

PART 11.4 SPECIAL REGULATIONS

PART 11.4	SPECIAL REGULATIONS	11.4-1
CHAPTER 11.4.01	SUMMARY OF SPECIAL REGULATIONS	11.4-9
§11.4.01.001	Table Summary	11.4-9
CHAPTER 11.4.02	ACCESSORY DWELLING UNITS	11.4-11
§11.4.02.001	Purpose.	11.4-11
§11.4.02.002	Accessory Dwelling Units—Effect of Conforming.	11.4-11
§11.4.02.003	Accessory Dwelling Unit—Definitions.....	11.4-11
§11.4.02.004	Accessory Dwelling Units—Approvals.	11.4-13
§11.4.02.005	Accessory Dwelling Units—General Requirements.	11.4-16
§11.4.02.006	Accessory Dwelling Units—Specific Requirements for New Construction.	11.4-17
§11.4.02.007	Accessory Dwelling Units—Specific Requirements for Conversion of Existing Structures or Spaces.....	11.4-20
§11.4.02.008	Accessory Dwelling Units—Building Code.	11.4-21
CHAPTER 11.4.03	AFFORDABLE HOUSING DENSITY BONUS (RESERVED)	11.4-22
CHAPTER 11.4.04	EMERGENCY SHELTER FACILITIES	11.4-23
§11.4.04.001	Purpose.	11.4-23
§11.4.04.002	Emergency Shelter Facilities Permit Required.	11.4-23
§11.4.04.003	Standards for Emergency Shelter Facilities.	11.4-23
CHAPTER 11.4.05	HILLSIDE DEVELOPMENT	11.4-25
§11.4.05.001	Purpose	11.4-25
§11.4.05.002	Policies.	11.4-25
§11.4.05.003	Applicability.....	11.4-26
§11.4.05.004	Hillside Development Permit Required.....	11.4-26
§11.4.05.005	Exemptions from Hillside Development Permit.	11.4-28
§11.4.05.006	Standards, Guidelines, and Thresholds.....	11.4-28
§11.4.05.007	Parcel Standards and Guidelines.	11.4-29
§11.4.05.008	Grading.....	11.4-30
§11.4.05.009	Siting.....	11.4-33
§11.4.05.010	Building Dimensions.	11.4-34
§11.4.05.011	Architectural Design.....	11.4-36
§11.4.05.012	Story Pole and Site Marking Requirements.	11.4-39
§11.4.05.013	Project Approval.....	11.4-40
CHAPTER 11.4.06	LOW-BARRIER NAVIGATION CENTER	11.4-42
§11.4.06.001	Purpose.	11.4-42
§11.4.06.002	Location.....	11.4-42

§11.4.06.003	Requirements for Low-Barrier Navigation Centers.	11.4-42
CHAPTER 11.4.07 SENIOR CITIZEN MULTIFAMILY RESIDENTIAL		11.4-44
§11.4.07.001	Purpose.	11.4-44
§11.4.07.002	Applicability.....	11.4-44
§11.4.07.003	Standards.	11.4-44
§11.4.07.004	Covenant Required.	11.4-46
CHAPTER 11.4.08 SINGLE ROOM OCCUPANCY FACILITIES.....		11.4-47
§11.4.08.001	Purpose.	11.4-47
§11.4.08.002	Standards.	11.4-47
§11.4.08.003	Design and Amenities.	11.4-47
§11.4.08.004	Management.	11.4-47
CHAPTER 11.4.09 SUPPORTIVE HOUSING		11.4-49
§11.4.09.001	Purpose.	11.4-49
§11.4.09.002	Definitions.	11.4-49
§11.4.09.003	Development Standards.....	11.4-49
CHAPTER 11.4.10 TRANSITIONAL HOUSING		11.4-50
§11.4.10.001	Purpose.	11.4-50
§11.4.10.002	Location.....	11.4-50
CHAPTER 11.4.11 URBAN DWELLINGS		11.4-51
§11.4.11.001	Purpose.	11.4-51
§11.4.11.002	Definitions.....	11.4-51
§11.4.11.003	General Requirements.	11.4-51
§11.4.11.004	Objective Zoning Standards.	11.4-52
§11.4.11.005	Objective Design Standards.....	11.4-55
CHAPTER 11.4.15 COMMUNITY GARDENS		11.4-58
§11.4.15.001	Purpose.	11.4-58
§11.4.15.002	Standards.	11.4-58
CHAPTER 11.4.16 ALCOHOLIC BEVERAGE SALES		11.4-60
§11.4.16.001	Purpose.	11.4-60
§11.4.16.002	Standards—On-Sale and Off-Sale Alcoholic Beverage Sales.	11.4-60
§11.4.16.003	Standards—Alcoholic Beverage Sales—Off-Sale Establishments (Liquor Stores).	11.4-61
§11.4.16.004	Findings.....	11.4-62
§11.4.16.005	Revocation.	11.4-62
§11.4.16.006	Expiration.	11.4-63
CHAPTER 11.4.17 COMMERCIAL MARIJUANA ACTIVITIES PROHIBITED		11.4-64
§11.4.17.001	Purpose and Intent.....	11.4-64
§11.4.17.002	Definitions.	11.4-64

§11.4.17.003	Prohibition of Commercial Marijuana Activities.	11.4-65
§11.4.17.004	Violations and Penalties; Public Nuisance.	11.4-66
CHAPTER 11.4.18	DRIVE-THROUGH FACILITIES.....	11.4-68
§11.4.18.001	Purpose.	11.4-68
§11.4.18.002	Applicability.....	11.4-68
§11.4.18.003	Drive-Through Facilities—Traffic Queueing Analysis Required.	11.4-68
§11.4.18.004	Drive-Through Facilities – Parking and Access	11.4-68
§11.4.18.005	Drive-Through Facilities—Development Standards.	11.4-68
§11.4.18.006	Drive-Through Facilities—Design Standards.....	11.4-69
CHAPTER 11.4.19	SERVICE STATIONS	11.4-70
§11.4.19.001	Purpose.	11.4-70
§11.4.19.002	Uses and Activities.....	11.4-70
CHAPTER 11.4.20	TOBACCO AND/OR ELECTRONIC CIGARETTE SHOPS AND LOUNGES	11.4-71
§11.4.20.001	Purpose.	11.4-71
§11.4.20.002	Permits Required.	11.4-71
§11.4.20.003	Development Standards.....	11.4-71
CHAPTER 11.4.21	ANIMAL SALES AND SERVICES	11.4-72
§11.4.21.001	Purpose.	11.4-72
§11.4.21.002	Animal Boarding.....	11.4-72
§11.4.21.003	Animal Grooming.....	11.4-72
§11.4.21.004	Animal Sales.	11.4-73
§11.4.21.005	Veterinary Clinics.....	11.4-73
CHAPTER 11.4.22	BED AND BREAKFAST INNS	11.4-74
§11.4.22.001	Purpose.	11.4-74
§11.4.22.002	Operational Standards.	11.4-74
§11.4.22.003	Development Standards.....	11.4-74
§11.4.22.004	Transient Occupancy Tax.....	11.4-74
CHAPTER 11.4.23	SHORT-TERM VACATION RENTALS PROHIBITED	11.4-75
§11.4.23.001	Purpose.	11.4-75
§11.4.23.002	Short-Term Vacation Rentals Prohibited.	11.4-75
§11.4.23.003	Violation.	11.4-75
CHAPTER 11.4.24	TATTOOING, BODY PIERCING, AND BODY ART ESTABLISHMENTS.....	11.4-76
§11.4.24.001	Purpose.	11.4-76
§11.4.24.002	Standards.	11.4-76
CHAPTER 11.4.25	MASSAGE ESTABLISHMENTS	11.4-77
§11.4.25.001	Purpose.	11.4-77
§11.4.25.002	Definitions.	11.4-77

§11.4.25.003	Exceptions.	11.4-79
§11.4.25.004	Business License and Other Permits Required.....	11.4-81
§11.4.25.005	Massage Establishment Permit Required.	11.4-81
§11.4.25.006	Massage Establishment Permit – Application	11.4-82
§11.4.25.007	Off-Premises Massage Permit.	11.4-83
§11.4.25.008	Massage Permits – Notice of Approval or Denial.	11.4-84
§11.4.25.009	Grounds for Denial, Suspension, or Revocation of Massage Permits.	11.4-84
§11.4.25.010	Term of Massage Permits.....	11.4-85
§11.4.25.011	Renewal of Massage Permits.	11.4-86
§11.4.25.012	Massage Permits Non-Transferrable.....	11.4-86
§11.4.25.013	Suspension and Revocation of a Massage Permit.....	11.4-86
§11.4.25.014	Appeal of Director’s Decision.	11.4-87
§11.4.25.015	Director's Decision Stayed During Appeal.	11.4-87
§11.4.25.016	Appeal Hearing Before the City Manager.....	11.4-87
§11.4.25.017	Notices.	11.4-88
§11.4.25.018	Massage Establishment – Operating Requirements.....	11.4-88
§11.4.25.019	Off-Premises Massage – Prohibitions.....	11.4-90
§11.4.25.020	Inspections.	11.4-90
§11.4.25.021	Violations.....	11.4-90
CHAPTER 11.4.26	PERSONAL WIRELESS SERVICE(S) FACILITIES	11.4-91
§11.4.26.001	Purpose and Intent.....	11.4-91
§11.4.26.002	Definitions.	11.4-91
§11.4.26.003	Applicability.....	11.4-93
§11.4.26.004	Required Permits and Other Approvals.....	11.4-93
§11.4.26.005	Permit Applications.....	11.4-94
§11.4.26.006	Pre- and Post- Decision Notices Required.....	11.4-95
§11.4.26.007	Approvals; Denials.....	11.4-95
§11.4.26.008	Location Standards.....	11.4-97
§11.4.26.009	Design Standards.	11.4-98
§11.4.26.010	Standard Conditions for Approved Permits.	11.4-102
§11.4.26.011	Legal Nonconforming Wireless Telecommunications Facilities on Private Property. 11.4-108	
§11.4.26.012	Special Exceptions for Federal or State Preemption.....	11.4-108
CHAPTER 11.4.27	RECYCLING FACILITIES	11.4-109
§11.4.27.001	Purpose.	11.4-109
§11.4.27.002	Reverse Vending Machines.....	11.4-109
§11.4.27.003	Small Collection Facilities.	11.4-109
§11.4.27.004	Large Collection Facilities Prohibited.	11.4-110
CHAPTER 11.4.28	DAY CARE FACILITIES (CHILD AND ADULT)	11.4-111

§11.4.28.001	Purpose.	11.4-111
§11.4.28.002	Care Provider Occupancy.	11.4-111
§11.4.28.003	Small Family Day Care, Large Family Day Care, and Small Adult Day Care.	11.4-111
§11.4.28.004	Standards—Day Care Centers.	11.4-111
CHAPTER 11.4.29 RESIDENTIAL CARE FACILITIES		11.4-112
§11.4.29.001	Purpose and Applicability.	11.4-112
§11.4.29.002	Licenses, Permits, Certifications, and Approvals.	11.4-112
CHAPTER 11.4.30 ADULT ORIENTED BUSINESSES AND ENTERTAINERS		11.4-113
§11.4.30.001	Purpose.	11.4-113
§11.4.30.002	Definitions.	11.4-113
§11.4.30.003	Adult Oriented Permits – Required.	11.4-116
§11.4.30.004	Adult Oriented Business Permit – Application.	11.4-116
§11.4.30.005	Adult Entertainer Permit Application.	11.4-117
§11.4.30.006	Adult Oriented Permits – Notice of Approval or Denial.	11.4-118
§11.4.30.007	Grounds for Denial, Suspension, or Revocation of Adult Oriented Permits.	11.4-118
§11.4.30.008	Display of Adult Oriented Permits.	11.4-119
§11.4.30.009	Term of Adult Oriented Business and Adult Entertainer Permit.	11.4-120
§11.4.30.010	Renewal of Adult Oriented Permits.	11.4-120
§11.4.30.011	Adult Oriented Permits Non-Transferrable.	11.4-120
§11.4.30.012	Suspension or Revocation of an Adult Oriented Permit.	11.4-120
§11.4.30.013	Appeal of the City Manager’s Decision.	11.4-121
§11.4.30.014	City Manager’s Decision Stayed During Appeal.	11.4-122
§11.4.30.015	Appeal Hearing Before City Council.	11.4-122
§11.4.30.016	Nonconforming Adult Oriented Businesses.	11.4-122
§11.4.30.017	Notices.	11.4-123
§11.4.30.018	Adult Oriented Businesses – Operational Standards.	11.4-123
§11.4.30.019	Adult Oriented Business – Performance Standards.	11.4-125
§11.4.30.020	Adult Oriented Businesses – Gross Receipts Records.	11.4-126
§11.4.30.021	Adult Oriented Business That Provide Live Performances – Register of Adult Entertainers.	11.4-127
§11.4.30.022	Inspections.	11.4-127
§11.4.30.023	Violations.	11.4-127
§11.4.30.024	Regulations Not Exclusive.	11.4-127
CHAPTER 11.4.31 ANIMAL KEEPING AND ANIMAL CLUBS IN RESIDENTIAL AND MIXED USE ZONES .11.4- 128		
§11.4.31.001	Purpose.	11.4-128
§11.4.31.002	Animal Keeping in Residential and Mixed Use Zones.	11.4-128
§11.4.31.003	Animals Prohibited.	11.4-128
§11.4.31.004	Dogs, Cats, and Other Ordinary Household Animals.	11.4-129

§11.4.31.005	Livestock Permitted as an Accessory Use.	11.4-129
§11.4.31.006	Farm Fowl Permitted as an Accessory Use.....	11.4-130
§11.4.31.007	Maintenance of Premises.	11.4-132
§11.4.31.008	Boarding of Livestock.....	11.4-132
§11.4.31.009	Animal Keeping—Property Registration Required.	11.4-133
§11.4.31.010	Excess Animal Permit.....	11.4-134
§11.4.31.011	Animal Club Permit.	11.4-135
CHAPTER 11.4.32 COTTAGE FOOD OPERATIONS.....		11.4-136
§11.4.32.001	Purpose.	11.4-136
§11.4.32.002	Permit Required and Compliance with Permit.	11.4-136
§11.4.32.003	Standards.	11.4-136
§11.4.32.004	Enforcement.	11.4-137
CHAPTER 11.4.33 DONATION COLLECTION BINS		11.4-138
§11.4.33.001	Purpose.	11.4-138
§11.4.33.002	Applicability.....	11.4-138
§11.4.33.003	Donation Collection Bin Permit Required.	11.4-138
§11.4.33.004	Regulations.	11.4-139
§11.4.33.005	Revocation of Permit, Removal of Unattended Donation Boxes, and Liability. .	11.4-140
§11.4.33.006	Amortization Period and Removal.	11.4-140
§11.4.33.007	Exceptions.	11.4-141
CHAPTER 11.4.34 FLAGS AND FLAGPOLES		11.4-142
§11.4.34.001	Purpose.	11.4-142
§11.4.34.002	Standards.	11.4-142
CHAPTER 11.4.35 HOME OCCUPATIONS		11.4-144
§11.4.35.001	Purpose.	11.4-144
§11.4.35.002	Applicability.....	11.4-144
§11.4.35.003	Home Occupation Permit Required.	11.4-144
§11.4.35.004	Standards.	11.4-144
§11.4.35.005	Prohibited Uses.	11.4-145
§11.4.35.006	Revocation.....	11.4-146
§11.4.35.007	Business License Required.	11.4-146
§11.4.35.008	Expiration of Permit.	11.4-146
CHAPTER 11.4.36 KIOSK USES		11.4-147
§11.4.36.001	Purpose.	11.4-147
§11.4.36.002	Standards for Kiosk Uses.	11.4-147
CHAPTER 11.4.37 OUTDOOR DINING.....		11.4-148
§11.4.37.001	Purpose.	11.4-148
§11.4.37.002	Standards	11.4-148

§11.4.37.003	Additional Standards for Outdoor Dining within the Public Right- of-Way	11.4-149
§11.4.37.004	Criteria and Conditions.....	11.4-150
CHAPTER 11.4.38 OUTDOOR DISPLAY AND ACTIVITIES IN NONRESIDENTIAL ZONES		11.4-151
§11.4.38.001	Purpose.	11.4-151
§11.4.38.002	Outdoor Display.	11.4-151
§11.4.38.003	Outdoor Activity in Commercial and Mixed Use Zones.	11.4-151
CHAPTER 11.4.39 OUTDOOR VENDING / SERVICE FACILITY		11.4-152
§11.4.39.001	Purpose.	11.4-152
§11.4.39.002	Applicability.....	11.4-152
§11.4.39.003	Outdoor Vending/Service Facility Permit Required.	11.4-152
§11.4.39.004	Regulations.	11.4-153
CHAPTER 11.4.40 PERSONAL INDOOR CULTIVATION OF MARIJUANA		11.4-155
§11.4.40.001	Intent and Purpose.....	11.4-155
§11.4.40.002	Definitions.	11.4-155
§11.4.40.003	Marijuana Cultivation Prohibited—Exception.	11.4-156
§11.4.40.004	Personal Indoor Cultivation of Marijuana Permit Required.	11.4-156
§11.4.40.005	Personal Indoor Cultivation of Marijuana—Conditions.....	11.4-159
§11.4.40.006	Violation and Enforcement—Public Nuisance Declared.	11.4-161
CHAPTER 11.4.41 SPORTS COURTS AND BATTING CAGES (PRIVATE) IN RESIDENTIAL ZONES ..		11.4-162
§11.4.41.001	Purpose.	11.4-162
§11.4.41.002	Use Permit Required.	11.4-162
§11.4.41.003	Construction and Operation Standards.....	11.4-162
§11.4.41.004	Commercial Use Prohibited.....	11.4-164
CHAPTER 11.4.42 LATE NIGHT HOURS		11.4-165
§11.4.42.001	Purpose.	11.4-165
§11.4.42.002	Applicability.....	11.4-165
§11.4.42.003	Conditional Use Permit Required for Operating During Late Night Hours.	11.4-165
§11.4.42.004	Review Criteria.	11.4-165
§11.4.42.005	Operational Standards.	11.4-165
§11.4.42.006	Amortization.....	11.4-166

List of Tables

Table 11.4.01-1: Special Regulations by Use Type	11.4-9
Table 11.4.31-1: Livestock Permitted	11.4-129
Table 11.4.31-2: Farm Fowl Permitted	11.4-130
Table 11.4.31-3: Space Requirements for Farm Fowl.....	11.4-131

List of Figures

Figure 11.4.02-1: Visibility Triangle	11.4-18
Figure 11.4.05-1: Excluded Areas.....	11.4-30
Figure 11.4.05-2: Contour Grading Technique.....	11.4-32
Figure 11.4.05-3: Manufactured Slope.....	11.4-32
Figure 11.4.05-4: Hillside Building Heights.....	11.4-34
Figure 11.4.05-5: Hillside Building Heights-Stepped Massing.....	11.4-35
Figure 11.4.05-6: Hillside Roof Pitch.....	11.4-36
Figure 11.4.05-7: Retaining Wall Screening	11.4-37
Figure 11.4.05-8: Hillside Building Heights-Upslope Lot	11.4-39
Figure 11.4.11-1: Side and Rear Articulation.....	11.4-56

Chapter 11.4.01 Summary of Special Regulations

§11.4.01.001 Table Summary

Table 11.4.01-1: Special Regulations by Use Type

RESIDENTIAL USES
Accessory Dwelling Units (Chapter 11.4.02)
Affordable Housing Density Bonus (Chapter 11.4.03)
Emergency Shelter Facilities (Chapter 11.4.04)
Hillside Development (Chapter 11.4.05)
Low-Barrier Navigation Center (Chapter 11.4.06)
Senior Citizen Multifamily Residential (Chapter 11.4.07)
Single Room Occupancy Facilities (Chapter 11.4.08)
Supportive Housing (Chapter 11.4.09)
Transitional Housing (Chapter 11.4.10)
Urban Dwellings (Chapter 11.4.11)
COMMUNITY USES
Community Gardens (Chapter 11.4.15)
RETAIL USES
Alcoholic Beverage Sales (Chapter 11.4.16)
Commercial Marijuana Activities Prohibited (Chapter 11.4.17)
Drive-Through Facilities (Chapter 11.4.18)

Service Stations (Chapter 11.4.19)
Tobacco and/or Electronic Cigarette Shops and Lounges (Chapter 11.4.20)
SERVICE USES
Animal Sales and Services (Chapter 11.4.21)
Bed and Breakfast Inns (Chapter 11.4.22)
Short-Term Vacation Rentals Prohibited (Chapter 11.4.23)
Tattooing, Body Piercing, and Body Art Establishments (Chapter 11.4.24)
Massage Establishments (Chapter 11.4.25)
Personal Wireless Service(s) Facilities (Chapter 11.4.26)
Recycling Facilities (Chapter 11.4.27)
CARE USES
Day Care Facilities (Child and Adult) (Chapter 11.4.28)
Residential Care Facilities (Chapter 11.4.29)
ENTERTAINMENT USES
Adult Oriented Businesses and Entertainers (Chapter 11.4.30)
ACCESSORY USES
Animal Keeping and Animal Clubs in Residential and Mixed-Use Zones (Chapter 11.4.31)
Cottage Food Operations (Chapter 11.4.32)
Donation Collection Bins (Chapter 11.4.33)

Flags and Flagpoles (Chapter 11.4.34)
Home Occupations (Chapter 11.4.35)
Kiosk Uses (Chapter 11.4.36)
Outdoor Dining (Chapter 11.4.37)
Outdoor Display and Activities in Nonresidential Zones (Chapter 11.4.38)
Outdoor Vending / Service Facility (Chapter 11.4.39)
Personal Indoor Cultivation of Marijuana (Chapter 11.4.40)
Sports Courts and Batting Cages (Private) in Residential Zones (Chapter 11.4.41)
Late Night Hours (Chapter 11.4.42)

Chapter 11.4.02 Accessory Dwelling Units

§11.4.02.001 Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 66314 and 66333.

§11.4.02.002 Accessory Dwelling Units—Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will not be:

- A. Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
- B. Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.
- C. Considered in the application of any local ordinance, policy, or program to limit residential growth.
- D. Required to correct a nonconforming condition, as defined in Section 11.4.02.003 This does not prevent the city from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

§11.4.02.003 Accessory Dwelling Unit—Definitions.

As used in this section, terms are defined as follows:

"Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated and include a separate exterior access. An accessory dwelling unit also includes an efficiency unit, as defined by California Health and Safety Code Section 17958.1 and a manufactured home, as defined by California Health and Safety Code Section 18007.

"Accessory structure" means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land, and which is located on the same lot or parcel of land with the main building or use.

"Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

"Efficiency dwelling unit" means a dwelling unit constructed in accordance with Health and Safety Code Section 17958.1 or the California Building Code Section 1208.4.

"Efficiency kitchen" means a kitchen that includes each of the following:

1. A kitchen sink; and
2. A cooking appliance; and
3. A refrigerator; and
4. A clear food preparation counter or counters (working space) of not less than 30 inches in front; and
5. Food storage cabinets of reasonable size in relation to the size of the JADU.

"Floor area (accessory dwelling unit) [FA(ADU)]" means the total square footage of the accessory dwelling unit (as measured from the inside perimeter of the exterior walls) under solid roof, including, but not limited to, habitable attics and basements and lofts.

"Floor area (existing or proposed single-family dwelling) [FA(SFD)]" means the total square footage of the primary single-family dwelling under solid roof, including, but not limited to, habitable attics and basements, lofts and attached garages, but excluding volume space (as calculated within Section 11.3.03.005(D)2)), porches, patios, eaves, breezeways and any legally permitted attached ADU or JADU.

"High quality transit corridor" means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. See also "Major transit stop."

"Junior accessory dwelling unit" or "JADU" means a residential unit that:

1. Is a minimum of 190 square feet and no more than 500 square feet in size of interior livable space in size;
2. Is contained entirely within an existing or proposed single-family dwelling. Enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence;
3. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family dwelling; and
4. Includes an efficiency kitchen.

"Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods (CA Public Resources Code Section 21064.3). It also includes major transit stops that are included in the applicable regional transportation. See also "High quality transit corridor."

"Nonconforming zoning condition" means a physical improvement on a property or a use of the property that does not conform with current zoning standards.

"Non-Exempt ADU" means any ADU that is complies with the requirements of Government Code sections 66314-66322. The ADU may be attached or detached but must comply with the development standards contained within sections 11.4.02.005 and 11.4.02.006.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from a street, whether public or private, or a private driveway to one entrance of the ADU or JADU.

"Proposed single-family dwelling" means a dwelling that is the subject of a building permit application and that meets the requirements for permitting.

"Public transit" means a location, including, but not limited to, a bus stop or future train station, where the public may access buses, trains, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. See also "Major transit stop" and "High quality transit corridor."

