

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING THE 2021 OMNIBUS THAT
AMENDS VARIOUS ARTICLES OF THE
ESCONDIDO ZONING CODE.

WHEREAS, the City of Escondido Planning Division has conducted an annual review of the Escondido Zoning Code to determine if any revisions are necessary to reflect State mandated changes, to correct errors or inconsistencies, and to address land use considerations that have previously been overlooked; and

WHEREAS, Planning Division staff identified the need to amend Articles 34 (Communication Antennas), 35 (Outdoor Lighting), 47 (Environmental Quality), 55 (Grading and Erosion Control), 56 (Miscellaneous Development Standards), 61 (Administration and Enforcement), 64 (Design Review), 65 (Old Escondido Neighborhood), 66 (Sign Ordinance), 67 (Density Bonus and Residential Incentives), 68 (Growth Management Ordinance), and 70 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of the Escondido Zoning Code; and

WHEREAS, the Planning Commission of the City of Escondido, on August 24, 2021, held a public hearing to consider the Zoning Code Amendments and unanimously recommended approval of the items as provided in Exhibit "B"; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") and the CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, on October 13, 2021, the City Council of the City of Escondido did hold a duly noticed public hearing as prescribed by law. At said hearing, this City Council received and considered the reports and recommendations of the Planning Commission and City staff, and gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter. Evidence was submitted to and considered by the City Council, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted as part of the Project;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated October 13, 2021, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing.

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That the above recitations are true.

SECTION 2. That the proposed Zoning Code Amendments are statutorily or categorically exempt from further review pursuant to the CEQA and the State CEQA Guidelines by the following:

- A. A number of the amendments are not considered to be a Project under CEQA, as defined in section 15378(b)(5), and for those amendments no further environmental review is required; and

- B. The amendments that relate to accessory dwelling units (Article 70) are statutorily exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h). Under Public Resources Code section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Sections 65852.1 or 65852.2 of the Government Code (Accessory Dwelling Unit law). CEQA Guidelines section 15282(h) statutorily exempts the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of sections 65852.1 and 65852.2 of the Government Code as set forth in section 21080.17 of the Public Resources Code; and
- C. The amendments that allow large family day care homes in the Old Escondido Neighborhood as a permitted principal use (Article 65) are statutorily exempt pursuant to CEQA Guidelines section 15274(a), which states that CEQA does not apply to the establishment or operation of a large family day care home providing in-home care for up to 14 children, as defined in section 1596.78 of the Health and Safety Code; and
- D. The amendments that relate to grading activities (Article 55) are categorically exempt pursuant to CEQA Guidelines section 15304 (Minor Alterations to Land); and
- E. The amendments that relate to personal wireless facilities (Article 34), fences and walls (Article 56), and screening requirements (Article 56), are categorically exempt pursuant to CEQA Guidelines section 15303 (New Construction or Conversion of Small Structures); and

- F. The amendments that relate to outdoor lighting (Article 35) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures); and
- G. The amendments that relate to the applicability of minor conditional use permits vs. major conditional use permits for modifications to certain existing uses (Article 61) and the applicability of staff design review vs. planning commission design review for architectural or site modifications to certain existing uses (Article 61) are categorically exempt pursuant to CEQA Guidelines section 15301 (Existing Facilities); and
- H. The amendments that relate to plot plan approval for parking lot changes that reduce the number of spaces (Article 61), design review for parking lot changes that do not reduce spaces (Article 64), and the relationship between freestanding signs and utility easements (Article 66) are categorically exempt pursuant to CEQA Guidelines section 15311 (Accessory Structures) for non-residential uses and section 15303 (New Construction or Conversion of Small Structures) for multifamily residential uses, and
- I. The amendments that relate to CEQA thresholds, city responsibility for environmental review, and enhanced CEQA review for projects subject to congestion management program requirements (Article 47) are categorically exempt pursuant to CEQA Guidelines section 15308 (Actions by Regulatory Agencies for Protection of the Environment). These amendments are intended to bring this article into conformity with recent changes in state law related to traffic impact analysis and greenhouse gas analysis, and to clarify the City's responsibility in fulfilling CEQA obligations.

SECTION 3. That the Project satisfies the requirements of state Planning and Zoning Law.

SECTION 4. That the proposed amendments to the Escondido Zoning Code are consistent with the Escondido General Plan and applicable Elements were reviewed as part of the amendment drafting process to ensure consistency.

SECTION 5. That, after consideration of all evidence presented, and studies and investigations made by the City Council and on its behalf, the City Council makes the substantive Findings of Fact and determinations attached hereto as Exhibit "A," relating to the information that has been considered.

SECTION 6. That, considering the Findings of Fact and applicable law, the City Council hereby approves said amendments, attached as Exhibit "B" and hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 27th day of October, 2021 by the following vote to wit:

AYES : Councilmembers: GARCIA, INSCOE, MORASCO, MARTINEZ, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Paul McNamara
PAUL MCNAMARA, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
ZACK BECK, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2021-10 passed at a regular meeting of the City Council of the City of Escondido held on the 27th day of October, 2021, after having been read at the regular meeting of said City Council held on the 13th day of October, 2021.

DocuSigned by:
Zack Beck
ZACK BECK, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2021-10

EXHIBIT "A"
PL21-0152
FACTORS TO BE CONSIDERED / FINDINGS OF FACT

Zoning Code Amendments Determinations:

1. Over the years, staff and members of the public have found certain sections of the Escondido Zoning Code are sometimes vague, unclear, or conflicting, which results in confusion and potential disagreement in Code interpretation. It is important that the City of Escondido review policies and procedures on an on-going basis to ensure our resident-focused government through transparent services and positive organizational culture.
2. The Planning Division maintains a regular process and schedule for maintaining the City's codes and regulations. A number of these issues that have been identified are being addressed as part of this clean-up effort, whereby all code amendments have been combined in a single batch, called an omnibus. Additional items to correct or improve the Zoning Code may be considered in the next annual omnibus code clean-up cycle.
3. In October 2019, the State adopted Assembly Bill (AB) 1763 and changed the state's Density Bonus Law (Government Code section 65915 et seq.), which imposed new state housing mandates on California cities regarding required density bonuses and incentives for housing developers. The proposed Zoning Code Amendment will ensure compliance with the state Density Bonus Law, which requires cities to adopt an implementing ordinance that provides affordable housing density bonuses and offers concessions and incentives for specified housing developments
4. In October 2019, AB 68, AB 881, and Senate Bill (SB) 13 reformed many aspects of the state accessory dwelling unit (ADU) law. As amended, California's accessory ADU Law (Government Code sections 65852.2 and 65852.22) establishes statewide standards for local regulations governing accessory dwelling unit development. The proposed Zoning Code Amendment will ensure compliance with the state ADU Law
5. This matter continues the City's long-standing commitment to affordable housing and the provision of incentives for the creation of this desired housing type and is integrated with the City's other existing regulations promoting affordable housing production.
6. Over the years staff has continued to update the various Zoning requirements to ensure they reflect current community goals and remain consistent with the goals and policies of the General Plan. These amendments are consistent with that ongoing staff effort.
7. The Planning Commission's recommendation is based on factors pursuant to Section 33-1263 of the Escondido Zoning Code.

8. The public health, safety, and welfare would not be adversely affected by the proposed batch of Zoning Code amendments because they correct internal inconsistencies, improve readability, update references to other code sections or regulatory documents, codify prior interpretations, and make the Code consistent with changing state or federal regulations. The proposed batch of Zoning Code amendments would be consistent with the objectives, policies, general land uses, and programs within the General Plan because, among other things, they address changes in state laws, correct errors, and improve existing regulations to eliminate uncertainty for staff, customers, and the public. This effort is not intended to be a comprehensive update to the local code or change land use densities or intensities.

9. The proposed Zoning Code amendments do not conflict with any specific plan.

ARTICLE 34. COMMUNICATION ANTENNAS**Sec. 33-706. Personal wireless service facilities—Land use approval.**

(a) City staff shall review plans for planning, siting, architecture, zoning compliance, landscaping, engineering, building requirements, safety, and conformance with the wireless facilities guidelines.

After such review, staff may approve, conditionally approve, or deny the proposed facility, or refer it to the planning commission for approval, conditional approval, or denial. As a component of the project review, the applicant must include details regarding the ability to provide the necessary utilities (i.e., telco and power) and appropriate access to the site. All new utility service runs shall be placed underground.

(b) Land use approval requirements for small wireless facilities located in the public right-of-way are provided in section 33-704(k).

(c) Except for small wireless facilities in the public right-of-way, a plot plan application shall be required for all personal wireless service facilities/antennas and facilities which are permitted in the zone and which do not require a conditional use permit.

(d) Residential and open space zones. Except as specified in section 33-706(b), personal wireless service facilities located in residential and open space zones, and in the public right-of-way adjacent to them, shall require a conditional use permit pursuant to Division 1 of Article 61.

(e) Commercial and industrial zones. Plot plan approval or a conditional use permit shall be required in commercial and industrial zones according to the following chart:

	CG	CN	CP	I-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Roof-mounted or building-mounted incorporating stealthy designs and/or screened from public ways or significant views	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that incorporate stealthy designs and do not exceed 35' in height	P	P	P	P	P	P	P
Pole-mounted or ground-mounted that exceed 35' in height, or roof or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(f) Co-location. Co-location of personal wireless service facilities is encouraged to the extent it is technically feasible, up to the point where a structure or site has too many antennae and becomes visually cluttered, subject to the following siting criteria and chart:

	CG	CN	CP	I-O	M-1	M-2	I-P
Personal Wireless Communication Facilities							
Co-location on existing buildings or structures, or adding an additional facility on a site	P	P	P	P	P	P	C
Co-location including new pole-mounted or ground-mounted structures that exceed 35' in height, or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy	C	C	C	C	P	P	C

RA	RE	R-1	R-2	R-3	R-4	RT	OS
C	C	C	C	C	C	C	C

P = Permitted subject to plot plan review.

C = Conditionally permitted subject to a conditional use permit (CUP).

(g) Planned development and specific plans. Unless specifically permitted or conditionally permitted as part of the planned development or specific plan, any wireless communication facility shall not be permitted within these zones unless a modification to the master development plan or specific plan is approved by the planning commission or city council, as may be required. This provision does not apply to small wireless facilities in the public right-of-way.

ARTICLE 35. OUTDOOR LIGHTING

Sec. 33-711. Purpose and intent.

It is the purpose and intent of this article to minimize glare, light trespass, and artificial sky glow for the benefit of the citizens of the city and astronomical research at Palomar Observatory, and to promote lighting design that provides for public safety, utility, and productivity while conserving energy and resources by:

- (a) Using outdoor light fixtures with good optical control to distribute the light in the most effective and efficient manner;
- (b) Using the minimum amount of light to meet the lighting criteria;
- (c) Using shielded outdoor light fixtures;
- (d) Using low-pressure sodium, narrow-spectrum amber light emitting diodes (LEDs,) or other equivalent energy efficient outdoor light fixtures with a correlated color temperature (CCT) of 3,000 Kelvin (K) or less;

- (e) Energizing outdoor light fixtures only when necessary, by means of automatic timing devices; and
- (f) Requiring that certain outdoor light fixtures and lamps be turned off between 11 p.m. and sunrise.

ARTICLE 35. OUTDOOR LIGHTING
Sec. 33-713. General requirements.

- (a) Outdoor light fixtures installed after the effective date of this article and thereafter maintained upon private commercial, industrial, multifamily residential (over six dwelling units), or other nonresidential uses (e.g., churches, day care, convalescent use, schools) shall comply with the following:
 - (1) Only shielded low-pressure sodium, shielded narrow-spectrum amber LEDs, or other shielded energy efficient outdoor light fixtures with a CCT of 3,000 Kelvin or less shall be utilized except as listed under subsection (b) of this section and section 33-714 of this article;
 - (2) All light fixtures within 100 feet of any signalized intersection shall be shielded and/or directed in such a manner so that the lighting from such fixtures does not interfere with established traffic signals.
- (b) Time controls. All outdoor light fixtures that are not low-pressure sodium or narrow-spectrum amber LEDs, or do not have a CCT of 3,000 Kelvin or less, and that are installed and maintained after the effective date of this article upon new private commercial, industrial, multifamily residential (over six dwelling units), or other nonresidential uses (e.g., churches, day care, convalescent use, schools) shall be equipped with automatic timing devices so that such lighting is turned off between the hours of 11 p.m. and sunrise except when used for:
 - (1) Industrial and commercial uses where color rendition is required, such as in assembly, repair, and outdoor display areas, where such use continues after 11 p.m. but only for so long as such use continues in operation;
 - (2) Recreational uses that are in progress at 11 p.m. but only for so long as such uses continue;
 - (3) Signs and electronic displays and screens of business facilities that are open to the public between the hours of 11 p.m. and sunrise but only for so long as the facility is open.
- (c) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of the Escondido Municipal Code, the California Building Code, the National Electrical Code, the California Energy Code, and the California Green Building Standards Code.
- (d) Standards for street lighting installed on public rights-of-way and private roads are found in the City of Escondido Engineering Design Standards and Standard Drawings.
- (e) The types, locations, and controlling devices of outdoor light fixtures for multifamily dwellings (six units or less) and single-family homes shall minimize glare, light trespass, and artificial sky glow.

ARTICLE 35. OUTDOOR LIGHTING**Sec. 33-714. Exemptions.**

(a) All outdoor light fixtures existing and legally installed prior to the effective date of this article are exempt from the requirements of this article, unless work is proposed in any one year period so as to replace 50% or more of the existing outdoor light fixtures or lamps, or to increase to the extent of 50% or more the number of outdoor light fixtures on the premises. In such a case, both the proposed and the existing outdoor light fixtures shall conform to the provisions of this article and shall be detailed on lighting plans prior to the issuance of applicable building permits.

(b) All outdoor light fixtures producing light directly by combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this article.

(c) All outdoor light fixtures on facilities or lands owned, operated, or controlled by the United States Government, the State of California, the County of San Diego, or any other public entity or public agency not subject to ordinances of this city are exempt from the requirements of this article. Voluntary compliance with the intent of this article at those facilities is encouraged.

(d) Temporary uses and holiday lighting not exceeding 45 consecutive days during any one-year period as determined by the Director of Community Development are exempt from the requirements of this article.

(e) Any shielded light fixture that produces 4,050 lumens or less is exempt from the requirements of this article. Examples of lamp types of 4,050 lumens and below generally include:

- (1) 200 watt standard incandescent and less;
- (2) 150 watt tungsten-halogen (quartz) and less;
- (3) 75 watt mercury vapor and less;
- (4) 50 watt high pressure sodium and less;
- (5) 50 watt metal halide and less;
- (6) 40 watt fluorescent and less.

Note: Because lumen output determines this exemption instead of wattage, manufacturer's specifications with the lumen information must be included with proposals applicable under this article. (Zoning Code, Ch. 107, § 1072.30; Ord. No. 2014-20, § 4, 1-7-15)

ARTICLE 47. ENVIRONMENTAL QUALITY**DIVISION 1. REGULATIONS****Sec. 33-924. Coordination of CEQA, quality of life standards, and growth management provisions.**

The purpose of this section is to ensure consistency between the City's thresholds of environmental significance and the Public Facilities Master Plan that implements the growth management element of the General Plan. The City's General Plan contains quality of life standards that are to be considered in comprehensive planning efforts as well as individual project review. The degree to which a project, and the area in which it is located, conforms to the quality of life standards, is an issue in determining thresholds of significance. Notwithstanding the City's goal of providing adequate infrastructure concurrent with development, the Public Facilities Master Plan acknowledges that concurrent provision of infrastructure cannot be provided in all cases, particularly in the short term. Instead, only critical infrastructure deficiencies affect the timing of development. The following criteria are intended to clarify how facility deficiencies should affect the following CEQA determinations:

(a) Negative and mitigated negative declarations. In situations where the preparation of a negative declaration is otherwise appropriate, yet quality of life standard deficiencies are found to exist, a negative declaration may still be prepared under the following circumstances, as applicable:

(1) Facility deficiencies are of an interim nature in that a master plan has been adopted for the provision of the facilities, appropriate fees are charged to offset project impacts, or other measures are in place to address long-run impacts;

(2) The project does not in itself, or in conjunction with other pending and approved projects, cause the number of units outside specified fire and emergency response times to exceed 10% of the total number of City units;

(3) A project proposes fewer than 200 units, and the cumulative total of reasonably anticipated projects does not exceed a total of 1,000 units where the police service territory is experiencing, or is likely to experience, unacceptable service times;

(4) Adequate sewer, water, and drainage facilities for the area can be provided to the satisfaction of the City Engineer in accordance with adopted master plans;

(5) After mitigation, the project does not individually generate air-quality impacts for fixed, mobile, or construction sources within the General Plan area by more than any of the following thresholds per day:

Pounds per Day Thresholds

Respiratory Particulate Matter (PM10)	Fine Particulate Matter (PM2.5)	Oxides of Nitrogen (NOx)	Oxides of Sulfur (SOx)	Carbon Monoxide (CO)	Lead and Lead Compounds	Volatile Organic Compounds (VOCs)
100	55	250	250	550	3.2*	75** 55***

* Not applicable to construction.

