason still exists for the dependent housing unit. If no such letter is submitted, or if no reason still exists for the medical hardship, the temporary structure, and all appurtenances to it, shall be completely removed from the premises.
- e. The permittee shall submit written notification to the Community Development Department of any proposed change of residency in the temporary dependent housing unit.

3. Findings

Prior to acting upon an application for a conditional use permit for a temporary dependent housing unit, the City Council shall find that all of the following are true:

- a. That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, building coverage, setbacks, parking areas and other requirements of this Title are met.
- b. The proposed temporary dependent housing unit is clearly subordinate in size, location and appearance to the principal unit.
- c. Issuance of the permit shall not be significantly detrimental to the public health, safety or welfare or injurious to property or improvements in the general vicinity in which the land use is located.
- d. The temporary dependent housing unit shall be erected, constructed or installed so as to allow for its feasible removal.

- e. The appearance of the temporary dependent housing unit and the method of siting are compatible with the surrounding environment.

4. Conditions

- a. Permitted Structural Types

Units constructed to meet the standards of the National Mobilehome Construction and Safety Standards Act of 1974 (Section 18551 of the California Health and Safety Code).

- b. Floor Area

The floor area of the dependent (temporary unit) shall not exceed fifty (50) percent of the floor area of the existing principal dwelling unit; however, in no case may the temporary dependent unit exceed eight hundred and fifty (850) square feet in floor area.

- c. Design Standards

The appearance of any temporary dependent housing unit erected, constructed or set down in accordance with the provisions of this section shall be similar to and compatible with the appearance of the principal residence on the property.

- d. Parking

Parking for the temporary dependent housing unit shall be in accordance with the applicable requirements of this Title, unless the resident(s) of the temporary dependent housing unit are incapable of operating a motor vehicle.

- e. Location and Occupancy

The temporary dependent housing unit shall not extend beyond the principal residence where such principal residence faces a street right-of-way. The existing principal residence on the property shall be occupied by the owner of the property.

- f. Lot Area

A temporary dependent housing unit shall not be permitted on any parcel which does not meet the minimum area requirements of the zone district in which it is located.

- g. Development Standards.

The dependent unit shall comply with the development standards for the zone district in which it is to be located.

- h. Removal of Unit

As a condition of permit approval, the permittee shall enter into an agreement with the City, placing responsibility upon the permittee to comply with the provisions of this Section, describing the method of removal of the

temporary dependent housing unit when the permit is no longer valid, and acknowledging that the permittee shall bear the cost of removal of such unit.

20.11.150 DRIVE-IN, DRIVE-THROUGH, FAST FOOD, AND TAKE-OUT RESTAURANTS

1. Intent

This section is intended to ensure that drive-in, drive-through, fast food, and take-out restaurants do not create adverse impacts on adjacent properties and residents or on surrounding neighborhoods due to customer and employee parking demand, traffic generation, noise, light, litter.

2. Applicability

- a. The provisions of this section shall apply to all new drive-in, drive-through, fast food, and take-out restaurants and to the expansion of twenty (20) percent or more of the gross floor area or an increase in the number of seats in any existing restaurant that results in a drive-in or drive-through facility.
- b. Floor area added for the purpose of compliance with state or local health laws or access requirements of the disabled shall not be included in floor area calculations of purposes of determining applicability of this section.

3. Development Standards

a. Hours of Operation

When located on a site adjacent to or separated by an alley from any residentially zoned property, a drive-in, drive-through, fast food, or take-out restaurant shall not open prior to 6:00 A.M., nor remain open after 12:00 midnight, unless otherwise approved by the City Council.

b. Driveways

- (1) Drive-in and drive-through restaurants shall have driveways which shall provide for both ingress and egress, in all instances, and these driveways shall provide stacking space adequate for a minimum of six (6) vehicles waiting for service.
- (2) Each drive-through lane shall be separated from the area of vehicle circulation necessary for ingress and egress to any parking space. Each drive-through lane shall be striped, marked, or otherwise distinctly delineated.

c. Parking

A parking and vehicular circulation plan encompassing adjoining streets and alleys shall be submitted for review and approval by the City Engineer.

d. Refuse Storage Area

On-site outdoor trash receptacles shall be provided at a rate of one (1) trash receptacle for every ten (10) required parking spaces. One outdoor trash receptacle shall be provided on-site adjacent to each driveway exit or as otherwise approved by the Community Development Director.