"Statewide Exempt ADU/JADU" means ADUs and JADUs created pursuant to Government Code section 66323, including:

1. Single-Family Converted ADU/JADU - One accessory dwelling unit and junior accessory dwelling unit that is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure that must include exterior access;
2. Single-Family Detached ADU - One detached, new construction, accessory dwelling unit that is no more than 800 square feet in size and complies with the development standards as provided in Section 11.4.02.006;
3. Multifamily Converted ADU - Multiple accessory dwelling units within the portions of existing multifamily dwelling structures;
4. Multifamily Detached ADU - Multiple accessory dwelling units that are detached from a multifamily dwelling, subject to the objective development standards listed in Section 11.4.02.004.

"Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

§11.4.02.004 Accessory Dwelling Units—Approvals.

The following approvals apply to ADUs and JADUs under this chapter:

- A. **Requirement for Ministerial Approval.** If an ADU or JADU complies with each of the general requirements in Section 11.4.02.005 and specific requirements within Section 11.4.02.006 or Section 11.4.02.007, it shall be allowed with only applicable building permits, without discretionary review or hearing.
- B. **Timing.**
1.
 - a. The City shall determine whether an application to create or serve an ADU or JADU is complete and provide written notice of this determination to the applicant not later than 15 business days after the City receives the application.
 - b. If the City determines an application is incomplete, the City shall provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice required by subparagraph (a).
 - c. After receiving a notice that the application was incomplete, an applicant may cure and address the items that are deemed to be incomplete.
 - d. In the review of an application submitted pursuant to subparagraph (c), the City shall not require the application to include an item that was not included in the list required by subparagraph (b).
 - e. If an applicant submits an application pursuant to subparagraph (c), the City shall determine whether the additional application has remedied all incomplete items listed in the determination issued pursuant to subparagraph (b). This additional application is subject to the timelines and requirements specified in subparagraph (a).
 - f. If the City does not make a timely determination as required by this paragraph, the application or resubmitted application shall be deemed to be complete for the purposes of this section.
 2. The city shall approve or deny an application to create or construct an ADU or JADU within 60 days from the date that the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
 3. Where a permit application for an ADU or JADU is submitted concurrently with a permit application to create a new single-family dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
 - a. Permit applications to create a new single-family dwelling which maximize the total floor/roofed area as contained within Chapter 11.11 and any applicable slope factor guideline contained within Chapter 11.4.05 may include an additional 800 square foot area to accommodate a statewide exempt single-family detached ADU.
 4. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the requested delay.

5. Any denial of an ADU or JADU application requires provision of a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant within the sixty (60) day time period to approve or deny a permit application.
6. If a permit application is determined to be incomplete under paragraph (1) (a) or denied under paragraph (2) or (3), the applicant may appeal the incomplete determination or application denial to the Planning Commission.
7. A final written determination shall be provided not later than 60 business days after receipt of the applicant's written appeal.

C. **Location and Number.**

1. An ADU or JADU shall only be allowed on a parcel zoned to allow single-family or multifamily dwelling residential uses and that includes a proposed or existing dwelling.
2. **Lots with an existing or proposed single-family dwelling.** The following may be provided on a single parcel:
 - a. One JADU (Statewide Exempt) within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure, subject to the development standards set forth in Section 11.4.02.007. For the purpose of constructing a JADU, attached garages are part of a single-family dwelling; and
 - b. One ADU (Statewide Exempt) within the proposed or existing space of a single-family dwelling or accessory structure, subject to the development standards set forth in Section 11.4.02.007; and
 - c. One detached, new construction Statewide Exempt ADU subject to the development standards set forth in Section 11.4.02.007, or a Non-Exempt attached or detached ADU, subject to the development standards set forth in Section 11.4.02.006:
3. **Lots with existing or proposed multifamily dwellings.** The following may be provided on a single parcel:
 - a. Multifamily Converted ADUs created within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, and up to 25% of the existing multifamily dwelling units.
 - b. Multifamily Detached ADUs, not to exceed the number specified in clause (i) or (ii), as applicable that are located on a lot that has an existing or proposed multifamily dwelling and are subject to the standards listed in section 11.4.02.007:
 - i. Up to eight (8) detached ADUs, or as many detached ADUs as there are primary dwelling units, on a lot that has an existing multifamily dwelling or
 - ii. Up to two detached ADUs on a lot with a proposed multifamily dwelling;

§11.4.02.005 Accessory Dwelling Units—General Requirements.

The following requirements apply to all ADUs and JADUs that are approved under this chapter:

- A. **Zoning.** An ADU or JADU subject only to a building permit under Section 11.4.02.004 may be created on a lot in any R-1, R-3 zone or residential planned development (RPD) zone, public and semi-public zone, mixed use zone or DVSP (residential or mixed-use land use districts), if all of the applicable standards are met.
- B. **Survey Required.** Where an ADU or JADU is proposed, either as a conversion of an existing structure or new construction, with setbacks of five feet or less from a property line or applicable easement, a survey shall be provided at time of permit application to ensure construction is located entirely on the subject property and outside of any applicable easement, unless permission to construct within the easement is granted by the easement holder.
- C. **Fire Sprinklers.** Fire sprinklers are required for an ADU or JADU if sprinklers are required in the primary residence or residences.
- D. **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot) unless the property was built by a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program and all of the conditions under California Government Code Section 66341 are met.
- E. **Public Sewer Connection.** If public sewers are available to the lot, both the existing or proposed single-family or multifamily dwelling and the ADU and/or JADU must be connected to the sewer service in order to receive a building permit. Further, if access to the public sewer is feasible for the lot subsequent to the initial issuance of a building permit, the permit shall be subject to connection of both the existing or proposed single-family or multifamily dwelling and ADU and/or JADU to such sewer service.
- F. **Septic System.** Where connection to the public sewer is not feasible, as part of the application for a permit to create an ADU or JADU connected to a conventional or non-conventional on-site water treatment system, an approval from the Los Angeles County Department of Public Health shall be provided in compliance with the adopted Local Agency Management Program ordinance.
- G. **Rental Terms.** No ADU or JADU may be rented for a term that is shorter than 30 days.
- H. **Conversion/Demolition Restriction.** A legally constructed ADU or JADU may not be converted or demolished and rebuilt (except due to damage caused by natural disaster, fire or accident) to any other use for a period of ten years from the date a Certificate of Occupancy is granted for the ADU or JADU.
- I. **Utilities.** The ADU may have wet and dry utilities that are separate from those of the primary dwelling unit, including gas, electricity, water and telephone service.
- J. **Demolition Permits.** Where a demolition permit is required to replace a detached garage with an ADU, the demolition permit shall be issued concurrently with the building permit for the ADU.
- K. **Existing Conditions.**

1. The city shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures (including the primary dwelling unit) that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.
 2. The city shall not deny a building permit for an unpermitted ADU constructed before January 1, 2020, due to violations of building standards or non-compliance with ADU laws, unless it finds that correction of a violation is specifically necessary to protect health and safety of the occupants or public and/or buildings deemed substandard under the State Housing Law.
- L. **Tree Preservation.** If removal of a protected tree is required to allow a non-exempt ADU, the property owner shall replace it with a protected tree at the 48-inch box size (minimum), unless a certified arborist determines planting is unfeasible, in which case, payment into the city's tree fund per adopted resolution of the city council for protected tree removal shall be required.
- M. **Occupancy Requirements**
1. If the JADU shares sanitation facilities with the existing or proposed single-family dwelling, the owner of the property must reside in either the primary residence or the JADU.
 2. If the JADU does not share sanitation facilities with the existing or proposed single-family dwelling, the property owner is not required to live in either the primary residence or the JADU.
- N. **Impact Fees.** The city shall not impose any impact fee upon the development of an ADU that has 750 square feet of interior livable space or less or a JADU that has 500 square feet of interior livable space or less. Any impact fees charged for an accessory dwelling unit that has more than 750 square feet of interior livable space shall be charged proportionately in relation to the square footage of the primary dwelling unit.
1. An ADU or JADU that contains less than 500 square feet of interior livable space shall be considered other residential construction that does not increase assessable space by 500 square feet.

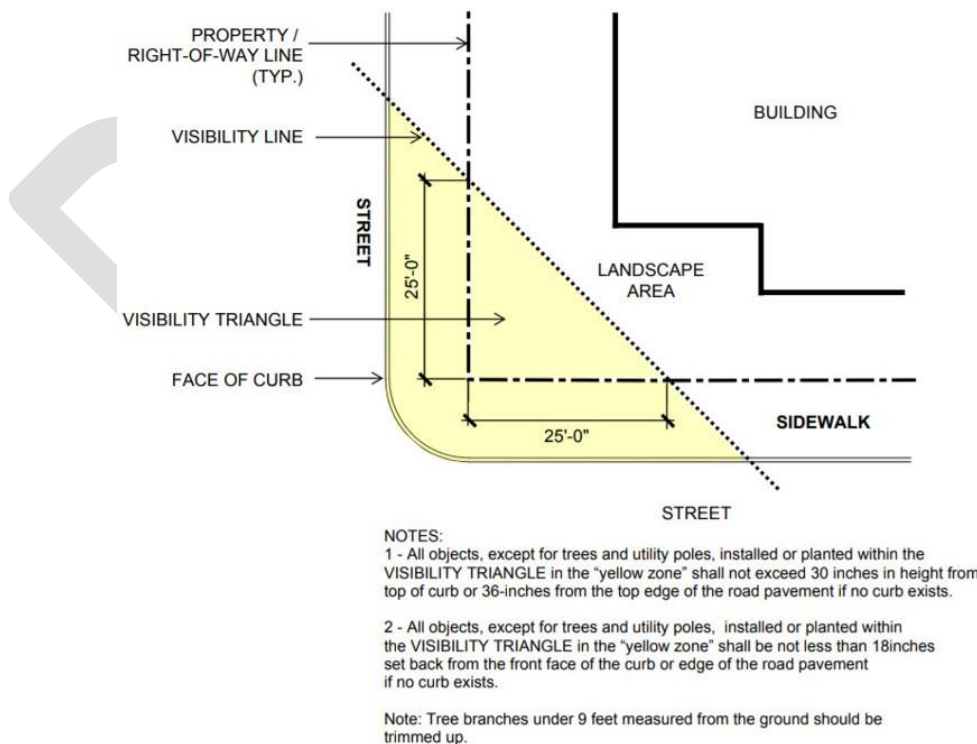
§11.4.02.006 Accessory Dwelling Units—Specific Requirements for New Construction.

The following standards apply to new construction ADU:

- A. **Maximum Size.**
1. A detached, Statewide Exempt ADU shall be limited to a total floor area of not more than 800 square feet of livable space.
 2. A Non-Exempt ADU on a single family lot shall comply with the following maximum size requirements:
 - a. The cumulative size of any non-exempt ADU and any roofed areas exceeding the livable space of the ADU, and any existing or proposed single-family dwelling, and any other existing or proposed accessory structure(s) shall comply with the total floor/roofed area as contained within Chapter 11.3.03 and any applicable slope factor guideline contained within Chapter 11.4.05.

- b. The total floor area [FA(ADU)] of an attached ADU shall not exceed 50% of the floor area [FA(SFD)].
 - c. The total floor area [FA(ADU)] of a detached or attached ADU shall not exceed 1,200 square feet of livable space.
 3. Attached covered patios or trellises shall count toward the total floor/roofed area permitted for the lot as identified within Section 11.4.02.005.
- B. **Setbacks.** ADUs and associated mechanical equipment shall comply with the setbacks identified below. Setbacks shall be measured from property lines or vehicular access easement, as verified by a survey pursuant to Section 11.4.02.005(B), whichever is applicable.
 1. **Front yard setbacks:**
 - a. A Non-Exempt ADU shall comply with the front setback requirement within the underlying zone.
 - b. A Statewide Exempt ADU shall not be constructed or placed within a visibility triangle. A visibility triangle means an area located near a street or driveway intersection in which no structure or landscaping may be installed which will obstruct views or create a traffic or pedestrian hazard as indicated in the figure below. The visibility triangle area shall be measured 25 feet from the intersecting front and side property lot lines, easement line(s) or driveway, whichever is applicable, to ensure adequate site visibility for pedestrian and vehicular safety.

Figure 11.4.02-1: Visibility Triangle



2. **Side and rear yard setbacks:** four feet.

C. **Height.**

1. On lots with an existing or proposed single-family dwelling, height limitations are as follows:
 - a. An attached Non-Exempt ADU is subject to the applicable height limit of the zone or 25 feet, whichever is lower. An attached ADU shall not exceed two stories.
 - b. A detached ADU may not exceed:
 - i. 16 feet in height, measured to the peak of the structure consistent with Section 11.3.03.005(A); or
 - ii. 18 feet, with an allowance of an additional two feet to accommodate a roof pitch aligned with the primary dwelling unit, if it is located within one-half mile walking distance of a major transit stop or high quality transit corridor.
2. On a lot with an existing or proposed multifamily dwelling, a detached ADU may not exceed 18 feet in height, measured from the lowest point at which the structure meets either natural grade or finished grade, whichever is lowest to the peak (highest point) of the structure, with an allowance of an additional two feet to accommodate a roof pitch aligned with the primary dwelling unit, if it is located within one-half mile walking distance of a major transit stop or high quality transit corridor.

D. **Passageway.** No passageway, as defined within Section **11.4.02.003**, is required for an ADU.

E. **Parking.**

1. **Generally.** One off-street, on-site parking space is required for each Non-Exempt ADU, in addition to the parking requirement for the existing or proposed single-family dwelling, except as provided in subsection (E)(2), below. The additional parking space may be provided in setback areas or as tandem parking unless specific findings are made that parking in setback areas is not feasible based upon specific site or regional topographical or fire and life safety conditions. The additional space need not be covered but shall be paved or constructed utilizing an equivalent surface and accessible from a single, common driveway for both the existing or proposed single-family dwelling and the accessory units.
2. **Exceptions.** No additional parking is required for an ADU in any of the following situations:
 - a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 11.4.02.003.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is attached to or located within an existing or proposed single-family dwelling or an existing accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is an established car share vehicle stop located within one block of the ADU.
 - f. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this paragraph.

- g. **No Replacement.** When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.
- F. **Objective Design Standards.** The following development standards shall apply to Non-Exempt ADUs.
 - 1. The ADU shall be consistent with the primary dwelling unit's roof pitch, window size, proportion of window units to wall size, direction of window openings, muntin pattern, exterior building materials, lighting fixtures, and paint colors. Elevations and floor plans shall be submitted as part of the building permit process.
 - 2. The ADU must have an independent exterior entrance, apart from that of the primary dwelling. The ADU entrance shall not be on the same elevation/side of the primary dwelling entrance unless this entrance is screened from public views.
 - 3. Any windows less than five feet (5'-0") from a property line shall be obscured glass or clerestory windows placed at six feet (6'-0") or higher above adjacent ground level.
 - 4. Eaves shall not be greater than 12 inches.
 - 5. Balconies, second story decks and roof top patios/terraces/decks shall be prohibited.
 - 6. Mechanical equipment shall not be roof mounted
- G. **Historical Protections.** Where an ADU is proposed on real property that is listed in the California Register of Historic Resources or on a lot that has an identified historical resource listed on the federal, state, or local register of historic places, the exterior architectural treatment of the ADU must comply with Chapter 11.90, Historic Preservation.

§11.4.02.007 Accessory Dwelling Units—Specific Requirements for Conversion of Existing Structures or Spaces.

The following standards apply to existing structures or spaces converted to an ADU or JADU:

- A. **Maximum Size.** An existing legally constructed structure may be demolished and rebuilt in the original location and to the same physical dimensions for the purposes of conversion to an ADU.
 - 1. An expansion of not more than 150 square feet beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - 2. Converted structures which are expanded more than the 150 square feet for ingress and egress are permitted to maintain nonconforming zoning conditions and expand in conformance with Section 11.4.02.006, Specific requirements for new construction.
- B. **Setback.** No setback is required for a legally constructed existing structure that is converted to an accessory dwelling unit provided that the original side and rear setbacks are sufficient for fire safety, as determined by the local fire agency.
 - 1. New mechanical equipment associated with conversion of existing structures or space is subject to setbacks established in Section 11.4.02.006(B).

- C. **Height.** An existing structure that is converted to an accessory dwelling unit may maintain its existing permitted height. No increase in height shall be permitted, unless the existing structure is less than 16 feet, as permitted within Section 11.4.02.005(C)(1)(b).
- D. **Passageway.** No passageway, as defined within Section 11.4.02.003, is required for an ADU.
- E. **Parking.** No additional parking is required for an ADU located within an existing or proposed single-family or multifamily dwelling or an existing accessory structure.
- F. **Historical Protections.** Where an ADU is proposed on real property that is listed in the California Register of Historic Resources or on a lot that has an identified historical resource listed on the federal, state, or local register of historic places, the ADU must comply with Chapter 11.5.12, Historic Preservation.

§11.4.02.008 Accessory Dwelling Units—Building Code.

Construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the local building code, absent express written findings by the building official that the construction of the unit could have a specific, adverse impact on public health and safety. The city can still determine a change in occupancy, for purposes of applying building code requirements, if the space was previously uninhabitable or was only permitted for nonresidential use and was converted.

Chapter 11.4.03

Affordable Housing Density Bonus (Reserved)

DRAFT

Chapter 11.4.04 Emergency Shelter Facilities

§11.4.04.001 Purpose.

In accordance with State law, the City of La Cañada Flintridge has a responsibility to provide adequate sites for emergency shelters that serve homeless individuals and families. This Chapter establishes standards for emergency shelter facilities.

§11.4.04.002 Emergency Shelter Facilities Permit Required.

- A. **Permit Required.** Unless otherwise exempt, the operator of an emergency shelter facility shall first obtain an Emergency Shelter Facilities Permit pursuant to this Chapter prior to the establishment of an emergency shelter facility within the city.
- B. **Permit Application Requirements.** The Emergency Shelter Facilities Permit application shall be filed with the Director on a form provided by the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Filing and Processing of Applications).
- C. **Permit Fee.** The fee for an Emergency Shelter Facilities Permit shall be as established by Council resolution as may be amended from time to time.
- D. **Decision.**
 - 1. Within thirty (30) days of receiving a completed application, the Director shall issue a Emergency Shelter Facilities Permit or deny the issuance of a permit.
 - 2. The Director shall not issue such permit unless the Director determines that all requirements of this Chapter have been met.
 - 3. If the Director denies the permit, the Director shall provide the applicant, in writing, the specific reason(s) for the denial.
 - 4. The Director's decision may be appealed to the Planning Commission pursuant to Chapter 11.2.03 (Call-Up and Appeals).

§11.4.04.003 Standards for Emergency Shelter Facilities.

An Emergency Shelter Facilities Permit shall be issued by the Director only if the following standards are met:

- A. **Minimum Separation.** Emergency shelters shall be located at least three hundred (300) feet apart, measured in a straight line between property lines of each shelter without regard to intervening structures or objects.
- B. **Maximum Number of Beds.** Emergency shelters shall have no more than thirty (30) beds.
- C. **Limited Terms of Stay.** The maximum term of stay at an emergency shelter is thirty (30) days in any consecutive twelve (12) month period.
- D. **On-Site Waiting Area.** Emergency shelters shall provide an enclosed or screened waiting area that is physically separated from the public right-of-way in order to accommodate clients and to prevent queuing into the public right-of-way. Waiting areas shall be at least ten (10) square feet per bed.

- E. **Lighting.** Lighting for emergency shelter facilities shall comply with the requirements of Chapter 11.5.05 (Outdoor Lighting Standards) except as provided in Subsection 11.5.05.005(F).
- F. **Parking.** Parking for emergency shelter facilities shall be provided pursuant to Chapter 11.5.04 (Off-Street Parking).
- G. **On-site Security.** Emergency shelters shall provide on-site security during all hours when shelters are open.
- H. **Exterior Maintenance.** Emergency shelter operators shall ensure that the exterior of shelters, including signs and accessory structures, are properly maintained. Emergency shelter sites shall be kept free of litter and graffiti at all times. Graffiti shall be removed within forty-eight (48) hours of discovery.
- I. **Supervision.** Emergency shelters shall provide on-site supervision at all times when shelters are open. Shelter operators or their designees shall patrol areas within one thousand (1,000) feet of the shelter when shelters are open and for one (1) hour after the closing each morning to ensure that shelter residents and/or individuals who have been denied shelter access do not congregate in the adjacent neighborhoods.
- J. **Design and Amenities.**
 - 1. **Facility layout.** Living, dining, and kitchen areas within emergency shelters shall be physically separated from sleeping areas.
 - 2. **Sleeping area.** Sleeping areas within emergency shelters shall be at least thirty-five (35) square feet per bed.
 - 3. **Secure area.** Secure areas shall be provided for personal property in emergency shelters.
 - 4. **Bathroom facilities.** Emergency shelters shall provide facilities for personal care (i.e., bathroom and shower facilities).
 - 5. **Telephone services.** Emergency shelters shall provide telephone services that are separate from the office phones to protect privacy. Any payphone provided at an emergency shelter shall allow for call-out service only.
 - 6. **Contact information.** Emergency shelters shall post operator contact information at shelter entrances.
- K. **Management Plan.** Emergency shelter operators shall provide the City with a management plan that addresses management experience, client supervision, client services, standards to govern expulsions, good neighbor issues, transportation, lights-out times, and food services provided. The management plan shall also include a floor plan that demonstrates compliance with all physical standards of this Chapter, as well as contact information for the shelter operator. Management plans shall be submitted to and approved by the Director prior to start of operations.

Chapter 11.4.05 Hillside Development

§11.4.05.001 Purpose

- A. It is the City's position that its hillsides are a valuable resource to the community, providing a visible geographical boundary to the city and aesthetic relief to the viewscape from virtually every location in La Cañada Flintridge. To date, hillside development in this community has generally avoided creating the significant negative effects common to the practice of mass grading to provide building sites. The end product of past development practices in La Cañada Flintridge has largely been the retention of natural land forms and the community's "semi-rural" character. However, much of the remaining undeveloped acreage in the city can best be described as steep, consisting of slopes in excess of 30% or 40% (thirty or forty percent), and/or visually prominent. Further, the city's hillsides contain or surround several significant environmental and aesthetic resources and are traversed by hiking and riding trails.
- B. The purpose of this Chapter's standards and guidelines is to protect existing open space and to ensure that any hillside development is orderly and consistent with desirable existing surrounding development patterns, is carried out in a manner which promotes and enhances public safety and general welfare, and is not disruptive of the predominant hillside character of the community.

§11.4.05.002 Policies.

The following policies are reflective of community standards and shall apply to all hillside development projects undertaken in the city:

- A. Existing community character, as defined by such factors as visual appearance, density, road widths, and vegetation, shall be preserved and/or enhanced.
- B. Prominent landforms within the community, including, but not limited to ridgelines, knolls, valleys, creeks (either dry or active), or other unique topographic features or viewsapes, shall be maintained. The most significant of such landforms are identified in, but not limited to, Figure CNE-3 (Topographic and Visual Resources) of the Conservation Element.
- C. Major hillside viewsapes visible from points within the city shall not be detrimentally altered by the intrusion of highly visible cut and/or fill slopes, building lines, and/or road surfaces.
- D. The visual impact of grading shall be minimized.
- E. Levels of development shall be coordinated with available and potential circulation capacities and shall be controlled by the ability to provide adequate access within the constraints defined in this Chapter.
- F. Development in areas of exposure to high fire risk shall be subject to reasonable mitigation measures formulated during the project review process to reduce such risk.
- G. Development shall be planned in such a manner as to avoid flood, mudslide, and subsidence to residents and structures on or near hillside areas as well as downstream of any project.
- H. Significant environmental and recreational resources shall be maintained and enhanced, including measures to prevent visual or physical encroachment into such resources.

- I. New lots created under the provisions of this Chapter shall be properly planned and designed to result in development which is in conformance with this Chapter.

§11.4.05.003 Applicability.

- A. This Chapter shall apply to any R-1 zoned lot or parcel of land which has an average slope of 15% (fifteen percent) or greater. Additionally, the provisions of this Chapter shall apply to previously graded hillside lots, the slope of which had been equal to or greater than fifteen (15) percent prior to grading, and for which no building permits currently in effect have been issued.
- B. For the purposes of this Chapter, “average slope” shall be defined as the relationship between the change in elevation (rise) of the land and the horizontal distance (run) over which that change in elevation occurs. The average slope “S” is computed on the net area of a parcel by the following formula:

$$S = \frac{100IL}{A}$$

Where: S is average percent slope;
I is contour interval in feet;
L is summation of all contours in feet; and
A is Area, in square feet, of parcel being considered.

- C. In instances where this Chapter conflicts with any other ordinance or regulation of the City, the provisions of this Chapter shall take precedence and apply.