** Threshold for construction per SCAQMD CEQA Air Quality Handbook.

*** Threshold for operational per SCAQMD CEQA Air Quality Handbook.

(A) Diesel standby generators in conformance with Zoning Code section 33-1122 are exempt from the above requirement for daily emissions of oxides of nitrogen;

(6) Greenhouse gas (GHG) emissions. In situations where a negative declaration is otherwise appropriate, the following incremental GHG emissions are generally not considered significant:

(A) Projects that do not generate more than 2,500 metric tons (MT) of carbon dioxide equivalent (CO₂e) GHG emissions and that are consistent with the General Plan, or

(B) Projects generating more than 2,500 MT of CO₂e that are consistent with the General Plan, and that have demonstrated consistency with the Climate Action Plan (CAP) through completion of the CAP Consistency Checklist, adopted by separate resolution, or

(C) Projects generating more than 500 MT of CO₂e that are consistent with the General Plan, and that cannot demonstrate consistency with the CAP through completion of the CAP Consistency Checklist due to unique land uses or circumstances for which no measures in the checklist would apply, but that can demonstrate consistency with the CAP through comparison to a numerical GHG threshold of 2.0 MT CO₂e per service population per year, or

(D) Projects that are not consistent with the General Plan and will generate greater GHG emissions than the allowable uses under the existing General Plan land use designation that demonstrate through a project-specific analysis quantifying GHG emissions that

through mitigation and design features, the project reduces GHG emissions consistent with the CAP;

(7) Noise impacts of Circulation Element street widening. In situations where a negative declaration is otherwise appropriate, the following incremental noise increases are generally not considered significant:

(A) Short- or long-term increases, regardless of the extent, that do not result in noise increases in excess of General Plan standards,

(B) Short- or long-term increases that result in a three dBA or less incremental increase in noise beyond the General Plan's noise standards;

(8) Demolition or removal of historic resources. Demolition of historic resource would be considered significant if:

(A) Structures are determined to be a unique or rare example of an architectural design, detail, historical type, or method of construction in the community representing an example of a master (a figure of generally recognized greatness in a field, or a known craftsman of consummate skill);, possessing high artistic value;-, embodying the distinctive characteristics of a type, period, or method of construction referring to the way in which a property was conceived, designed or fabricated in past periods of history in Escondido; or containing enough of those characteristics to be considered a true representative of a particular type, period, or method of construction,

(B) Structures located within an historic district and the relationship with other structures in the vicinity contributes to the unique character and quality of the streetscape and/or district,

(C) Structures involving the site of a locally historic person (or event) whose activities were demonstrably important within the context of Escondido, and is generally restricted to those properties that illustrate (rather than commemorate) important achievements that are directly associated with the subject property and reflect the time period,

(D) Structures listed with, or eligible for listing with, the State Register or National Register,

(E) Pursuant to CEQA Guidelines section 15300.2(f) a categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of an historic resource because a project that is ordinarily insignificant in its impact to the environment in a particularly sensitive environment may be significant.

(b) Environmental impact reports. Where deficiencies exist relative to the City's quality of life standards, and the extent of the deficiency exceeds the levels identified in subsection (a) of this section, an environmental impact report shall be prepared. (Ord. No. 95-2, § 1, 2-15-95; Ord. No. 2001-18, § 4, 7-25-01; Ord. No. 2002-10, § 5, 4-10-02; Ord. No. 2003-36, § 4, 12-3-03; Ord. No. 2013-12, § 4, 12-11-13)

(c) Level of service. While changes in level of service (LOS) at street intersections or segments may not be used to determine whether a project will cause traffic impacts for purposes of CEQA analysis, they may be used to determine if the project is consistent with the General Plan's Street Network Policy 7.3.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-925. City responsibility for environmental documentations and determinations.

(a) The City shall have responsibility and control over the form, scope, and content of all documents comprising the environmental assessment of a project. All reports, studies, or other

documents prepared by or under the direction of an applicant, intended for inclusion in the environmental documents, shall be clearly identified as the project proponent's environmental assessment (PEA), and shall set forth in detail the assumptions and methodologies supporting any conclusions reached or upon which any recommendations may be based.

(b) The City, at its sole discretion, may decide to utilize the services of a private consulting firm to prepare or review all studies, reports, and other documents required or permitted by CEQA, the CEQA Guidelines, or other applicable laws or regulations, including those studies, reports, or other documents submitted by the project proponent or any other party. In all cases, the consultant shall enter into a contract with and shall be responsible directly to the City. All services shall be performed to the satisfaction of the Director of Community Development, or designee.

(c) All costs incurred in the preparation of a project's environmental documents, including the cost of services performed under subsection (b) of this section, shall be borne by the project proponent.

ARTICLE 47. ENVIRONMENTAL QUALITY

DIVISION 1. REGULATIONS

Sec. 33-926. Enhanced CEQA review for projects subject to congestion management program requirements.

Unless otherwise exempt from state law, development proposals or other discretionary planning actions that are expected to generate either an equivalent of 2,400 or more average daily trips (ADT) or 200 or more peak hour vehicle trips shall include as part of the enhanced CEQA review the following information:

(a) A traffic analysis to determine the project's impact on the regional transportation system. The regional transportation system includes all the state highway system (freeways and conventional state highways) and the regional arterial system identified in SANDAG's (San Diego Association of Governments) most recent regional transportation plan (RTP). The regional transportation system includes all of the designated congestion management program (CMP) system.

(b) The traffic analysis shall be made using the traffic model approved by SANDAG for congestion management program traffic analysis purposes. The traffic analysis shall also use SANDAG's most recent regional growth forecasts as the basic population and land use database.

(c) The traffic analysis shall acknowledge that standard trip generation estimates may be overstated when a project is designated using transit-oriented development design principles. Trip generation reductions should be considered for factors such as focused development intensity within walking distance to a transit station, introduction of residential units into employment centers, aggressive transportation demand management programs, and site design and street layouts that promote pedestrian activities.

(d) The project analysis shall include an estimate of the costs associated with mitigating the project's impacts to the regional transportation system. The estimates of any costs associated with the mitigation of interregional travel (both trips end outside the county) shall not be attributed to the project. Credit shall be provided to the project for public and private contributions to improvements to the regional transportation system. The City shall be responsible for approving any such credit to be applied to a project. The credit may be in any manner approved by the City,

including any one or combination of the following: donated/dedicated right-of-way, interim or final construction, impact fee programs, or money contributions. Monetary contributions may include public transit, ride sharing, trip reduction program support, and air quality transportation control measure funding support.

(e) Notwithstanding any statement to the contrary within this section, a project's effect on automobile delay shall not constitute a significant environmental impact for purposes of CEQA, except as otherwise provided in CEQA Guidelines section 15064.3.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1055. Grading permit requirements.

(a) **Permits Required.** Except as exempted in section 33-1053 of this article, no person shall perform any grading without first obtaining a grading permit from the city engineer and applicable state-issued stormwater discharge permits. A separate permit shall be required for each site, and may cover both excavations and fills.

(b) **Application.** The provisions of section 302(a) of the Uniform Building Code are applicable to grading, and in addition the application shall state the estimated quantities of work involved.

(c) **Plans and Specifications.** When required by the city engineer, each application for a grading permit shall be accompanied by two sets of plans and specifications, and supporting data consisting of a soil engineering report and engineering geology report. Additional sets of plans and specifications may be required by the city engineer.

(d) **Information on Plans and Specifications.** Plans shall be drawn to scale upon substantial paper, or cloth, and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules, and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner, and the person by whom they were prepared.

The plans shall include the following information:

- (1) General vicinity of the proposed site;
- (2) Property limits and accurate contours of existing ground and details of terrain and area drainage;
- (3) Limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;
- (4) Detailed plans of all surface and subsurface drainage devices, including brow ditches, walls, cribbing, dams, protective fencing, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains;
- (5) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within 15 feet of the property or that may be affected by the proposed grading operations;
- (6) Location and identification of any existing sensitive biological species, sensitive biological habitat, mature trees, or protected trees pursuant to section 33-1068(c);
- (7) Letter of permission from property owner for any off-site grading;
- (8) For projects greater than five acres, the Regional Water Quality Control Board's notice of intent file number.

(e) Soils Engineering Report. The soils engineering report required by subsection (c) of this section shall include data regarding the nature, distribution, and strength of existing soils; conclusions and recommendations for grading procedures; design criteria for corrective measures, when necessary; and opinions and recommendations covering adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(f) Engineering Geology Report. The engineering geology report required by subsection (c) of this section shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the report and approved by the city engineer shall be incorporated in the grading plans or specifications.

(g) Issuance. The provisions of Section 303 of the Uniform Building Code are applicable to grading permits. The city engineer may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

(h) Provisions for Denial. A grading permit may be denied if the city engineer determines that:

- (1) It is reasonably likely that the ultimate development of the land to be graded cannot occur without further grading requiring zoning administrator or director approval pursuant to the provisions of section 33-1066(c) of the criteria for grading design; or
- (2) (A) There is no approved development plan or environmental clearance under CEQA for the property to be graded; and
(B) The proposed grading may substantially limit development alternatives for the property; and
(C) It is probable that development of the property will require discretionary approvals (such as, but not limited to, a tentative subdivision or parcel map, a conditional use permit, or a planned development approval) by the city; or
- (3) The proposed grading is detrimental to the public health, safety, or welfare; or
- (4) The proposed grading is not in conformance with the requirements of sections 33-1068 through 33-1069, clearing of land and vegetation protection.

(i) Appeals. The city engineer's denial of a grading permit pursuant to subsection (h) of this section may be appealed to the planning commission in accordance with the provisions of section 33-1303 et seq., of Article 61 of this chapter.

ARTICLE 55. GRADING AND EROSION CONTROL

Sec. 33-1066. Design criteria.

The criteria listed below are to be adhered to in the preparation of grading designs for private and public development projects. In addition, these criteria are intended to reflect and implement the goals and policies of the Escondido General Plan relating to the protection of the critical landforms and natural resources of the city. Proposed grading designs will be compared to these criteria and, therefore, project proponents are encouraged to meet with city staff to discuss development and grading concepts prior to submittal of formal permit applications.

(a) Sensitivity to surrounding areas. All graded- areas shall be protected from wind and water erosion through acceptable measures as described in the city's stormwater management

requirements. Interim erosion control plans shall be required, certified by the project engineer, and reviewed and approved by the engineering services department. All grading designs must demonstrate visual sensitivity to surrounding properties and neighborhoods. Grading designs should have these characteristics:

- (1) Extensive slope areas that are easily visible from outside the development shall be avoided;
- (2) Fill slopes shall not block views from surrounding properties;
- (3) Cut slopes shall not adversely affect the safe operation of adjoining septic systems;
- (4) Any significant grading feature that may intrude into or disturb surrounding property shall be avoided.

(b) Slope heights. Slope heights shall be limited to minimize impact on adjoining properties. The height of retaining walls incorporated in grading designs shall be included in calculating the overall slope height. Grading designers shall strive to conform to the following criteria:

- (1) Fill slopes within 50 feet of the property line shall be limited to five feet in height. Fill slopes in this location between five and 10 feet in height may be allowed, subject to the approval of the director;
- (2) Fill slopes beyond 50 feet from the property line shall be limited to 20 feet in height;
- (3) Fill slopes adjacent to existing public and private streets shall be limited to 10 feet in height;
- (4) Cut slopes within 50 feet of the property line shall be limited to 20 feet in height;

(c) Specific review by the zoning administrator for discretionary project applications or by the director for administrative project applications is required for the following slopes:

- (1) Any fill slope within 50 feet of the property line that is in excess of 10 feet in height;
- (2) Any fill slope beyond 50 feet of the property line that is in excess of 20 feet in height;
- (3) Any cut slope in excess of 20 feet in height;
- (4) Any cut slope steeper than 2:1 that is determined by the director to impact adjacent properties.

(d) Requests for approval of slopes in subsection (c) above shall be included in the project description and identified on the project plans. A statement of justification for each slope shall also be included. For those slopes that are proposed as part of an administrative request, fees for the legal notice and mailing list shall be submitted and a public notice of intended decision shall be issued pursuant to Article 61, Division 6, of this Chapter. For a discretionary project, no separate application or filing fee will be required. When judging such requests, the zoning administrator or the director shall consider:

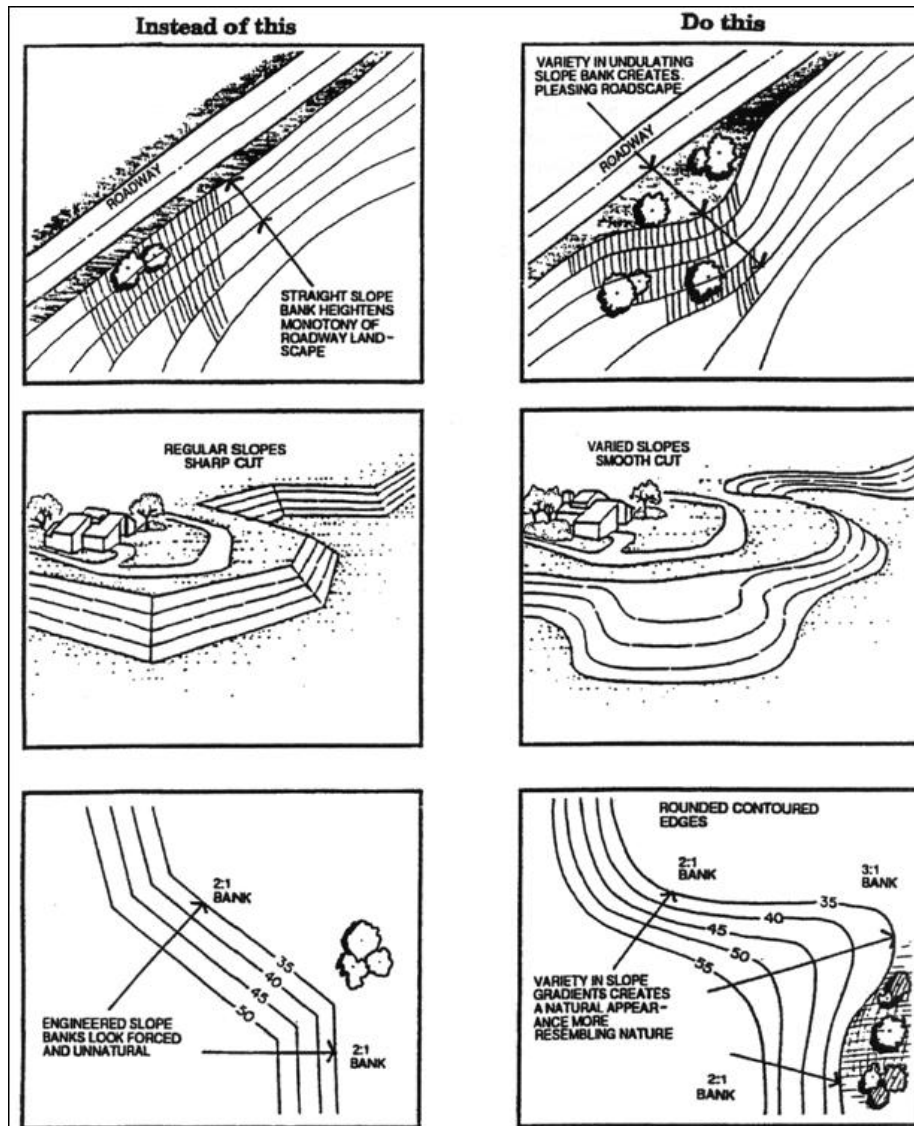
- (1) The criteria contained within section 33-1066;
- (2) The stability of the slope;
- (3) The impact of the slope on surrounding properties;
- (4) The reason for the slope; and
- (5) Whether reasonable alternatives to the proposed design are available.

(e) Slope ratios. Grading designs should use a mix of different slope ratios—particularly where slope surfaces are easily visible from public streets. A mixture of 2:1, 2.5:1, 3:1, and flatter slope ratios should be used to provide variety throughout the development. Depending upon the recommendation of the soils engineer, steeper slopes to a maximum of 1.5:1 may be approved by the director for cut slopes of limited heights. Concurrent with development plan submittal, reasonable justification (such as to avoid blasting rock or to preserve mature trees) shall be given for any cut slope proposed to be steeper than 2:1.