20.11.160 **FIREWORKS STAND**

1. Location

A fireworks stand may be permitted in commercial and industrial zone districts and on property developed in accordance with the provisions of Chapter 6.48, Title 6 of the Municipal Code regardless of the zone district in which said facilities are located.

20.11.170 **HOME OCCUPATIONS**

1. Home occupations are intended to provide for commercial uses associated with a residence in those cases where that use will clearly not alter the character or the appearance of the residential environment. Home occupations, as defined in Chapter 20.1.190 of this Title, shall be permitted in any residential district, subject to the process required within the district and the following regulations of this section.

2. Conditions

Prior to approving a request for a home occupation, the applicant shall complete and submit a home occupation application to the Community Development Department. The Community Development Director shall find that the proposed use meets the following conditions prior to approval of any such Home Occupation Permit:

- a. All employees shall be members of the resident family and shall reside on the premises.
- b. There will be no direct sales of products or merchandise on the premises.
- c. Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.
- d. The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.
- e. Up to twenty-five percent (25%) of the living space or two hundred fifty (250) square feet, whichever is greater, of the home may be used for storage of materials and supplies related to the home occupation.
- f. There shall be no outdoor storage of materials or equipment, nor shall merchandise be visible from outside the home.
- g. The home occupation shall be confined within the main building. A garage shall be considered as part of the main building.
- h. The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emissions of sounds, noises, vibrations, dust, electrical interference, fire hazard, glare or any other hazard or nuisance to any greater extent than normally found in a residential area.
- i. The use of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes.

3. The reviewing authority, pursuant to section 20.2.190 (Revocation of Permits) of this Title, may void any permit for a Home Occupation for non-compliance with the conditions set forth in the approving permit. Notice shall be given to the permittee prior to any such action taking place.

20.11.180 OUTDOOR RECREATIONAL FACILITIES (PUBLIC)

1. Intent

This section is intended to ensure that outdoor recreational facilities, which are open to the public within or adjacent to a residential district, do not adversely impact adjacent residential parcels and are utilized in a manner which protects the integrity of the district, while allowing for the enjoyment of a healthful, recreational activity.

2. Applicability

The provisions of this Section shall apply to all recreational facilities which are owned by a public agency or are open to the public. This includes but is not limited to: golf courses, driving ranges, swimming pools, tennis courts, ball fields, and other similar facilities.

3. Development Standards

- a. Outdoor recreational facilities, covered by this Section, shall conform to all applicable property development standards for the district in which the facilities are located except as provided below.

- (1) When necessary to contain play within the recreational facilities, chain link fences up to twelve (12) feet in height, measured from the adjacent grade, may be permitted, provided that such fences are not located within the front or side yard setback areas.

- (2) Fences greater than twelve (12) feet in height, as measured from adjacent grade, may be permitted provided such fence is not located in the front or side yard setback, when a finding is made by the Community Development Director that such a fence height is necessary to protect adjacent residential streets, homes or property from possible damage resulting from use of the recreational facility. This provision shall only be applicable in the case of golf courses, driving ranges, and/or baseball/softball playing fields.

- b. Landscaping and screening shall be provided on all boundaries of the parcel that abut public rights-of-way, a residential zone district, or residential land use.

- c. Lighting may be permitted provided that such lighting shall not be used after 10 p.m. Sunday through Thursday or after 11 p.m. on Friday or Saturday.

20.11.190 RECYCLING FACILITIES

1. Intent

This section is intended to provide the community with regulations controlling the siting of recycling, redemption and processing facilities, and to ensure that recycling facilities do not create adverse impacts on the surrounding community.

2. Applicability

- a. The provisions of this section shall apply to the following use types, as defined in this section and section 20.1.190 (Definitions) of this Title.
- (1) Reverse Vending Machines
 - (2) Small Recycling Facilities
 - (3) Recycling and Reprocessing Facilities
- b. Such use types shall comply with the provisions of this section in addition to applicable standards and permit procedures of the zone district in which the use type is located.

3. Development Standards

Reverse Vending Machines shall comply with the following standards:

- a. Shall be established in conjunction with a commercial use or public facility which is in compliance with this Title and the building and fire codes of the City;
- b. Shall be located within thirty (30) feet of the entrance to the commercial structure and shall not obstruct pedestrian or vehicular circulation;
- c. Shall not occupy required parking spaces;
- d. Shall occupy no more than fifty (50) square feet of floor area per installation, including any protective enclosure, and shall be no more than eight (8) feet in height;
- e. Shall be constructed and maintained with durable, waterproof, and rustproof material;
- f. Shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call for repair and ownership;
- g. Shall have a maximum sign area of four (4) square feet per machine, exclusive of operating instructions;
- h. Shall be maintained in a clean, litter-free condition on a daily basis;
- i. Shall be illuminated to ensure comfortable and safe operation, if operating hours are between dusk and dawn; and
- j. All machines shall be clean and not dented, bent or otherwise disfigured.