§11.4.05.004 Hillside Development Permit Required.

Approval of a Hillside Development Permit (HDP) is required of any project requiring a building or grading permit on a hillside lot as described in §11.4.05.003, except for actions and activities that are exempt from the requirements of this Chapter as specified in §11.4.05.005. The Hillside Development Permit prescribed in this Chapter includes three (3) levels of review, as follows: Director’s Review, Zoning Hearing Officer Review, and Planning Commission Review. Procedures and requirements for each level of review for a Hillside Development Permit pursuant to this Chapter are provided for in §11.4.05.013. The level of said approval shall be according to the following review threshold schedule:

A. **Hillside Development on a Vacant Lot (as part of new development including a primary structure).**

1. All new development: Planning Commission

B. **Hillside Development on an Existing Developed Lot.**

1. **Single story review.**

- a. New single story accessory structure (detached):
- i. *600 sq. ft. or less:* Director’s Review.
 - ii. *601-1,200 sq. ft.:* Zoning Hearing Officer Review.
 - iii. *Greater than 1,200 sq. ft.:* Planning Commission Review.
- b. Addition to existing first story of a primary or accessory structure:
- i. *600 sq. ft. or less:* Director’s Review.

- ii. *601-1,200 sq. ft.:* Zoning Hearing Officer Review.
 - iii. *Greater than 1,200 sq. ft.:* Planning Commission Review.
- 2. **Second story review.**
 - a. Any new second story of a primary structure (addition to first story): Planning Commission.
 - b. Additions to existing second story:
 - i. *600 sq. ft. or less:* Zoning Hearing Officer Review.
 - ii. *Greater than 600 sq. ft.:* Planning Commission Review.
 - iii. *600 sq. ft. or less:* Zoning Hearing Officer Review.
 - iv. *Greater than 600 sq. ft.:* Planning Commission Review.
 - c. Enclosure under existing roof, second story:
 - i. *600 sq. ft. or less:* Director's Review.
 - ii. *Greater than 600 sq. ft.:* Zoning Hearing Officer Review.
- 3. **Retaining walls, conventional (exposed height excluding freeboard).**
 - a. *Three (3) feet or lower:* Director's Review.
 - b. *Higher than three (3) feet, up to six (6) feet:* Zoning Hearing Officer Review.
 - c. *Higher than six (6) feet:* Planning Commission Review.
- 4. **Retaining walls, crib type (cribwalls) (exposed height excluding freeboard).**
 - a. *Eight (8) feet or lower:* Director's Review.
 - b. *Higher than eight (8) feet:* Planning Commission Review.
 - c. *Additional provisions:* Cribwalls are, for the purpose of this Chapter, retaining walls which are constructed of modular units between which planting areas are provided. Cribwall product certification shall be provided to the satisfaction of the Building Department, along with evidence that septic drainage will not undermine the cribwall structure.
- 5. **Pools, Spas, and associated equipment: Director's Review.**
 - a. *Within the front yard:* See Subsection 11.3.03.005.E.6.
 - b. *Exceptions.* See §11.4.05.005.
- 6. **Grading within one hundred (100) feet of an identified ridge line:** Planning Commission (see Subsection 11.4.05.009(B)).
- C. **Additional Thresholds:** Additional thresholds are contained under subsequent sections of this Chapter.

§11.4.05.005 Exemptions from Hillside Development Permit.

The following actions and activities shall be exempted from the requirements of a Hillside Development Permit, provided that the actions and activities otherwise comply with the requirements of this Chapter, the underlying zone, and as otherwise provided for in this Zoning Code.

- A. Interior remodels, including any remodel that does not add square footage (whether or not offset by other reductions in square footage) and does not alter the exterior appearance of a structure or add another story.
- B. Re-roofing of any structure, using the same color and type of materials as existing.
- C. Accessory dwelling units as provided for in Chapter 11.4.02 (Accessory Dwelling Units).
- D. A new spa that is developed completely within the footprint of an existing pool that complies with all other development standards.
- E. A new spa that has at least fifty (50) percent of its total perimeter and associated area within the footprint of an existing pool may be exempted from the requirements of a Hillside Development Permit as determined by the Director.
- F. Emergency slope repair and measures necessary to stabilize a slope may be exempted from the requirements of a Hillside Development Permit, at the discretion of the City Manager. The City Manager's action shall be reported to the City Council, who may require additional measures to address aesthetics.
- G. Fences and freestanding walls; except that such structures shall comply with Subsection 11.4.05.009(B)(2).
- H. Roof-top solar panels.
- I. Unroofed stairways or steps: Director's Review
- J. Mechanical equipment: Zoning Clearance
- K. Lighting: Refer to §11.5.05 Outdoor Lighting Standards
- L. Street fronting fences and walls. Refer to underlying zone standards
- M. Driveway Gates: Refer to underlying zone standards
- N. Flags and flagpoles: See §11.4.34.
- O. Sports courts / batting cages: See §11.4.41.

§11.4.05.006 Standards, Guidelines, and Thresholds.

Each hillside parcel is unique. For many criteria, a fixed standard may not be an appropriate means of ensuring harmonious development due to the complexities of topography, the varying degree of site visibility, the effects of local soil conditions on prospective landscaping, and many other variables. Thus, this Chapter contains not only development standards, but also guidelines. Thresholds are also included, indicating the level of review required for a given category of project. The intent is not to discourage appropriate project characteristics which require higher levels of review, but rather to ensure that the opportunity is provided for public review of projects of any theoretical potential for disruption of the hillside environment. Refer to other chapters for general regulations, including but not limited to standards that

apply to the base zone, and for parking and vehicular access for hillside development, grading, lighting, special uses, etc.

§11.4.05.007 Parcel Standards and Guidelines.

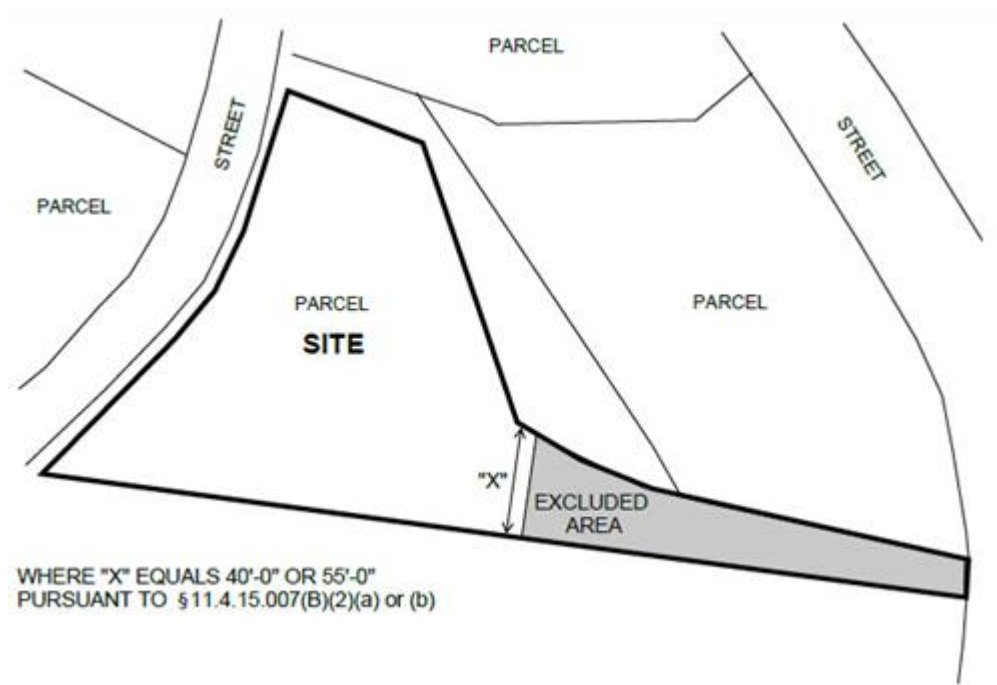
A. Density.

1. **Newly created lots—density standards.** Every property in any residential zone which is subject to the provisions of this Chapter also shall be subject to the requirements of the A/B Line, as shown on the Zoning Map in accordance with Figure LUE-1 in the Land Use Element of the General Plan, and as specified in this Section.
 - a. Property on the “A” side of the A/B Line shall maintain development densities not exceeding one (1) dwelling unit per one (1) acre of site area as to any tract map (i.e. the creation of five (5) or more lots). Maximum density for divisions of less than five (5) parcels is determined by the underlying zone.
 - b. The “B” side of the A/B Line is applied to severe hillside areas of the city where developments with higher use densities could not be achieved in compliance with the policies and standards of this Chapter and without detrimental effects upon public safety and aesthetics as identified in the General Plan and this Chapter. Property on the “B” side of the A/B Line shall maintain development densities not exceeding one (1) dwelling per ten (10) acres of site area for any land division.
 - c. Density shall be subject to additional reduction with increasing slope when necessary to meet required findings per Subsection 11.4.05.013(E), using the slope factor in Subsection (A)(2) of this Section.
2. **Slope factor.** The slope factor is a development standard for land divisions and a guideline for floor area restrictions. As average lot slope increases, allowable minimum size of newly created lots shall increase per the Slope Factor as defined in Part 7.

B. Lot Configuration.

1. **Minimum lot dimension standards.**
 - a. *Average Lot Width:* Fifty-five (55) feet,
 - b. *Depth:* One hundred fifty (150) feet,
 - c. *Frontage:* Forty (40) feet.
2. **Excluded areas.** Any portion of a site less than the following width shall not be included in the tabulation of lot area for the purposes of calculating allowable lot size, density, lot coverage, or floor area, unless the required findings in Subsection 11.4.05.013(E) can otherwise be made (see Figure 11.4.05-1: Excluded Areas).
 - a. *R-1-40,000 or “B” density overlay:* Fifty-five (55) feet,
 - b. *Other zones:* Forty (40) feet.

Figure 11.4.05-1: Excluded Areas



3. **Flag lots.** The creation of new flag lots shall be prohibited in proposed subdivisions or lot line adjustments.

§11.4.05.008 Grading.

- A. **Review Threshold.** The provisions of §11.5.01.002 shall apply to development that is subject to this Chapter.
- B. **Slopes.** The height of retaining wall(s) exposed to view shall be deducted from the permitted height of the slope, as follows.
 1. **Cut slopes.**
 - a. *Height threshold.* Unless approved at a Zoning Hearing Officer level (or higher) public hearing, the sum of the vertical heights, at any one (1) section through the site, of any finished cut slopes created for the purpose of developing the lot, shall be limited to the height of the proposed structure wherever it is to be concealed from general view by that structure, or to a maximum of ten (10) feet where exposed to general view.
 - b. *Width standard.* Unless approved at a Zoning Hearing Officer level (or higher) public hearing, the lateral extension (width) of the finished cut slope shall not exceed the maximum width of the structure by more than twenty (20) feet, with an additional twenty (20) feet allowed for tapering to existing grade.

- c. *Gradient threshold.* Unless approved at a Zoning Hearing Officer level (or higher) public hearing), maximum exposed cut slope at any one (1) section through the site shall not exceed that allowed by the City's Building Code in effect at the time of grading permit issuance, and shall be further limited to the average existing grade plus twenty (20) percent grade. The existing and modified slopes shall be indicated on the topographical map by section cut lines spaced not more than twenty (20) feet apart.

2. **Fill slopes.**

- a. *Height threshold.* Unless approved at a Zoning Hearing Officer level (or higher) public hearing, the vertical height of any finished fill slope created for the purpose of developing a residential dwelling site shall not exceed ten (10) feet.
- b. *Gradient threshold.* Unless approved at a Zoning Hearing Officer level (or higher) public hearing), maximum fill slope shall not exceed that allowed by the City's Building Code in effect at the time of grading permit issuance, and shall be limited to the average natural grade plus twenty (20) percent grade. The existing and modified slopes shall be indicated on the topographical map by section cut lines spaced not more than twenty (20) feet apart.
- c. *Slope contours.* Any manufactured slope, and the radius of any slope forming a transition between manufactured and natural slope, shall follow the natural topography to the greatest extent possible. Contour grading techniques shall be used to provide a variety of slope percentages and slope directions in a three-dimensional, undulating pattern similar to adjacent existing terrain. Hard edges left by cut and fill operations shall be given rounded appearances that closely resemble adjacent, natural contours, as shown in Figure 11.4.05-2 and Figure 11.4.05-3. In no event shall less than a twenty-five (25) foot radius be used for the convex blending curvature at the outside corners and edges of any cut slope or fill slope or for the concave curvature where a cut slope or fill slope meets natural grade. The top and bottom of any cut slope or fill slope shall be rounded with a radius of not less than five (5) feet.

Figure 11.4.05-2: Contour Grading Technique

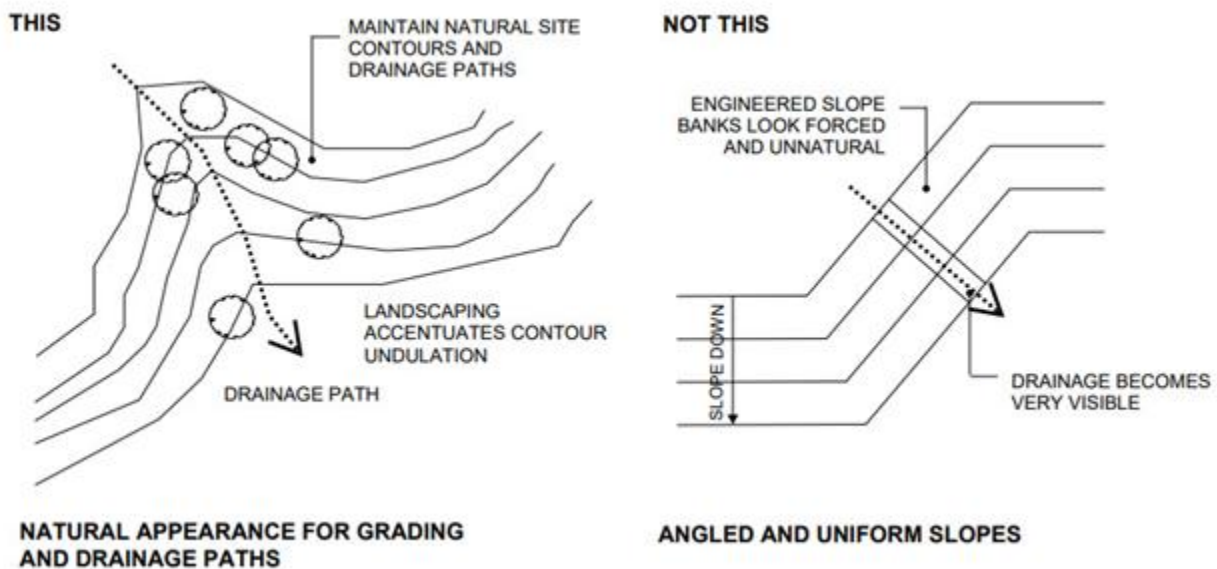
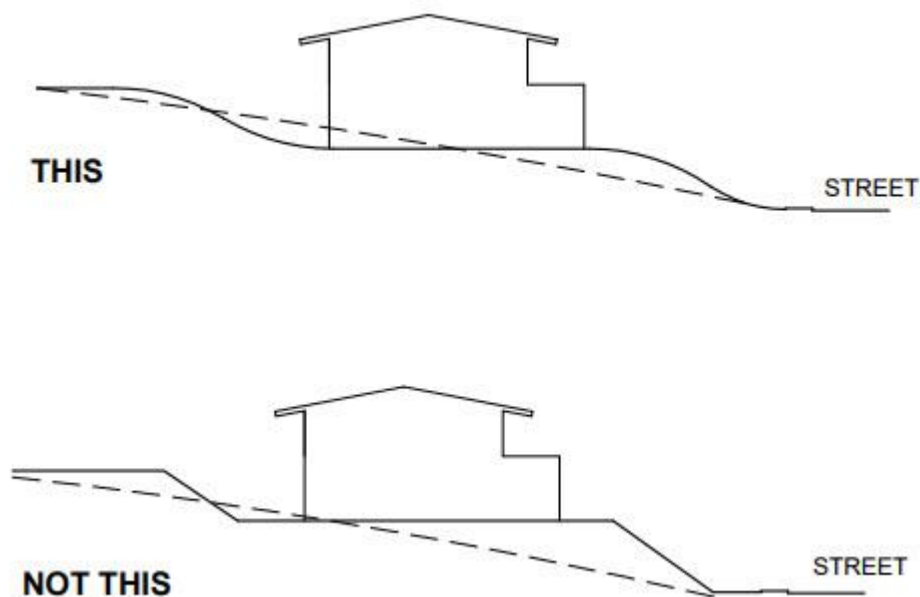


Figure 11.4.05-3: Manufactured Slope



- d. *Road or driveway cut/fill.* For a driveway or roadway, the maximum total vertical height of any combination of finished cut and fill slopes from grade shall not exceed eight (8) feet unless approved at a Zoning Hearing Officer level (or higher) public hearing.

- C. **Drainage.** Projects shall comply with the following requirements unless the Director determines alternative design is preferable.
1. **Debris collection.** Where applicable, lot designs and the location of proposed improvements shall permit accommodation of debris from potential land slippage and/or erosion without damage to improvements or other properties downslope, and with access to a street to provide for cleanup and removal. Debris basins, rip rap, and energy-dissipating devices shall be constructed and maintained where necessary to reduce erosion. Except for necessary flood control, significant natural drainage courses shall not be altered by grading activity. If a drainage crossing is required, a natural crossing and bank protection shall be preferred over steel and concrete systems. Where brow ditches are required, they shall be naturalized with plants and native rock.
 2. **Runoff and subsurface discharge.** Passage for bulked-flow and subsurface runoff shall be provided to a safe point of discharge, such as a street, channel, or debris basin, in a manner such that damage to improvements, slopes, or other properties will not result. Drainage channels shall be placed in inconspicuous locations, and shall receive a naturalizing treatment including native rock, colored concrete, and landscaping, so that the structure appears as an integral part of the environment. Natural stream gradients shall not be flattened.
 3. **Overflow route.** An emergency overflow route for flood and debris flows which exceed the design capacity of planned drainage, flood control, and debris facilities and devices shall be provided. Overflow routes shall direct overflows away from slopes and improvements and toward safe points of discharge.
 4. **Downdrains.** All required exposed downdrains shall follow an oblique, rather than vertical, path down the slope, and shall be screened to the maximum extent possible by color and/or appropriate vegetation.

§11.4.05.009 Siting.

A. **Minimum Setback Dimensions.**

1. Minimum dimensions shall conform to the standards for the underlying zone.
2. **Exception.** A front setback reduction for a one-story structure or the first story portion of a multi-story structure to no less than twenty (20) feet may be approved through a public hearing in accordance with the provisions of §11.4.05.004, if the additional findings in Subsection 11.4.05.013(E)(2)(f) can be made.

B. **Ridgeline Protection.**

1. **Sites and structures.** Proposed building sites and/or structures shall not detrimentally impact a primary ridgeline or knoll as identified on Figure CNE-3 (Topographic and Visual Resources) of the Conservation Element of the City's General Plan. New development and/or grading on any parcel within one hundred (100) feet of an identified ridgeline shall be subject to Planning Commission approval.
2. **Fences and freestanding walls.** Fences and freestanding walls shall be located away from any ridgeline or crest of any slope so that such fences and walls are not visible against the sky from offsite.

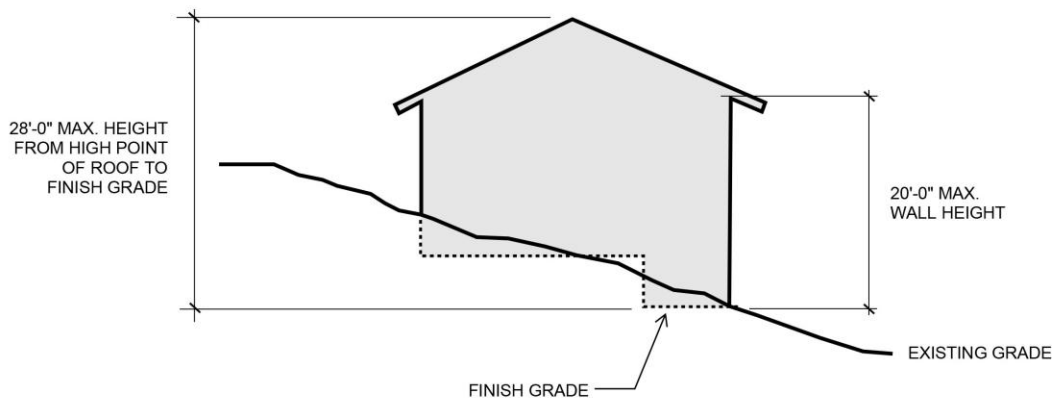
- C. **Watercourse Protection.** Development in the vicinity of Blue Line Streams may be subject to Army Corps of Engineers and California Department of Fish and Wildlife approval prior to any issuance of grading or building permits.

§11.4.05.010 Building Dimensions.

A. Height.

1. **Maximum building height of primary structure.** Maximum allowed building height for the primary structure is twenty-eight (28) feet as measured from the lowest finish grade adjacent to the building or directly beneath a projecting wall surface, to the highest roof structure, as depicted in Figure 11.4.05-4: Hillside Building Heights, aside from the following exceptions in Subsections (A)(1)(a) through (A)(7)(f) of this Section as measured from the same grade:

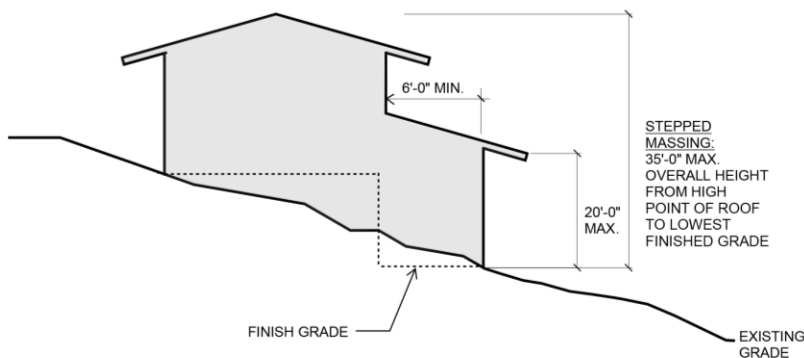
Figure 11.4.05-4: Hillside Building Heights



- a. **Downslope wall height.** Maximum allowed height of the downslope wall, aside from architectural extensions per Subsection (A)(1)(c) of this Section, shall be twenty (20) feet as measured from the lowest finish grade adjacent to the wall or directly beneath its outermost projection, except that for any project on a lot or parcel with an average slope of less than forty (40) percent, an upper wall section set back six (6) feet or more from the building line established by the lower wall may be considered a separate wall.
- b. **Upslope lot.** Building height shall not exceed fifteen (15) feet as measured from the lower of natural grade or finished grade at the front setback line of the lot, and shall not exceed the height of a plane extending from a height of fifteen (15) feet at the front setback line up and toward the rear of the lot at a forty-five (45) degree angle, as depicted in Figure 11.4.05-8: Hillside Building Heights-Upslope Lot.

- c. *Architectural extensions.* A maximum height of forty (40) feet for architectural extensions of up to twenty (20) feet in width or depth may be allowed, subject to approval through a Zoning Hearing Officer level (or higher) public hearing. Such extensions shall not be used for inhabited floor area above the highest story of the rest of the house.
- d. *Stepped massing.* A maximum overall height of thirty-five (35) feet may be allowed, subject to approval through a Zoning Hearing Officer level (or higher) public hearing for buildings which, in stepping down the slope, diminish effectively viewed bulk, provided that at no point around the perimeter of the building is the twenty-eight (28) foot height limit exceeded except for architectural extensions per Subsection (A)(1)(c) of this Subsection, as depicted in Figure 11.4.05-5: Hillside Building Heights-Stepped Massing). A building is considered to step down the slope if the line connecting its corresponding components is no steeper than the average of the natural slopes adjacent to the entire structure.

Figure 11.4.05-5: Hillside Building Heights-Stepped Massing



- e. *Vertical additions.* Any vertical addition to any habitable structure shall be subject to approval through a Zoning Hearing Officer level (or higher) public hearing.
 - f. *Retaining or crib walls adjacent to buildings.* Any retaining or crib wall less than twenty (20) feet from a building wall may be considered a part of that building wall for the purposes of calculating building height.
2. **Maximum building height of accessory structure.** Maximum allowed building height of an accessory structure is fifteen (15) feet as measured from the lowest finish grade adjacent to the building or directly beneath a projecting wall surface, to the highest roof structure, as depicted in Figure 11.4.05-4: Hillside Building Heights.