(f) Contoured grading. Slopes should be designed and constructed so as to conform to the natural contours of the landscape. Creative landforms using contoured grading should be utilized in all cases, except when such approach requires substantial increase in grading and slope heights, or is not deemed appropriate by the director. When utilized, contour grading should conform to the following guidelines:

- (1) Grading should follow the natural topographic contours as much as possible (See figure 2);
- (2) Manufactured slopes should be rounded and shaped to simulate the natural terrain (see Figure 2);

Figure 2: CONTOUR GRADING

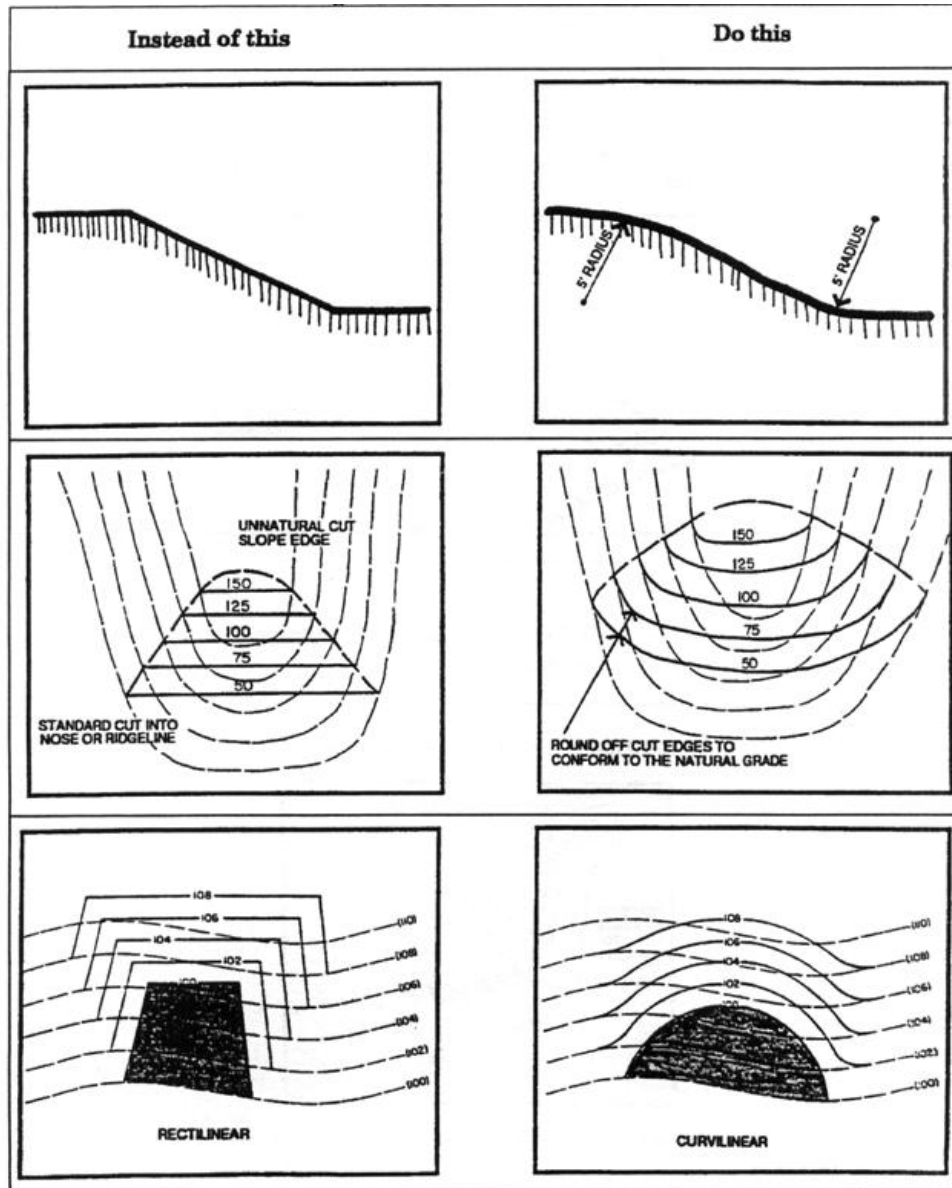


(3) The toe and crest of any slope in excess of 10 feet in vertical height should be rounded with vertical curves of radii no less than five feet, designed in proportion to the total height of the slope, when space and proper drainage requirements can be met with an approval by the

city engineer (see Figure 3). The setbacks from such slope shall be determined as shown on Figure 1. When slopes cannot be rounded, vegetation shall be used to alleviate a sharp, angular appearance;

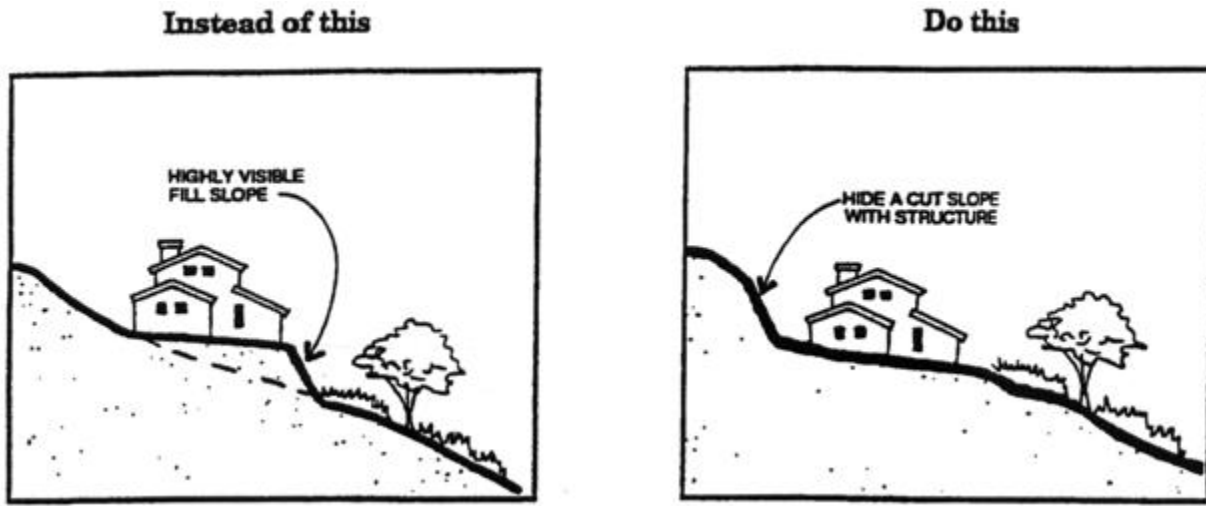
(4) Manufactured slopes shall blend with naturally occurring slopes at a radius compatible with the existing natural terrain (see Figure 3);

Figure 3: CONTOUR GRADING



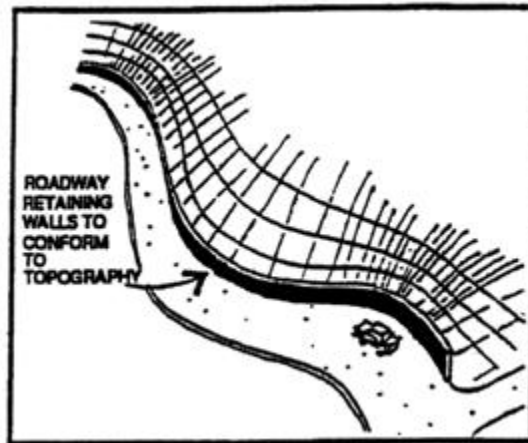
(5) Manufactured slopes shall be screened from view under or behind buildings or by intervening landscaping or natural topographic features. Where possible, grading areas shall be designed with manufactured slopes located on the uphill side of structures, thereby hiding the slope behind the structure (see Figure 4);

Figure 4: SLOPE SCREENING



(6) Retaining walls shall be designed with smooth, continuous lines that conform to the natural hillside profile to the extent possible (see Figure 5).

Figure 5: RETAINING WALLS



(g) Preservation of natural and cultural features. Grading designs shall be sensitive to natural topographic, cultural, or environmental features, as well as mature and protected trees, and sensitive biological species and habitat, pursuant to sections 33-1068 through 33-1069. The following features shall be preserved in permanent open space easements, or such other means that will assure their preservation:

- (1) Undisturbed steep slopes greater than (35%);
- (2) Riparian areas, mitigation areas, and areas with sensitive vegetation or habitat;
- (3) Unusual rock outcroppings;
- (4) Other unique or unusual geographic features;
- (5) Significant cultural or historical features.

(h) Public safety. More extreme grading measures may be approved if necessary to construct street systems conforming to minimum design standards or to provide reliable maintenance access to public utilities or drainage systems.

(i) Landscaping of manufactured slopes. All manufactured slopes shall be protected and landscaped to the satisfaction of the engineering and planning departments.

(1) High slopes (over 20 feet) shall be screened with appropriate landscaping, and efforts shall be made in the plotting of structures to screen slopes to the maximum extent possible.

(2) Drought-tolerant and native species shall be utilized wherever possible to minimize water usage. Refer to the fire department's "Wildland/Urban Interface Standards" for planting requirements on slopes adjacent to high fire zone areas.

(j) Dissimilar land uses. Where dissimilar land uses are located adjacent to one another, grading shall be designed so as to buffer or screen one use from the other. In this regard, the location, height, and extent of proposed grading shall be compatible with adjacent uses, and screening measures that include fences, walls, mounding, and extensive landscaping shall be utilized wherever needed.

(k) Erosion and sediment control. A sound grading approach must include measures to contain sediment and prevent erosion. Such measures shall be identified at the earliest possible point in the grading design process and thereafter implemented as soon as deemed necessary by the city engineer or inspector. Developers of projects that propose grading shall prepare erosion and sediment control plans in conjunction with grading plans utilizing measures described in the city's stormwater management requirements. Containment of sediment and control of erosion is the responsibility of the property owner and developer.

(l) Hillside areas. The standards provided with this section are in addition to the provisions of the underlying land use district and to other applicable provisions of the Escondido Zoning Code.

(1) Minimum site standards. The following provisions shall apply to residential hillside areas, except that the city engineer may approve modifications to these requirements upon demonstration that any such proposed modifications represent a desirable integration of both site and unit design, and excepting further that these requirements are not intended to require additional grading on existing lots or parcels. For the purposes of this section, "usable" is defined as having a gradient not exceeding that of the balance of the building pad, or 10%, whichever is the lesser.

(2) Within single-family districts, a usable rear yard of at least 15 feet from building to slope shall be provided. Within multiple-family districts, a usable rear yard of at least 10 feet from building to slope shall be provided. This requirement may be modified to the extent that (i) equal usable area is provided elsewhere on the lot other than within the required front yard, and (ii) it is demonstrated that the unit is designed to relate to the lot design;

(3) Within single-family districts where a 10-foot side yard is required, at least five feet of the side yard shall be usable as defined above;

(4) Retaining walls may not be used within required usable side or rear yards unless approved by the director. Retaining walls so used will be counted as part of the total permitted slope height.

(5) Grading on natural slopes of 25% to 35% shall only be permitted for the construction and installation of roads, utilities, garage pads, and other limited pad grading that can be shown to be sensitive to the existing terrain.

Proposed structures shall be designed to conform to the terrain and shall utilize pole, step, or other such foundation that requires only limited excavation or filling.

ARTICLE 55. GRADING AND EROSION CONTROL
Sec. 33-1067.F. Design guidelines for HRO district.

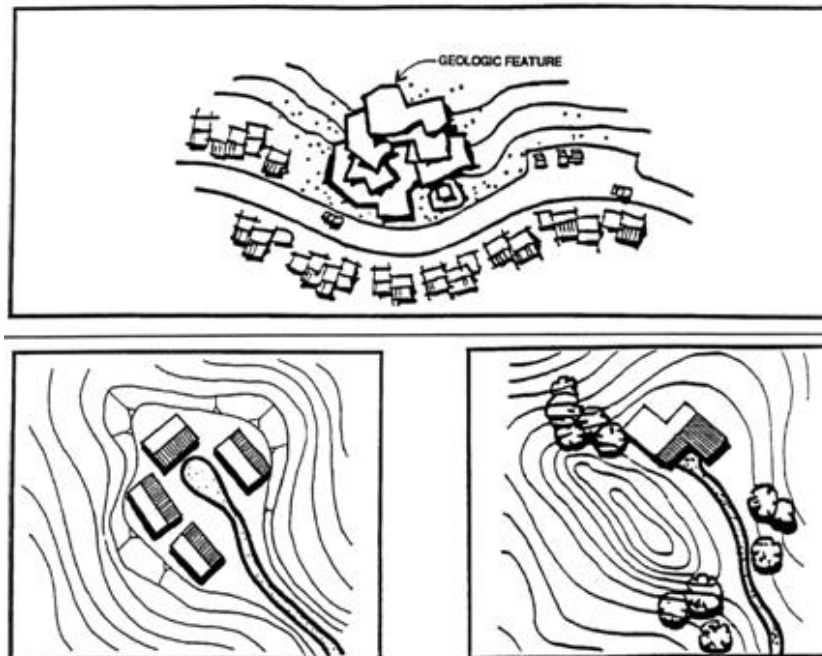
(a) Natural slopes equal to or greater than 15% but below 25%. In addition to other applicable provisions of this article, all development including grading on natural slopes equal to or greater than 15% but below 25% shall be designed according to the following guidelines:

(1) All development shall be sited to avoid potentially hazardous areas and environmentally sensitive areas as identified in the open space element of the general plan or as part of the environmental review, as well as to avoid dislocation of any unusual rock formations or any other unique or unusual geographic features (see Figure 6);

(2) Natural drainage courses shall be preserved, enhanced, and incorporated as an integral part of the project design to the extent possible. Where required, drainage channels and brow ditches shall follow the existing drainage patterns to the extent possible. Drainage channels and brow ditches shall be placed in inconspicuous locations and receive a naturalizing treatment including native rock, colored concrete, and landscaping, so that the structure appears as an integral part of the environment;

(3) Grading shall be limited to the extent possible and designed to retain the shape of the natural landform (see Figure 6). Padded building sites are allowed, but site design and architecture techniques (such as custom foundations, split level designs, stacking, and clustering) shall be used to mitigate the need for large padded building areas. Grading must be designed to preserve natural features such as knolls or ridgelines. In no case may the top of a prominent hilltop, knoll, or ridge be graded to create a large building pad;

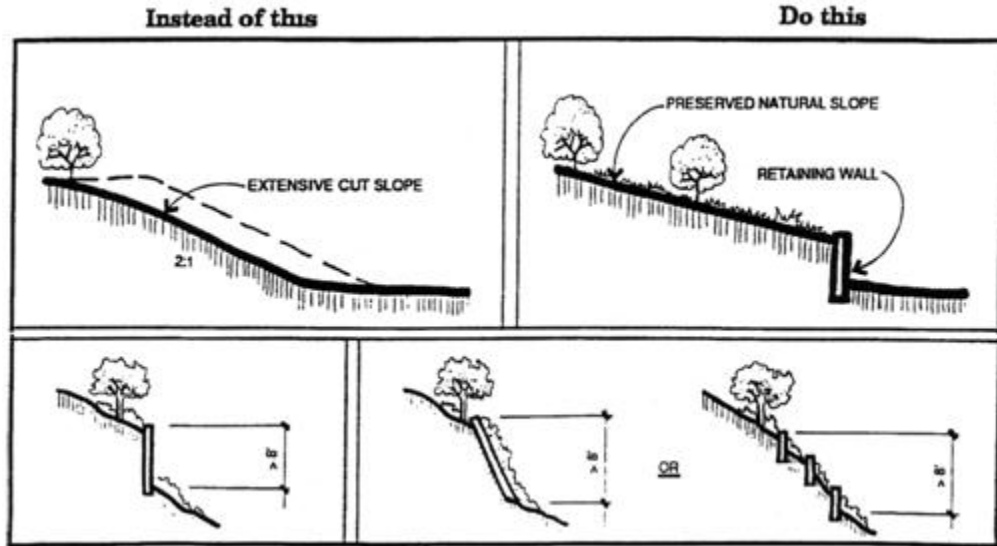
Figure 6: SENSITIVE AREAS



(4) The use of retaining walls, plantable walls, and terraced retaining structures is encouraged when such use can eliminate the need for extensive cut or fill slopes. Retaining walls shall typically have a height of five feet or less. Plantable walls shall be used instead of retaining walls above six feet in height. Terraced retaining structures shall be considered on an individual

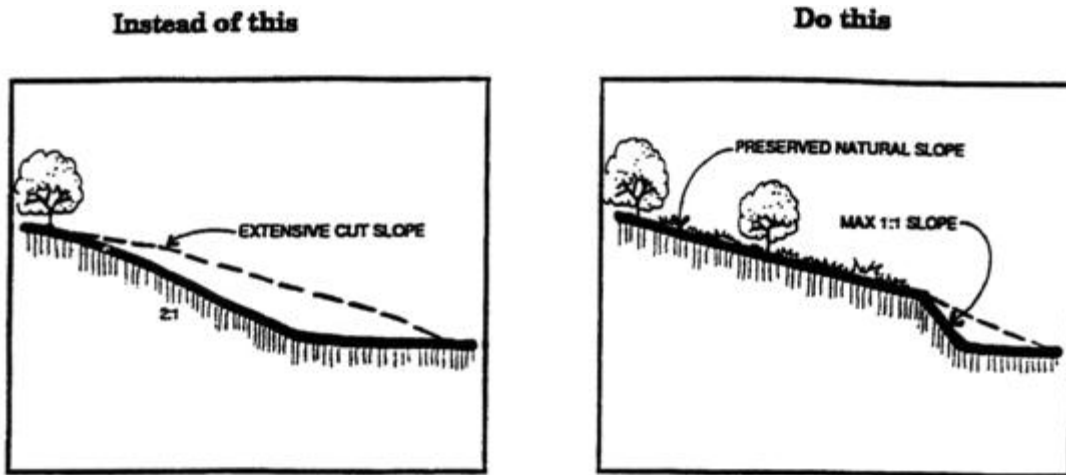
lot basis when their use can avoid the need for extensive manufactured slopes and retaining walls (see Figure 7);