4. Small Collection Facilities

- a. Development Standards

Small Collection Facilities shall comply with the following standards:

- (1) Shall be established in conjunction with an existing commercial use or public facility which is in compliance with this Title and the building and fire code of the City;
- (2) Shall be no larger than five hundred (500) square feet and occupy no more than five (5) parking spaces, not including space that will be periodically needed for removal of materials or exchange of containers. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary land use unless all of the following conditions exist:
 - (a) The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation;
 - (b) A parking study shows that existing parking capacity is not fully utilized during the time the recycling facility will be on the site;
 - (c) The approval will be reconsidered at the end of eighteen (18) months;
 - (d) A reduction in available parking spaces in an established parking facility may then be allowed as follows:

<u>Number of Parking Spaces</u>	<u>Maximum Reduction</u>
0 - 25	0
26 - 35	1
36 - 49	2
50 - 99	3
100 +	4

- (3) Shall be set back at least ten (10) feet from any property line and shall not obstruct pedestrian or vehicular circulation;
- (4) Shall accept only glass, metals, plastic containers, papers, and reusable items;
- (5) Shall use no power-driven processing equipment, except for Reverse Vending Machines;
- (6) Shall use containers that are:
 - (a) constructed and maintained with durable waterproof and rustproof material;
 - (b) covered when site is not attended and secured from unauthorized entry or removal of material; and
 - (c) of a capacity sufficient to accommodate materials collected in accord with a collection schedule;
- (7) Shall store all recyclable material in containers or in a mobile unit vehicle, and shall not leave materials outside of containers when attendant is not present;

- (8) Shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which a truck or containers are removed at the end of each collection day, shall be swept at the end of each collection day;
 - (9) Shall not exceed noise levels of fifty-five (55) dBA as measured at the property line of residentially zoned or occupied property, otherwise shall not exceed seventy (70) dBA;
 - (10) Shall operate only during the hours between 9:00 a.m. and 7:00 p.m. when located within one hundred (100) feet of a property zoned or occupied for residential use;
 - (11) Shall locate containers for the twenty-four (24) hour donation of materials at least one hundred (100) feet from any property zoned or occupied by residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use. All containers shall be painted and shall not be dented, bent or otherwise disfigured; and
 - (12) Shall utilize clearly marked containers which identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, shall display a notice stating that no material shall be left outside the recycling enclosure or containers.
- b. Signs may be provided as follows:
- (1) Small collection facilities may have a maximum of four (4) identification signs each a maximum of twenty percent (20%) per side of the facility or sixteen (16) square feet, whichever is larger. In the case of a wheeled facility, the side shall be measured from the pavement to the top of the container;
 - (2) Directional signs, bearing no advertising message, may be installed to facilitate traffic circulation and/or if the facility is not visible from a public right-of-way; and
 - (3) Authorization by the Community Development Director to increase the number and size of signs upon finding that such an increase is compatible with adjacent businesses.
- c. The facility shall not reduce the landscaping areas which may be required by this Title for any concurrent use or under any permit or approval.
- d. Parking
- (1) No additional parking spaces will be required for customers of a Small Collection Facility located in the established parking lot of a commercial use.
 - (2) Mobile Recycling Units shall have an area clearly marked in the parking lot of the commercial use to prohibit other vehicular parking during hours when the Mobile Unit is scheduled to be present or operating.

5. Large Collection Facility

A large collection facility is one that occupies more than five hundred (500) square feet in area or is located on a separate parcel, not associated with an existing commercial use, and may have a permanent structure. Large collection facilities shall comply with the provisions of the zone district in which it is located and with the following conditions:

- a. Facility shall be located an appropriate distance, as determined by the City Council, from the property line of any lot zoned or planned for residential use; and
- b. Facility shall be screened from the public right-of-way by operating in an enclosed building or within an area enclosed by an opaque fence at least six (6) feet in height with landscaping and shall meet all applicable noise standards in this Title.
- c. Setbacks and landscape requirements shall be those provided for the zone district in which the facility is located;
- d. Storage
 - (1) All exterior storage of material shall be in sturdy containers that are covered, secured, and maintained in good condition.
 - (2) Storage containers for flammable material shall be constructed of non-flammable material.
 - (3) No storage excluding truck trailers and overseas containers, shall be visible above the height of the fencing.
- e. The site shall be maintained free of litter and any other undesirable materials and shall be cleaned of loose debris on a daily basis.
- f. Space shall be provided on-site for six (6) vehicles or the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials, except where the Community Development Director determines that allowing overflow traffic above six (6) vehicles is compatible with the surrounding land uses.
 - (1) One (1) parking space shall be provided for each commercial vehicle operated by the recycling facility. Parking requirements shall be as provided for in the zone district in which the facility is located, except that parking requirements for employees may be reduced when it can be shown that parking spaces are not necessary such as when employees are transported in a company vehicle to a work facility;
 - (2) Noise levels shall not exceed sixty-five (65) dBA as measured at the property line of residentially zone property, and shall not exceed seventy (70) dBA at any point on the property;
 - (3) If the facility is located within five hundred (500) feet of property zoned, planned, or occupied for residential use, it shall not be in operation between the hours of 7:00p.m. and 7:00 a.m.;

- (4) Any containers or enclosures provided for after-hours donation of recyclable materials shall be at least fifty (50) feet from any property zoned, planned or occupied for residential use, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secured from unauthorized entry or removal of materials;
- (5) Donation areas shall be kept free of litter and any other undesirable material and the containers shall be clearly marked to identify the type of material that may be deposited; the facility shall display a notice stating that no material shall be left outside the recycling containers;
- (6) The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs shall meet the standards of the zone district. Directional signs may be installed with the approval of the Community Development Director, if necessary to facilitate traffic circulation or if the facility is not visible from a public right-of-way;
- (7) Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding, or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved at the discretion of the Community Development Director if noise and other requirements are met.

6. Development Standards for Processing Facilities

Processing facilities, both "Light" and "Heavy" as defined in section 20.1.190 (Definitions) of this Title, when permitted, shall comply with the provisions of this section in addition to the applicable provisions of the zone district in which the facility is located.

- a. The processing facility shall be located a minimum distance, to be determined by the City Council, from property planned, zoned or occupied for residential use. All operations shall take place within a fully enclosed building or within an area enclosed by a solid wood or masonry fence at least six (6) feet in height.
- b. Setbacks from property lines shall be those provided for the zoning district in which the facility is located, but, if the set back is less than twenty-five (25) feet, the facility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;
- c. When located within five hundred (500) feet of property planned, zoned or occupied for residential use, hours of operation shall not be between 7:00 p.m. and 7:00 a.m. The facility shall be administered by on-site personnel during the hours the facility is open;
- d. Noise levels shall not exceed sixty-five (65) dBA as measured at the property line of residentially zoned or occupied property, and shall not exceed seventy (70) dBA at any point;
- e. Sign criteria shall be those specified in Chapter 20.14 (Sign Regulations) of this Title. In addition, the facility shall be clearly marked with the name and phone number of the facility operator and hours of operation;

- f. Any containers or enclosures provided for after hours donation of recyclable materials shall be at least fifty (50) feet from any property zoned or occupied for residential use; shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secured from unauthorized entry or removal of materials;
- g. The facility shall be administered by on-site personnel during hours of operation;
- h. Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. Facility shall display a notice stating that no material shall be left outside the recycling containers;
- i. No dust, fumes, smoke, vibration or odor above ambient level may be detectable on neighboring properties;
- j. Power-driven processing shall be permitted, provided all noise level requirements are met. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting or source-separating recyclable materials, and repairing of reusable materials;
- k. A light processing facility shall be no larger than forty-five thousand (45,000) square feet and shall have no more than an average of two (2) outbound truck shipments of material per day and may not shred, compact or bale ferrous metals other than food and beverage containers;
- l. A processing facility may accept used motor oil for recycling from the generator in accordance with Section 25250.11 of the California Health and Safety Code;
- m. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition or may be baled or placed on pallets. Storage containers for flammable material shall be constructed of non-flammable material. Oil storage shall be in containers approved by the County Director of Environmental Health Services; no storage, excluding truck trailers and overseas containers, shall be visible above the height of the fencing;
- n. Site shall be maintained free of litter and any other undesirable materials, shall be cleaned of loose debris on a daily basis, and shall be secured from unauthorized entry and removal of materials when attendants are not present;
- o. Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space shall be provided for a minimum of ten (10) customers except where the Community Development Director determines that allowing overflow traffic above six (6) vehicles is compatible with surrounding businesses and public safety;
- p. One (1) parking space shall be provided for each commercial vehicle operated by the processing center. Parking requirements shall otherwise be as mandated by the zone district in which the facility is located.