- B. **Overall Horizontal Dimension Guideline.** Maximum horizontal dimension shall not exceed one hundred twenty (120) feet, unless the required findings in Subsection 11.4.05.013(E) can otherwise be made.
- C. **Floor Area.** As average lot slope increases, underlying zoning limits on total floor area in relation to lot size shall be lowered per the Slope Factor identified in Table 11.7.01-1, unless the required findings per Subsection 11.4.05.013(E) can otherwise be made. In addition, for existing lots, allowable floor area shall be lowered per the Slope Factor as defined in Chapter 11.7.01 (Definitions), unless the required findings per Subsection 11.4.05.013(E) can otherwise be made.

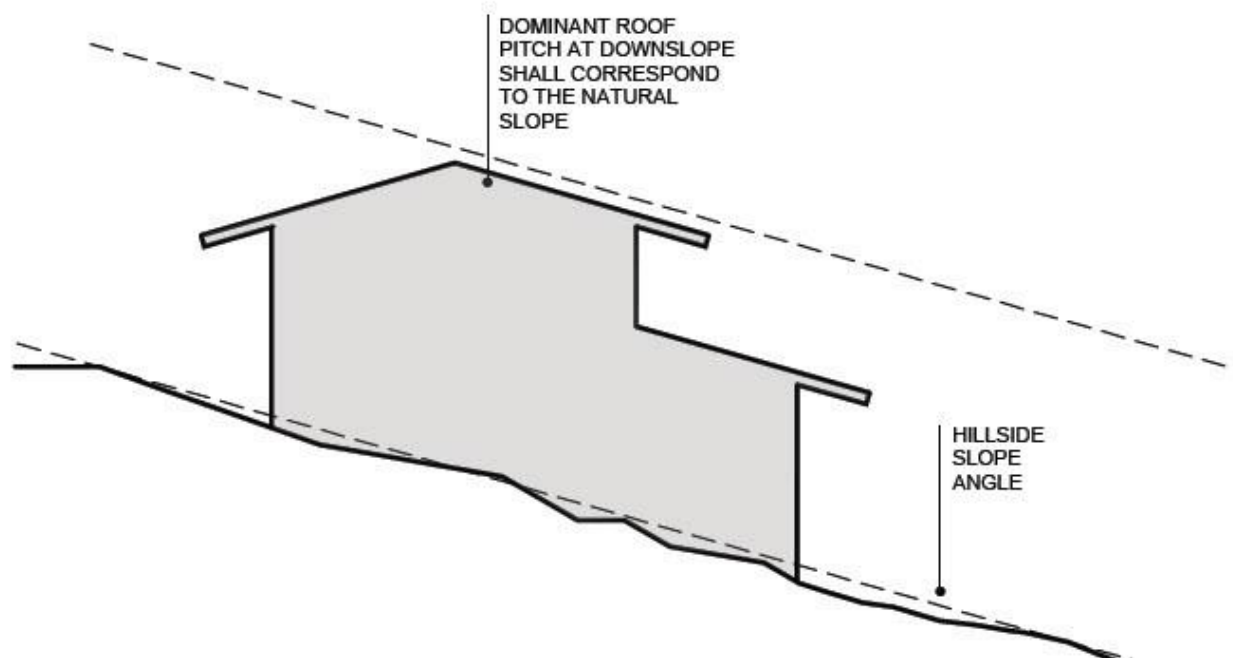
§11.4.05.011 Architectural Design.

The following standards and guidelines shall apply, unless it can be demonstrated that the project, though not complying, is consistent with the findings in Subsection 11.4.05.013(E).

A. Standards.

- 1. **Roof pitch.** The dominant roof pitch at the downslope side shall correspond to the natural slope of the site, as depicted in Figure 11.4.05-6: Hillside Roof Pitch, and no more than twenty-five (25) percent of the total roof area should be flat.

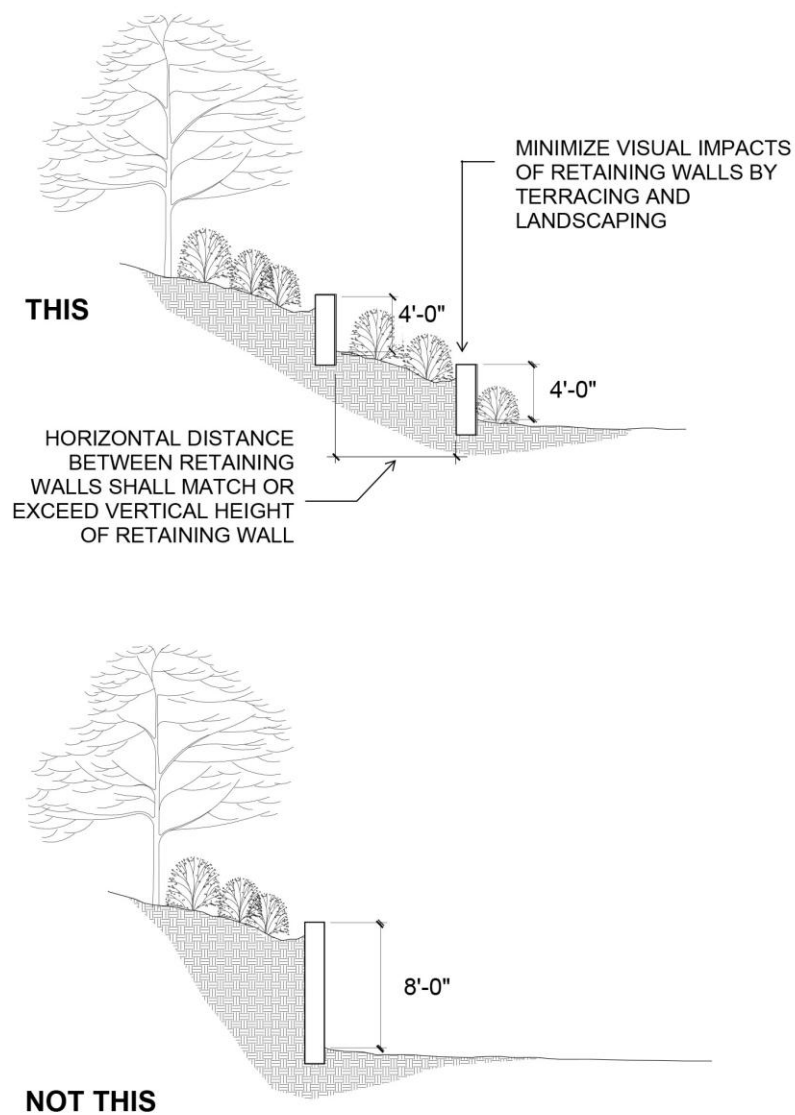
Figure 11.4.05-6: Hillside Roof Pitch



- 2. **Brightness.** Reflectance value (LRV) shall not exceed fifty (50) percent for walls or fences, or thirty (30) percent for roofs. An LRV over thirty (30) percent may be permitted based on the State Green Building Code cool roof requirements.
- 3. **Screening.**

- a. *Retaining walls.* Any retaining wall over three (3) feet in height shall be screened from offsite view by a building or by landscaping. See Figure 11.4.05-7: Retaining Wall Screening.

Figure 11.4.05-7: Retaining Wall Screening

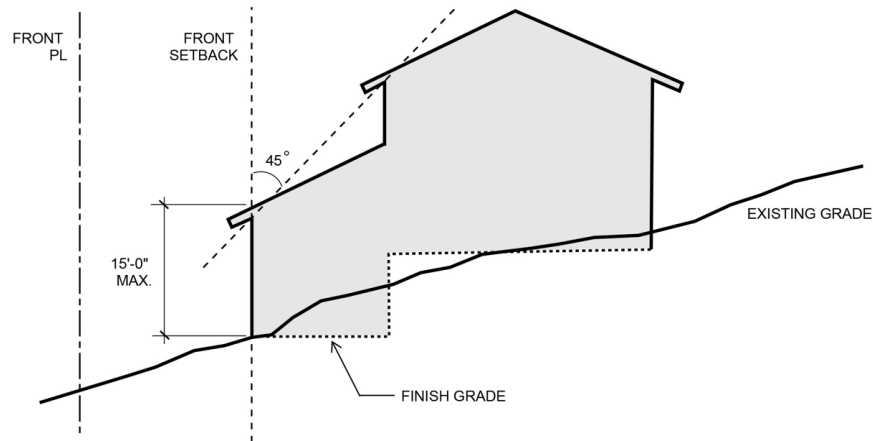


- b. *Building screening.* Where building bulk as seen from downslope is a concern, effective mitigation through landscape screening shall be provided. Blockage by such landscaping of neighboring views over the site is discouraged.
- 4. **Plant characteristics.** The plant palette shall be consistent with the objectives of erosion control, overall drought tolerance, incorporation of native plants, and as otherwise required pursuant to Chapter 4.23 (Water Efficient Landscaping). Transitional plant character shall be provided in areas separating natural slope growth from planted and irrigated areas.
- 5. **Tree removal and replacement.** Any existing trees that are removed shall conform to the replacement requirements of Chapter 11.5.06 (Preservation and Protection of Designated Trees on Private Property).
- 6. **Site lighting.** Site lighting shall be in accordance with Chapter 11.5.05 (Outdoor Lighting Standards).

B. **Guidelines.**

- 1. **Vertical accents.** Vertical accents are encouraged (see Building Height, Subsection 11.4.05.010(A)(1)), and shall be accompanied by a vertical break in wall surface.
- 2. **Symmetry.** Overall symmetry is strongly discouraged.
- 3. **Wall Modulation.**
 - a. *Separation between breaks.* A vertical break or breaks in each wall surface should be provided at least each forty (40) feet on the first story and each twenty (20) feet on the second story.
 - b. *Break dimensions.* The breaks in plane recommended in preceding Subsection (D)(1) of this Section shall consist of significant projecting or recessed areas.
- 4. **Surface Depth.** Creation and expression of surface depth, through the use of deeply recessed wall openings, reveals, moldings, cornices, and similar devices, is encouraged.
- 5. **Cantilevers.** Cantilevers and dominant overhangs, except for eaves, are discouraged.
- 6. **Reflectivity.** Reflective glass and glossy roofing materials are discouraged.
- 7. **Retaining Walls.** Retaining walls constructed of stone or natural materials architecturally consistent with the development may be permitted in lieu of or in combination with cut or fill slopes.

Figure 11.4.05-8: Hillside Building Heights-Upslope Lot



§11.4.05.012 Story Pole and Site Marking Requirements.

Any development proposal for which a Hillside Development Permit is required pursuant to this Chapter shall provide a Site Marking Plan and install story poles in accordance with Chapter 11.5.09 (Story Pole and Site Marking Requirements).

- A. **Exception.** No story poles are required for a development proposal for which a Hillside Development Permit is required pursuant to this Chapter in any of the following situations:
 1. Grading,
 2. Where the addition of retaining walls (conventional and cribwalls) or accessory structures (including pools and spas) is not readily visible from the public right-of-way or adjacent properties;
 3. Additions (first or second story) over thirty-five (35) feet in height; or
 4. Additions (first or second story) where, based on Director's review, it is determined that public health and safety issues prevent installation of story poles.
- B. **Requesting Director's Review for Exemption.** In the event there are justifiable reasons why story poles cannot be accommodated for all structures proposed to be constructed on the project site, the applicant shall submit a letter to the Community Development Director no later than forty-five (45) days prior to the required installation date, clearly articulating the reasons why an exception to the Story Pole requirement is warranted.
 1. Requests for an exception and alternative plan will only be considered if the applicant can clearly demonstrate and the Director agrees, that the installation of the story poles would: (1) cause a threat to public health and safety or (2) would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the business or residential use would be infeasible.

2. Where the Director determines an exemption is necessary, 3D renderings or visual simulations may be required.

§11.4.05.013 Project Approval.

- A. **Initiation.** A proposal for hillside development may be initiated by application for a Hillside Development Permit according to the provisions of Chapter 11.6.01 (Filing and Processing of Applications). A Zoning Hearing Officer Review also may be initiated by referral by the Director. A Planning Commission Review also may be initiated by referral by the Zoning Hearing Officer, or by appeal of a Zoning Hearing Officer review action by any party.
- B. **Authority.**
 1. **Hillside Development Permit—Director’s Review.** Applications for a Director’s Review of a Hillside Development Permit pursuant to §11.4.05.004 shall be reviewed and acted upon by the Director subject to Review Process A (Subsection 11.6.02.004(A)). Any project which exceeds the thresholds established by this Chapter or does not meet the standards of this Chapter may not be approved, unless a Zoning Hearing Officer hearing or Planning Commission public hearing is held, in accordance with procedures contained herein.
 2. **Hillside Development Permit—Zoning Hearing Officer Review.** Applications for a Zoning Hearing Officer Review of a Hillside Development Permit pursuant to §11.4.05.004 shall be acted upon by the Zoning Hearing Officer. A public hearing shall be required subject to Review Process C (Subsection 11.6.02.004(C)). The Zoning Hearing Officer may approve, approve with conditions, disapprove, or forward to the Planning Commission, with or without recommendation, any application subject to Zoning Hearing Officer review.
 3. **Hillside Development Permit—Planning Commission Review.** Projects exceeding the threshold for the Zoning Hearing Officer Review as established in §11.4.05.004, single lot development projects referred from the Zoning Hearing Officer to the Planning Commission, and all applications for multiple lot development projects, as defined in this Section, shall be subject to review and action by the Planning Commission. A public hearing shall be required pursuant to Review Process D-2 (Subsection 11.6.02.004(D)(2)). For the purposes of this Section, a multiple lot development project shall be considered to be any development of two (2) or more contiguous lots or parcels of land.
- C. **Notification.**
 1. Notice of Director’s Review shall be pursuant to §11.2.02.003.
 2. Notice of a public hearing required for Zoning Hearing Officer Review or Planning Commission Review shall be as provided for in §11.2.02.003.
- D. **Conditions of Approval.** At any level of review, conditions may be imposed as a part of any approval such as are deemed necessary to fulfill the purposes of the Zoning Code and may include reasonable guarantees and evidence that such conditions are being, or will be, complied with.
- E. **Required Findings.** The designated decision-making authority may approve an application following a determination that all of the following findings can be met:
 1. **Director.**

- a. The project will conform to the goals, policies, and objectives set forth in the General Plan.
 - b. All applicable provisions of this Chapter are met by the project.
2. **Zoning Hearing Officer or Planning Commission.**
- a. The project will conform to the goals, policies, and objectives set forth in the General Plan.
 - b. The project, through elements of architectural and landscape design, will uphold the policies of this Chapter, and will be harmonious with the better aspects of the built and natural setting.
 - c. The project will not create a nuisance, hazard, or enforcement problem or require the City to provide an unusual or disproportionate level of public services.
 - d. There are special conditions or unique characteristics of the subject property and its location or surroundings, such as minimal views or the potential for reducing effectively viewed bulk, which justify exceeding the provisions of the Slope Factor Guidelines (Table 11.7.01-1) or the Guidelines provided in Subsection 11.4.05.011(B).
 - e. For any project on a lot or parcel with an average slope of 40% (forty percent) or greater:
 - i. The height of the project, or any part of the project, does not present visibly excessive bulk from any vantage point, near or far,
 - ii. The privacy of the residents of other properties will not be unreasonably impacted.
 - f. Additional findings for Subsection 11.4.05.009(A):
 - i. The project minimizes grading, building visibility, and/or paving,
 - ii. The project achieves compatibility with the neighborhood setting.

Chapter 11.4.06 Low-Barrier Navigation Center

§11.4.06.001 Purpose.

Through the passage of AB 101, state law requires the City to permit low barrier navigation centers, which facilitate interim housing sites that transition those experiencing homelessness into permanent housing, until January 1, 2027, unless extended. This Chapter establishes development standards for the development and operation of low barrier navigation center uses to ensure this use is constructed and operated in a manner that is consistent with the requirements and allowances of state law, specifically Article 12 of Chapter 3 of Division 1 of Planning and Zoning Law commencing with California Government Code §65660.

§11.4.06.002 Location.

A low barrier navigation center development is a use by-right in areas zoned for mixed-use and nonresidential zones permitting multifamily uses, if it meets the requirements in §11.4.06.003.

§11.4.06.003 Requirements for Low-Barrier Navigation Centers.

- A. A Low Barrier Navigation Center development shall be permitted by right if it meets the following requirements:
1. It offers services to connect people to permanent housing through a services plan that identifies services staffing;
 2. It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to §576.400(d) or §578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals;
 3. It complies with Chapter 6.5 (commencing with §8255) of Division 8 of the Welfare and Institutions Code; and
 4. It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by §578.3 of Title 24 of the Code of Federal Regulations.
- B. **Standards for Low Barrier Navigation Centers.**
1. Low Barrier Navigation Centers shall include no more than forty (40) beds, which may be located in shared or private rooms.
 2. Exterior lighting shall be provided for pedestrian pathways and parking areas that serve low barrier navigation centers. Lighting shall be adequate for security and designed to prevent spillover on adjacent properties.

3. Operators shall ensure that the exterior of navigation centers, including signs and accessory structures, are properly maintained. The site shall be kept free of litter and graffiti at all times. Graffiti shall be removed within forty-eight (48) hours of discovery.
 4. Low barrier navigation centers shall have at least one (1) staff member present on site at all times. Operators shall provide the City with a management plan that addresses management experience, client supervision, client services, standards to govern expulsions, good neighbor issues, transportation, and services provided. The management plan shall also include a floor plan that demonstrates compliance with all physical standards of this chapter, as well as contact information for the shelter operator. Management plans shall be submitted to and approved by the Director prior to the start of operations.
 5. Living, dining, kitchen, bathroom, and service areas within low barrier navigation centers shall be physically separated from sleeping areas.
 6. Sleeping areas within low barrier navigation centers shall be at least (thirty-five) 35 square feet per bed. When beds are located within shared rooms, partitions shall be provided between beds.
 7. Amenities provided in low barrier navigation centers shall include private bathroom facilities, secure areas for personal property, computer and telephone services designated for client use, and laundry facilities.
 8. Pets shall be allowed in designated areas of low barrier navigation centers.
 9. Operator contact information shall be posted at the low barrier navigation center entrance.
- C. An application for a low barrier navigation center shall be submitted with the Director on a form provided by the Director. When an application for the development of a Low Barrier Navigation Center is submitted, the Director shall notify the developer whether the application is complete within thirty (30) days.
 - D. Within sixty (60) days of receipt of a complete application for development of a low barrier navigation center, the Director shall act upon the application.
 - E. This Section shall be in effect until January 1, 2027, and shall be repealed on that date unless extended under state law.

Chapter 11.4.07 Senior Citizen Multifamily Residential

§11.4.07.001 Purpose.

This Chapter provides standards and guidelines in support of Goal 6 of the Land Use Element to provide a mix of residential types to satisfy a variety of senior housing needs, and to ensure that multifamily housing that is designed for senior citizens facilitates their ability to live independently and provides enhanced safety and convenience features.

§11.4.07.002 Applicability.

This Chapter applies to senior citizen multifamily housing development in the R-3, RPD, and MU zones of this Zoning Ordinance, and in the Residential, Mixed Use 1, and Mixed Use 2 districts of the Downtown Village Specific Plan except as otherwise provided for in this Chapter. If any portion of a residential development or a portion of the residential part of a mixed-use development is limited to senior citizens, the provisions of this Section may apply, provided that all of the criteria provided in §11.4.07.003 through §11.4.07.004 of this Chapter are met.

§11.4.07.003 Standards.

The development standards of the base zone shall apply, except as provided below.

- A. **Density.** Any site should be developed with a minimum of twenty (20) dwelling units per acre and shall be developed with a maximum of thirty (30) dwelling units per acre, except as provided in Chapter 11.4.03 (Affordable Housing Density Bonus). This Subsection shall not apply senior citizen multifamily housing in the Downtown Village Specific Plan.
- B. **Standards for Individual Units.** All senior citizen multifamily residential units shall be designed to reflect the safety and convenience needs of senior residents. Specific design features shall include:
 1. **Kitchens.** Each unit shall contain a kitchen that includes at least two (2) burners, one (1) oven, one (1) refrigerator/freezer, one (1) sink with hot and cold running water, counter space, and storage.
 2. **Drawers and shelves.** All drawers and shelves shall be on gliders or rotating to assist in reaching;
 3. **Door handles.** All door handles shall be of a lever design instead of knobs for easier grip;
 4. **Security.** All units shall have the following:
 - a. A front door peep hole,
 - b. A dead bolt lock on all exterior doors,
 - c. A mechanism that will activate an emergency signal at a designated central location.
- C. **Convenience Features Required.** Senior citizen multifamily residential projects shall be designed in a manner that offers convenience to their residents. Convenience features that shall be provided for all multifamily senior housing projects include:

1. **Common recreation room.** Every senior citizen multifamily residential development shall contain at least one (1) common recreation room for use by all project residents. Spaces shall be provided for both active and passive activities. The total usable area shall not be less than one hundred fifty (150) square feet.
 2. **Open space.** A minimum of fifty (50) square feet of open space per unit shall be provided. The open space may be provided as private open space directly adjacent to the dwelling unit, as common open space within a unified project for the use by all residents within a project or designated portion of a project; or some combination. The minimum horizontal dimension of private open space shall not be less than five (5) feet. The minimum horizontal dimension of patios, decks, courtyard areas, and other common open space shall not be less than ten (10) feet. Common open space shall be designed for active and passive recreational uses and be of a type and intensity compatible with the residents' lifestyle and health.
 3. **Elevators.** All buildings housing senior citizen multifamily residential units that are over one (1) story in height shall be served by at least one (1) elevator. At least one (1) elevator shall be capable of handling a two thousand five hundred (2,500) pound load suitable for handling ambulance stretchers.
 4. **Laundry facilities.** Accessible self-service laundry facilities shall be required unless each dwelling unit is provided with its own laundry facilities, including a washer and dryer. If the multifamily senior housing development is a condominium, only the laundry hook-ups in individual units shall be required.
 5. **Accessibility.**
 - a. All internal site sidewalks shall be a minimum width of five (5) feet unless adjacent to parking spaces, in which case they shall be a minimum width of seven (7) feet.
 - b. All internal site sidewalks shall be lightly textured (non-slip) concrete surfaces, such as light-broom finished concrete.
 - c. Ramps shall be provided between every change of elevation intended to be used by pedestrians or persons in wheelchairs except for any change in elevation between stories that is served by an elevator.
 - d. All common areas shall be wheelchair accessible.
 - e. All senior citizen multifamily residential projects shall provide for units that are handicapped accessible as specified in Title 24, §1214 of the California Code of Regulations.
- D. **Ancillary Non-Residential Facilities.** Senior citizen multifamily residential developments may provide one (1) or more of the following non-residential facilities without a requirement for additional parking, provided that the facilities shall only be for the exclusive use of the residents.
1. Beauty and barber shop;
 2. Central cooking and dining rooms (may also be used by guests of the residents);
 3. Small scale drug store/pharmacy;
 4. A use determined by the Director to be similar in nature.

- E. **Objective Design Standards.** Senior citizen multifamily residential developments shall comply with the Objective Design Standards in Chapter 11.5.13.

§11.4.07.004 Covenant Required.

- A. The property owner shall enter into a covenant, running with the land, requiring that the senior citizen multifamily housing (or portion thereof, in a mixed-use development) shall be maintained pursuant to the following conditions:
1. That at least one (1) person in residence in each dwelling unit be required to be a senior citizen and that each other resident in the same dwelling unit shall be a qualified permanent resident pursuant to California Civil Code §51.3.
 2. That a person hired for compensation to provide live-in, long-term, or terminal health care to a senior citizen may occupy the dwelling unit for such period of time the person is providing the service.
 3. That upon death, dissolution of marriage, or upon hospitalization or other prolonged absence of the senior citizen, any qualified permanent resident shall be entitled to continue occupancy of the dwelling unit with the full rights of the senior citizen.
 4. That temporary residency shall be permitted by a person of less than fifty-five (55) years of age for periods of time, not less than sixty (60) days in any year, as specified in the covenant.
- B. The covenant shall be submitted to the City for review and approval by the City Attorney and recorded in the Office of the County Recorder prior to issuance of building permits for the senior citizen housing development.

Chapter 11.4.08 Single Room Occupancy Facilities

§11.4.08.001 Purpose.

The purpose of this Chapter is to provide for the development of single room occupancy (SRO) facilities within the city to serve the housing needs of lower-income residents, and to regulate the development and operation of SRO facilities within the city.

§11.4.08.002 Standards.

- A. **Unit Size.** The minimum size of a single-occupancy SRO unit shall be two hundred (200) square feet. The minimum size of a double-occupancy SRO unit shall be three hundred fifty (350) square feet.
- B. **Occupancy.** An SRO unit shall accommodate a maximum of two (2) persons. Double occupancy units shall make up no more than ten (10) percent of an SRO facility.
- C. **Common Area.** SRO facilities shall provide a minimum of ten (10) square feet of interior common area for each unit within the SRO facility, or two hundred (200) square feet total, whichever is greater. Common areas shall not include: (a) janitorial storage; (b) laundry facilities; (c) shared kitchen facilities; or (d) common hallways.