Figure 7: USE OF RETAINING WALLS



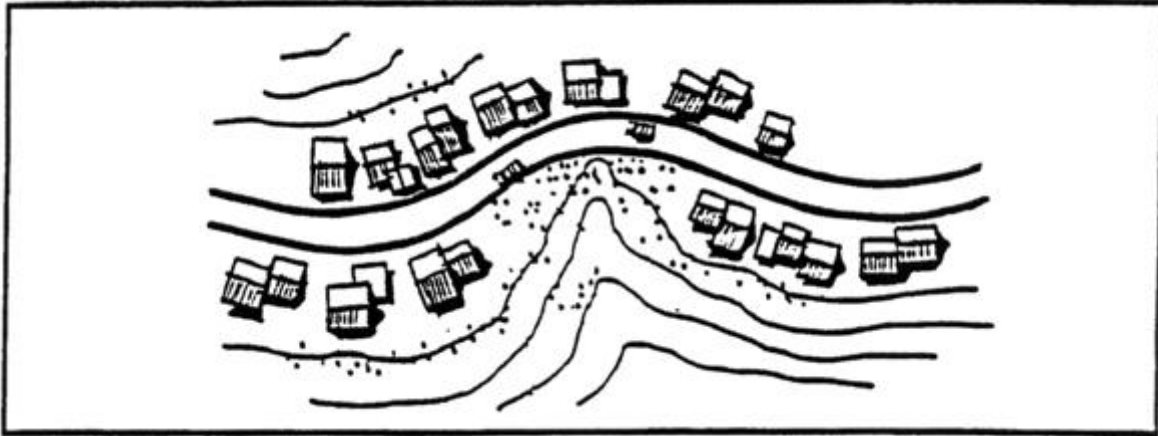
(5) Slopes steeper than 2:1, appropriately designed by a geotechnical engineer, may be permitted subject to zoning administrator or director approval when such slopes preserve the significant environmental characteristics of the site or substantially reduce the need for extensive cut and fill slopes (see Figure 8);

Figure 8: CUT SLOPES



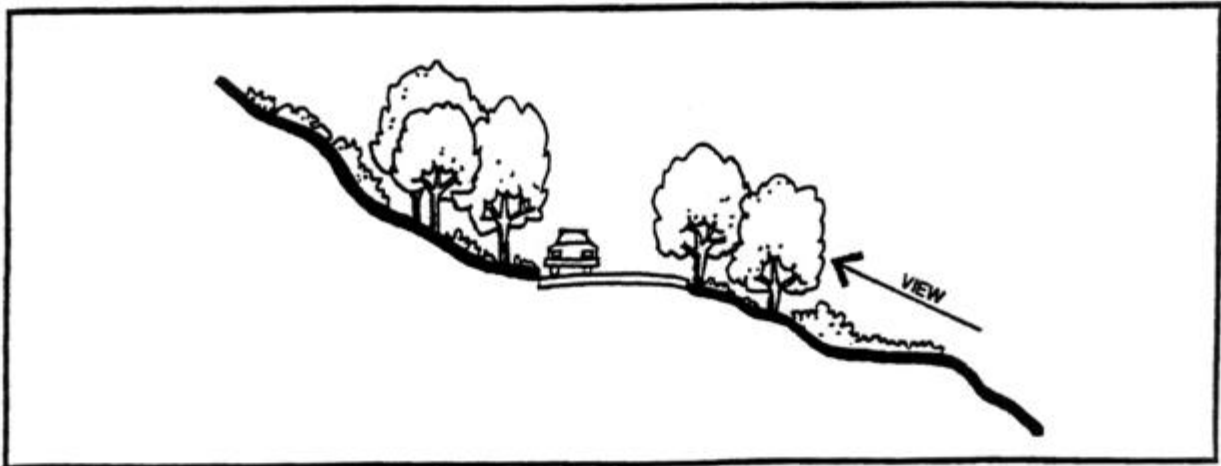
- (6) All roads shall comply with the design standards for rural roads;
- (7) Circulation shall be aligned to conform to the natural grades as much as possible within the limits of the City's street design standards (see Figure 9);

Figure 9: ROAD DESIGN



- (8) Grading for the construction of access roads or drainageways shall be minimized so that the visual impacts associated with such construction are mitigated to the greatest extent possible;
- (9) Common drives in single-family developments shall be considered if grading is reduced by their use;
- (10) The construction of access roadways or driveways shall be accompanied by sufficient berming and landscaping/erosion control so that visual impacts associated with such construction are promptly mitigated (see Figure 10);

Figure 10: SCREENING IMPACTS



(11) Accessory buildings on sloping lots. If the city engineer determines that no hazard to pedestrian or vehicular traffic will be created, a garage or carport may be built to within five feet of the street right-of-way line, if:

(A) The front half of the lot or building site slopes up or down from the established street grade at a slope of 20% or greater, and

(B) To the extent the elevation of the front half of the lot or building site is more than four feet above established street grade, such garage or carport may not extend across more than 50% of the street frontage of the lot or building site.

(b) Slopes equal to or greater than 25% but below 35%. In addition to other applicable provisions of this article, all development including grading on natural slopes equal to or greater than 25% but below 35% shall be designed according to the following guidelines:

(1) Grading shall be utilized only for the construction and installation of roads, utilities, garage pads, and other limited pad grading that is shown to be sensitive to the existing terrain.

(2) Proposed structures shall utilize split pads, stepped footings, and grade separations in order to conform to the natural terrain (see Figure 11). Detaching parts of a dwelling such as a garage, utilizing below grade rooms, and using roofs on lower levels for the deck space of upper levels shall be considered. Other structural designs such as stilt or cantilevered foundations and earth-sheltered or earth-bermed buildings that fit the structure to the natural contours and minimize grading may be considered on a case-by-case basis. Deck construction with excessively high distances between the structure and grade shall be avoided.

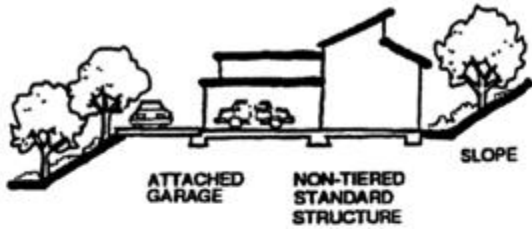
(3) The rear yard shall not exceed 20 feet measured parallel to the slope if the rear yard requires a grading exemption.

(4) Accessory structures, swimming pools, tennis courts, and similar uses shall not be constructed if such construction requires a grading exemption.

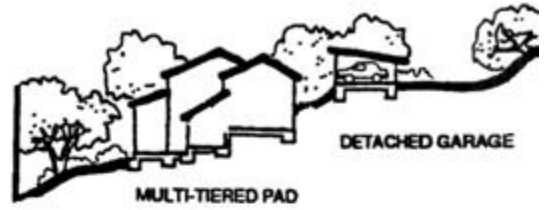
(5) Single-level residential structures shall be oriented such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land (see Figure 11).

Figure 11: HOME & DESIGN LOCATION

Instead of this



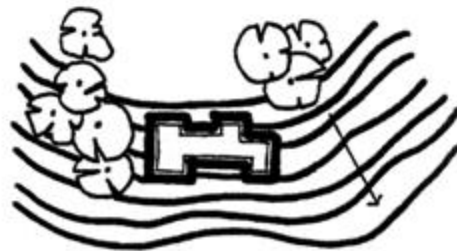
Do this



Instead of this



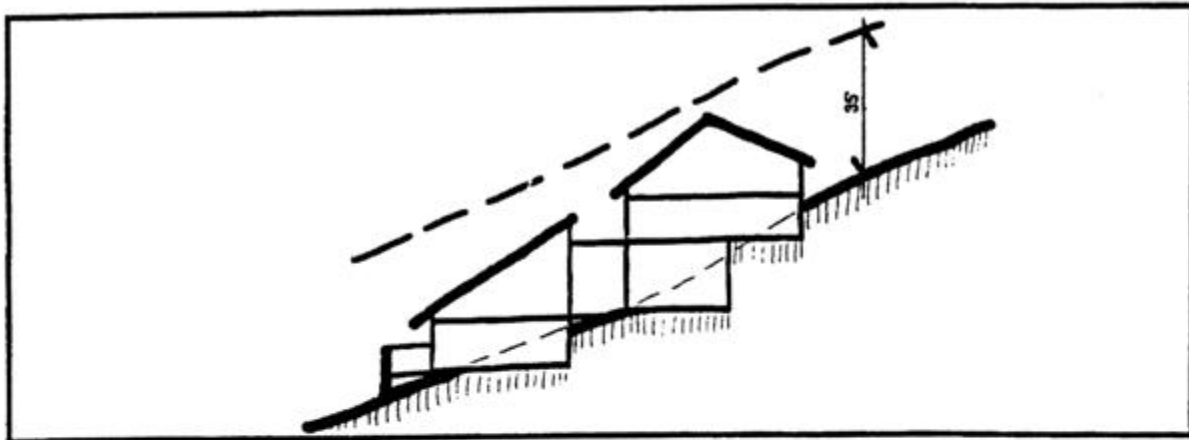
Do this



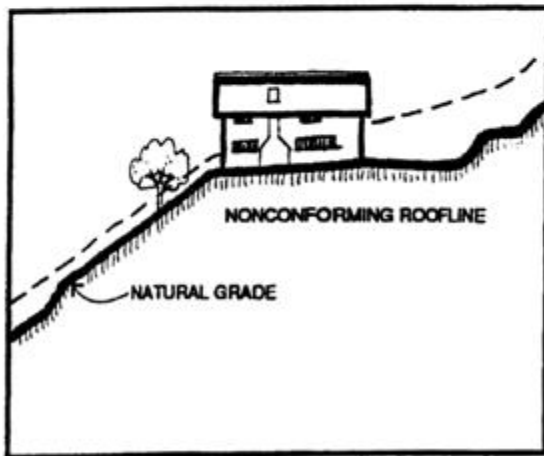
(6) Building height shall be as permitted by the underlying zoning as measured from the natural grade at any point of the structure (see Figure 12).

(7) The slope of the roof shall be oriented in the same direction as the natural slope, and in developments that include a number of individual buildings, variation shall be provided to avoid monotony (see Figure 12).

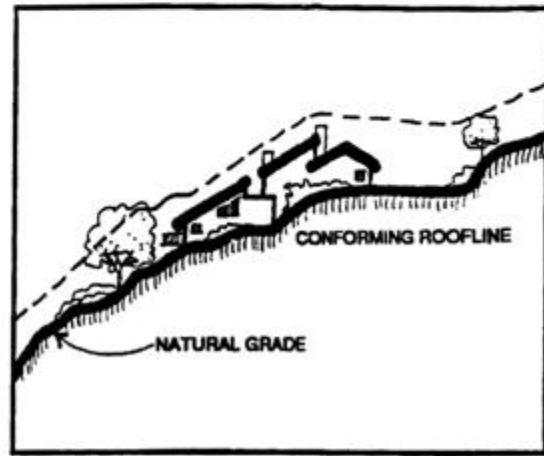
Figure 12: BUILDING HEIGHT/ROOF SLOPE



Instead of this



Do this



(8) Architectural treatment shall be provided on all sides of the structure visible from adjacent properties, roadways, or public rights-of-way. Building materials and color schemes shall blend with the natural landscape of earth tones for main and accessory structures, fences, and walls. Reflective materials or finishes shall not be used.

(c) Slopes equal to or greater than 35%. No development or grading shall occur on slopes of 35% or greater, except as described in section 1067.A(b)(5).

(d) Intermediate Ridges. Development in proximity to intermediate ridgelines shall be avoided to the extent possible. However, if such development occurs, the following guidelines shall apply in addition to other applicable provisions of this article (see Figure 13 for reference):

(1) Only single-story structures or portions of multiple single-story-stepped structures designed to conform to the site shall be permitted to project above the ridgeline;

(2) The minimum width of the lot measured parallel to the protected ridge at the proposed building site shall not be less than 200 feet;

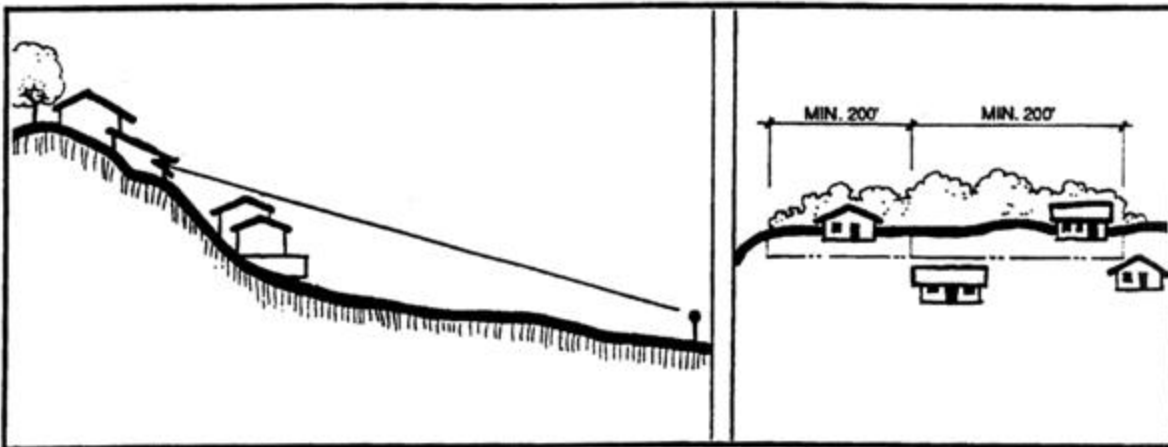
(3) Grading shall conform to the natural terrain to the extent possible. Extensive manufactured slopes and retaining walls shall be avoided.

In no case shall the top of a ridge be graded to provide a large building pad;

(4) Any building or structure in proximity to an intermediate ridge shall be located and designed to minimize its impact upon the ridgeline. Techniques such as use of subordinate or hidden location, split foundations adjusted to the slope, single-story structures, roofline following the slope, and colors and materials that blend with the natural environment shall be used;

(5) Landscaping shall be utilized to recreate the linear silhouette and to act as a backdrop for structures. Trees that grow to at least 1 1/2 times the height of the structure shall be planted between buildings to eliminate the open gap and blend the rooflines into one continuous silhouette.

Figure 13: SITE DISTANCE/LOT WIDTHS



(e) Skyline Ridges. Development in proximity to skyline ridges shall conform to the following standards (see Figure 14 for reference):

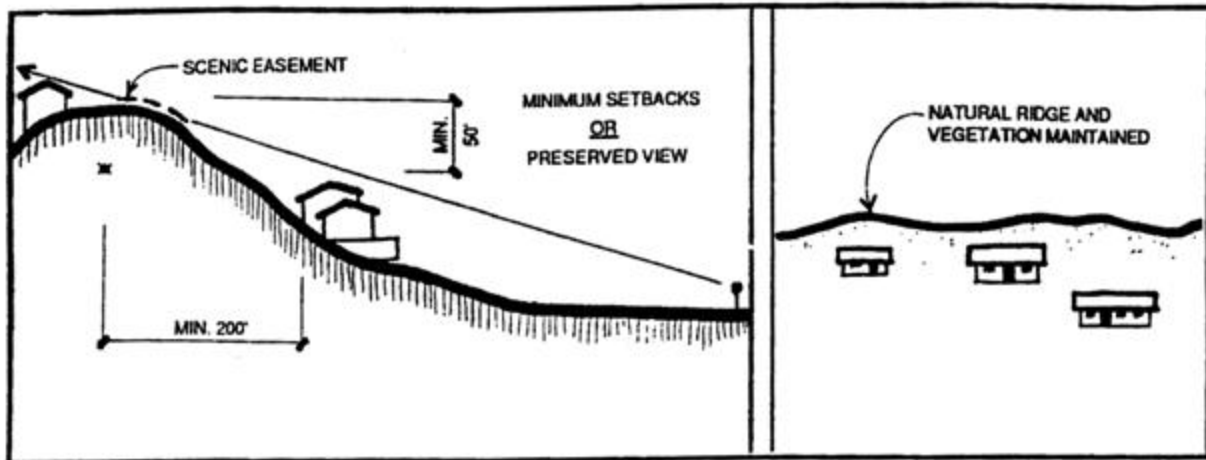
(1) The ridgelines' natural contour and vegetation shall remain intact with development maintaining an undisturbed minimum setback of 200 feet measured horizontally from the center of the ridgeline on a topographic map, or 50 feet measured vertically on a cross-section, whichever is more restrictive. Lesser setbacks may be authorized if it can be demonstrated that no structure or portion of a structure will obstruct the view of the ridge as seen from major points defined during the application process. Points of view to be used for the visual analysis shall generally be taken along major roads including Interstate 15, Del Dios Highway, Centre City Parkway, Bear Valley Parkway, North Broadway, El Norte Parkway, and Valley Parkway; and major public open space areas including Lake Hodges, Lake Wohlford, Lake Dixon, and Kit Carson Park, as applicable to the proposed project. The exact points of view will be from the most critical points as determined by the combination of points from which the proposed development

is most visible and points at which the highest public use occurs (e.g., playfields, picnic areas). The distance of the viewpoints from the ridgeline shall generally be no more than five miles and no less than one-half of a mile. The sensitive viewshed areas and the exact points of view for each proposed project will be identified prior to the project submittal to the satisfaction of the director. The decision of the director will be appealable to the planning commission.

(2) The area along a skyline ridge shall be dedicated to the city as a scenic easement not intended for public access in conjunction with any development that may occur on the property. The owner shall be responsible to retain, maintain, preserve, and protect the public views of these areas in their natural state without obstruction by structures. A scenic easement shall not prohibit clearing of brush or planting of vegetation that is necessary to reduce fire hazards.

(3) Development of one single-family home on a lot legally created prior to adoption of the ordinance codified in this article will be exempt from the requirements of subsections (e)(1) and (e)(2) of this section. Such development will be subject to the requirements of section 33-1067.F(d).