7. Site Cleanup Required

The operator of any recycling collection or processing facility shall, on a daily basis, remove any and all recyclable materials or solid wastes which have accumulated or are deposited outside the containers, bins, or enclosures intended as receptacles for such materials. Upon failure to remove said materials, the City may deem them to be abandoned and may enter the site to remove the materials. The property owner(s) of the premises and the operator of the facility shall be liable for the full cost of any such cleanup work done by the City.

20.11.200 SECOND DWELLING UNITS

1. Intent

This section is intended to ensure that second dwelling units located in residential districts do not adversely impact adjacent residential parcels or the surrounding neighborhood and are developed in a manner which protects the integrity of the residential district, while providing for needed housing opportunities for owners of eligible parcels.

2. Applicability

The provisions of this Section shall apply to all second dwelling units in addition to the provisions of the zone district in which it is located.

3. Definitions

As used in this Chapter, the following terms mean:

- a. Living Area means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- b. Local Agency means the City of Delano
- c. Second Unit means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:
 - (1) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - (2) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

4. Development Standards

The following standards shall apply to all second units.

- a. The lot shall be zoned either "R-A" or "R-1."
- b. The lot must contain a primary dwelling unit either existing or proposed to be constructed concurrent with the second unit;

- c. The maximum allowable lot coverage shall not be exceeded;
- d. The maximum building height for a second dwelling unit shall be one (1) story, not to exceed eighteen (18) feet. No second unit shall be higher than the main dwelling on the same parcel;
- e. The second unit shall be subject to the minimum required front, side, and rear yard setbacks of the zone district in which the property is located;
- f. The second unit may be attached or detached to the primary residence, but shall be architecturally compatible with the main dwelling and the surrounding neighborhood;
- g. A second unit shall have adequate water supply and sewer service;
- h. The entrance to an attached second unit shall be separate from the entrance to the primary unit;
- i. Second units shall be subject to all development fees including, but not limited to, public facilities impact fees, park fees and assessment districts, where so permitted;
- j. The floor area of the second unit shall not exceed fifty percent (50%) of the floor area of the primary single family residence on the property; and
- k. One off-street parking space shall be provided for the second unit in compliance with the provisions of Table 13.A.1 (Parking Regulations) of this Title.

20.11.210 SELF STORAGE WAREHOUSES

1. Intent

This section is intended to ensure that self-storage warehouse operations, commonly known as "mini-warehouses," do not result in an adverse impact on adjacent properties by reason of parking demand, traffic generation, fire, or safety hazard, or visual blight. The special conditions contained in this section are intended to differentiate self-service storage warehousing uses from more intensive wholesale or general warehousing uses, especially in regard to the differing parking requirements for these uses.

2. Applicability

The provisions of this section shall apply to all new self-storage warehouse uses and to all existing facilities at such a time the storage area of an existing business is substantially expanded or modified, as defined in this Title.

3. Development Standards

a. Access and Parking

- (1) Driveways adjacent to parking lanes shall be twelve (12) feet in width for one-way traffic and twenty-four (24) feet in width for two-way traffic.

- (2) Access and circulation shall be designed to eliminate the need to back out of any drive or access.
- (3) One parking space shall be provided for each two hundred (200) square feet of floor area within the office and/or caretakers quarters provided, however, a minimum of four (4) parking spaces shall be provided.
- (4) The parking standards specified in this section for this use shall be applicable to this use only.

b. Outside Storage

No storage of materials outside an enclosed building may be permitted unless expressly designed for such purpose and approved as a part of the conditional use permit for the site.

20.11.220 SERVICE STATIONS

1. Intent

This section is intended to ensure that service stations do not result in adverse impacts on adjacent land uses, especially residential uses. The traffic, glare, and uses associated with service stations, particularly those which are open twenty-four (24) hours a day, may be incompatible with adjacent land uses. To protect the health, safety, and general welfare of the City and its residents, these special regulations shall be imposed on the development and operations of service stations.

2. Applicability

A service station shall comply with the provisions of this section in addition to the property development standards and the permit procedures for the zone district in which it is to be located. The provisions of this section and this Title, as applicable, shall apply to all new service stations and to all existing service stations at such a time as those existing stations may come before the City for an expansion of twenty-five percent (25%) or greater in floor area, a remodeling, or any other development that would cost more than fifty percent (50%) of the value of the improvements on the parcel at the time of remodeling, excluding land value.