§11.4.08.003 Design and Amenities.

- A. **Kitchens.** Each SRO unit shall have a kitchen sink with hot and cold water, a garbage disposal, a countertop measuring a minimum of eighteen (18) inches wide by twenty-four (24) inches deep, a refrigerator, a stove/oven unit and/or microwave. If the SRO unit does not have a stove/oven unit then at least one (1) stove/oven unit shall be provided on each story of the structure in a common kitchen available for residents.
- B. **Bathrooms.** Each SRO unit shall include a bathroom containing a sink, toilet, and shower or bathtub. If the unit is double occupancy, the bathroom shall be in a separate enclosed compartment within the unit with an interior lockable door. This compartment shall be a minimum of fifteen (15) square feet.
- C. **Closets.** Each SRO unit shall have a separate closet located within the unit.
- D. **Laundry Facilities.** SRO facilities shall provide laundry facilities in a separate room at the ratio of one (1) washer and (1) dryer for every ten (10) SRO units, with at least one (1) washer and (1) dryer per story.
- E. **Cleaning Supply Room.** SRO facilities shall provide a cleaning supply room or utility closet on each story, including a wash tub with hot and cold running water.

§11.4.08.004 Management.

- A. A management plan shall be submitted to the Director for review and approval with the Conditional Use Permit application. Approval or denial shall be at the discretion of the Director.

- B. The management plan shall contain management policies and operations, rental procedures and rates, tenant screening procedures, procedures for handling tenant grievances, maintenance plans, residency and guest rules and procedures, security procedures, and staffing expectations.
- C. An SRO manager shall be on-site at all times.
- D. The SRO owner shall file an annual report with the Director that includes the range of monthly rents charged, occupancy rates, and the number of vehicles owned by residents parked at the site.
- E. SRO units shall be rented for a minimum of one (1) month. Rental terms shall not exceed six (6) months per term.

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Chapter 11.4.09 Supportive Housing

§11.4.09.001 Purpose.

This Chapter regulates the development and operation of supportive housing uses. State law requires the City to permit supportive housing as a residential use for a target population, subject to those restrictions that apply to comparable residential uses in the same zone.

§11.4.09.002 Definitions.

As used in this Section:

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to on-site or off-site service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

“Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV, AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with §4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

§11.4.09.003 Development Standards.

- A. Supportive housing uses shall be subject to the same permit requirements and development standards that apply to comparable residential uses in the same zone, except as otherwise provided for in Table 11.5-04-1 (Required Minimum Off-Street Vehicle Parking Spaces)
- B. No off-street parking spaces for units occupied by supportive housing residents shall be required for supportive housing located within one-half mile of a public transit stop.

Chapter 11.4.10 Transitional Housing

§11.4.10.001 Purpose.

This Chapter regulates the development and operation of transitional housing uses, which facilitate the transition of homeless individuals and families from temporary to permanent housing. State law requires the City to permit transitional housing as a residential use subject only to those restrictions that apply to comparable residential uses in the same zone.

§11.4.10.002 Location.

Transitional housing units shall be subject to the same permit requirements and development standards that apply to comparable residential uses in the same zone.

Chapter 11.4.11 Urban Dwellings

§11.4.11.001 Purpose.

The purpose of this section is to allow and regulate urban dwellings and urban lot splits in compliance with California Government Code Sections 65853.21 and 66411.7.

§11.4.11.002 Definitions

As used in this section, terms are defined as follows:

"Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons as defined in Chapter 11.7 of the La Cañada Flintridge Municipal Code.

"Junior accessory dwelling unit" or "JADU" means a residential unit as defined in Chapter 11.7 of the La Cañada Flintridge Municipal Code.

"Urban dwelling" means a dwelling unit established in accordance with Section 65852.21 of the Government Code and Chapter 11.4.11 of the La Cañada Flintridge Municipal Code.

§11.4.11.003 General Requirements.

Urban dwellings shall be subject to the following requirements:

A. Applicability.

1. **R-1 Zoning.** Any proposed urban dwelling must be located within the R-1 Single-Family Residential Zone.
2. **Historic Designation.** Any proposed urban dwelling must not be located on property included on the State Historic Resources Inventory (see Section 5020.1 of the Public Resources Code), or within a site that is designated or listed on the city's official register as a historic resource pursuant to the historic preservation ordinance.
3. **Very High Fire Hazard Severity Zone.** Any proposed urban dwelling located within any of the areas identified on Figure SE-6 Neighborhoods with Single Point of Access of the draft Safety Element (2021), at increased risk of wildfire, must demonstrate compliance with California Fire Code, Appendix D – Fire Apparatus Access Roads.
4. **Demolition and Alteration.**
 - a. A proposed urban dwelling must not require demolition or alteration of any of the following types of housing:
 - i. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - ii. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

- iii. Housing that has been occupied by a tenant in the last three years.
- b. **Limit on Demolition.** A proposed urban dwelling must not demolish more than 25% of the existing exterior structural walls. This limitation does not apply if the existing structure has not been occupied by a tenant in the last three years.
- c. **Other Instances.**
 - i. A proposed urban dwelling must not be on a parcel located in the areas specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, including any amendments or success statutes thereto.
 - ii. A proposed urban dwelling shall not be located on a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development proponent applies.
- B. **Ministerial Review.** Proposals for urban dwellings will be reviewed ministerially, without discretionary review or a hearing, through the zoning clearance process.
- C. **Permitting.** All construction is subject to the city's permitting process, which includes review by affected city departments and contracted county agencies, such as the Los Angeles County Fire Department and the Los Angeles County Department of Public Health (for on-site wastewater treatment systems).
- D. **Short Term Rentals Prohibited.** The rental of any urban dwelling shall be for a term longer than 30 days.

§11.4.11.004 Objective Zoning Standards.

The following standards shall apply to all urban dwellings within the city.

- A. **Maximum Number of Units:**
 - 1. Each parcel created through an urban lot split shall be limited to two dwelling units. An existing or proposed primary residence, urban dwelling unit, accessory dwelling unit (ADU) and/or junior accessory dwelling unit (JADU) will be counted toward the maximum number of units. There shall only be one primary residence, developed consistent with Chapter 11.3.03, permitted on either of the two lots.
 - 2. A parcel not affected by an urban lot split shall be limited to three dwelling units. An existing or proposed primary residence, urban dwelling unit, ADU, and/or JADU will be counted toward the maximum number of units. There shall only be one primary residence.
- B. **Minimum Size.** The minimum size of an urban dwelling shall be 500 square feet.
- C. **Maximum Size.** The maximum size of an urban dwelling shall not exceed 800 square feet and shall include all habitable areas, including any basement (whether daylighting or not) or habitable attic area. See subsection (E) below. The area of any garage shall be excluded from the 800 square foot maximum urban dwelling size.
- D. **Setbacks.**

1. **Property Line Survey Required.** Where an urban dwelling is proposed, either as a conversion of an existing structure or new construction, with setbacks of five feet or less from a property line or applicable access easement, a property line survey shall be provided at time of application to ensure the location of the property line and any existing or proposed urban dwelling is correctly identified. If the proposed urban dwelling consists of the conversion of an existing structure that crosses a property line in violation of the California Building Code or California Existing Building Code, a lot line adjustment shall be completed prior to the submittal of an application for an urban dwelling.
 2. **Right-of-Way (ROW) Identification Required.** Where an urban dwelling is proposed, either as a conversion of an existing structure or new construction, the applicant shall coordinate with the public works department to determine if any future ROW dedication may be necessary to comply with the general plan circulation element and identify any such future ROW on the site plan. The dedication of said ROW shall not be required as part of the approval; it shall be used for informational purposes only.
 3. **Existing Structures.** No setback is required for an existing, permitted structure or a structure constructed in the same location and to the same dimensions as an existing, permitted structure.
 4. For all lots, except flag lots and hillside lots, which shall have a front setback requirement of 25 feet, the required minimum and maximum front yard setback shall be based on an average of neighboring properties, per LCFMC 11.3.03.005(E)(2).
 5. **New Structures and Additions.** The minimum setback from the side and rear property line is four feet.
- E. **Incentive.** If the urban dwelling meets the requirements for the standard R-1 front, side, and rear yard setbacks (per LCFMC 11.3.03.005(E)), the maximum size can be up to one thousand six hundred feet (1,600) square feet. The parcel owner utilizing this incentive shall record a deed restriction in a form approved by the city attorney's office stipulating that no urban lot split of the parcel is permitted.
- F. **Height.**
1. **New Structures.** An urban dwelling shall not be more than one-floor level and shall not exceed 18 feet in height, as measured from the lowest finish grade adjacent to the building or directly beneath a projecting wall surface, to the highest roof structure. The distance from the top plate to the finished floor shall not exceed eight feet. Vaulted ceilings, volume space and/or architectural elements that increase would increase structure height are not permitted. Additional height through a Development Review Permit, Zoning Code Section 11.6.05.002, is not permitted.
 2. **Additions.** An urban dwelling can be added to a site with an existing two-story structure. In such instances the entirety of the additional urban dwelling shall meet the requirement of subsection (F)(1) above.
 3. **Conversions.** In cases where an urban dwelling is being added by subdividing an existing structure, the height requirements of subsection (F)(1) above do not apply.

4. **Exceptions.** Where there is insufficient space to develop an urban dwelling up to a maximum of 800 square feet at a single floor level, the urban dwelling shall not exceed 25 feet in height, with a maximum top plate height of 18 feet. If a third floor level is necessary to develop an 800 square foot urban dwelling, the third floor level must be completely subterranean and the basement level plate height shall be below grade.
- G. **Second Floor Level Step-backs.** Projects that exceed the one floor level height limit per subsection (F)(4) of this section, must step-back the second floor level a minimum of four feet from the ground floor. This standard applies only to side yard and rear setbacks.
- H. **Angle-Plane.**
 1. No portion of a building shall exceed the height of a 45 degree plane drawn from a height of ten feet above existing ground level at all boundaries of the lot. Roof eaves and rafter tails projecting out from the vertical plane of the exterior wall surface are exempted.
 2. Existing ground level shall be the lowest grade elevation at the property boundaries prior to start of construction.
- I. **Building Separation.** An urban dwelling may be attached or detached. A detached urban dwelling shall meet all building code requirements, including sufficient building separation to allow an urban lot split or separate conveyance of the urban dwelling.
- J. **Driveways and Parking.** An urban dwelling shall provide at least one off-street, on-site parking space, which can include garages, carports, or driveway parking. Any additional parking space may be provided in setbacks or as tandem parking, unless specific findings are made that parking in the setback is not feasible based upon specific site or regional topographical or fire and life safety conditions. The additional space need not be covered but shall be paved or constructed utilizing an equivalent surface and accessible from a single, common driveway for both the existing or proposed urban dwellings.
- K. **Fences, Walls and Retaining Walls.** All new fences, walls and retaining walls shall comply with the standards contained in LCFMC Section 11.3.03.005(G). Exceptions are limited to those in LCFMC Section 11.3.03.005(G)(10).
- L. **Utilities.** Separate utility meters shall be provided for each urban dwelling. All newly created parcels pursuant to an urban lot split shall be connected to public sewer or provide a private wastewater system that is fully contained within the newly created parcel boundaries. Each unit that is or that is proposed to be connected to an onsite wastewater treatment system must first have a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten years.
- M. **Building Official Review.** The city shall deny a proposed urban dwelling if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed urban dwelling would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), including any amendment or successor statute thereto, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The decision of the building official may be appealed to the planning commission in compliance with Section 11.2.03.

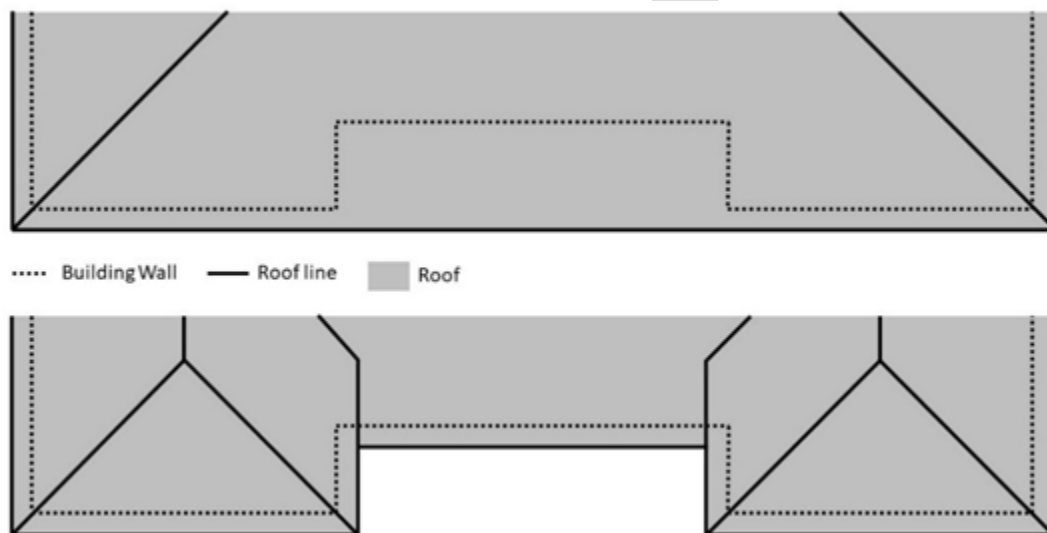
- N. **Tree Preservation.** If removal of a protected tree is required to provide a minimum 800 square foot urban dwelling, the property owner shall replace it with a protected tree at the 48 inch box size (minimum).
- O. **Disclosures.** The following disclosures shall be recorded on the property and proof of the recordation shall be provided to the city prior to final occupancy:
1. The urban dwelling is not eligible for any future overnight parking permitting programs;
 2. The urban dwelling must not be used for short term rentals;
 3. The property owner must provide for an inspection every six months for the first three years to ensure the property owner is living onsite;
 4. The property owner must pay any special inspection fee in the city's resolution adopting the master schedule of fees and charges;
 5. The property owner must provide all necessary information (including income level) to the city, required in the annual housing element report;
 6. Separate conveyance of a primary residence on the property, any separate fee interest, and any common interest development within the lot is expressly prohibited;
 7. The property was subdivided as an urban lot split and is, therefore, subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development.

§11.4.11.005 Objective Design Standards.

- A. **Objective Design Standards for Additions.** An addition to an existing structure or construction of a new urban dwelling on a parcel that contains an existing dwelling unit that is to be retained shall comply with the following standards:
1. The architectural style of the urban dwelling shall be consistent with the existing dwelling unit, including, but not limited to, the dominant roof pitch, window size, proportion of window units to wall size, direction of window openings, muntin pattern, exterior building materials, lighting fixtures, and paint colors.
 2. **Privacy.** Any windows within five feet of a property line shall be obscured glass or clearstory windows placed at six feet or higher.
 3. **Balconies.** No balcony shall be permitted.
 4. New mechanical equipment shall be placed a minimum of five feet from any property line and shall be ground mounted.
- B. **Objective Design Standards for New Construction.** The following standards apply to all new construction, where no dwelling unit exists, not additions:
1. **Style.** The architectural style of the urban unit shall be consistent with the existing dwelling unit in terms of roof style, roof pitch, architectural detailing, and materials.
 2. **Front Façade Articulation.** Front elevations must include at least two of the following: porch, canopy, bay window, awning, chimney, or courtyard. The porch or courtyard must be at least five feet deep.

3. **Entrances.** The front entry must be either recessed or protrude a minimum of five feet from the front wall. The front recessed entry or porch area must be covered.
4. **Privacy.** Any windows within five feet of a property line shall be obscured glass or clearstory windows placed at six feet or higher.
5. **Side and Rear Articulation.** No wall along a side-, rear-, or street side-yard may extend more than 24 feet without architectural articulation or an offset of at least two feet for not less than eight feet. The eave of the roof must be articulated as well at the same proportion as the wall below. See the images, below. The first image does not meet this requirement, while the second image, does.

Figure 11.4.11-1: Side and Rear Articulation



6. **Exterior Materials.** Must be consistent on all sides of the building.
7. **Quantity of Exterior Materials.** All urban dwellings shall include at minimum of two exterior building wall materials. The following exterior materials are permitted: stucco, wood, rock/stone, hand-painted tile, brick, or clinker brick. Roofing, window and door trim does not count as a second material.
8. **Durable Materials.** Design features made from foam covered by stucco are not permitted.
9. **Two Colors.** Urban dwellings shall include at least two colors; one for the main wall color and another for architectural trim pieces.
10. **Exterior Stairwells.** Exterior stairs leading from the ground floor to a second floor level are prohibited.
11. **Lighting.** All exterior lighting must be limited to down-lights.
12. **Decks.** There shall be no decks at a height of 24 inches or greater.
13. New mechanical equipment shall be placed a minimum of five feet from any property line and shall be ground mounted.
14. **Balconies.** No balcony shall be permitted.

15. **Fencing.** Fencing shall be constructed of wood, wood composite or metal; there shall be no vinyl or plastic materials.
- C. **Exceptions to Objective Standards.** Any objective zoning standard, objective subdivision standard, or objective design standard that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area must be set aside. Objective zoning standards will be set aside in the following order until the site can contain two eight hundred (800) square foot units:
 1. Floor area ratio.
 2. Tree preservation.
 3. Second floor step backs.
 4. Side and rear articulation.
 5. Maximum Number of Stories. If waiving of all the above standards does not provide for an 800 square foot unit, the building may exceed the maximum number of floors. After exceeding the maximum number of floors, the applicant must then replace the above objective standards in the opposite order until the unit size is reduced to 800 square feet.

Chapter 11.4.15 Community Gardens

§11.4.15.001 Purpose.

This Chapter provides regulations for operation and maintenance of community gardens.

§11.4.15.002 Standards.

Notwithstanding any other provisions of this Zoning Code, community gardens shall comply with all of the following standards:

- A. **Limitations.** Community gardens are limited to the cultivation, growing, production, and harvesting of fruits, vegetables, plants, flowers, and/or herbs, tillage of soil, and composting as provided for in Subsection (E) of this Section.
- B. **Hours of Operation.** The hours of operation for community gardens shall be from sunrise to sunset.
- C. **Prohibited.** The following are not allowed at community gardens:
 - 1. Beehives and keeping;
 - 2. Livestock, farm fowl, and animal-keeping;
 - 3. Plants prohibited by State and/or federal law;
 - 4. Cultivation of marijuana;
 - 5. Fertilizing with fresh manure;
 - 6. Use of herbicides and weed killers;
 - 7. Use of insecticides made from synthetic chemical materials;
 - 8. Smoking;
 - 9. On-site sales, including sales of items grown or harvested in the community garden.
- D. **Structures.** Storage structures for tools and gardening materials shall be considered accessory structures. Structures shall comply with the requirements for accessory structures for the zone within which the community garden is located.
- E. **Composting.**
 - 1. Compost at community gardens shall be covered and/or kept in containers located as close to the middle of the property as possible. In no case shall composting bins be located within any required setback.
 - 2. Compost materials shall include only materials generated on site or provided by active members of the community garden.
 - 3. Composting activities shall:
 - a. Not create a nuisance (odor, litter, dust, noise, or attract vectors or pests);
 - b. Provide vector and pest control;
 - c. Provide surface water control to prevent composting material from ponding.

F. **Trash and Recycling.**

1. Trash and recycling containers shall be screened from view or stored in a neat and orderly manner at a location at least twenty (20) feet from the front property line, and in no case shall be located within a required front setback.
2. Community gardens shall establish and maintain trash collection service from a City-approved solid waste contractor.

G. **Signs.**

1. A sign shall be displayed at the garden entrance that provides the name and phone number of a person responsible for maintaining the garden and responding to complaints.
2. A sign identifying the site as a community garden is permitted in accordance with Chapter 11.5.08 (Sign Regulations).

H. **Water.**

1. Gardeners shall follow best practices for water-efficient cultivation, which may include, but are not limited to:
 - a. Equipping hoses with water nozzles;
 - b. Applying mulch to exposed soil;
 - c. Amending soils with water-retaining matter.
2. The community garden shall be designed and maintained so that water will not drain onto adjacent property or to the public right-of-way.

Chapter 11.4.16 Alcoholic Beverage Sales

§11.4.16.001 Purpose.

This Chapter provides regulations which are intended to mitigate potential adverse land use impacts on the peace, health, safety, and welfare of residents in nearby areas, which may arise from the undue proliferation and/or inappropriate location of establishments selling alcoholic beverages.

§11.4.16.002 Standards—On-Sale and Off-Sale Alcoholic Beverage Sales.

- A. **Prohibition of Sales.** Convenience stores shall be prohibited from the “off sale” sales of alcoholic beverages.
- B. **Sales Activities.** Alcoholic beverages shall not be sold, served, or given away:
 - 1. Outside of the exterior walls of the business, except for approved outdoor dining areas of eating and drinking establishment and craft breweries, wineries, or distilleries;
 - 2. From walk-up service windows.
- C. **Litter and Graffiti.** The owner/operator shall:
 - 1. Maintain the exterior of the premises, including signs and accessory structures, free of litter and graffiti at all times;
 - 2. Provide for daily removal of trash, from the premises and abutting sidewalks or alleys within twenty (20) feet of the premises; and
 - 3. Remove graffiti within forty-eight (48) hours of written notice from the City.
- D. **Security.** The decision-making authority may require the establishment to provide security personnel, security programs, and/or surveillance devices.
- E. **Conditions.** In addition to the conditions provided for in §11.6.06, the following condition shall be required for approval of a Conditional Use Permit pursuant to this Chapter:
 - 1. The owner/operator shall maintain a copy of the most recent City permit conditions of approval on the premises and shall post a notice that these are available for review on the premises. The posted notice shall be signed by the permittee.
- F. **Signs.** Signs shall comply with Chapter 11.5.08 (Sign Regulations). In addition, the following standards shall apply:
 - 1. Window signs shall not obstruct the view of the interior of the premises (e.g., sales counter, cash register, employees, customers, etc.) from the exterior.
 - 2. Loitering, open container, and other signs specified by the Alcoholic Beverage Control Act shall be posted as required by the California Department of Beverage Control (ABC).

- G. **Site and Floor Plans.** The site and floor plans of any establishment that sells, serves, or gives away alcohol shall incorporate design features to reduce alcohol-related problems. The decision-making authority may require the incorporation of preventive design features (e.g., openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public rights-of-way and neighboring property; illumination of interior and exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior) and other safety features (e.g., security, restrooms, additional exits, etc.).
- H. **Bars, Nightclubs, and Lounges.** Bars, nightclubs, and lounges shall comply with the standards in Subsections (A) through (H) of this Section. In addition, the structure in which the bar, nightclub, or lounge is located shall be adequately soundproofed so that interior noise is not audible beyond the lot line with the doors and windows closed.

§11.4.16.003 Standards—Alcoholic Beverage Sales—Off-Sale Establishments (Liquor Stores).

In addition to the standards in §11.4.16.002, the following standards shall apply to Off-Sale Alcoholic Beverage Sales—Off-Sale (Liquor Store) establishments that are not defined as Off-Sale Alcoholic Beverage Sales, Accessory:

- A. **Location.** Any proposed liquor store shall comply with the following location standards:
1. **Minimum distance from a residential zone (R-1 and R-3) boundary:** Five hundred (500) feet, as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the residential zone boundary;
 2. **Minimum distance from other alcoholic beverage sales—off-sale establishments:** One thousand (1,000) feet, as measured from any point upon the outside walls of the building or building lease space containing the alcoholic beverage sales—off-sale establishment to the nearest point of the outside walls of the building or building lease space containing other such establishments;
 3. **Minimum distance from a public or private school, library, religious or cultural institution, and public park:** Five hundred (500) feet as measured from any point upon the outside walls of the building or building lease space containing the alcoholic beverage sales—off-sale establishment to the nearest property line of the public or private school, library, religious or cultural institution, and public park.
 4. **Visibility:** The alcoholic beverage sales—off-sale establishment shall be in a location that is fully visible from a public street with an unobstructed view from the public street for public safety purposes.
- B. **Packaging.** Wine, beer, and other distilled spirit shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale.

§11.4.16.004 Findings.