Figure 14: SCENIC RIDGELINES



ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1080. Fences, walls and hedges.

(a) Single-family residential zones.

(1) Front and street side setbacks. Fences, walls, or hedges may not exceed three feet in height if constructed of materials that are less than 50% open, or 3 1/2 feet in height if constructed of materials that are at least 50% open.

Fences, walls, or hedges may not exceed six feet in height when located anywhere on a lot or parcel of 10 acres or greater where horticulture specialties, orchards, or vineyards occur, pursuant to section 33-161 and subject to the design criteria under section 33-1081(b)-(e) and subject to the director's approval.

(2) Interior side and rear setbacks. Fences, walls, or hedges may not exceed six feet in height.

Fences, walls, or hedges may not exceed eight feet in height when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under sections 33-1081(a) and 33-1081(b), subject to the director's approval. (See Figure 33-1081.2)

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(b) Multi-family residential zones.

(1) Front and street side setbacks. Same as in section 33-1080(a)(1), except that fences, walls, or hedges in front or street side setbacks may not exceed six feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval. (See Figure 33-1081.1)

(2) Interior side and rear setbacks. Same as in section 33-1080(a)(2), except that fences, walls, or hedges may not exceed eight feet in height, pursuant to the design criteria under section 33-1081(a)-(e), subject to the director's approval.

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(c) Commercial/industrial zones.

(1) Front and street side setbacks. Same as in section 33-1080(a)(1).

Adequate sight distance pursuant to section 33-1081(b) shall be provided for all fences.

(2) Interior side and rear setbacks. Same as in section 33-1080(a)(2).

(3) Outside of setbacks. Fences, walls, or hedges may not exceed eight feet in height.

(d) Special fences.

(1) Play field fencing. Tennis court, badminton court, basketball court, football field, soccer field, volleyball court, and other similar athletic play area fencing, subject to the fencing design criteria specified in section 33-1081, shall not exceed a height of 15 feet and shall observe the setback of accessory structures within the zone. However, not less than a five-foot setback shall be provided to any property line.

(2) School fences. School common areas may be fenced to the street line; provided, that the fence is made of open wire construction and does not exceed 10 feet in height.

(3) Security fences. Fences or walls not to exceed eight feet in height may be located around commercial, industrial, or public facility uses in any location allowed for principal structures, when required for security purposes, screening, or containment of hazardous materials. In residential zones, fences or walls not exceeding eight feet in height may be located anywhere within the rear and the interior side setbacks when abutting a public facility or a multifamily, commercial, or industrial zone, pursuant to the design criteria under section 33-1081(a) and (b).

(4) Noise mitigation. Fences and walls that are required by a mitigation measure and designed and approved through a tentative subdivision map, tentative parcel map, or major design review with the planning commission for noise attenuation are exempt from the height restrictions.

5) Guardrails. A guardrail or guards, as defined by the California Building Code, may extend above the maximum height of a fence or wall, but only to the minimum extent required for safety by the California Building Code.

(6) Trailer parks. The height of fences in trailer parks shall be regulated by section 29-30 of Chapter 29 (Trailer Coaches and Trailer Parks) and section 33-896 (Travel Trailer Parks).

(7) Swimming pools. The height of fences around swimming pools shall be regulated by section 33-1109 (Swimming Pools).

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS**Sec. 33-1081. Fencing design criteria.**

(a) Construction materials. Decorative open materials (constructed of at least 50% open materials), such as wrought iron, may be utilized for the entire height. Solid materials, such as masonry, wood, or similar opaque materials, may be utilized for a height up to three feet within front and street side yards, and up to six feet within interior side or rear yards. Open materials shall be utilized for the remaining portion of the fence height (see Figure 33-1081.1). Fences shall be constructed of materials and colors compatible with the existing or proposed development. Chain link over six feet in height is not permitted in multifamily zones. Barbed wire (or any similar material hazardous to the public) is not permitted in any residential zone, except as authorized pursuant to section 33-1081.

(b) Sight distance. Observance of sight distance areas shall be provided at street corners, driveways, alleys, or similar locations. No solid fence over three feet in height shall be installed within the sight distance area necessary for clear view of oncoming vehicular and pedestrian traffic when waiting to proceed at a street corner or driveway. The sight distance at driveways shall be defined by a triangle formed connecting two points measured along each side of the driveway 10 feet from the street, and along the street 10 feet from the outermost point of the driveway return, as shown in Figure 33-1081.3. At non-signalized corners, the sight distance area is defined by the triangle formed by connecting two points measured along each street frontage 25 feet from the curb return in each direction, as shown in Figure 33-1081.4. No solid fence over 3 feet in height above the curb grade nor other support structure (such as columns, posts, or pilasters) larger than 12 inches in diameter may be installed in this sight distance area unless approved by the engineering department. Sight distance on classified roads shall conform to the engineering department standards to the satisfaction of the city engineer.

(c) Accessibility. The design of the fence (including mechanical/electrical hardware such as knock boxes and intercoms) shall include provisions for access by emergency service personnel pursuant to the Fire and Uniform Security Codes, maintenance and service personnel, and pedestrians. Maintenance and service shall include, but not be limited to, landscape maintenance, postal service and delivery vehicles, utilities, and trash collection. Access to guest parking spaces shall be accommodated outside of the gate, rather than on the street. However, if the required guest parking is located inside the fence, a key pad entry system shall be provided for guest access.

(d) Security gates. Security gates across driveways or private streets shall be located so as to provide adequate vehicle stacking room on site, and to prevent stacking in the public right-of-way. Gates shall not open or swing into the public right-of-way. At least one gate shall be remote-activated and operated without having to leave the car. Automobiles that turn in the driveway and cannot enter through the gate must be able to turn around and exit in a forward manner onto the street. A turnaround area, escape lane, circular drive, or other method of egress shall be provided to the satisfaction of the planning division and the engineering department.

(e) Landscaping. In multifamily zones, fences along street frontages exceeding three and one-half feet in height shall setback so that a five foot landscape area with trees, groundcover, and irrigation is provided between the back of the sidewalk and the fence facing the street. Proposed fence locations shall be designed to accommodate existing mature landscaping to the extent feasible.

- (f) Play field fence buffering. Provisions for buffering shall incorporate heavy landscaping with tall plant materials to help offset the height of the fence.
- (g) Play field fence construction. The fence shall utilize a combination of decorative wood or masonry up to six feet in height and chain link for the remaining nine feet.

FENCE DESIGN EXAMPLES

(SEE SECTION 33-1081 FOR SPECIFIC CRITERIA)

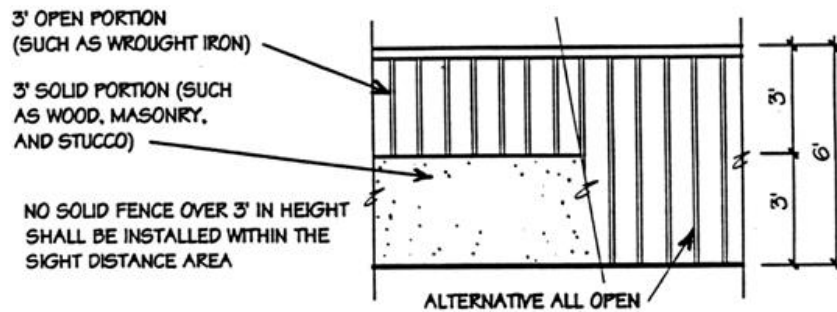


FIGURE 33-1081.1 — EXAMPLE OF 6' HIGH FENCE DESIGNS FOR FRONT AND STREET SIDE YARDS (EXCEPT IN SINGLE-FAMILY ZONES)

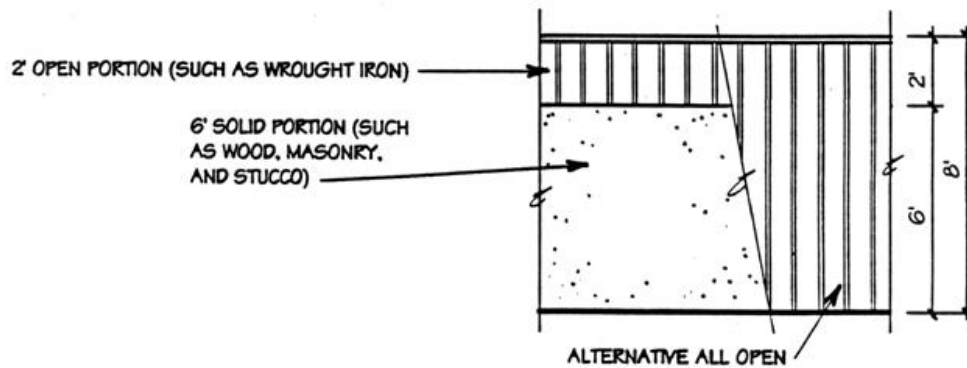


FIGURE 33-1081.2 — EXAMPLE OF 8' HIGH FENCE DESIGNS (SUBJECT TO SECTIONS 33-1080 AND 1081)

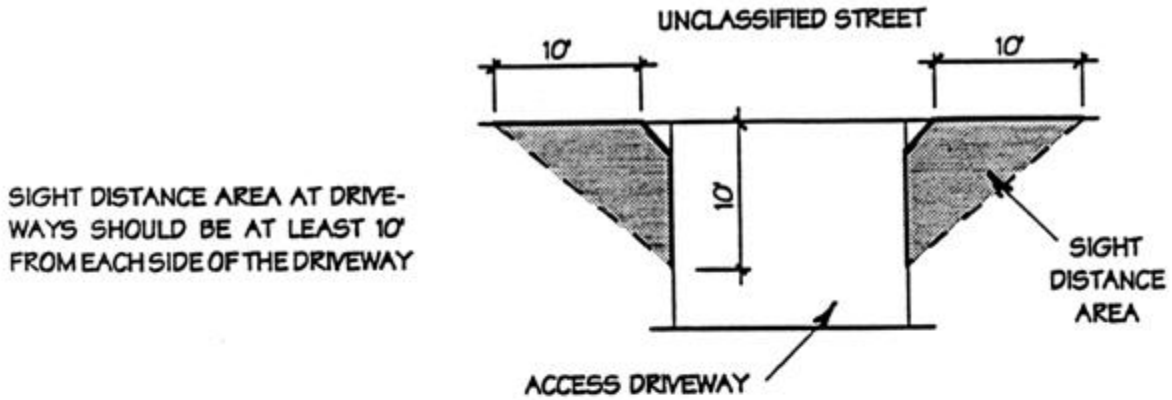
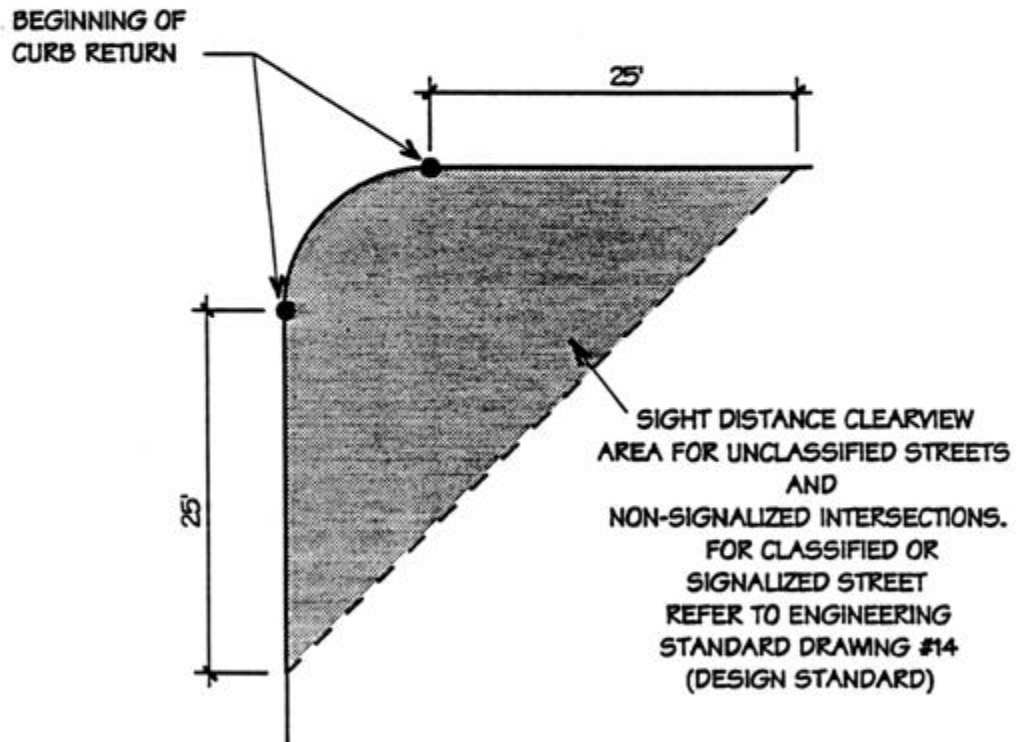


FIGURE 33-1081.3 — SIGHT DISTANCE AT DRIVEWAYS



• NO SOLID FENCE NOR HEDGES OVER 3' IN HEIGHT (ABOVE CURB GRADE) NOR OTHER SUPPORT STRUCTURES (COLUMNS, POSTS, OR PILASTERS) LARGER THAN 12" IN DIAMETER SHALL BE INSTALLED WITHIN THE SIGHT DISTANCE CLEARVIEW AREA.

FIGURE 33-1081.4 — SIGHT DISTANCE AT CORNERS (UNCLASSIFIED STREETS)

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS**Sec. 33-1083. General fence and wall provisions.**

(a) **Materials.** Fences or walls may be constructed of any suitable materials in a manner appropriate to its design. Fences shall not contain electrification. Barbed wire, razor wire, or other similar fences with affixed sharp instruments are specifically not permitted in any residential zoning district, except that barbed wire is permitted in agricultural and residential estate zones being used for agriculture or animal husbandry.

(b) **Height measurements.** The height measurement of a fence or wall may be measured from either side in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence or wall (i.e., finished grade) to the highest point along the vertical line. The finished grade shall be that as shown on the approved grading plan. In cases where a retaining wall does not require the approval of a grading plan, the finished grade shall be as determined by the City Engineer.

(1) **Height and location requirements for fences or walls placed atop a wall.**

(A) **Freestanding walls.** When a fence or wall is placed over a freestanding wall, the height of the freestanding wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure.

(B) **Retaining or landscaping walls used to increase usable lot area.**

(i) When a fence or wall is placed atop a retaining or landscaping wall, the height of the retaining or landscaping wall shall be considered as part of the fence or wall for purposes of determining the overall height of the combined structure. Within any required front or street side setback, there must be a horizontal separation of at least two feet between structures so the combined height of the fence and retaining wall structure does not exceed the provisions of Sections 33-1080 and 33-1081. When a minimum two-foot horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Director of Community Development, the wall/fence may not be considered one continuous structure for calculating wall/fence height. The horizontal separation shall be measured from the "back" face of the lower wall/fence to the "front" face of the higher wall/fence.

(ii) If a retaining or landscaping wall is combined with a fence or wall in an interior side or rear setback of any property, the retaining wall shall not be included in the measurement of fence or wall height. The height of the fence or wall shall be determined exclusive of the height of the retaining wall such that the top of the retaining wall is considered the finished grade. Only the portion of the fence or wall above finished grade shall be considered as part of the overall height of the fence or wall. Any combinations of retaining wall and fence or wall over eight feet in height must provide a variation in design or materials between the retaining wall and the fence or wall. Landscaping shall be utilized to soften the appearance of the wall or fence above the retaining or landscaping wall.

(iii) If a fence, wall, or other structure in the nature of a fence is placed over a retaining or landscaping wall beyond the front, street side, interior side, or rear setback line, the height of the fence, wall, or other structure shall be measured separately from the retaining wall, subject to section 33-1080.

(2) **All components of a fence, such as columns, posts, or other elements, shall be included in height measurements.**

(c) **Construction and maintenance.** All fences and walls shall be constructed of new or good used material and shall be kept in good repair and adequately maintained. Any dilapidated, dangerous, or unsightly fences or walls shall be removed or repaired.

ARTICLE 56. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 33-1085. Mechanical equipment and devices.

(a) Screening of mechanical equipment. The screening of roof-mounted, ground-mounted, or wall-mounted mechanical equipment and devices is required in all zoning districts at the time of new installation or replacement.

(1) Roof-mounted mechanical equipment and devices.

(A) Mechanical equipment, including but not limited to air conditioning, heating, tanks, ducts, elevator enclosures, cooling towers, or other similar equipment, shall be adequately screened from view from surrounding properties, adjacent public streets, and on-site parking areas. Screening shall be accomplished with mechanical roof wells recessed below the roof line, by solid and permanent roof-mounted screens, use of parapet walls, or building design integration and concealment by portions of the same building or other structure. Alternative methods for screening may include the consolidation and orientation of devices towards the center of the rooftop with enclosure and the use of neutral color surfaces or color paint matching. Chain link fencing with or without wooden/plastic slats is prohibited.

(B) Any under-roof or wall-mounted cables, raceway, conduit, or other device connection to support roof-mounted assemblies is subject to section 33-1085(a)(3).

(C) All roof appurtenances and screening devices shall be architecturally integrated with construction and appearance similar to and compatible with the building on which the equipment is placed to the satisfaction of the director.

(2) Ground-mounted mechanical equipment and devices.