3. Minimum Development Standards

a. Minimum Street Frontage

Each parcel shall have a minimum street frontage of one hundred (100) feet on at least one abutting street.

b. Setbacks

No building or structure, except canopies as provided below, shall be located within thirty (30) feet of any right-of-way line, or within twenty (20) feet of any interior parcel line.

c. Gasoline Pumps

Gasoline pumps shall be located no closer than twenty (20) feet from any property line.

d. Canopies

Canopies shall be located no closer than ten (10) feet from any property line.

e. Walls

Service stations shall be separated from adjacent property, which is zoned or used for residential purposes, by a decorative masonry wall of not less than six (6) feet in height, as approved by the Community Development Director. Materials, textures, colors, and design of all walls shall be compatible with on-site development and adjacent properties. No wall higher than forty (40) inches in height shall be constructed within five (5) feet of a driveway entrance or vehicle access way which opens onto a street or alley. The wall shall be constructed to ensure a clear cross view of pedestrians on the sidewalk, alley, or elsewhere by motorists entering or exiting the parcel.

f. Paving

The site shall be entirely paved, except for buildings and landscaping.

g. Landscaping

The service station site shall be landscaped pursuant to the following standards:

- (1) A minimum of fifteen (15) percent of the site shall be landscaped, which may include a planting strip at least five (5) feet wide along interior parcel lines, non-driveway street frontages, and areas adjacent to buildings. Planters shall be surrounded by masonry or concrete curbs and so arranged to preclude motor vehicles from driving across the sidewalk at locations other than access driveways. Permanent opaque landscaping or berming shall be provided and maintained in the planters at a height of not less than three (3) feet above the average adjacent grade.
- (2) A minimum of one hundred fifty (150) square foot landscaped area shall be provided at the intersection of two (2) property lines at a street corner.

h. Access and Circulation

No more than one (1) driveway with a maximum width of thirty-five (35) feet shall be permitted on any one (1) street frontage and shall be located as follows:

- (1) Driveways shall be located no closer than fifty (50) feet from a street intersection and fifteen (15) feet from a residential property line or alley and shall not interfere with the movement and safety of vehicular and pedestrian traffic. Locations of all driveways shall be subject to the approval of the City Engineer.
- (2) All lubrication bays and wash racks shall be located within a fully enclosed building. Access to the service bays and wash racks shall not be located within fifty (50) feet of a residentially zoned property, and shall be oriented, when practical, away from public rights-of-way.

i. Air and Water

Each service station shall provide air and water to customers at a convenient location during hours when gasoline is dispensed.

j. Restrooms

Each service station shall provide a men's and women's public restroom that is accessible to the general public, including physically disabled persons, during all hours the service station is open to the public. Restrooms shall be identified by placing entrances or signage in a location that is clearly visible from the gasoline service area or cashier station, and shall be maintained on a regular basis.

k. Telephones

At least one public telephone shall be provided at each service station in a location that is easily visible from public rights-of-way.

l. Vending Machines

Coin-operated vending machines may be permitted within or abutting a structure for the purpose of dispensing items commonly found in service stations, such as refreshments and maps.

m. Location of Activities

All repair and service activities and operations shall be conducted entirely within an enclosed service building, except as follows:

- (1) The dispensing of petroleum products, water, and air from pump islands.
- (2) Replacement service activities such as wiper blades, fuses, radiator caps, and lamps.
- (3) The sale of items from vending machines placed next to the main building in a designated area not to exceed thirty-two (32) square feet.
- (4) The display of merchandise offered for customer convenience on each pump island, provided that the aggregate display area on each island shall not exceed twelve (12) square feet and that the products shall be enclosed in a specially designed case.
- (5) Motor vehicle products displayed along and within three (3) feet of the front of the building. Such display areas shall be limited to five (5) feet in height and not more than ten (10) feet in length.

n. Refuse Storage and Disposal

Trash areas shall be provided and screened on at least three sides from public view by a solid decorative wall not less than five (5) feet in height. Permanent opaque panel gates shall be installed on all openings to the trash area.