- A. **Standard Findings.** Prior to approval of a new or amended use permit for an alcohol beverage sales establishment, the decision-making authority shall find that the use is consistent with the purpose and intent of this Chapter. This finding shall be in addition to the findings required by Chapter 11.6.06 (Use Permits). In making the required finding of this Subsection, the decision-making authority also shall consider the following:
1. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.
 2. The distance of the proposed use from the following:
 - a. Residential uses;
 - b. Religious facilities, schools, libraries, public parks and playgrounds, and other similar uses; and
 - c. Other establishments dispensing alcoholic beverages.
 3. Whether the noise levels generated by the operation of the establishment would exceed the level of background noise normally found in the area or would otherwise be intrusive.
 4. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.
- B. **Public Convenience or Necessity (PNC) Finding.** The ABC has established a process that allows local jurisdictions to support or reject an application for off-sale and on-sale alcoholic beverage licenses in census tracts with an “undue concentration” of ABC licenses, where “undue concentration” is defined by the ABC pursuant to §23958.4 of the Business and Professions Code of the State, as may be amended from time to time. As provided for in §23958.4, the governing body of a local jurisdiction has the authority to determine PNC findings within ninety (90) days of notification by the ABC.
1. If notified by the ABC that a PNC finding is required, the decision-making authority shall support or reject an application for off-sale and on-sale alcoholic beverage license by making the finding that public convenience or necessity would be served by the issuance of the ABC license because the applicant has demonstrated that the benefit to the City outweighs potential risks. This finding shall be in addition to the findings required by Chapter 11.6.06 (Use Permits) and Subsection (A) of §11.4.16.004 (Findings).
 2. It is the responsibility of the applicant to justify the PNC finding for alcohol sales to the satisfaction of the decision-making authority. The applicant shall provide justification for public convenience or necessity by completing and submitting a PNC justification in a form as provided by the Director.

§11.4.16.005 Revocation.

The decision-making authority may revoke a permit for an alcohol sales establishment, upon making one (1) or more of the following findings in addition to the findings required in Chapter 11.2.04 (Enforcement):

- A. The establishment is being operated in an illegal manner or in a manner that violates the public peace, pursuant to Title 5 (Public Peace).

- B. Noise from the establishment violates Chapter 5.02 (Regulation of Community Noise) of Title 5 (Public Peace).
- C. The establishment fails to fully comply with the rules, regulations, and orders of the California Department of Alcoholic Beverage Control (ABC), including a violation of, or failure to maintain, a valid ABC license.

§11.4.16.006 Expiration.

A permit for an alcohol beverage sales establishment shall expire if the use is discontinued for ninety (90) consecutive days or if the ABC license for the establishment is revoked or transferred to a different location.

Chapter 11.4.17 Commercial Marijuana Activities Prohibited

§11.4.17.001 Purpose and Intent.

- A. In order to preserve the public health, safety, and welfare of the residents and businesses of the City, all marijuana-related businesses, activities and uses are prohibited, unless local control is otherwise preempted by State law, and except as provided for by Chapter 11.4.40 (Personal Indoor Cultivation of Marijuana).
- B. This Chapter is not intended to interfere with a patient's right to medical marijuana as provided for in §11362.5 of the Health & Safety Code.
- C. The City affirms that Title 11 ("Zoning") of the La Cañada Flintridge Municipal Code is structured as a permissive Zoning Code, wherein any use not enumerated as allowed is prohibited, and the express prohibitions on commercial marijuana activities imposed by this Chapter 11.4.17 are enacted to fully comply with requirements of state law when a city desires to prohibit commercial marijuana activities.

§11.4.17.002 Definitions.

The following words and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this Section, as follows:

"Cannabis" has the same definition as "marijuana" provided in this Chapter.

"Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of marijuana and marijuana products; except, as applicable, as set forth in Chapter 11.4.40 (Personal Indoor Marijuana Cultivation) of this Zoning Code.

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

"Delivery" means the commercial transfer of marijuana or marijuana products to a customer, and includes the use of any technology platform owned and controlled by the same person making such use.

"Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed for and/or engaged in commercial marijuana activities.

"Distributor" means a person engaged in distribution.

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

"Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or relabels its container.

“Marijuana” has the same definition as provided in §26001 of the Business & Professions Code for the term “cannabis,” and as may be amended, defined as “all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from cannabis. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.”

“Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated marijuana, or an edible or topical product containing marijuana or concentrated marijuana and other ingredients.

“Medical marijuana” or “medical marijuana product” means marijuana or a marijuana product used for medical purposes in accordance with state law, including the Compassionate Use Act (Health and Safety Code §11362.5) and the Medical Marijuana Program Act (Health and Safety Code §11362.7, *et seq.*).

“Microbusiness” shall have the same definition as provided for in §26070 of the Business and Professions Code, and as may be amended from time to time.

“Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

“Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

“Retailer” shall mean a person engaged in the retail sale and delivery of marijuana or marijuana products to customers.

“Testing laboratory” means a laboratory, facility, or entity that offers or performs tests on marijuana or marijuana products.

§11.4.17.003 Prohibition of Commercial Marijuana Activities.

- A. All commercial marijuana activities, whether medical or recreational (adult use) and including non-profit operations, are expressly prohibited in all zones (except for as preempted by state law). No person shall establish, operate, conduct, or allow commercial marijuana activities anywhere within the city except for as preempted by State law.
- B. The City shall not issue any permit, license, or entitlement for any commercial marijuana activity (except for as preempted by state law), including, but not limited to, any activity covered by the state license classifications listed below as provided for in §26050 of the Business & Professions Code:
 - 1. Type 1 = Cultivation; Specialty outdoor; Small.
 - 2. Type 1A = Cultivation; Specialty indoor; Small.
 - 3. Type 1B = Cultivation; Specialty mixed-light; Small.
 - 4. Type 1C = Cultivation; Specialty cottage; Small.

5. Type 2 = Cultivation; Outdoor; Small.
 6. Type 2A = Cultivation; Indoor; Small.
 7. Type 2B = Cultivation; Mixed-light; Small.
 8. Type 3 = Cultivation; Outdoor; Medium.
 9. Type 3A = Cultivation; Indoor; Medium.
 10. Type 3B = Cultivation; Mixed-light; Medium.
 11. Type 4 = Cultivation; Nursery.
 12. Type 5 = Cultivation; Outdoor; Large.
 13. Type 5A= Cultivation; Indoor; Large.
 14. Type 5B = Cultivation; Mixed-light; Large.
 15. Type 6 = Manufacturer 1.
 16. Type 7 = Manufacturer 2.
 17. Type 8 = Testing laboratory.
 18. Type 10 = Retailer.
 19. Type 11 = Distributer.
 20. Type 12 = Microbusiness.
- C. This prohibition includes any activities authorized under new or revised State licenses, or any other State authorization, to allow any type, category or classification of medical or recreational (adult use) marijuana commercial activities, or similar operations, including non-profit, collective or cooperative operations.
- D. The prohibition provided by this Section includes medical marijuana collectives and cooperatives that operate pursuant to §11362.775 of the Health & Safety Code, the Compassionate Use Act, or otherwise.

§11.4.17.004 Violations and Penalties; Public Nuisance.

- A. At the discretion of the City Prosecutor, any violation of this Chapter is punishable as an infraction pursuant to Subsection 1.04.010(B) of the LCFMC, or punishable as a misdemeanor pursuant to Subsection 1.04.010(A) of the LCFMC, except for as preempted by state law.
- B. **Public Nuisance Abatement.**
1. Any commercial marijuana activity that is conducted in violation of any provisions of this Chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 4.33 (Property Maintenance Requirements) of the LCFMC as reasonably applied to enforcement of this Chapter.
 2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the property owner where the nuisance is occurring.

3. Any appeal to a determination that commercial marijuana activity constitutes a public nuisance shall be pursuant to the appeal provisions in Chapter 4.33 (Property Maintenance Requirements) of the LCFMC.
- C. The remedies described in this Section are not mutually exclusive. Pursuit of any one remedy shall not preclude the City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.”

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Chapter 11.4.18 Drive-Through Facilities

§11.4.18.001 Purpose.

This Chapter establishes standards and regulations for the establishment of drive-through facilities, as defined in Part 8 (Definitions), for the purpose of mitigating potential adverse effects on the subject property, adjacent properties, and the city's public streets that could occur as a result of circulation, queuing, and noise issues that can be associated with drive drive-through facilities.

§11.4.18.002 Applicability.

This chapter shall apply to a drive-through facility whether it is the primary or accessory use on the property.

§11.4.18.003 Drive-Through Facilities—Traffic Queueing Analysis Required.

Drive-Through facilities, as defined in Chapter 11.7 "Definitions", shall be subject to an applicant-prepared queueing impact analysis. The queueing impact analysis shall be reviewed by the City Traffic Engineer prior to Planning Commission review. The comments from the City Traffic Engineer shall be forwarded to the Planning Commission for their consideration.

§11.4.18.004 Drive-Through Facilities – Parking and Access

The provision of drive-through service facilities shall not reduce the number of required off-street parking spaces unless otherwise approved pursuant to other provisions in this Code.

§11.4.18.005 Drive-Through Facilities—Development Standards.

Any facility with an aisle, lane, or route to which vehicles are directed expressly for the purpose of receiving goods or services, without the customer leaving the vehicle, shall comply with the following standards:

- A. **Entries and/or Exits.** Entries and/or exits to drive-through facilities shall be a minimum of fifty (50) feet from any intersection right-of-way, or from another drive-through facility on the same side of the street, except within a shopping center. Shorter distances from road intersections may be approved if the Public Works Director determines that public health, safety and/or welfare will not be adversely impacted.
- B. **Stacking Aisles.** Businesses that provide drive-through facilities are required to provide stacking aisles, which are spaces for vehicles waiting in the drive-through line. Stacking aisles shall meet the following requirements:
 1. Each stacking aisle shall be a separate aisle from the circulation routes and aisles necessary for ingress to, or egress from, the property or access to any off-street parking spaces. Each such aisle shall be striped, marked, or otherwise distinctively delineated.
 2. Stacking aisles shall be designed and located to prevent any vehicles from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other parking space areas.

3. Stacking aisles shall be a minimum of one hundred (100) feet from any residential (R-1 and R-3) lot. The Planning Commission may modify or waive this requirement if it determines that potential impacts to nearby residences will be minimal.
4. Stacking aisles shall have a minimum twelve (12) foot width on curves and a minimum eleven (11) foot width on straight sections. Stacking aisles shall have a minimum twenty-eight (28) foot outside turning radius.
5. Stacking aisles shall provide two hundred forty (240) feet minimum stacking length (to accommodate twelve (12) vehicles), measured from the service window to the point of ingress to the stacking aisle, unless additional queuing is determined necessary by the City Traffic Engineer.
6. Stacking aisles shall be integrated with the on-site circulation. The entire length of the designated stacking lane shall not encroach upon parking spaces, back-up and maneuvering areas, aisles, or driveways essential for proper on-site traffic circulation.

C. Noise.

1. Noise levels shall be no more than fifty (50) decibels at four (4) feet away from the drive-through speaker, and shall not be audible above daytime ambient noise levels beyond property boundaries. Further, a drive-through facility shall not increase the existing ambient noise levels above the standards contained in the Noise Element of the General Plan and this Zoning Code.
2. A sound level analysis shall be submitted to the Community Development Director with all development proposals for drive-through facilities, which include outdoor speakers to determine maximum speaker sound levels.
3. All speakers shall be directed away from any residential (R-1 and R-3) zone.

§11.4.18.006 Drive-Through Facilities—Design Standards.

All drive-through facilities shall be subject to review and approval by the Design Commission. The Design Commission shall review the project for compliance with the following design standards.

- A. Drive-aisles shall be separated from landscaping areas by a six-inch high, poured in place, concrete curb or other suitable protective device meeting City approval.
- B. Landscaping shall screen drive-through aisles, all service areas, and ground mounted mechanical equipment from the public right-of-way. Landscaping shall minimize the visual impacts of menu signs and drive-through windows while providing adequate lighting which is shielded from adjacent properties.
- C. Each drive-through aisle shall be appropriately screened with a combination of decorative walls and/or landscape to prevent headlight glare onto adjacent streets and parking lots, and to buffer adjacent uses.
- D. Menu boards shall not obstruct driver sight distance.

Chapter 11.4.19 Service Stations

§11.4.19.001 Purpose.

This Chapter provides standards for the establishment and operation of new service station operations and for the modification or expansion of existing service stations.

§11.4.19.002 Uses and Activities.

- A. **Allowed Accessory Uses and Activities.** The following uses may be allowed as accessory uses to a service station:
1. Convenience stores;
 2. Vehicle/equipment repair, limited;
 3. Towing.
- B. **Prohibited Uses and Activities.** The following uses are prohibited in conjunction with the operation of a service station:
1. Sales of alcoholic beverages;
 2. Storage or repair of wrecked or abandoned vehicles;
 3. Vehicle painting;
 4. Body or fender work;
 5. Rental of vehicle storage or parking spaces;
 6. Walk-in refrigeration units;
 7. Arcade and game machines.

Chapter 11.4.20 Tobacco and/or Electronic Cigarette Shops and Lounges

§11.4.20.001 Purpose.

This Chapter regulates the location and operation of retail purveyors of tobacco products and/or tobacco paraphernalia and/or electronic cigarette products and/or paraphernalia, and tobacco and electronic cigarette lounges to prevent adverse impacts that can be brought about by the concentration of tobacco and electronic cigarette shops and lounges and their location near sensitive uses and to ensure compatibility of such uses with surrounding uses and properties and to avoid any impacts associated with such uses.

§11.4.20.002 Permits Required.

No person shall cause or permit the creation or expansion of any tobacco and/or electronic cigarette shop or lounge without first obtaining and maintaining the following:

- A. A Conditional Use Permit pursuant to Table 11.3.02-1 (Land Use Permit Table for All Zones), as applicable; and
- B. A Tobacco Retail License pursuant to Chapter 6.07 (Tobacco Retail Licensing) of Title 6 (Business Licenses and Regulations).

§11.4.20.003 Development Standards.

A. Location.

- 1. No tobacco or electronic cigarette shop or lounge shall be located within one hundred fifty (150) feet of any parcel of land that contains any one or more of the following specific land uses:
 - a. Religious facility;
 - b. School (public or private);
 - c. Child day care facility; or
 - d. Public park or recreation facility.
- 2. No tobacco and/or electronic cigarette shop or lounge, located in a building sharing one (1) or more common walls with another retail or commercial establishment, or sharing common attic space with any other use, shall permit smoking anywhere on the premises.

- B. **Admission Charge.** There shall be no charge, nor shall tickets be sold, for admission to a tobacco or smoke shop or lounge, or electronic/vapor substance inhalation shop or lounge.
- C. **Alcohol and Marijuana Prohibited.** The sale or consumption of alcoholic beverages and marijuana shall not be permitted on the premises.
- D. **Age of Patrons.** All patrons of tobacco and/or electronic cigarette shops and lounges shall be at least eighteen (18) years or over.

Chapter 11.4.21 Animal Sales and Services

§11.4.21.001 Purpose.

This Chapter provides standards for various animal sales and services establishments for the purpose of protecting residents from their potentially adverse effects. The keeping of dogs, cats, and other small animals that does not constitute an animal boarding facility, as defined by this Zoning Code, shall be subject to the requirements of Chapter 11.4.31 (Animal Keeping and Animal Clubs in Residential and Mixed Use Zones).

§11.4.21.002 Animal Boarding.

- A. The premises shall be kept in a clean and sanitary manner by the daily removal of waste and by the use of spray and disinfectants to prevent the accumulation of flies, the spread of disease, or offensive odor.
- B. Animal boarding facilities shall be entirely enclosed, soundproofed, and air-conditioned. Outside kennel runs shall be prohibited unless they comply with the following:
 - 1. Animal boarding facilities with outdoor kennel enclosures (either individual or group) shall not be located within fifty (50) feet from the property line of any property zoned residential or mixed use.
 - 2. Dust and drainage from the outside kennel enclosure shall not create a nuisance or a hazard to adjoining property or uses.
 - 3. Animal odors shall not be detectable beyond the lot lines of the property wherein the kennel is located.
 - 4. The outside kennel enclosure shall be screened by a nontransparent fence of a minimum six (6) feet in height.
 - 5. No outdoor kennel run shall be located within the required setbacks for the zone.
 - 6. Animals shall not be allowed in the outside kennel enclosures between the hours of 6:00 p.m. and 9:00 a.m.
- C. Grooming services for the animals being boarded may be allowed as an accessory use provided the grooming services are conducted indoors and the grooming area is limited to two hundred (200) square feet in area.

§11.4.21.003 Animal Grooming.

- A. Animal grooming facilities shall be entirely enclosed, soundproofed, and air-conditioned.
- B. Boarding of animals shall be limited to a maximum of three (3) hours in association with grooming activities only.
- C. Use of outside kennel runs or cages in conjunction with animal grooming, outside trash containers, and offensive odors shall be prohibited.

§11.4.21.004 Animal Sales.

- A. Animal sales establishments shall be entirely enclosed and air-conditioned.
- B. Boarding of animals not offered for sale shall be prohibited.
- C. Outside kennel runs or cages, outside trash containers, and offensive odors shall be prohibited.
- D. Grooming activities shall be accessory to the retail use only.
- E. Only those animals that are allowed within the city of La Cañada Flintridge in accordance with Chapter 11.4.31 (Animal Keeping and Animal Clubs in Residential and Mixed Use Zones) are allowed to be sold in animal retail stores.

§11.4.21.005 Veterinary Clinics.

- A. Veterinary clinics shall be entirely enclosed, soundproofed, and air-conditioned.
- B. Outside kennel runs or cages, outside trash containers, and offensive odors shall be prohibited.
- C. Animal cremation shall be prohibited.
- D. Grooming activities shall be accessory to the veterinary clinic use.
- E. Temporary boarding of animals which are related to medical purposes shall be allowed as an accessory use.

Chapter 11.4.22 Bed and Breakfast Inns

§11.4.22.001 Purpose.

This Chapter provides standards for bed and breakfast inns (B&Bs), which constitute small commercial lodging facilities in residential zones. This requires special regulations that are not normally covered by standards for motels and hotels.

§11.4.22.002 Operational Standards.

- A. The B&B shall be operated and managed only by a person or persons owning the dwelling and residing therein as their principal place of residence.
- B. A Conditional Use Permit for a B&B shall be voided upon the sale or transfer of the property ownership.
- C. A B&B within a residential zone shall be limited to rental of a maximum of four (4) guest rooms.
- D. Service shall be limited to the rental of bedrooms or suites (e.g., attached bathrooms).
- E. Meal/beverage service shall be provided for registered guests only; except that a B&B within a residential zone may be used for receptions, private parties, or similar activities only with approval of a Major Temporary Use Permit in accordance with Chapter 11.6.12 (Temporary Use Permit).

§11.4.22.003 Development Standards.

- A. Individual guest rooms shall not contain cooking facilities.
- B. No change in the outside of the structure is permitted, except as necessary to comply with Title 24 of the California Code of Regulations or to comply with the Americans with Disabilities Act (ADA). Where any change to the exterior of the B&B is necessitated by compliance with Title 24, such change shall retain the aesthetic appearance of a residence.
- C. Any change(s) to the interior of the dwelling must be convertible to the original residential use if/when the B&B use is ceased.
- D. A minimum of one hundred twenty (120) square feet is required for each guest room.
- E. Not more than twenty-five (25) percent of the structure can be used for rental.
- F. Landscaping shall be required to screen parking areas from the view of adjacent properties and from public/private streets.
- G. Signs shall be in compliance with Chapter 11.5.08 (Sign Regulations).
- H. Any approved accessory dwelling unit may not be used as a guest room.
- I. Parking shall be provided in accordance with Chapter 11.5.04 (Off-Street Parking)

§11.4.22.004 Transient Occupancy Tax.

B&Bs shall be subject to all applicable provisions of a transient occupancy tax of the LCFMC, if adopted.

Chapter 11.4.23 Short-Term Vacation Rentals Prohibited

§11.4.23.001 Purpose.

The purpose of this Chapter is to prohibit the establishment and operation of short-term vacation rentals, as defined in Chapter 11.7.01 (Definitions), in any zone located within the city of La Cañada Flintridge.

§11.4.23.002 Short-Term Vacation Rentals Prohibited.

The establishment and operation of a short-term vacation rental, as defined in Chapter 11.7.01 (Definitions) of this Zoning Code, is prohibited in all zones throughout the city of La Cañada Flintridge. No permit or any other applicable license or entitlement for use, including, but not limited to, the issuance of a business license, shall be approved or issued for the establishment and operation of a short-term vacation rental within the city limits.

§11.4.23.003 Violation.

The establishment and/or operation of a short-term vacation rental shall be considered a violation of this Zoning Code and shall be subject to enforcement as provided for in Chapter 11.2.04 (Enforcement) and other applicable provisions of the LCFMC.

Chapter 11.4.24 Tattooing, Body Piercing, and Body Art Establishments

§11.4.24.001 Purpose.

This Chapter regulates tattooing, body piercing, and body art establishments to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods that can be brought about by the concentration of tattoo and body piercing parlors and their location near sensitive uses and to ensure compatibility of such uses with surrounding uses and properties and to avoid any impacts associated with such uses.

§11.4.24.002 Standards.

A. Location.

1. No tattooing, body piercing, or body art establishment shall be located within one hundred fifty (150) feet of any parcel of land that contains any one (1) or more of the following specific land uses:
 - a. Religious facility;
 - a. School (public or private);
 - b. Child day care facility;
 - c. Public park or recreation facility; or
 - d. Any establishment with an on-sale or off-sale alcoholic beverage permit.

- B. **Hours of operation.** In no case shall the hours of operation be earlier than 7:00 a.m. or later than 11:00 p.m.

Chapter 11.4.25 Massage Establishments

§11.4.25.001 Purpose.

- A. The permit requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the city, while recognizing massage as a legitimate business interest that provides benefits to its patrons in a therapeutic setting.
- B. This chapter is enacted pursuant to the provisions of the State Constitution, California Government Code Sections 37100, 51030 et seq., California Business and Professions Code Sections 460, 4600 through 4620 and Section 16000, Section 13 of the Chiropractic Act (initiative measure approved by the electors November 7, 1922, as amended) and AB 1147 (2014).
- C. There is a significant risk of injury to massage clients by persons improperly trained and/or educated in providing massage services, and this chapter provides reasonable safeguards against injury and economic loss.
- D. There is opportunity for acts of prostitution, lewdness, and other unlawful sexual activity to occur in massage establishments, as well as problems relating to human trafficking in massage establishments. Courts have long recognized massage as a pervasively regulated activity and massage establishments are often brothels in disguise. The establishment of reasonable standards for issuance of permits and restrictions on operations would serve to reduce the risk of illegal activity and would thereby benefit the public health.
- E. The restrictions and requirements contained in this chapter are intended to be in addition to the requirement of a valid business license issued pursuant to Title 6 Business Licenses and Regulations of the La Cañada Flintridge Municipal Code.
- F. The regulations and restrictions contained in this chapter are intended to discourage massage establishments from degenerating into houses of prostitution, and the means utilized in this chapter bear a reasonable and rational relationship to the goals sought to be achieved within the confines allowed by state law.
- G. The provisions of this chapter are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any state or local laws or regulations that are uniformly applied to other professional or personal service businesses.
- H. The California Massage Therapy Council ("CAMTC") can more efficiently regulate massage technicians in order to best protect the public and it is in the public interest to require that all persons providing massage in the city have a certificate from the CAMTC.

§11.4.25.002 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"California Massage Therapy Council" or "CAMTC" means the nonprofit organization created to regulate and issue massage practitioner and therapist certificates pursuant to California Business and Professions Code §4600 et seq.

"CAMTC certificate" means a massage practitioner or massage therapist certificate issued by the CAMTC.

"City" means the city of La Cañada Flintridge.

"City Council" means the City Council of the city of La Cañada Flintridge.

"City Manager" means the City Manager of the city of La Cañada Flintridge or designee.

"Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

"Employee" means any person, other than a massage practitioner, massage therapist, or operator, who renders any service, with or without compensation, to the operator or agent of an operator of a massage establishment relating to the day-to-day operation of the massage establishment whether as an employee or independent contractor.

"Manager" means the person(s) designated by the owner of the massage establishment to act as the representative and agent of the owner in managing day-to-day operations with corresponding responsibilities. Evidence of management includes, but is not limited to, the ability of the individual to direct or hire and dismiss employees, control hours of operation, create policy or rules or purchase supplies, and ensure that the massage establishment complies with the requirements of this Code and of other laws. A manager may also be an owner.

"Massage" means any method of treating the external parts of the body for remedial, health, hygienic, or relaxation purpose. "Massage" includes, but is not limited to, treatment by means of manual pressure, acupuncture, friction, stroking, kneading, rubbing, tapping, pounding, vibrating, with or without the aid of or by means of any mechanical, electronic, or electrical apparatus or appliance, and with or without rubbing alcohol, liniments, aromatics, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations. Massage specifically includes the application of any of these methods to the scalp, neck, or feet of any individual. (Some persons practicing massage may be exempt from all or parts of the permit requirements; please consult §6.40.015.)

"Massage establishment" means any enterprise or establishment having a fixed place of business where any person engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, any of the activities set forth in the definition of massage in this Section.