(A) All ground-mounted mechanical equipment, including but not limited to heating and air conditioning units and swimming pool and spa pumps and filters, shall be completely screened from view from surrounding properties and adjacent public streets by a solid wall or fence or shall be enclosed within a building or electrical/service room. Depending on the location, height, and length of any wall or fence used for screening purposes, landscaping shall be used to the extent practicable to shield and obscure the wall or fence. Alternative methods for screening equipment from the public right-of-way and adjacent properties may include the placement of equipment in locations where buildings serve the purpose of screening or any other method approved by the director. Chain link fencing with or without wooden or plastic slats is prohibited.

(B) In locations where ground-mounted mechanical equipment is completely screened from surrounding properties and adjacent to public streets, but visible on-site, the ground-mounted mechanical equipment shall be surrounded by sight-obscuring landscaping, enclosed, or painted with neutral colors that are compatible with structures and landscaping on the property.

(C) Screening shall be maintained in good condition at all times. Landscaping used as screening shall provide a dense, year-round screen.

(D) Structural, design, and/or landscaping plans for any required screening under the provisions of this section shall be approved by the director and the building official.

(3) Wall-mounted mechanical devices.

(A) Wall-mounted mechanical and electrical equipment, that are larger than 36 inches in height or width shall be completely screened from the public right-of-way, adjacent properties, and on-site parking areas, or shall be enclosed within a building or electrical/service room.

(B) Minor wall-mounted mechanical and electrical equipment, such as small generators, utility meters, or junction boxes, that are 36 inches in height and width or less, shall be screened to the maximum extent practicable through the use of building design integration and concealment, enclosure, or surface color paint matching and be screened by walls or fences or sight-obscuring landscaping. Chain link fencing with or without wooden/plastic slats is prohibited.

(4) General screening.

(A) All exterior wall-mounted cables, raceway, conduit, or other device connection to support any roof-mounted, ground-mounted, or wall-mounted mechanical devices, shall be

painted to match the color of the building wall or surface on which they are mounted and shall be sited to minimize the appearance or be in a location that is reasonably compatible and in harmony with the architectural styling and detailing of the building. Additional wall or landscaping screening may be required to the satisfaction of the director.

(B) Structural, design, and ~~the~~ landscaping plans for any required screening under the provisions of this section shall be approved by the director and the building official.

(5) Exceptions to screening requirements. Where it can be clearly demonstrated that the exterior mechanical equipment is not visible from any surrounding properties, adjacent public streets, and on-site parking areas, the director may waive the screening requirements of this section. Furthermore, the following mechanical equipment and devices will be fully or partially exempt from the foregoing screening requirements of this section, but may be regulated separately by some other local, state, or federal law:

(A) Electric vehicle charging support systems.

(B) Electric generating facilities, including solar photovoltaic systems.

(C) Communication facilities, including satellite antennas.

(D) Heavy industrial uses where the mechanical equipment itself is the main focus of the use, and the size or scale of the equipment prohibits full screening (such as concrete batching plants or certain other large-scale manufacturing uses). The director may require partial screening measures (such as solid fencing or landscape screening) as appropriate and on a case-by-case basis, to minimize the visual effects of the neighborhood to surrounding properties and adjacent streets.

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. CONDITIONAL USE PERMITS

Sec. 33-1202. Application, fees, and procedures.

(a) Application and Fees. Application for a conditional use permit may be initiated by the property owner or agent of the property affected, the planning commission, or the city council. Application shall be made on forms provided by the city and shall be accompanied by the appropriate fee. The application shall further be accompanied by such materials as required by the director.

(b) Procedures. The zoning administrator or planning commission shall consider the application, all relevant codes and regulations, the project's environmental status, necessary findings, the circumstances of the particular case, and any other relevant evidence, and shall hold a public hearing before approving, conditionally approving, or denying the application. The zoning administrator may refer any minor conditional use permit application to the planning commission.

(c) Minor Conditional Use Permit. The zoning administrator shall give notice pursuant to Division 6 of this article and hold a hearing on the application. Minor conditional use permits include, but are not limited to, the following:

(1) Land uses specified as minor conditional uses in the land use matrix of the applicable zoning district, area plan, specific plan, or planned development;

(2) Requests where the conditional use to be permitted does not involve the construction of a new building or other substantial structural improvements on the property in question, provided the use does not involve the use of hazardous substances;

(3) Requests where the conditional use requiring the permit would make use of an existing building and does not involve substantial remodeling of the existing building or the use of hazardous substances;

- (4) Requests where the use requiring the permit is a temporary use that operates periodically on a regular basis and exceeds the time or area restrictions set forth in sections 33-1534(c)(1) and (2) of Article 73;
- (5) Applications for additional animals over those permitted by section 33-1116 of Article 57, pursuant to section 33-1116(g);
- (6) For uses in nonresidential zones requesting parking suitable for the proposed use or mix of uses, pursuant to section 33-764(b) of Article 39;
- (7) Requests for businesses in the CN zone that are open for business before 7 a.m. or after 11 p.m., pursuant to section 33-337(d);
- (8) Requests involving a modification to an existing major conditional use permit (or a modification to a conditional use permit that was approved before the establishment of the minor conditional use permit process) that otherwise meets the criteria under sections 33-1202(c)(1)-(7).

ARTICLE 61. ADMINISTRATION AND ENFORCEMENT

DIVISION 8. PLOT PLANS

Sec. 33-1314. Definition and purpose.

(a) *Plot plan* shall mean a zoning instrument used primarily to review the location and site development of certain permitted land uses. The plot plan review process is required when any of the following are proposed in a multi-family, commercial, or industrial zone:

- (1) A new building, structure, or addition.
- (2) A new permitted use of land or existing structure that may require additional off-street parking.
- (3) A modification of an existing development affecting the building area, parking (when a reduction in parking spaces is proposed), outdoor uses, or on-site circulation. Changes to parking areas that do not result in a reduction in parking spaces are exempt from Plot Plan review, but require design review, as provided in section 33-1355(b)(2).
- (4) As may otherwise be required by this chapter.

Plot plan review is not required for residential development created by a planned development or residential subdivision of single-family lots.

(b) *Minor plot plan* may include, but shall not be limited to, a change in use with no additional floor area, minor building additions, outdoor storage as an accessory use in the industrial zones, or other site plan changes affecting site circulation and parking, as determined by the director.

(c) *Major plot plan* may include, but shall not be limited to, new construction, reconstruction and additions of facilities permitted in the underlying zone, or other projects that exceed thresholds for a minor plot plan, as determined by the director. (Ord. No. 2017-03R, § 4, 3-22-17)

ARTICLE 64. DESIGN REVIEW

Sec. 33-1354. Jurisdiction.

The following commercial, industrial, multifamily residential, and other projects shall be subject to design review by the planning commission, unless otherwise noted:

(a) Planned development projects, condominium permits, and all projects (besides single-family projects) requiring discretionary approval by the planning commission and involving new construction;

- (b) Proposed development standards or design guidelines for specific plans and overlay districts;
- (c) Proposed signs as specified pursuant to Article 66, Sign Ordinance;
- (d) City-initiated projects that involve public facilities, including but not limited to libraries, major park structures, police stations, or fire stations, or major architectural or site modifications to existing public facilities.

ARTICLE 64. DESIGN REVIEW

Sec. 33-1355. Exemptions and exceptions.

- (a) Exemptions. This article shall not apply to the following:
 - (1) Painting of existing buildings, unless required by an adopted specific plan, overlay district, other code section, or where color was part of a discretionary action;
 - (2) Repair and maintenance of existing buildings;
 - (3) Interior modifications;
 - (4) Single-family residences of four or fewer lots, unless required by an adopted specific plan or overlay district, planned development, or other code section;
 - (5) Landscaping of single-family lots;
 - (6) Street improvement projects and below-ground public facilities constructed by the city as part of the capital improvement program.
- (b) Exceptions. City staff shall review all other non-exempt projects for conformance with applicable design guidelines as noted below. Minor projects where the proposed work may have a significant effect on the surroundings may be agendized for review by the planning commission.
 - (1) Minor exterior changes in overlay zones;
 - (2) Minor exterior revisions to commercial, industrial, or multifamily residential projects, including, but not limited to parking lot changes not involving a reduction in parking spaces, minor accessory structures, additions of in-wall ATMs, trash enclosures, or additions of minor components for which there are previously approved guidelines, such as above-ground storage tanks, vapor recovery tanks, security gates/fencing, or outdoor dining areas of 300 square feet or less;
 - (3) Minor public facilities such as accessory park structures, pump stations, ADA improvements, and bicycle trails;
 - (4) Production homes in subdivisions of five lots or more;
 - (5) Proposed signs pursuant to Article 66, Sign Ordinance;
 - (6) Repainting of existing structures in any new color palette where building colors were part of a discretionary action.
 - (7) Minor architectural or site modifications to industrial, commercial, and multifamily residential developments that were approved through a public hearing, if the modifications are in substantial conformance with the original approval. Modifications found not to be in substantial conformance may be agendized for review before the decision-making body that approved the original development.

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD
Sec. 33-1372. Permitted principal uses and structures.

The following principal uses and structures are permitted in the Old Escondido Neighborhood:

Use No.	Use Title
1111	Single-family dwellings, detached, including licensed residential care facilities for six or fewer persons
6815	Small and large family day care homes as defined in section 33-8 of this code.

ARTICLE 65. OLD ESCONDIDO NEIGHBORHOOD
Sec. 33-1374. Conditional uses.

(a) The following uses are permitted anywhere within the neighborhood/district if a conditional use permit has first been issued and subject to the terms thereof.

Use No.	Use Title
1400	Mobilehome parks conforming to the provisions of this article
1591	Bed and breakfast facilities, conforming to Article 32 (except no signs shall be allowed, no variance to parking requirements granted and size shall be limited to four rooms with no exception)
4710	Communications (excluding 4718—offices, 4712—relay towers, microwave or others)
4753	Satellite dish antennas pursuant to Article 34 of this chapter
4833	Water storage as part of a utility water system (uncovered)
6810	Nursery, primary and secondary education (use of existing buildings only)
6910	Religious activities
6941	Social clubs
6942	Fraternal associations and lodges
6944	Youth organizations subject to criteria of section 33-1105
6952	Civic associations

(b) The following conditional uses are permitted in existing buildings within the Old Escondido Neighborhood on the south side of Fifth Avenue between South Escondido Boulevard and Juniper.

Use No.	Use Title
6520	Legal services
6530	Engineering, architectural, and planning services
6591	Accounting, auditing, bookkeeping services, income tax services, notary public
6592	Interior decorating consulting services
6611	Building contractors (includes residential, commercial, and industrial) with no storage of vehicles, equipment, or materials

(c) No new structures shall be permitted for any conditional uses. All signs shall conform to section 33-1379 of this article. Any use or structure permitted or conditionally permitted by this zone and involving hazardous materials is subject to the conditional use permit requirements of Article 30 of this chapter.

(d) The zoning administrator or planning commission shall evaluate all conditional use permits against the criteria set forth in Article 61 of this chapter. In addition, those conditional use permits pursuant to section 33-1374(b) shall be subject to the following:

- (1) Hours of operation shall be from 7 a.m. to 11 p.m.
- (2) Adaptive reuse shall conform to design guidelines for historic resources. Every project for adaptive reuse will be subject to design review to assess appropriateness of the proposed use and any proposed changes in relation to the area, the building, and the site.
- (3) Parking for employees shall be provided on site at a ratio of one parking space per 300 square feet of the office area. Curbside parking with a two-hour limit shall be provided for customer parking. The city will provide parking stickers for residents.
- (4) Noise and lighting standards shall be the same as for residential areas.
- (5) Signs shall conform to section 33-1379 of this article.

ARTICLE 66. SIGN ORDINANCE

Sec. 33-1395. Sign standards—General.

All permanent freestanding signs shall not obstruct the vehicle sight distance area at the intersections and driveways to the satisfaction of the engineering department. Freestanding signs shall not be placed within easements or over utility lines, except with the prior written approval of all easement holders. Any site plans submitted in conjunction with a sign permit application for a freestanding sign shall identify the location of easements or public or private utilities within 50 feet of the proposed sign location. On sites where the existing street is not constructed to the full designated width, signs shall be located behind the ultimate property line unless otherwise approved by the planning division and the engineering department with an agreement for future removal or relocation. In addition, all permanent freestanding signs shall incorporate the numerical address, or range of addresses, of the parcel or commercial center at which the sign is located. The area of the address shall not be counted in the area of the signs. All illuminated signs shall be equipped with automatic timing devices so that the lighting is turned off between the hours of 11 p.m. and sunrise, unless exempt pursuant to Article 25, Outdoor Lighting.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1410. Purpose.

The purpose of this article is to specify how the City will implement State Density Bonus Law (Government Code sections 65915–65918) (“State Density Bonus Law”), as required by Government Code section 65915(a).

This article is intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low income, lower income, and senior households, as well as transitional foster youth, disabled veterans, and homeless persons, throughout the City. It is intended that this article facilitate the development of affordable housing development projects and implement the goals, objectives, and policies of the City of Escondido General Plan Housing Element.

If any provision of this article conflicts with State Density Bonus Law or other applicable state law, such state law shall control. Any ambiguities shall be interpreted to be consistent with state law. Applicable state statutes should be consulted for amendments prior to applying the provisions in this article.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1411. Definitions.

The definitions found in State Density Bonus Law are incorporated herein by this reference as if fully set forth herein and shall apply to the terms used in this article, unless the context requires otherwise and as further clarified in this section:

A. "Affordable housing costs" shall have the same meaning as provided in Health and Safety Code section 50052.5.

B. "Child care facility" shall mean a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility, including but not limited to an infant center, preschool, extended day care facility, and school-age child care center, but not including a family day care home.

C. "Density bonus" shall mean an increase over the otherwise maximum allowable gross residential density as of the date of the application by the applicant to the City, or, if elected by the applicant, a lesser percentage of density increase.

D. "Density bonus units" shall mean those residential units granted pursuant to the provisions of this article that exceed the otherwise maximum residential density or permitted floor area ratio (FAR) for the development site.

E. "Developer" shall mean any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.

F. "Development standard" shall mean a site or construction condition or requirement that applies to a housing development pursuant to any ordinance, General Plan Element, Master or Specific Plan, or other City requirement, law, policy, resolution, or regulation.

G. "Housing development" shall mean one or more groups of projects for residential units that are the subject of one development application, consisting of the following:

1. The construction of five or more residential units (or three or more units if the housing development is located within the South Centre City Specific Plan);
2. A subdivision or common interest development (commonly known as condominiums) consisting of five or more residential units or unimproved lots; or
3. A project to either substantially rehabilitate and convert an existing commercial building to residential use, or substantially rehabilitate an existing two-family or multiple-family dwelling structure, where the result of rehabilitation would be a net increase in available residential units.

H. "In-lieu incentive" shall mean an incentive offered by the City that is of equivalent financial value based upon the land cost per dwelling unit, and that is offered in lieu of a density bonus.

I. "Incentives or concessions" shall mean such regulatory incentives and concessions as stipulated in Government Code section 65915(k), to include, but not be limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the housing project, or any other regulatory incentive that would result in identifiable cost reductions to enable the provision of housing for the designated income group or qualifying residents.

J. "Maximum residential density" shall mean the maximum number of residential units permitted on the project site as defined in the zoning ordinance, or the applicable Specific Plan.

K. "Nonrestricted unit" shall mean any unit within the housing development that is not a target unit.

L. "Senior citizen housing" shall have the same meaning as currently defined by Sections 51.3 and 51.12 of the Civil Code and any subsequent amendments or revisions thereto.

M. "Target unit" shall mean a residential unit within a housing development that will be offered for rent or sale exclusively to, and that shall be affordable to, the designated income group or qualifying resident, as required by this article and State Density Bonus Law.

N. "Total units" shall mean the number of dwelling units in a housing development, excluding the dwelling units added by the density bonus.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1412. General applicability.

A. The provisions of this article shall apply to a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) and where the developer seeks and agrees to construct housing units to be restricted for occupancy by very low, lower, or moderate income households; senior citizens; transitional foster youth, disabled veterans, or homeless persons; or students, as further described in this article.

B. *Fractional Units.* When calculating any component of a density calculation pursuant to this article, including calculating a density bonus or the required number of target units, any calculations resulting in fractional units shall be rounded up to the next whole number.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1413. Standard incentives for new residential construction.

A. The decision-making body shall grant one density bonus, as specified in subsection (B) of this section, and/or incentives or concessions, as set forth in section 33-1414, when a developer of a housing development of at least five units (or at least three units if the housing development is located within the South Centre City Specific Plan) seeks and agrees to construct at least any one of the following. (The density bonus units shall not be included when determining the total number of target units in the housing development.)

1. *Low Income Households.* A minimum of 10% of the total units of the housing development as restricted and affordable to lower income households, as defined in Health and Safety Code section 50079.5.