- (1) All trash shall be deposited in the trash area and the gates leading thereto shall be maintained in working order and shall remain closed except when in use.
- (2) Refuse bins shall be provided and placed in a location convenient for customers.
- (3) Trash areas shall not be used for storage. The premises shall be kept in a neat and orderly condition at all times and all improvements shall be maintained in a condition of reasonable repair and appearance. No used or discarded automotive parts or equipment, or permanently disabled, junked, or wrecked vehicles may be stored outside the main building.

o. Equipment Rental

Rental of equipment such as trailers and trucks may be permitted, provided that:

- (1) The rental equipment does not occupy or reduce the availability of the required parking for the automobile service station.
- (2) The rental equipment storage location does not interfere with access and circulation on and around the site.
- (3) The rental of the equipment is incidental and secondary to the main activity on the site.

p. Operation of Facilities

- (1) The service station shall at all times be operated in a manner that is not detrimental to surrounding properties or residents. Site design and activities shall be conducted to avoid and minimize:
 - (a) Damage or nuisances from noise, smoke, odor, dust, or vibration.
 - (b) Hazards from explosion, contamination, or fire.
- (2) Service station hours of operation shall be as conditioned in the approved conditional use permit.

q. Security Plan

A security plan shall be developed by the applicant and approved by the Police Department prior to issuance of a building permit.

4. Abandoned or Converted Service Stations

- a. Where service stations become vacant or cease operation for more than one-hundred eighty (180) days, the owner shall be required to remove all underground storage tanks (in a manner acceptable to all applicable permitting/regulatory agencies), remove all gasoline pumps and pump islands, and remove all free-standing canopies.
- b. To confirm that a use has not been abandoned, the owner shall provide evidence to the Community Development Director with written verification

prior to the 180th day that an allocation of gas has been received and operation of the station will commence within thirty (30) days of the date of written correspondence.

- c. Resumption of service station operations after the one hundred eighty (180) days, specified above, may be permitted upon review and approval by the Community Development Director. Such a review may result in conditions of approval that may include but not be limited to the following:
- (1) Replanting existing landscape areas;
 - (2) Installing new landscape areas;
 - (3) Painting of structures;
 - (4) Upgrading or installing trash enclosures;
 - (5) Striping parking spaces;
 - (6) Installation of signs in conformance with adopted sign provisions in Chapter 20.14 of this Title;
 - (7) Resurfacing vehicle access and parking areas; and
 - (8) Installation of missing street improvements.

5. **Converted Service Stations:**

The conversion of service station structures and sites to another use may require upgrading and remodeling including, but not limited to removal of all gasoline appurtenances, removal of canopies, removal of pump islands, removal of overhead doors, additional landscaping, missing street improvements or modification of existing improvements to conform to access regulations, and exterior remodeling.

20.11.230 SIDEWALK CAFES

1. **Intent**

This section is intended to regulate the establishment and operation of sidewalk cafes that can enhance the pedestrian ambiance of the City, and to ensure that they do not adversely impact adjacent properties and surrounding neighborhoods.

2. **Applicability**

A sidewalk cafe shall comply with the provisions of this section in addition to the property development standards and permit procedures for the zone district in which it is located.

3. **Minimum Development Requirements**

a. **Accessory Use**

A sidewalk cafe shall be conducted as an accessory use to a legally established restaurant or other eating and drinking establishment.

b. Enclosure

Awnings or umbrellas may be used in conjunction with a sidewalk cafe, but there shall be no permanent roof or shelter over the sidewalk cafe area without written approval from the City Engineer. Awnings shall be adequately secured, and shall comply with the provisions of the latest edition of the Uniform Building Code adopted by the City.

c. Fixtures

The furnishings of the sidewalk cafe shall consist only of movable tables, chairs, and umbrellas. Lighting fixtures may be permanently affixed onto the exterior front of the main building.

d. Refuse Storage Area

No structure or enclosure to accommodate storage of trash or garbage shall be erected or placed on or adjacent to the sidewalk cafe on either a public sidewalk or public right-of-way. Sidewalk cafes shall remain clear of litter at all times.

e. Hours of Operation

The hours of operation of the sidewalk cafe shall be limited to the hours of operation of the associated restaurant or eating and drinking establishment.

20.11.240 SURFACE PARKING LOTS

1. Intent

This section is intended to ensure that commercial parking facilities and surface parking lots located adjacent to residential districts will not adversely effect nearby residents or diminish the integrity of a residential district.

2. Applicability

All commercial parking facilities, including primary commercial parking uses, and accessory parking lots for associated commercial, industrial, institutional, and public uses shall comply with the provisions of this Section in addition to the applicable provisions of the zone district in which such a use is located.

3. Minimum Development Standards

a. Structures Permitted

A parking guard or attendant shelter may be permitted provided that the shelter does not exceed seventy-five (75) square feet, is not more than twelve (12) feet in height, is not located in any required setback area, and is located at least fifty (50) feet from any adjacent residential parcel.

b. Vehicle Access

Where practical, vehicular access to parking lots from public streets shall be located a minimum of forty (40) feet from any residentially zoned parcel.