"Massage practitioner", "Massage technician" and "Massage therapist" means a person who is certified as such by the CAMTC in accordance with the Massage Therapy Act.

"Massage Therapy Act" means California Business and Professions Code Sections 4600 through 4620, as the same may be amended from time to time.

"Off-premises massage" means any business or enterprise that engages in or performs massage for any form of consideration or in exchange for anything of value whatsoever at a location other than a massage establishment.

"Operator" means all persons who own or manage a massage establishment.

"Owner" means all of the following:

1. The sole proprietor of a massage establishment, i.e., where the owner is the only person performing massage at that establishment;
2. In the case of a general business, each owner of the business;
3. In the case of a corporation, each stockholder holding more than ten percent of the corporation and each officer and director of the corporation;
4. In the case of a partnership, each partner, excluding limited partners owning less than ten percent of the partnership, and where a partner is a corporation, the provisions pertaining to a corporate applicant in Subsection (3) above apply.

"Patron" means an individual on the premises of a massage establishment for the purpose of receiving a massage.

"Proof of bona fide employment" means proof of an employer-employee relationship between the operator of the massage establishment and any person working at the massage establishment. Satisfactory proof of bona fide employment must be shown by written payroll documentation evidencing the employer's compliance with California Employment Development Department (EDD) requirements for the withholding of California income tax, unemployment insurance contributions, and disability contributions from the employee and written payroll documentation of the employer's compliance with Internal Revenue Service (IRS) requirements for the withholding of federal income taxes, Social Security (FICA) and Medicare contributions from the employee. Such written documentation can include, but is not limited to, W-2 wage and tax statements.

"Residence address" means the actual physical home address and shall not include a P.O. Box, mailbox service, or other similar location.

"Sheriff's Department" means any representative of the Los Angeles County Sheriff's Department. "Sole provider" means a massage business where the owner owns 100% of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active CAMTC certificate, and has no other employees or independent contractors.

"Specified anatomical areas" means any of the following human anatomical areas: genitals, pubic area, buttocks, anus, or female breasts below a point immediately above the top of the areolae, without a health care referral and written consent of the patron.

§11.4.25.003 Exceptions.

- A. **Complete Exception.** The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to:
1. Any physician, surgeon, chiropractor, acupuncturist, osteopath, or physical therapist licensed to practice such profession in the state of California, within the scope of their license.

2. Any registered nurse or licensed vocational nurse, licensed to practice under the laws of the state of California, who is an employee of and working under the on-site direction of a physician, surgeon, chiropractor, osteopath, or physical therapist, duly licensed to practice their respective professions in this state.
 - a. Any other person providing massage services that is employed by a physician, surgeon, chiropractor, osteopath, or physical therapist, shall be required to have a valid CAMTC certificate, as well as work under the adequate supervision of such physician, surgeon, chiropractor, osteopath, or physical therapist as required by state law or regulation. If no specific law or regulation applies, adequate supervision shall have the same meaning as set forth in 16 California Code of Regulations §312.
 - b. If a duly licensed acupuncturist wishes to provide massage therapy services to his or her clients by an individual(s) other than him or herself, said individual(s) must have a valid CAMTC certificate and the office of the acupuncturist shall be subject to all the provisions of this chapter as well as any other applicable provisions of the La Cañada Flintridge Municipal Code.
3. Any person licensed to practice any healing art under the provisions of California Business and Professions Code Division 2 (commencing with §500) when engaging in such practice within the scope of such license.
4. State-licensed hospitals, nursing homes, sanatoriums, or other health care facilities duly licensed by the state of California, and the employees of such facilities while working on the premises of such state-licensed facilities.
5. Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.
6. Barbers, beauticians, or manicurists who are duly licensed by the state of California pursuant to the Barbering and Cosmetology Act set forth in California Business and Professions Code §7300 et seq., as the same may be amended from time to time, while engaging in practices within the scope of such license, except that this exemption applies solely for the massaging of the neck, face, and/or scalp of the customer or client of said barber or beautician or, in the case of a licensed manicurist, the massaging of the forearms, hands, calves, and/or feet at a state licensed facility. However, if a state licensed establishment also has a certificate of operation from the City to operate as a massage establishment, the business must also comply with all provisions of this chapter.
7. Schools of cosmetology or barbering which comply with the requirements of California Business and Professions Code §7362 et seq., when instructors are acting within the scope of their employment or when students are working as unpaid externs pursuant to the requirements of California Business and Professions Code §7395.1.
8. Any other business or professions exempt by state law.

B. Partial Exception.

1. Businesses that offer massage services that are accessory to the primary business shall only be required to comply with the provisions set forth in Subsection (B)(2) of this Section. For purposes of this Subsection, accessory massage services shall be those services where less than 15% (fifteen percent) of the gross floor area of the business is devoted to massage.
2. Massage services provided under Subsection (B)(1) of this Section shall be required to comply with the following:
 - a. Massage services must be performed by the holder of a valid CAMTC certificate.
 - b. The business shall comply with the following provisions of §11.4.25 (Massage Establishment – Operating Requirements).
 - c. All businesses that claim a partial exemption from this chapter pursuant to Subsection 11.4.25.003(B) shall be required to submit scaled floor plans in order to verify the applicability of the exemption. No changes may be made to the approved floor plan without written approval from the community development department, which may require modification of any applicable conditional use permit.

- C. Evidence of Entitlement to Exception.** Any person claiming exception under this Section shall furnish satisfactory evidence upon request that he or she is entitled to such exception, including, proof of bona fide employment, or if applicable, a citation to the particular provision of state law upon which that person relies.

§11.4.25.004 Business License and Other Permits Required.

- A. Nothing herein relieves an individual or business from obtaining a city business license, Conditional Use Permit in accordance with Title 11 of this Code, or other permit if otherwise required by law.
- B. Any individual applying for a business license as a massage practitioner or a massage therapist shall provide proof of a current CAMTC certificate before being issued a business license.

§11.4.25.005 Massage Establishment Permit Required.

- A. It is unlawful for any person to engage in, operate, conduct or carry on, in or upon any premises, a massage establishment without first obtaining a massage establishment permit pursuant to this chapter, securing the necessary business license as required by this Code, and complying with Title 5 of this Code. A separate permit shall be obtained for each separate massage establishment operated by such person.
- B. No owner or operator of a massage establishment shall hire as an employee or utilize as an independent contractor any person to perform massage unless such person has been issued a CAMTC certificate and is in good standing with the California Massage Therapy Council.

§11.4.25.006 Massage Establishment Permit – Application

- A. All persons desiring a permit for a massage establishment shall file an application on the required form available at the City's Planning Division. The application, to be signed under penalty of perjury, shall be accompanied by the appropriate filing fee established by resolution of the City Council. The application shall be completed and signed by the owner of the proposed massage establishment, if a sole proprietorship; one general partner, if the operator is a partnership; one officer or one director, if the operator is a corporation; and one participant, if the operator is a joint venture. The application for a permit does not authorize operation of a massage establishment unless and until such permit has been properly granted. The application shall contain or be accompanied by the following information:
1. A complete massage establishment permit application signed by the applicant.
 2. A nonrefundable fee as determined by the City Council, and set forth in the City's master fee schedule.
 3. An operations description letter that describes in detail the massage establishment business and how it will satisfy the design and performance standards of this chapter.
 4. A diagram or floor plan describing the proposed project and a written explanation of how it complies or will comply with the requirements of this chapter. The diagram or floor plan shall be to scale and must show all measurements relating to the size of the business.
 5. A signed statement that the applicant, and/or the applicant's officers, partners or investors have not had a massage establishment permit revoked within the previous two years by any jurisdiction. This requirement applies to all owners.
 6. Legal name of all massage therapists who will perform massages at the massage establishment, and a copy of their current, valid and authentic California Massage Therapy Council Certificate. The legal name of any massage therapist hired after the submittal of an application must be reported to the City prior to the massage therapist performing any massage.
 7. Legal name and current residential address and telephone number and current business address and telephone number of all owners and operators of the massage establishment.
 8. Current, valid, and authentic driver's license or photo identification card issued by a state or federal government agency, or other photographic identification bearing a bona fide seal by a foreign government, of all owners and operators of the massage establishment.
 9. For each person who will be providing massage at the massage establishment, a copy of his or her CAMTC certificate and a copy of his or her current CAMTC issued identification card.
 10. A statement signed by the applicant certifying under penalty of perjury that all of the information submitted in connection with the application is true and correct. This requirement applies to all owners.

11. Signed statement by each owner and operator of the massage establishment acknowledging the following: (a) all of the information contained in the massage establishment license application is true and correct; (b) all owners and operators are familiar with the requirements of this chapter and all applicable requirements of the Municipal Code, and shall communicate those requirements to employees of the massage establishment, and also to patrons of the massage establishment on inquiry or as called for by specific circumstances; (c) all owners and operators are responsible for the massage establishment and the conduct of all persons who perform massages at the massage establishment, and ensuring compliance with this chapter and all applicable requirements of the Municipal Code; (d) any act or omission of any employee of the massage establishment constituting a violation of any provision of this chapter shall be deemed to be an act or omission of the owner and operator for purposes of determining whether to suspend or revoke or deny the renewal of a massage establishment license; and (e) failure to comply with the California Business and Professions Code Sections 4600 et seq., or with any local, state or federal laws, rules or regulations, and/or the provisions of this chapter may result in revocation of the massage establishment license.
- B. **Determination of Completeness.** The City Manager shall determine whether the application contains all the information required. If the application is not complete, the applicant shall be notified in writing within 10 business days of the date of receipt of the application that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete. The applicant shall have fourteen (14) days to resubmit the application. Failure to timely resubmit the application, or an incomplete resubmittal, will be deemed a withdrawal of the application. Within fourteen (14) days of resubmittal, the applicant shall be notified in writing that the application is complete, or that the application is deemed withdrawn for incompleteness. An applicant whose application is deemed abandoned must submit a brand-new application in order to obtain a massage establishment permit, including the payment of all fees.

§11.4.25.007 Off-Premises Massage Permit.

No person shall perform or administer a massage off the premises of a massage establishment, for any form of consideration, without being CAMTC certified consistent with the provisions of §11.4.25.004 and obtaining an off-premises massage permit under this Section. Any person desiring an off-premises massage permit shall file a written application on the required form with the City along with a filing fee established by resolution of the City Council. The application shall contain or be accompanied by the following information:

- A. Legal name of all massage therapists who will perform off-premises massages, and a copy of their current, valid and authentic California Massage Therapy Council Certificate and a copy of his or her current CAMTC issued identification card.
- B. Current, valid, and authentic driver's license or photo identification card issued by a state or federal government agency, or other photographic identification bearing a bona fide seal by a foreign government, of all massage therapists who will perform off-premises massages.
- C. The specific reasons necessitating the performance of the massage at a location other than a massage establishment. If the off-premises massage is to be conducted at a commercial business during normal business hours while patron remains fully clothed, a letter from the commercial business confirming these conditions shall accompany the application.

§11.4.25.008 Massage Permits – Notice of Approval or Denial.

The Director shall issue a massage establishment or off-premises massage permit within forty-five (45) days of receipt of a complete application if he/she finds that the application fully complies with the requirements of this chapter; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing by first class mail, postage prepaid, deposited in the course of transmission with the United States postal service within three (3) business days of the date of such decision. If the application is denied, the Director shall attach to the notice a statement of the reasons for the denial.

§11.4.25.009 Grounds for Denial, Suspension, or Revocation of Massage Permits.

- A. The Director shall deny, suspend, or revoke a massages establishment permit when the Director or the sheriff's department finds, by a preponderance of the evidence, that any of the following have occurred within the prior three (3) years:
1. Failure to comply with any of the provisions of this chapter relating to such businesses.
 2. The permittee has knowingly made false, misleading, or fraudulent statements of material fact in the application, or in any report or record required to be filed with the City; or has failed to apply for an amendment to a permit following substantial changes to the business.
 3. The permittee has committed, or has knowingly allowed the occurrence of violations of local, state, or federal law on the premises of the massage establishment business.
 4. The permittee, or an employee or independent contractor working on the premises, is conducting operations in a manner which constitutes a public nuisance.
 5. The permittee has failed to abide by any conditions or restrictions imposed on the business by the City Manager following a warning or suspension.
 6. The permittee has knowingly allowed the approved use to be substantially enlarged or modified without City approval.
 7. The permittee, or any owner of the business, is convicted of violating any provision of this chapter, or the equivalent provisions of another jurisdiction, or has a massage establishment or off-premises massage permit revoked in any jurisdiction.
 8. The applicant, permittee, or any owner of the business is convicted of any of the following:
 - a. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - a. Lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - b. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, Sections 311.5 through 311.7, 311.12, and 313.1.

- B. The Director shall deny, suspend, or revoke an off-premises massage when the City Manager or the Sheriff's Department finds, by a preponderance of the evidence, that the applicant or permittee has:
1. Knowingly made a false, misleading, or fraudulent statement of material fact in the application for a permit, or in any report or record required to be filed with the City.
 2. The applicant or permittee has, within the prior three (3) years, engaged in one of the activities described below while on the premises of a massage establishment business:
 - a. Sexual intercourse, sodomy, oral copulation, or masturbation.
 - b. Solicitation of sexual intercourse, sodomy, oral copulation, or masturbation.
 - c. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - d. Lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - e. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, Sections 311.5 through 311.7, 311.12, and 313.1.
 - f. Any conduct prohibited by this chapter.
 3. The applicant or permittee has, within the prior three (3) years, been convicted of any of the following:
 - a. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - b. Lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - c. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, Sections 311.5 through 311.7, 311.12, and 313.1.

§11.4.25.010 Term of Massage Permits.

- A. A massage establishment permit shall be valid for twenty-four (24) months from the date of issuance unless suspended or revoked, or unless relinquished by the permittee. If a massage establishment ceases operating as such prior to the expiration of its permit, then the permittee shall relinquish the permit by written notice to the City Manager within three calendar days of the cessation of operations.
- B. An off-premises massage permit shall be valid for twenty-four (24) months from the date of issuance unless suspended or revoked, or unless relinquished by the permittee.

§11.4.25.011 Renewal of Massage Permits.

- A. A massage establishment permittee shall submit an application for renewal no later than thirty (30) calendar days prior to its expiration. The renewal application shall be on a form provided by the City, and shall include any change of information for the applicant and/or the business, and shall include an updated Live Scan reports. The renewal application shall be submitted together with a nonrefundable renewal fee in the amount set by resolution of the City Council. The Director shall approve or deny the renewal on the same basis as a new application.
- B. An off-premises massage permit shall submit an application for renewal on a form provided by the City prior to the expiration of their permit. The renewal application shall include any updated information for the applicant. The renewal application shall be submitted together with a nonrefundable renewal fee in the amount set by resolution of the City Council. The Director shall approve or deny the renewal on the same basis as a new application.

§11.4.25.012 Massage Permits Non-Transferrable.

- A. No massage establishment permit may be sold, transferred, or assigned to any other person, group, partnership, corporation or any other entity. A massage establishment permit shall only be valid for the location specified on the permit. Any sale, transfer, or assignment or attempted sale, transfer, or assignment of a massage establishment permit shall be deemed to constitute a voluntary surrender of the permit, and the permit shall be thereafter null and void.
- B. No off-premises massage permit shall be transferable to any other individual. Any sale, transfer, or assignment or attempted sale, transfer, or assignment of an off-premises massage permit shall be deemed to constitute a voluntary surrender of the permit, and the permit shall be thereafter null and void.

§11.4.25.013 Suspension and Revocation of a Massage Permit.

- A. This Section is applicable to both massage establishment permits and off-premises massage permits.
- B. On determining that grounds for permit revocation exist, the Director shall furnish written notice of intent to suspend or notice of intent to revoke the permittee. Such notice shall set forth the time and place of a public hearing where the permittee will have the opportunity to be heard, and the grounds upon which the proposed suspension or revocation is based. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be personally delivered to the permittee. The hearing shall be held no sooner than (ten) 10 days and no later than thirty (30) days following the notice. The permittee shall be provided with copies of all the evidence against him or her no later than seven (7) days prior to the hearing.
- C. Hearings shall be conducted in accordance with procedures established by the Director. All parties involved shall have a right to: 1) offer testimonial, documentary, and tangible evidence bearing on the issues; 2) be represented by counsel; and 3) confront and cross examine witnesses. The formal rules of evidence shall not apply; any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness.

- D. If, following the hearing, the Director determines that grounds exist for disciplinary action, the Director shall impose one of the following penalties, based on the number and severity of the violations:
1. A warning will be issued for minor technical violations that can be corrected within twenty-four (24) hours. The warning will be in writing and include directions regarding correcting any remaining violations, and a period of time during which the permittee will be on probation. The monitoring period will be no less than thirty (30) days and no more than six (6) months. During that time, if the Director establishes any additional violations, the permit will be suspended or revoked.
 2. The permit shall be suspended for a specified period not to exceed six (6) months, on the basis of any violation of the operational and performance requirements for massage establishment permits, or off-premises massage permits.
 3. The permit shall be revoked when more three (3) or more violations have occurred within a ninety (90) day period of the operational and performance requirements for massage establishment permits, or off-premises massage permits. A massage establishment where more than three (3) total violations have occurred shall have its permit revoked.
- E. The Director may, in conjunction with the issuance of a warning or the suspension of a massage permit, order the permittee to take appropriate corrective action within a specified amount of time.
- F. The Director shall issue a written decision, and shall articulate findings in support thereof.

§11.4.25.014 Appeal of Director's Decision.

Any interested person may appeal the Director's decisions regarding the issuance, denial, suspension, or revocation of a massage establishment permit or off-premises massage permit to the City Manager in accordance with the provisions of §11.4.25.016.

§11.4.25.015 Director's Decision Stayed During Appeal.

Any decision of the Director to suspend or revoke a massage establishment permit or an off-premises massage permit, or to deny renewal of any such permit, shall be stayed during: (1) the appeal period set forth in this article; and (2) the pendency of any appeal.

§11.4.25.016 Appeal Hearing Before the City Manager.

- A. An interested party may appeal a decision by the Director to City Manager by submitting a request for appeal in writing to the City Clerk. The request for appeal must be filed within fifteen (15) days of the decision.
- B. The City Manager shall set the matter for an appeal hearing to be held not fewer than fifteen (15) nor more than forty-five (45) days from the date of filing of the request for appeal.
- C. The permittee (and the interested party, if a different person) shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least ten (10) days prior to the hearing. The hearing may be continued from time to time upon the mutual consent of the parties.

- D. At the time of such hearing, the City Manager shall review all relevant evidence presented by the parties.
1. The formal rules of evidence shall not apply. Any relevant evidence may be admitted if it is material and if it is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of such evidence improper over objection in civil actions. Hearsay evidence may be admissible if it is the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The rules of privilege shall be applicable to the extent they are now, or are hereafter permitted in civil actions. Irrelevant, collateral, and repetitious testimony shall be excluded.
 2. The City Manager's decision shall be communicated in writing to the appellant (and to the permittee, if different from the appellant) within ten (10) days after the close of the hearing. The City Manager's decision shall state whether the permit is suspended, and for how long, or revoked, and shall state the factual basis thereof.
 3. The decision of the City Manager may be appealed to the City Council in accordance with Sections 11.4.25.014 through 11.4.25.016.
 4. The City Council's decision shall be final, and shall include notice that judicial review may be sought of the decision pursuant to California Civil Procedure Code §1094.8.

§11.4.25.017 Notices.

- A. All notices required to be given pursuant to this chapter shall be served on the permittee, applicant, appellant, or a representative thereof, either by personal delivery or certified mail to such responsible party as the name and address appear in the most recent application on file with the City. Notices shall include information regarding appeal rights and a statement that the failure to file an appeal shall constitute a failure to exhaust administrative remedies.
- B. In all cases where the certificate holder is not the property owner, notices shall also be sent to the property owner of record where the notice relates to possible closure of the business due to suspension or revocation.

§11.4.25.018 Massage Establishment – Operating Requirements.

No person, association, partnership, or corporation may engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of a massage establishment unless each and all of the following requirements are met:

- A. Massage services may only be conducted, and the premises may only be open to customers, between the hours of 8:00 a.m. and 10:00 p.m.
- B. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The service shall be described in readily understandable language in English and may also then be described in any other language. No owner, operator, responsible managing employee, manager, permittee, or licensee in charge of or in control of the massage establishment shall permit and no massage therapist shall offer or perform, any service other than those posted.

- C. The massage establishment business license and a copy of the permit of each and every massage therapist employed by or working in the establishment must be displayed in an open and conspicuous public place on the premises. This subdivision shall not apply to off-premises massage businesses.
- D. Hot and cold running water under pressure shall be provided to all washbasins, bathtubs, showers, and similar equipment. Each washbasin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room.
- E. Clean and sanitary towels, sheets and linens shall be provided for each patron receiving massage services. No common use of towels or linens shall be permitted, and reuse is prohibited unless they have been first laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle.
- F. Disinfecting agents and sterilizing equipment shall be available for any instruments used in performing any massage. Instruments will be disinfected or sterilized after each use.
- G. Each establishment shall provide to all patrons clean, sanitary, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer only and shall not be reused without first being cleaned.
- H. No owner, operator, responsible managing employee, manager, or permittee in charge of or in control of a massage establishment shall permit a massage to be given unless the patron's specified anatomical areas are covered during the entire massage by the covering referred to in Subsection (G).
- I. With the exception of bathrooms or dressing rooms not open to public view, no person or persons shall be permitted in any area within the massage establishment which is used in common by the patrons or which can be viewed by patrons from such an area, unless the specified anatomical areas of all persons within that area are fully covered.
- J. It is unlawful for an owner, operator, responsible managing employee, manager, permittee in charge of or in control of a massage establishment to permit any person or any massage therapist to perform any service or task while in the presence of a patron or to be on the premises of a massage establishment during its hours of operation unless the massage therapist is dressed in a manner that does not violate paragraph (10) of subdivision (a) of §4609 of the California Business and Professions Code.
- K. Any person performing services as a massage therapist must wear a visible California Massage Therapy Council identification card and have a copy of their driver's license or any other photo identification card issued by a state or federal agency readily available for inspection by City or County investigating officials.
- L. An owner, operator, or responsible managing employee that has been approved by the City must be on the business premises at all times during hours of operation of the business.

- M. For each massage service provided, every massage establishment shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the massage practitioner administering the service. Such records shall be open to inspection and copying by law enforcement or designee, or may be used by any massage practitioner or operator as records of service provided, but may not be provided to other parties by the massage practitioner or operator unless otherwise required by law. Such records shall be retained on the premises of the massage establishment for a period of two years and be immediately available for inspection during business hours.
- N. All signs shall be in accordance with the current ordinances of the city of La Cañada Flintridge.

§11.4.25.019 Off-Premises Massage – Prohibitions.

It is unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted or carried on, massage, for any form of consideration, in any hotel room, motel room, guesthouse, home-sharing rental or other place of public accommodation. This Section shall not be construed to prohibit:

- A. Maintaining a licensed massage establishment upon the premises of a place of public accommodation;
- B. Conducting massage services as a vendor at a festival, farmers market, or other event of limited or temporary duration; or
- C. The holder of a massage practitioner certification issued by the California Massage Therapy Council pursuant to Chapter 10.5 of the California Business and Professions Code from giving or administering massages within hospitals, convalescent centers, rest homes, offices, or the private home of a patron. For the purposes of this Section, offices and private homes shall not include hotel rooms or motel rooms.

§11.4.25.020 Inspections.

The owner, operator, or other person in charge of a massage establishment shall allow City officers and their authorized representatives to conduct unscheduled inspections of the patron-accessible areas of the premises for the purpose of ensuring compliance with this chapter. Such access shall be afforded at any time the massage establishment business is open for business or is occupied.

§11.4.25.021 Violations.

In addition to the disciplinary actions provided in this chapter, any violation of the provisions of this chapter may also be punished or abated pursuant to the provisions of Chapter 1.04 and 1.07, in addition to any other remedy at equity or at law available to the City. No remedy shall be exclusive of any other remedy.

Chapter 11.4.26 Personal Wireless Service(s) Facilities

§11.4.26.001 Purpose and Intent.

- A. The city of La Cañada Flintridge intends this chapter to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the city's territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this chapter are intended to, and should be applied to, consistent with federal and state law, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the city's local values, which include without limitation the aesthetic character of the city, its neighborhoods and community. This chapter is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interest is maintained on a case-by-case basis; (2) protecting the city's visual character from potential adverse impacts or visual blight created or exacerbated by wireless communications infrastructure; (3) protecting and preserving the city's environmental resources; and (4) promoting access to high-quality, advanced wireless services for the city's residents, businesses and visitors.
- B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or California law.

§11.4.26.002 Definitions.