2. *Very Low Income Households.* A minimum of 5% of the total units of the housing development as restricted and affordable to very low income households, as defined in Health and Safety Code section 50105.
3. *Senior Citizens.* A senior citizen housing development or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.
4. *Moderate Income Households.* A minimum of 10% of the total units in a common interest development as restricted and affordable to moderate income households, as defined in Health and Safety Code section 50093, provided that all units in the development are offered to the public for purchase.
5. *Transitional Foster Youth, Disabled Veterans, Homeless Persons.* A minimum of 10% of the total units of the housing development as restricted for transitional foster youth, as defined in Education Code section 66025.9; disabled veterans, as defined in Government Code section 18541; or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. section 11301 et seq.).
6. *Students.* A minimum of 20% of the total units for lower income students in a student housing development that meets the following requirements:
 - (a) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full-time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the City that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.
 - (b) The applicable target units will be used for lower income students, which for purposes of this clause shall mean students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in Education Code section 64932.7(k)(1). The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission, that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.
 - (c) The rent provided in the target units shall be calculated at 19.5% of the Area Median Income for a single-room occupancy unit type.
 - (d) The development will provide priority for the target units for lower income students experiencing homelessness. A homeless service provider, as defined in Health and Safety Code section 103577(e)(3), or institution of higher education that has knowledge of a person's homeless status, may verify a student's status as homeless for purposes of this subclause.
 - (e) For purposes of calculating a density bonus granted pursuant to this subsection, the term "unit" as used in this subsection shall mean one rental bed and its pro rata share of associated common area facilities. The units described in this subsection shall be subject to a recorded affordability restriction of 55 years.

7. 100% of the total units in the development, but exclusive of any manager's unit, are for lower income households, as defined by Health and Safety Code section 50079.5, except that up to 20% of the total units in the development may be for moderate income households, as defined in Health and Safety Code section 50053.

B. *Density Bonus*. When a developer seeks and agrees to construct a housing development meeting the criteria specified in subsection (A) of this section, the decision-making body shall grant a density bonus subject to the following:

1. The amount of density bonus to which a housing development is entitled shall vary. The density bonus may be increased according to the percentage of affordable housing units provided above the minimum percentages established in subsection (A) of this section, but shall not exceed 35%, except in accordance with subsection (D) of this section or as otherwise authorized by State Density Bonus Law.

(a) *Low Income Households*. For housing developments meeting the criteria of subsection (A)(1) of this section, the density bonus shall be calculated as follows:

Table A
Density Bonus for Housing Developments with Units Affordable to Low Income Households

Percentage (%) of Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1.5% bonus for each 1% increase above the 10% minimum)
10	20
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32

Percentage (%) of Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1.5% bonus for each 1% increase above the 10% minimum)
19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

b. *Very Low Income Households*. For housing developments meeting the criteria of subsection (A)(2) of this section, the density bonus shall be calculated as follows:

Table B

Density Bonus for Housing Developments with Units Affordable to Very Low Income Households

Percentage (%) of Very Low Income Units (Minimum 5% required)	Percentage (%) of Density Bonus to Be Granted (Additional 2.5% bonus for each 1% increase above the 5% minimum)
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

c. *Senior Citizens.* For housing developments meeting the criteria of subsection (A)(3) of this section, the density bonus shall be 20% of the number of senior housing units.

d. *Moderate Income Households in a Common Interest Development.* For housing developments meeting the criteria of subsection (A)(4) of this section, the density bonus shall be calculated as follows:

Table C
Density Bonus for Common Interest Developments with Units Affordable to Moderate
Income Households

Percentage (%) of Moderate Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

Percentage (%) of Moderate Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

e. *Transitional Foster Youth, Disabled Veterans, Homeless Persons.* For housing developments meeting the criteria of subsection (A)(5) of this section, the density bonus shall be 20% of the number of the type of units giving rise to a density bonus under that subsection.

f. *Students*. For housing developments meeting the criteria of subsection (A)(6) of this section, the density bonus shall be 35% of the student housing units.

g. *100% Affordable Projects*. For housing developments meeting the criteria of subsection (A)(7) of this section, the density bonus shall be 80% of the number of units for lower income households. If the housing development is located within 1/2 mile of a major transit stop, the City shall not impose any maximum controls on density.

C. *Density Bonus in Excess of 35%*. In cases where a developer requests a density bonus in excess of that which is specified in this section, the City Council may grant, at its discretion, the requested density bonus, subject to the following:

1. The project meets the requirements of this article and State Density Bonus Law.
2. The requested density increase, if granted, is an additional density bonus and shall be considered an incentive.
3. The City Council may require some portion of the additional density bonus units to be designated as target units, at its discretion.

D. *Granting a Lower Density Bonus*. A qualified developer for a density bonus and/or additional incentives and concessions pursuant to subsection (A) of this section may request and accept a lesser density bonus, including no increase in density, and shall still be entitled to those additional concessions or incentives as specified in 33-1415. No reduction will be allowed in the number of target units required.

E. *Land Donation*. When a developer for a tentative subdivision map, parcel map, or other housing development approval donates land to the City to provide a minimum of 10% of the total units for a future housing development, as provided for in this subsection, the developer shall be entitled to a density bonus for the entire development, as follows:

Table D
Density Bonus for Land Donation

Percentage (%) of Very Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32

Percentage (%) of Very Low Income Units (Minimum 10% required)	Percentage (%) of Density Bonus to Be Granted (Additional 1% bonus for each 1% increase above the 10% minimum)
28	33
29	34
30	35

1. *Additional Density Bonus.* The density bonus stated in Table D shall be in addition to any increase mandated by subsection (A) of this section. The maximum combined density bonus of the mandated and the additional increase shall not exceed 35%. A developer shall be eligible for the density bonus described in this subsection (E) only if all of the following conditions are met:

- a. *Date of Donations/Transfer.* The land is donated and transferred to the City no later than the date of approval of the final subdivision map, parcel map, or housing development application.
- b. *Feasibility of Development.* The developable acreage, development standards, zoning classification, and General Plan land use designation of the land being donated are sufficient to permit construction of the units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed development.
- c. *Size of Land.* The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate zoning classification and General Plan land use designation, and is or will be served by adequate public facilities and infrastructure.
- d. *Discretionary Approvals.* No later than the date of approval of the final subdivision map, parcel map, or housing development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by California Government Code section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

e. *Continued Affordability.* The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with section 33-1419, which shall be recorded on the property at the time of dedication.

f. *Transfer to Housing Developer.* The land is transferred to the City or to a housing developer approved by the City.

g. *Location of Land.* The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

h. *Financing.* A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development permit.

2. *Condition of Development.* Nothing in this subsection (E) shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1414. Alternative or additional incentives and concessions for housing developments.

A. When a developer requests a density bonus and/or incentives or concessions pursuant to section 33-1413, the decision-making body shall grant incentives or concessions, subject to the following:

1. *Number of Incentives/Concessions.*

a. The developer shall receive the following number of incentives or concession based upon the minimum percentage of total units to be restricted as target units:

Table E
Number of Incentives/Concessions

Number of Incentives/ Concessions	Percentage (%) of Target Units (Minimum required)
1 Incentive/ Concession	5% for very low income households
	10% for lower income households
	10% for moderate income persons or families in a common interest development
2 Incentives/ Concessions	10% for very low income households
	17% for lower income households
	20% for moderate income persons or families in a common interest development
3 Incentives/ Concessions	15% for very low income households
	24% for lower income households
	30% for moderate income persons or families in a common interest development

Number of Incentives/ Concessions	Percentage (%) of Target Units (Minimum required)
4 or more Incentives/ Concessions	At the discretion of the decision-making authority

2. *Incentives/Concessions.* An incentive or concession may include any of the following:

a. *Development, Design, and Zoning Code Requirements.* A reduction or waiver of site development standards, modification of zoning code, or architectural design requirements that exceed the minimum building standards approved by the California Building Standards, including, but not limited to, a reduction in minimum lot size, setback requirements, and/or in the ratio of vehicular parking spaces that would otherwise be required. Any waiver or reduction from the applicable development standards that is necessary to implement the density and incentives/concessions to which the developer is entitled under this subsection (A) shall not serve to reduce or increase the number of incentives/concessions.

b. *Mixed Use Development.* Approval of mixed use residential development in areas not permitted if: (i) commercial, office, industrial or other land uses will reduce the cost of the housing development; and (ii) the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned future development in the area where the project will be located.

c. *Excess Density Bonus.* A density bonus in excess of more than that which is specified in section 33-1413(B) and in compliance with section 33-1413(C).

d. *Other.* Other regulatory incentives or concessions proposed by the developer that result in identifiable, financially sufficient, and actual cost reductions that contributes to the economic feasibility of the project.

e. *Financial Incentives.* The City Council may, but is not required to, provide direct financial incentives, including direct financial aid in the form of a loan or grant, the provision of publicly owned land, or the waiver of fees or dedication requirements.

3. Nothing in this section shall be construed to require the City to grant a concession or incentive if the City finds that the proposed concession or incentive is not required to achieve the required affordable housing costs or rents, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would otherwise be contrary to law.

4. A developer shall be ineligible for concessions or incentives when the housing development is proposed on any property that includes rental dwelling units that are—or if the units have been vacated or demolished, within the five-year period preceding the housing development application—subject to a recorded covenant, ordinance, or law that restricts rents to affordable levels or is subject to any other form of rent or price control, or occupied by very low households or low income households, unless the proposed housing development replaces those units and meets the requirements of Government Code section 65915(c)(3).

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1415. Condominium conversions.

A. *Income Requirements.* The decision-making body shall grant either a density bonus or in-lieu incentives of equivalent financial value, as set forth in section 33-1414, to a developer proposing to convert apartments to condominiums as otherwise in compliance with the Escondido Municipal Code, and who agrees to provide the following:

1. *Low or Moderate Income.* A minimum of 33% of the total units of the proposed condominium project as restricted and affordable to low or moderate income persons or families; or
2. *Low Income.* A minimum of 15% of the total units of the proposed condominium project as restricted and affordable to low income households.

B. *Density Bonus.* For housing development projects meeting the criteria of subsection (A) of this section, the density bonus shall be 25% over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

C. *Calculating the Target Units.* In determining the number of target units to be provided pursuant to the standards of this section, the number of apartment units within the existing structure or structures proposed for conversion shall be multiplied by the percentage of units to be offered exclusively to the designated income group, as required by subsection (A) of this section. The density bonus units shall not be included when determining the total number of target units required to qualify for a density bonus.

D. *Granting a Lower Density Bonus.* In cases where a density increase of less than 25% is requested, no reduction will be allowed in the number of target units required.

E. *Other Incentives.* For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require the City to provide monetary compensation, but may include the waiver or reduction of requirements that might otherwise apply to the proposed condominium conversion project at the sole discretion of the decision-making body.

F. *Ineligibility.* A developer proposing to convert apartments to condominiums shall be ineligible for a density bonus or in-lieu incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or in-lieu incentives were previously provided under this article.

G. *Affordable Housing Agreement as a Condition of Development.* An affordable housing agreement for all condominium conversion proposals that request a density bonus or in-lieu incentives shall be processed concurrently with any other required project development application (e.g., tentative maps, parcel maps, design review, conditional use permits), and shall be made a condition of the discretionary permits, and execution of such agreement shall be required prior to the issuance by the City of a building permit for the development. The affordable housing agreement shall be consistent with section 33-1420.

H. *No Requirement to Approve Conversion.* Nothing in this section shall be construed to require that the City approve a proposal to convert apartments to condominiums.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1416. Housing with child care facilities.

A. When a developer proposes to construct a housing development that conforms to the requirements of section 33-1413(A), and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the following provisions shall apply:

1. *Bonus or Incentive/Concession.* The decision-making body shall grant either of the following:

a. *Density Bonus.* An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility; or

b. *Incentive/Concession.* An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.

2. *Conditions of Approval.* The decision-making body shall require, as a condition of approval of the housing development, that the following occur:

a. *Period of Operation for Child Care Facility.* The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the target units are required to remain affordable, pursuant to section 33-1418; and

b. *Income Requirements.* The percentage of children who are of very low, lower, or moderate income households shall be equal to or greater than the percentage of dwelling units that are required for very low, lower, or moderate income households pursuant to section 33-1413(A).

3. *Findings to Deny Bonus or Incentive/Concession.* Notwithstanding any requirement of this section, the decision-making body shall not be required to provide an additional density bonus, incentive, or concession for a child care facility if it finds, based on substantial evidence, that the community has an adequate number of child care facilities.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1417. Affordable and senior housing standards.

A. *Concurrent Development.* Target units shall be constructed concurrently with nonrestricted units unless both the City and the developer agree within the affordable housing agreement to an alternative schedule for development. If the development proposes a phased building plan, a proportionate share of target units shall be constructed in each phase. Otherwise, the City shall not issue building permits for more than 50% of the nonrestricted units until the City has issued building permits for all of the target units, and the City shall not approve any final inspections or issue any certificates of occupancy for more than 50% of the market rate units until the City has issued certificates of occupancy for all of the affordable units.

B. *Location and Dispersal of Units.* Target units and density bonus units shall be built on site (within the boundary of the proposed development) and when practical, be dispersed within the housing development.

C. *Off-Site Alternative.* Circumstances may arise in which the public interest would be served by allowing some or all of the designated target units to be produced and operated at a development site different from the site of the associated housing development, also known as an off-site alternative. Where the City and the applicant form such an agreement, both the associated target and nonrestricted units of the housing development shall be considered a single housing development for the purposes of this article, and the applicant shall be subject to the same requirements of this article pertinent to the target units to be provided at an off-site alternative.

D. *Bedroom Unit Mix.* The housing development shall include a mix of target units (by number of bedrooms) in response to the affordable housing demand priorities of the City as may be identified within the City's Housing Element or consistent with the unit mix of nonrestricted units. The number of bedrooms in the target units shall at least equal the minimum number of bedrooms of the nonrestricted units. For non-senior projects involving five to nine units (or three to nine units if the project is located within the South Centre City Specific Plan), exclusive of the target units,

and that receive incentives in addition to the minimum required by State Density Bonus Law, all target units shall have at least two bedrooms. For non-senior projects involving 10 or more units, exclusive of the target units, and that receive incentives in addition to the minimum required by State Density Bonus Law, at least 33% of the target units shall have at least three bedrooms, or a ratio deemed acceptable by the City.

E. *Compliance with Development Standards and Codes.* Housing development projects shall comply with all applicable development standards, except those that may be modified as an incentive or concession or will have the effect of physically precluding the construction of a development providing the target units at the densities or with the concessions or incentives permitted by section 33-1414, or as otherwise provided for in this article.

G. *Design Consistency.* The design and appearance of the target units shall be consistent or compatible with the design of the total housing development in terms of appearance, materials, and finished quality.

H. *Parking.* Upon the request of the developer, the parking ratio (inclusive of handicap and guest parking) for a housing development that conforms to the requirements of section 33-1413(A) shall not exceed the ratios specified in Table F. Such request and application of this parking ratio shall not be considered an incentive/concession pursuant to section 33-1414. If the developer does not request the parking ratios specified in Table F or the project does not conform to the requirements of section 33-1413(A), the parking standards of the applicable zone shall apply.

1. *Fractional Parking Spaces.* If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
2. *Tandem and Uncovered Parking.* For purposes of this section, a housing development may provide "on-site" parking through tandem parking or uncovered parking, but not through on-street parking.
3. *Additional Parking Incentives/Concessions.* The developer may request additional parking incentives or concessions beyond those provided in this section, as specified in section 33-1414.

Table F
Parking Ratio for Housing Development Projects

Dwelling Unit Size	On-Site Parking Ratio (Inclusive of Handicapped and Guest Parking)
0 – 1 bedrooms	1 space per unit
2 – 3 bedrooms	2 spaces per unit
4 or more bedrooms	2.5 spaces per unit

I. *Waiver/Reduction of Development Standards.* Any waiver or reduction from the applicable development standards shall be limited to those necessary to implement the density and incentives/concessions to which the developer is entitled under section 33-1413.

1. *Adverse Impact.* Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact upon the health, safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Adverse impact is defined in Section 65589.5(d)(2) of the California Government Code and any subsequent amendments and revisions thereto.

2. *Historical Resources and Conflict with Law.* Nothing in this section shall be construed to require that the City waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources or to grant any waiver or reduction that would be contrary to state or federal law.

J. *Prequalification.* All households for target units must be prequalified by the developer prior to such households moving into a target unit by a process mandated by the City. The prequalification process for target households shall certify the income level of the prospective tenant household, and advise the household of affordable housing costs, if applicable. These standards will be made available to the applicant by the City. The property owner shall not charge the applicant for the initial prequalification review. If, after performing the necessary verification, the prospective tenant qualifies as a very low, low, or moderate income household, the City shall issue a certificate to the applicant and the property owner verifying the income level and eligibility to rent or own the unit.

K. *Reporting.* By May 31 of each calendar year, the developer shall provide the housing division an accounting of the previous calendar year, including the following:

1. Total units occupied for any part of the previous year by bedroom size;
2. Total units vacant for any part of the previous year by bedroom size;
3. Total units occupied by target households by bedroom size;
4. For each very low, low, or moderate income target unit, the total monthly housing costs advertised and/or paid; and
5. Any other pertinent information deemed appropriate by the City upon approval of the project.

L. *Enforcement.* Default by the property owner is unlawful and is a misdemeanor. Each applicable unit shall be considered a separate violation. Such violation shall be punishable by a fine, not exceeding \$1,000, or by imprisonment in the County Jail for a period not exceeding six months, or both. In addition, the City shall have the right to prohibit the property owner from leasing any non-restricted unit that becomes vacant until the owner remedies the default. Until the default is remedied, no such unit shall thereafter be rented until the property owner presents sufficient evidence to the housing division that the prospective tenant qualifies as a target household. Additionally, the average monthly default units shown on the audit report for the previous year shall be added to the units to be set aside during the next succeeding reporting period, if applicable.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1418. Affordability tenure.