20.11.250 SWIMMING POOLS AND RECREATION COURTS (PRIVATE)

1. Intent

This section is intended to ensure that the construction of swimming pools and recreational courts within residential districts is consistent with the residential character of the neighborhood.

2. Applicability

The provisions of this section shall apply to the construction of swimming pools or recreational courts located on individual residential lots as accessory uses to primary residential use of the same lot.

3. Permit Required for Accessory Use

Swimming pools and recreational courts may be permitted as an accessory use to a primary residential use, subject to securing a City building permit.

4. Swimming Pools

a. Swimming pools shall be set back a minimum of five (5) feet from the rear property line and five (5) feet from the side property lines as measured perpendicularly to the edge of the swimming pool coping. Encroachment of up to two (2) feet into this setback area may be granted by the Building Official upon review and approval of stamped engineering calculations demonstrating that such encroachment will not compromise the structural integrity of any surrounding buildings or structures.

b. A swimming pool shall not, in any circumstance, be located within a side yard setback area of the street side of a reverse corner lot, nor shall a swimming pool be located within a front yard set back area.

c. Swimming pool equipment shall not be located within a street side yard setback area nor in a front yard setback area.

d. Swimming pools shall not be located closer than ten (10) feet to any building; unless stamped engineering calculation, reviewed and approved by the Building Official, demonstrate that placement of a swimming pool closer than ten (10) feet to any building will not compromise the structural integrity of that building and/or that building foundation.

e. Swimming pools, spas, and hot tubs shall comply with "Special Use and Occupancy" requirements of the latest City adopted edition of the Uniform Building Code.

5. Recreational Courts

a. The maximum height of fences enclosing recreational courts shall be ten (10) feet.

b. Recreational courts shall be set back a minimum of ten (10) feet from the side property line, ten (10) feet from the rear property line, and fifty (50) feet from the front property line.

c. A maximum of eight (8) lights may be permitted. Said lights shall not exceed a height of twenty-two (22) feet.

- d. All lighting shall:
 - (1) Be designed, constructed, mounted, and maintained so that the light source is cut off when viewed from any point above five (5) feet, measured at the lot line; and
 - (2) Be used only between the hours of 7:00 a.m. and 10:00 p.m.
- e. The surface of a recreational court shall be designed, painted, colored, and/or treated to reduce reflection from any lighting thereon.
- f. The above listed standards shall be considered minimum standards. The Community Development Director may impose more stringent standards if it is determined that such standards are required to achieve consistency with the intent and purpose of the General Plan and this Title.

20.11.260 VEHICLE REPAIR FACILITIES

1. Intent

This section is intended to regulate the establishment and operation of vehicle repair facilities to reduce or eliminate potential noise, fumes, litter, and parking problems associated with motor vehicle repair shops. The provisions of this Section are further intended to ensure that vehicle repair facilities are compatible with adjacent and surrounding land uses.

2. Applicability

Each vehicular repair facility, including those which may be part of an incorporated dealership, shall comply with the provisions of this section in addition to the development standards and permit procedures of the zone district in which it is to be located and with other applicable provisions of this Title.

3. Minimum Development Standards

a. Paving

The portion of the site devoted to vehicle repair facilities shall be entirely paved, except for buildings and landscaping.

b. Structures

When practical, entrances to individual service bays shall not face public rights-of-way or abutting residential parcels.

c. Repair Activities

All repair activities, operations, and storage of materials shall be conducted entirely within an enclosed building. Outdoor hoists are prohibited.

d. Enclosure

Repair facilities, performing body and fender work, or similar noise-generating activities, shall be conducted within a fully enclosed structure. All painting shall occur within a fully enclosed booth that meets all

requirements of the Uniform Building Code and section 20.12.30 (Air Quality) of this Title.

e. Litter

The premises shall be kept in a neat and orderly condition at all times and all improvements shall be maintained in a condition of reasonable repair and appearance. No new, used, or discarded automotive parts, equipment, or permanently disabled, junked or wrecked vehicles may be stored outside of a building.

f. Storage

Exterior parking area shall be used for employee and customer parking only, and not for the repair or finishing work or long term (over one week) storage of vehicles. No vehicles to be repaired shall be parked or stored on any street or alley.

g. Hazardous Materials

Any handling, treatment, storage, or use of hazardous materials shall be subject to the requirements of Section 20.10.110 (Hazardous Materials Management) of this Title.