A. *Lower and Very Low Income Housing.* All target units for lower and very low income households shall remain restricted and affordable to the designated group for a period not less than 55 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental financing subsidy program.

B. *Moderate Income.* All target units for moderate income persons or families shall be initially occupied by the designated group and offered at an allowable housing expense. The target units shall be subject to an equity sharing agreement, as set forth by State Density Bonus Law, unless in conflict with the requirements of another public funding source or law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1419. Application requirements and review.

A. *Preliminary Application.* A developer proposing a housing development pursuant to this article may submit a voluntary preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a preapplication conference with designated staff of the Community Development Department to discuss and identify potential application issues, including prospective incentives or concessions pursuant to section 33-1413.

B. *Application.* The developer shall submit an affordable housing application, which will be treated as part of any other required development application, requesting a density bonus and/or incentive(s) or concession(s), pursuant to this article. Pursuant to Government Code section 65915(a)(2), the applicant shall provide reasonable documentation to establish eligibility for a requested density bonus and/or incentive(s) or concession(s). The proposed housing development may require other project development application(s) (e.g., tentative map, parcel map, design review, and conditional use permits). Under such circumstances, the affordable housing application shall be processed concurrently.

C. *Approval of an Application.* When a project involves a request for a density bonus, incentive(s) or concession(s), or in-lieu incentives, the decision-making body shall make a written finding, as part of the approval of the development application required for the project or as part of the approval of the affordable housing agreement, that the project is consistent with the provisions of this article. The granting of an incentive/concession shall not, in and of itself, require a General Plan amendment, zoning code amendment, or any other discretionary approval.

D. *Denial of Application.* In rejecting such development application, the decision-making body shall make written findings in compliance with Government Code Section 65589.5(b) and based upon substantial evidence in the record.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1420. Affordable housing agreement.

A. *Execution of Agreement.* Developers requesting a density bonus, incentive(s) or concession(s), or in-lieu incentives pursuant to this article shall demonstrate compliance with this article by executing an affordable housing agreement with the City in a form approved by the City Attorney.

B. *Recordation.* Following execution of the affordable housing agreement by all parties, the completed affordable housing agreement, with the approved site development plan, shall be

recorded against the entire development, including nonrestricted lots/units; and the relevant terms and conditions therefrom filed and recorded as a deed restriction or regulatory agreement on those individual lots or units of a property that are designated for the location of target units. The approval shall take place prior to final map approval, and recordation shall occur concurrent with the final map recordation, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The affordable housing agreement shall be binding to all future owners and successors in interest.

C. *Provisions.* The affordable housing agreement shall set forth the conditions and guidelines to be met in the implementation of this article and shall include, but not be limited to, the following:

1. *Number of Units.* The number of total residential units and the density bonus and target units approved for the housing development.
2. *Term of Affordability.* The number of years the occupancy and affordability restrictions for target units remain in place.
3. *Phasing Schedule.* A schedule of production and occupancy of target units.
4. *Incentives/Concessions.* A description of the incentive(s), concessions, or in-lieu incentives of equivalent financial value being provided by the City.
5. *Operation and Maintenance.* The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining target units for qualified tenants.
6. *Ongoing Monitoring.* Provisions requiring developers to demonstrate compliance with this article.
7. *Initial Sale.* Where applicable, tenure and conditions governing the initial sale of for-sale target units.
8. *Remedies.* A description of remedies for breach of the agreement by either party.
9. *Other Provisions for Compliance.* Other provisions as the City may require to ensure implementation and continued compliance with this article and the State Density Bonus Law.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1421. Agreement processing and administrative fee.

Over the minimum tenure of projects containing target units, the City will either directly or, via one or more third parties, provide for the preparation and/or review of all affordable housing agreements and recurring services associated with the administration and monitoring of such

units. The City Council may establish an administrative fee to fully recover the costs associated with such administration and monitoring, the amount of which shall be established by ordinance of the City Council.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1422. Noticing and procedural requirements for expiring rental restrictions.

A. *Tenant Notices of Expiring Affordability.* The developer shall give notices consistent with California Government Code sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to each affected tenant household.

B. *Notices to Prospective and New Tenants.* All prospective and new tenants to the housing development shall be provided at the time of their application for tenancy a copy of all notices issued per this section to existing tenants.

C. *Notices to the City of Escondido and State.* The developer shall provide a copy of all notices consistent with California Government Code Sections 65863.10 through 65863.13 in anticipation of the expiration of affordable housing restrictions to the City of Escondido Community Development Department and the State Department of Housing and Community Development.

D. *First Class Mailed Notices.* All notices to affected tenants, the City of Escondido, and the State Department of Housing and Community Development shall be sent by first-class mail postage prepaid.

ARTICLE 67. DENSITY BONUS AND RESIDENTIAL INCENTIVES

Sec. 33-1423. Interpretation.

A. If any conflict exists between this article and any other land use ordinance, regulation, resolution, policy, or prior decision of the City, this article shall control all applicable land use applications that do not have final approval on the effective date of this article.

B. This article shall be interpreted liberally in favor of producing the maximum number of total housing units, pursuant to the intent and requirements of State Density Bonus Law.

ARTICLE 68. GROWTH MANAGEMENT ORDINANCE

Sec. 33-1430. Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:

Application means any request for approval of a development permit subject to the provisions of this chapter, including but not limited to subdivisions, plot plans, specific plans, planned developments, planned unit approvals, condominium permits, and conditional use permits.

Available facility capacity means the remaining facility capacity available to future development without creating critical infrastructure deficiencies requiring facility construction or expansion. It may be determined at either the project-specific or City-Wide level.

CityWide Facilities Plan means the plan prepared and approved by the city council that both identifies areas of critical infrastructure deficiencies and provides the analytical framework against which projects are evaluated for conformance with the city's quality of life standards, including drainage.

Critical facilities means those improvements that must either be constructed, or financially secured within a geographic area, before development may proceed. Areas with critical infrastructure deficiencies shall be identified by the planning commission and/or city council and be reflected in the City-Wide Facilities Plan.

Development means any land use, building, or other alteration of land, and construction incidental to such land use, building, or other alteration of land, subject to this chapter.

Facilities means all land and improvements defined by the general plan's quality of life standards, including drainage.

Improvements include all measures necessary to achieve conformance with the general plan quality of life standards as determined by the CityWide Facilities Plan.

Improvement threshold means the point at which a project or group of projects exceeds the acceptable, available facility capacity and required concurrent construction of facilities.

Neighborhood means the specific geographic sub-areas as defined by Figure II-12 of the general plan, or as amended.

Nonresidential uses means those commercial or nonprofit uses which are either permitted by right or by conditional use permit in residential zones, including, but not limited to, daycare, convalescent homes, church facilities, recreational facilities, parks, and other uses that are not residential in character.

Quality of life standards means those service level standards identified by the general plan for traffic/transportation, schools, fire and police service, sewer and water service, parks and trails, and libraries.

Region of influence means an area where a critical infrastructure deficiency exists, as specified in the CityWide Facilities Plan.

Tiers mean the general categories into which the 21 general plan neighborhoods are grouped as identified by Figure VI-I of the general plan, or as may be amended.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1473. Occupancy limitations.

(a) Allowed use.

(1) One attached or detached accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence on a lot zoned for single-family or multifamily residential use.

(A) The accessory dwelling unit is either attached to, or located within, the proposed or existing main building or attached garages, storage areas, or similar use; or a detached accessory structure and located on the same lot as the proposed or existing single-family home.

(B) An accessory dwelling unit may be permitted on a lot where a junior accessory dwelling unit exists or is proposed.

(2) One junior accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residential use.

(A) The junior accessory dwelling unit is located within the proposed or existing main building or attached garages, storage areas, or similar use.

(B) A junior accessory dwelling unit may be permitted on a lot where an accessory dwelling unit exists or is proposed.

(3) Number of accessory dwelling units on legal lots with existing multifamily dwelling units:

(A) Shall be permitted to construct at least one accessory dwelling unit within existing multifamily dwelling structures and shall allow up to 25% of the units in each existing multifamily dwelling structure, in accordance with Government Code section 65852.2(e); or

(B) Not more than two accessory dwelling units are permitted that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling.

(C) For purposes of this article, "multifamily dwelling structure" or "multifamily dwelling" is defined as a structure with two or more attached dwellings on a single lot.

(b) Owner-occupied.

(1) The owner-occupancy requirement shall not be applied to any accessory dwelling unit.

(2) A junior accessory dwelling unit may be used as habitable space, only so long as either the remaining portion of the main dwelling unit, or the newly created junior accessory dwelling unit is occupied by the owner of record of the property, unless otherwise exempted by this section.

(A) Owner-occupancy for a junior accessory dwelling unit shall not be required if the owner is an agency, land trust, or housing organization.

(3) Deed restriction. The city shall require the recordation of a deed restriction if owner-occupancy is required pursuant to this section.

(A) Prior to issuance of a building permit, the property owner shall execute a deed restriction setting forth the owner-occupancy requirements, in a form and substance satisfactory to the director of community development and city attorney's office, which shall be recorded in the office of the county recorder. The covenant shall also include the following terms and limitations:

(i) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, and shall not be subdivided in any manner that would authorize such sale or ownership.

(ii) A statement that the deed restriction may be enforced against future purchasers and the restrictions shall be bindings upon any successor in ownership of the property.

(iii) The junior accessory dwelling unit shall be a legal unit, and may be used as habitable space, only so long as the owner of record of the property occupies the premises.

(iv) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section, and if applicable the occupancy limitations of the California Health and Safety Code section 17958.1.

(c) All local building and fire code requirements apply, as appropriate, to accessory dwelling units and junior accessory dwelling units.

(1) A certificate of occupancy shall not be issued for the accessory dwelling unit and/or junior accessory dwelling unit until the building official issues a certificate of occupancy for the main building.

(2) Prior to approval on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, may be required.

(d) The accessory dwelling unit and/or junior accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(e) The accessory dwelling unit and junior accessory dwelling unit may be rented separate from the primary residence, but only with a rental agreement and with terms greater than ~~thirty~~ {30} days.

(f) The accessory dwelling unit and/or junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the premises.

(1) The accessory dwelling unit and/or junior unit shall be deemed to be a legal unit and permit such accessory use of property, which use is specifically identified by the accessory use regulations for the underlying zone and per Government Code sections 65852.2 and 65852.22; and shall allow such other accessory uses which are necessarily and customarily associated with such principal residential use of the premises, except as otherwise provided by this subsection.

(A) An accessory dwelling unit and/or junior accessory dwelling unit shall be deemed an independent dwelling unit for the sole purpose of establishing a home occupation permit within the accessory dwelling unit and junior accessory dwelling unit, subject to the terms and limitations of Article 44. The limitations for home occupations shall be shared with the principal use and/or main building.

(B) No more than the quantities of animals specifically listed in Table 33-95(a) of Article 6 or section 33-1116 of Article 57 is permitted on the premises. The limitations for animal keeping and household pets shall be shared with the principal use and/or main building.

(C) For all other accessory use of property, the accessory dwelling units and/or junior accessory dwelling unit shall be controlled in the same manner as the principal use within each zone, and shall not expand or be conveyed separately from the primary use. When provided by these regulations, it shall be the responsibility of the director of community development to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, accessory dwelling unit, and/or junior accessory dwelling unit, based on the director's evaluation of the resemblance of the proposed accessory use and the relationship between the proposed accessory use and the principal use.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1474. Development standards.

(a) Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below. Notwithstanding, this section shall be interpreted liberally in favor of accessory dwelling unit construction. Furthermore, any property development standard provided herein that regulates the minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings shall permit at least an 850 square foot accessory dwelling unit to be constructed in compliance with all other local development standards and building code requirements.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The accessory dwelling unit shall be provided with a separate exterior entry. The accessory dwelling unit shall not have direct, interior access into the main building.

(3) The accessory dwelling unit shall include separate bath/sanitation facilities and include a separate kitchen.

(4) Setbacks. An attached or detached accessory dwelling unit, including a detached accessory unit that is attached to another accessory structure, shall be required to maintain minimum side and rear yard setbacks of at least four feet, and shall comply with front yard setbacks for the underlying zone. For attached accessory structures, whether attached to the primary unit or another detached accessory structure, the portion of the structure which does not include the habitable floor area of the accessory dwelling unit shall comply with setback requirements for the underlying zone. Roof eaves and other architectural projections for accessory dwelling units shall comply with section 33-104.

(A) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The accessory dwelling unit may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress, subject to the terms and limitations of this article.

(5) Maximum unit size. The maximum accessory dwelling unit size is determined by the size of the lot as provided in Table 33-1474. The living area of the accessory dwelling unit shall not exceed more than 50% of the existing or proposed living area of the primary residence.

(A) If authorized by the underlying zoning, an accessory dwelling unit may be attached to a guest house provided that the overall combined floor area of the combined building or structure does not exceed 75% of the main unit.

(B) When an accessory dwelling unit is attached to other accessory building(s) or structure(s), such as a garage, carport, or patio cover, the overall combined building area of the structure(s) shall not exceed the existing floor area of the main residence.

Table 33-1474

Lot size	Maximum Permitted Accessory Dwelling Unit Size	
	<i>1 bedroom or less</i>	<i>More than 1 bedroom</i>
Less than 20,000 square feet	850 square feet	1,000 square feet
20,000 square feet or more	1,000 square feet	1,000 square feet

(6) Minimum unit size. The minimum permitted size of an accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code section 17958.1. The minimum unit size of the residential zone shall not apply to the accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Height. Accessory dwelling units shall conform to the height limits of the zone, except that an accessory dwelling unit 16 feet in height shall be allowed regardless of the applicable height limit.

(8) Lot coverage. The combined area of all structures on a lot shall conform to the lot coverage limitation of the zone in which the property is located.

(b) Junior accessory dwelling units, as constructed within the existing or proposed single-family residence, shall be subject to all development standards of the zone in which the property is located, except as modified below.

(1) Number of bedrooms. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.

(2) The junior accessory dwelling unit shall be provided with a separate exterior entry and may have direct, interior access into the main building.

(3) A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(4) The junior accessory dwelling unit shall include an efficiency kitchen.

(5) Maximum unit size. The maximum junior accessory dwelling unit size shall not exceed 500 square feet in total floor area and shall be contained entirely within an existing or proposed single-family residence and may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing residence to accommodate ingress and egress.

(6) Minimum unit size. The minimum permitted size of a junior accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code section 17958.1. The minimum unit size of the residential zone shall not apply to the junior accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Except as provided herein, a junior accessory dwelling unit shall comply with all other zoning code standards, including, but not limited to, setbacks, building height, floor area ratio, and lot coverage.

(c) Parking requirements.

(1) Notwithstanding any other law, the city will not impose parking standards for an accessory dwelling unit or junior accessory dwelling unit.

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking is not required.

(d) Design of the unit.

(1) Access doors and entry for the accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" that is comparable to the main entrance.

(2) The accessory dwelling unit's color and materials must match those of the primary residence. The director shall review accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined to have historic value by the director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district as specified by section 33-1475. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

(e) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.

(f) Fire sprinklers. Accessory dwelling units and junior accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1475. Other regulations.

(a) Historic buildings.

(1) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory shall conform to the requirements for the historic structure.

(2) An accessory dwelling unit and/or junior accessory dwelling unit proposed for a property under a Mills Act Contract must comply with all Mills Act guidelines, including design conformance with the United States Secretary of the Interior Standards.

(3) An accessory dwelling unit and/or junior accessory dwelling unit proposed for any lot that includes a building listed in the National Register of Historic Places, California Register of Historic Places, or the local historic inventory are encouraged to comply with any historic preservation plans as may be approved by the city council. Notwithstanding the foregoing, if the city council acts to establish mandatory design standards for historically classified structures, the accessory dwelling unit and/or junior accessory dwelling unit shall conform to the mandatory standards.

(b) Guest house. An attached guest house may be converted to an accessory dwelling unit provided all provisions of this article and the building code and zoning code are met. A guest house and an accessory dwelling unit and/or a junior accessory dwelling unit may occur on the same lot provided the guest house does not contain kitchen facilities and is not rented. No more than one-accessory dwelling unit or no more than one guest house is permitted on a lot. Nothing in this section shall be construed to prohibit the construction of an accessory dwelling unit and/or junior accessory dwelling unit in compliance with this article.

(c) The city may not require a new or separate utility connection for any accessory dwelling units that meets the criteria in Government Code section 65852.2(e)(1)(A). Accessory dwelling

units and junior accessory dwelling units that do not meet the criteria in Government Code section 65852.2(e)(1)(A) may be required to obtain a new or separate utility connection.

Article 70. ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS
Sec. 33-1476. Existing nonpermitted accessory units.

This article shall apply to all accessory dwelling units or junior accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

(a) Existing nonconforming units. Accessory dwelling units or junior accessory dwelling units that exist as of the effective date of this section that have previously been legally established may continue to operate as legal nonconforming units. Any unit that exists as of the effective date of this section, and has not previously been legally established, is considered an unlawful use, unless the director of community development determines that the unit meets the provisions of this section and a permit is approved and issued.

(1) Conversion of legally established structures. The conversion of legally established structures shall require that the unit meet the provisions of this code. Any legally established waivers or nonconformities that existed when this section first went into effect may continue, provided that in no manner shall such waiver or nonconformity be expanded.

(2) Administration and enforcement of any nonconforming building standard shall be conducted in accordance with California Health and Safety Code section 17980.12.