If any definition assigned to any phrase, term or word in this chapter conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control:

"Amateur station" means the same as defined by the FCC in 47 C.F.R. §97.3, as may be amended or superseded, which defines the term as "a station in an amateur radio service consisting of the apparatus necessary for carrying on radiocommunications." This term includes amateur radio antennas mast and related equipment used for amateur radio services.

"Approval authority" means the City official or body responsible for application review and vested with authority to approve or deny such applications.

"Code" refers to the La Cañada Flintridge Municipal Code.

“Concealment” means a facility that is integrated into or hidden behind an architectural feature of an existing structure and designed so that the purpose of the facility or support structure for providing wireless services is not readily apparent to a casual observer. Concealment techniques include, without limitation: (1) transmission equipment placed completely within existing or replacement architectural features such that the installation causes no visible change in the underlying support structure; and (2) new architectural features that mimic or blend with the underlying or surrounding structures in style, proportion and construction quality.

“Director” means the director of community development of the city of La Cañada Flintridge or that director’s designee. In addition to his/her authority specified herein, the director shall have all powers specified in §8.03.040.A as may be appropriate to the administration of private property wireless facilities and as applied to the community development director for purposes of this chapter’s administration.

“Eligible facilities request” means the same as defined in 47 U.S.C. §1455(a)(2), as may be amended or superseded, and as interpreted by the FCC in 47 C.F.R. §1.6100(b)(3), as may be amended or superseded.

“FCC” means the Federal Communications Commission, as constituted by the Communications Act of 1934, Pub. L: 73-416, 48 Stat. 1064, codified as 47 U.S.C. §151 *et seq.* or its duly appointed successor agency.

“OTARD” means any “over-the-air reception device” subject to 47 C.F.R. §1.4000 *et seq.*, as may be amended or superseded, which generally includes satellite television dishes and certain fixed wireless antennas not greater than one meter in diameter.

“Personal wireless service facilities” mean the same as defined in 47 U.S.C. §332(c)(7)(C)(ii), as may be amended or superseded, which defines the term as facilities that provide personal wireless services.

“Personal wireless services” mean the same as defined in 47 U.S.C. §332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

“RF” means radio frequency.

“Section 6409” means §6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. §1455(a), as may be amended.

“Shot clock” means the presumptively reasonable time defined by the FCC in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless service facilities.

“Small wireless facility” means the same as defined by the FCC in 47 C.F.R. §1.6002(l), as may be amended or superseded.

“Stealth” means any wireless facility designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include without limitation street light, faux tree, water tower, or flag pole designs.

“Zoning Code” means Title 11 of the city of La Cañada Flintridge Municipal Code.

“Wireless facility” means a personal wireless service facility including any facility, base station or tower that transmits and/or receives electromagnetic waves. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or

similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other associated installation development.”

§11.4.26.003 Applicability.

- A. **General.** This chapter applies to all requests for the City’s regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities on private property within the City’s territorial and jurisdictional boundaries, unless expressly exempted pursuant to Subsection 11.4.26.003(C). Notwithstanding that Chapter 8.03 of the Code applies to wireless facilities in the public rights-of-way, several of the procedural and administrative terms of Chapter 8.03 overlap with this chapter and are thus incorporated into this chapter to govern the processing and review of wireless applications on private property.
- B. **Wireless Facilities on City Property.** This chapter applies to permit applications for wireless facilities on property or structures owned or controlled by the City in its proprietary capacity, except those right-of-way areas governed by Chapter 8.03; provided, however, that this chapter does not govern whether or under what terms and conditions the City would lease, license or otherwise allow a wireless facility on such property or structures.
- C. **Exemptions.** Notwithstanding anything in this chapter to the contrary, this chapter does not apply to the following:
 - 1. Wireless facilities operated by the City for public purposes;
 - 2. Wireless facilities operated by another governmental entity for public purposes or under the jurisdiction of such other government entity, to the extent such other governmental entities are immune from City zoning regulations;
 - 3. Wireless facilities installed completely indoors and used to extend personal wireless services into a business or the subscriber’s private residence;
 - 4. OTARD antennas;
 - 5. Antennas and related transmission equipment used in connection with a duly authorized amateur station; or
 - 6. Wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-D.

§11.4.26.004 Required Permits and Other Approvals.

- A. **Administrative Approval for Minor Wireless Telecommunications Facilities on Private Property ("Administrative WTFPP").** An Administrative WTFPP is an administrative approval reviewed and approved by the director as the approval authority, and is required for:
 - 1. Stealth or concealed wireless facilities on private property in preferred locations as described in Subsection 11.4.26.009(A) that do not require a special exemption under Subsection 11.4.26.003(C),
 - 2. Eligible facilities requests, and/or
 - 3. Small wireless facility applications.

- B. **Special Use Permit for Major Wireless Telecommunications Facilities on Private Property ("Major WTFPP").** All other new wireless telecommunications facilities or replacements, collocations, or modifications to a wireless telecommunications facility that are not qualified for an Administrative WTFPP shall be subject to a Major WTFPP, reviewed and approved by the planning commission as the approval authority, subject to Planning Commission hearing and approval unless otherwise provided for in this chapter, and provided the findings in §11.4.26.006 can be made or the proposed facility is subject to a special exemption under §11.4.26.012.
- C. **Other Permits and Regulatory Approvals.** In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other City divisions, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other City divisions, state or federal agencies. Building and encroachment permits, and all City standards and requirements therefore, are applicable.

§11.4.26.005 Permit Applications.

- A. **Application Required.** The approval authority shall not approve any requests for authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities except upon a complete and duly filed application consistent with this Section and any other written rules or requirements the City or the Director may establish from time to time in any publicly-stated format. All applications for a permit must include all the information and materials required by the director for the application. The City Council authorizes the director to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the director finds necessary, appropriate or useful for processing any application governed under this Chapter.
- B. **Appointment for Application Submittal.** All wireless facility applications under this chapter must be submitted to the City at a pre-scheduled appointment with the department. Applicants may generally submit one application per appointment but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. The department shall use reasonable efforts to provide the applicant with an appointment within a reasonable time after the department receives a written request therefor. Any application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed.
- C. **Optional Pre-application Conferences.** The department shall provide prospective applicants with the opportunity to schedule and attend a pre-application conference with department staff. The City strongly encourages pre-application conferences for all proposed projects that: (1) require planning commission approval; (2) the prospective applicant believes will qualify as a stealth or concealed facility; and/or (3) involve any wireless facilities proposed to be located in or within 200 feet from a residential zone or legally established residential use. The pre-application conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless facility, such as compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments and/or divisions responsible for application review; and application completeness issues.

- D. **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, any application governed under this chapter will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the City on any application within thirty calendar days after the application is deemed incomplete in a written notice to the applicant. The director may, in his or her discretion, grant a written extension for up to an additional thirty calendar days when the applicant submits a written request prior to the ninetieth day that shows good cause to grant the extension.
- E. **Peer and Independent Consultant Review; Deposit and Reimbursement of Costs.** The City Council authorizes the Director to, in the Director's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues for the purposes of reviewing or assisting the City with any permit application under this chapter. The director is further authorized to collect deposits and a reimbursement of costs from applicants. The process and authority for retaining consultants and collection of deposits and costs shall be the same those procedures set forth in §8.03.050 Subparagraphs D through F.

§11.4.26.006 Pre- and Post- Decision Notices Required.

Notice of any project application subject to this chapter shall be subject to all those notice requirements (pre- and post- final determination) set forth in §11.6.02.004(B) for an Administrative WTFPP and Subsection 11.6.02.004(D)(2) for a Major WTFPP. Notices of final decisions for WTFPPs shall be noticed in accordance with the procedures and content requirements set forth in Subsection 8.03.060(D)(3).

§11.4.26.007 Approvals; Denials

- A. **Required Findings.** The approval authority may approve a wireless facility application only when the approval authority makes all the following findings:
1. The proposed wireless facility is either (a) in a "preferred location" (Subsection 11.4.26.008(B) below), or (b) the proposed wireless facility is in a discouraged location and the applicant has demonstrated through a meaningful comparative analysis that no more favored location under Subsection 11.4.26.008(B) or favored support structure under Subsection 11.4.26.008(D) would be technically feasible and potentially available;
 2. The proposed wireless facility complies with all applicable development and aesthetic standards in this Code and any other applicable regulations;
 3. The applicant has provided a signed acknowledgment that indicates its willingness to allow other carriers and site operators to collocate transmission equipment with the proposed wireless facility, to the extent such facility or portions thereof are owned or controlled by the applicant, whenever technically feasible and aesthetically desirable in accordance with applicable provisions in this Code;
 4. The applicant has demonstrated that the proposed wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
 5. In addition, wireless facility permit applications for a WTFPP shall demonstrate the proposed installation is designed, stealthed, and/or concealed to be aesthetically compatible with the surrounding built and/or natural environment to the extent technically feasible.

- B. **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or state laws, nothing in this chapter is intended to limit the approval authority's ability to conditionally approve or deny without prejudice any application governed under this chapter as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, this Code, or this chapter.
- C. **Notice of Shot Clock Expiration.** The City acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the City must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the City written notice of the expiration of any shot clock, which the applicant shall ensure is received by the City (e.g. overnight mail) no later than twenty (20) days prior to the expiration.
- D. **Appealability.**
1. A. determination by regarding WTPPs pursuant to Chapter 11.4.26 and Table 1.6.02-1 shall be final and effective unless appealed following the issuance of such determination. Because §332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, appeals of the administrative decision premised on the environmental effects of radio frequency emissions will not be considered. An extension on appeal filing deadlines may not be granted where an extension would result in approval of the application by operation of law or shot clock expiration.
 - a. A Director's decision on an Administrative WTFPP shall be appealable to the City Manager. Such appeals must be filed with the director within two (2) business days of the written administrative decision, unless the director extends the time therefore.
 - a. A Planning Commission decision on a Major WTFPP shall be appealable to the City Council. Such appeals must be filed with the City Manager within seven (7) business days of the written Planning Commission decision, unless the City Manager extends the time therefore.
 2. Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.

§11.4.26.008 Location Standards.

- A. **Preface to Location Standards.** This Section sets out criteria to determine whether a wireless facility is proposed in a preferred location and on a most preferred support structure, or if a facility must be located in a discouraged location (due to technical feasibility or availability) then the facility should be located in a most favored land use designation. The City cumulatively considers whether the facility is in a preferred location and on a preferred support structure to evaluate the least intrusive means for an applicant to provide its services to the public. Subsection 11.4.26.008(B) describes land use designations where wireless facilities are in a “preferred location” and thus not subject to an alternative sites analysis. Subsection 11.4.26.008(C) provides specific locations where wireless facilities are discouraged. It is possible for a proposed facility to be simultaneously in a “preferred” zone but also in a “discouraged” location, such as a proposal within an commercial zone (a “preferred” location) that also happens to be within 200 feet from a residence (a “discouraged” location). In such cases, the location would not be deemed to be a “preferred” location under Subsection 11.4.26.008(B), and thus shall be subject to an alternative sites analysis presenting the most favored location under Subsection 11.4.26.008(C)(2) and the most preferred support structure technically feasible and potentially available under Subsection 11.4.26.008(D). In situations involving discouraged locations where the applicant must consider alternative sites, preferences for facility locations and preferred support structures are ranked in Subsections 11.4.26.008(C)(2) and (D), respectively.
- B. **Preferred Locations.** All applicants must, to the extent technically feasible and potentially available, propose wireless facilities in a preferred location. No alternative sites analysis is required for stealth or concealed facilities proposed in any preferred location. To qualify as a preferred location site, the wireless facility must be stealthed or concealed. For all other facilities, the approval authority shall consider whether any more preferred location would be technically feasible or potentially available. The following locations are all considered “preferred locations” *so long as the site is not simultaneously in a discouraged location under Subsection 11.4.26.008(C)*:
1. Parcels within commercial zoning districts.
- C. **Discouraged Locations.** When an application involves a facility in a discouraged location, the approval authority shall consider whether any alternative site within a preferred location would be technically feasible and potentially available. If no such preferred location alternative exists, the approval authority shall consider whether any less discouraged location would be technically feasible and potentially available per the ranking of locations listed in Subsection 11.4.26.007(C)(2) hereof. The following locations are all “discouraged” and ordered from most discouraged to least discouraged:
1. Any location where the wireless facility would be 200 feet from:
 - a. A structure approved for residential use,
 - a. A local, state, or nationally designated historic property, structure, or district, or
 - b. Any property, structure, or district eligible for local, state, or national historic designation,
 - c. A school or day care facility,
 - d. Parks or recreational facility.

2. When an application involves a wireless facility in a discouraged location, regardless of zone, applicants must propose the facilities on parcels with the most favored land use designation listed below whenever technically feasible and potentially available. Applications must include a written justification, supported by factual and verifiable evidence, that shows that no higher-ranked location is technically feasible and potentially available, unless the proposed facility is in the most favored land use designation and/or is a stealth or concealed facility. The following Zoning Code designations are ranked from most favored to least favored for facilities in a discouraged location:
 - a. Commercial;
 - b. Other nonresidential zones;
 - c. Residential zones.
- D. **Support Structure Preferences.** When an application involves a facility in a discouraged location, the approval authority shall, in addition to considering the preferred locations in 11.4.26.008.B, consider whether any more preferred support structure would be technically feasible and potentially available. The approval authority may require the applicant to use a more preferred support structure when the alternative is technically feasible and potentially available. The City's preferences for support structures are as follows, ordered from most preferred to least preferred:
 1. Collocation on an existing structure with existing wireless facilities;
 2. Installations on a rooftop;
 3. Installations on a building façade;
 4. A stealthed or concealed freestanding facility;
 5. Stealthed or concealed installations within the public rights-of-way.
 6. Installations on a replacement pole(s) within private streets. Parking lots, private access easements;
 7. Installations on a new freestanding structure within a private street.

§11.4.26.009 Design Standards.

- A. **Concealment/stealth.** All wireless facilities must be concealed and/or stealthed to the maximum extent feasible with design elements and techniques that hide, mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish, or reflective.
- B. **Overall Height.** To maintain the natural appearance of the community, wireless facilities may not exceed the maximum height allowed by Zoning Code for the applicable zone. If the applicant plants new natural trees around the proposed wireless facility, the approval authority shall consider the future mature height of such trees when evaluating compliance with this standard.
- C. **Setbacks.** All wireless facilities must be compliant with all setback requirements applicable to structures on the underlying parcel.

- D. **Noise.** No equipment shall be operated so as to increase the noise in the vicinity of the equipment in excess of five decibels, other than in emergency situations requiring the use of a backup generator or monthly testing of said generator if the testing lasts no longer than fifteen minutes. In all emergency situations, the City shall be immediately notified of the use of a backup generator and, on the next City business day, the operator shall secure all required permits and approvals necessary for the operation of the generator.
- E. **Landscaping.** All ground mounted equipment shelters shall be screened by walls, fences, trellises or landscaping at least six feet in height so as to completely screen, camouflage and/or obscure visibility of the equipment shelter or any other ground mounted equipment, from public view. The equipment shelter shall be designed so as to be harmonious with and blend with the natural features, and be compatible with buildings and structures surrounding such structure. In addition and when applicable, landscaping shall be of a type and variety, and installed at sufficient size, to be capable of growing within one year to a landscape screen which obscures the visibility or camouflages the equipment shelter or antenna as appropriate. Irrigation shall also be installed when needed to maintain landscaping.
- F. **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth or concealment, and the approval authority may condition approval on additional stealth or concealment elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape features. The approval authority shall not approve barbed wire, razor ribbon, electrified fences, chain link or any similar fencing/security measures.
- G. **Secondary Power Sources.** The approval authority may approve secondary or backup power sources and/or generators on a case-by-case basis. The approval authority shall not approve any permanent diesel generators or other similarly noisy or noxious generators in or within 200 feet from any residential structure absent a showing of extraordinary need, by clear and convincing evidence, such as a declared public emergency; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.
- H. **Lights.** Wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC, other applicable federal or state governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights used shall be appropriately shielded from public view. Any light beacons or lightning arresters shall be included in the overall height calculation.
- I. **Signage; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the approval authority, required by law or recommended under FCC or other federal governmental agencies.

- J. **Future Expansion.** To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and other expansions that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance. The approval authority may waive the requirements in this Section when the approval authority determines future expansions at a proposed wireless facility would be aesthetically undesirable.
- K. **Utilities.** All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities; there shall be no exposed cabling. To the extent feasible, undergrounded cables and wires must transition directly into the pole base without any external doghouse. Meters, panels, disconnect switches and other associated equipment must be concealed in inconspicuous locations to the fullest extent technically feasible. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost. Microwave or other wireless backhaul is discouraged when it would involve a separate and unstealthed or unconcealed antenna.
- L. **Parking; Access.** Any equipment or improvements constructed or installed in connection with any wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, wireless facilities should use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements should be the minimum size necessary to reasonably accommodate the proposed use and comply with applicable safety codes.
- M. **Compliance with Laws.** All wireless facilities must be designed and sited in compliance with all applicable federal, state, regional, and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, general plan and any applicable specific plan, the La Cañada Flintridge Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.
- N. **Towers and Freestanding Wireless Facilities.** In addition to all other design requirements in this chapter, the following provisions shall be applied to a new tower or other new freestanding wireless facility
1. **Tower-mounted equipment.** All tower-mounted equipment must be mounted as close to the vertical support structure as technically feasible to reduce its overall visual profile. Applicants must mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors and utility demarcation boxes) directly behind the antennas to the maximum extent feasible. All tower-mounted equipment, cables and hardware must be painted with flat/neutral colors subject to the approval authority's prior approval.
 2. **Ground-mounted equipment.** To the extent technically feasible all ground-mounted equipment must either be concealed underground, or concealed within an existing or new structure, or other enclosure(s) or stealth design subject to the approval authority's prior approval. The approval authority may require additional concealment or stealthing elements as the approval authority finds necessary or appropriate to blend the ground-mounted equipment, enclosure and/or other improvements into the natural and/or built environment.

3. **Faux trees.** In addition to all other design requirements in this chapter, the following provisions shall apply to a WTFPP for a faux tree:
 - a. **Shape and Branching.** Faux trees shall be designed and shaped from bottom to top to resemble the natural tree shape associated with the actual tree species that the faux tree is intended to resemble.
 - b. **Bark Cladding.** The entire tower above any fence line shall be fitted with faux-bark cladding, painted or colored with browns or other appropriate earth tones to mimic natural tree bark resembling the actual tree species that the faux tree is intended to resemble.
 - c. **Equipment Stealthing.** All antennas, accessory equipment, cross arms, hardware, cables and other attachments to the faux tree must be painted or colored with a flat greens, browns or other appropriate earth tones to blend into the faux branches. All antennas, remote radio units, tower-mounted amplifiers and other similar equipment larger than one cubic foot shall be fitted with a faux tree “sock” with faux leaves. No tower-mounted equipment shall be permitted to protrude beyond the faux branch canopy such that it would materially alter the applicable tree shape.
 - d. **Material Selection and Approval.** All materials and finishes used to stealth wireless facilities mounted on a faux tree shall be subject to prior approval by the department. Applicants shall use only high-quality materials to stealth the wireless facility. The applicant shall use color- extruded plastics for elements such as the faux leaves and faux bark cladding to prolong the like-new appearance and reduce fading caused by exposure to the sun and other weather conditions.
4. **Fall zone.** All freestanding towers outside the public rights-of-way must be setback from habitable structures approved for residential occupancy by a distance equal to one horizontal foot for every foot of the tower height, or the distance from the highest engineered break point to the top of the tower. The approval authority may waive the setback requirement for freestanding towers that meet Class 3 structural standards for critical infrastructure as defined in the most current revision of the ANSI/TIA-222 Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures.
- O. **Building-Mounted Wireless Facilities.** In addition to all other design requirements in this chapter, the following provisions shall be applied to a wireless facility installed on a building rooftop or facade:
 1. **Architectural integration.** All applicants should, to the extent feasible, propose non-tower wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose completely concealed structures or appurtenances designed to mimic the support structure’s original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks). Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.

2. **Rooftop wireless facilities.** All rooftop-mounted equipment must be screened from public view with concealment measures that match the underlying structure in proportion, quality, architectural style and finish to the maximum extent practicable. The approval authority may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.
 3. **Facade-mounted wireless facilities.** When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted equipment in accordance with this Subsection 11.4.26.009(O)(3). All facade-mounted equipment must be concealed behind screen walls and mounted as flush to the facade as practicable. The approval authority may not approve “pop-out” screen boxes unless the design is architecturally consistent with the original building or support structure. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.
- P. **Administrative Design Guidelines.** The Director may develop, and from time to time amend, design guidelines consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this chapter for City staff, applicants and the public. The design guidelines shall provide more detailed standards to implement the general principals articulated in this Section and may include specific standards for particular wireless facilities or site locations but shall not unreasonably discriminate between functionally equivalent service providers. The design guidelines, and any subsequent amendments, shall not be effective unless approved by a resolution adopted by the City Council. If a conflict arises between the development standards specified in this chapter and the design guidelines adopted under this Section, the development standards specified in this chapter shall control.

§11.4.26.010 Standard Conditions for Approved Permits.

- A. **General.** Except as may be authorized in Subsection 11.4.26.012, all wireless facilities approved under this chapter or deemed approved by the operation of law shall be automatically subject to the following conditions:
1. **Permit term; approval applies to land.** The WTFPP permit will automatically expire ten (10) years and one day from its final approval unless California Government Code §65964(b) authorizes the City to establish a shorter term for. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. No change in ownership of the wireless facility, the site, or the subject property shall affect the permit term. This permit may not be transferred to another site or property.

1. **Permit renewal.** The permittee may apply for permit renewal not more than one year before the permit expires. The permittee must demonstrate that the subject wireless facility complies with all the conditions of approval associated with its permit and all applicable provisions in this Code that exist at the time the decision to renew or not renew is rendered. With respect to Administrative WTFPPs and ministerial permits, the director may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with this Code or other applicable law. Upon renewal, this permit will automatically expire ten (10) years and one day from its issuance. Additional permit renewals shall be subject to the procedures in this condition.
1. **Build-out period.** This permit will automatically expire twelve (12) months from the approval date (the "build-out period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support structure or the wireless facility and its use. The permittee may request in writing, and the director may grant in writing, one twelve (12) month extension to the build-out period if the permittee submits substantial and reliable written evidence demonstrating justifiable cause for a twelve (12) month extension. If the build-out period (and any extension) finally expire, the permit shall be automatically void but the permittee may resubmit a complete application, which includes, without limitation all application fees, for the same or substantially similar project.
1. **Approved plans.** Any construction plans submitted to the building official shall incorporate the permit, together with all conditions of approval and the photo simulations associated with the permit (collectively, the "approved plans"). The permittee must construct, install and operate the wireless facility in substantial compliance with the approved plans. Any alterations, modifications or other changes to the approved plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, shall be subject to the Director's prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the approved plans, the director may refer the request to the original approval authority if the Director finds that it proposes a substantial change from the approved plans or implicates a significant or substantial land-use concern.
1. **Post-installation certification.** Within sixty (60) calendar days after the permittee commences full, unattended operations at a wireless facility, the permittee shall provide the director with documentation reasonably acceptable to the director that the wireless facility has been installed and/or constructed in strict compliance with the approved plans. Such documentation shall include without limitation as-built drawings, GIS data and site photographs. In a written notice to the permittee, the director shall either certify that the wireless facility complies with the approved plans or order the permittee to correct any noncompliance.

1. **Adverse impacts on other properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by Code §5.02.110. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons. The director may issue a stop work order for any activities that violates this condition in whole or in part.
1. **Compliance with applicable laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit. If the director finds good cause to believe that the wireless facility is not in compliance with any laws applicable to human exposure to RF emissions, either individually or cumulatively with other transmitters in the vicinity, that result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population, the director may require the permittee to submit a written report certified by a qualified radio frequency engineer familiar with the wireless facility that certifies that the wireless facility is in compliance with all such laws. The director may order the facility to be powered down if, based on objective evidence, the director finds that the wireless facility is in fact not in compliance with any laws applicable to human exposure to RF emissions until such time that the permittee demonstrates actual compliance with such laws. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in this Code, this chapter, any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in this Code, this chapter, any permit, any permit condition or any applicable law or regulation.
1. **Site maintenance.** The permittee shall keep the site area, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean, safe and code compliant condition in accordance with the approved plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. Routine maintenance shall be restricted to normal construction work hours specified in Code §5.02.110. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within forty-eight (48) hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

1. **Landscape features.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species in accordance with the requirements of Chapter 11.4.26 (Personal Wireless Service(s) Facilities) and/or Chapter 11.5.06 (Preservation and Protection of Designated Trees on Private Property). Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the City. The permittee shall, at all times, be responsible for maintaining any replacement landscape features.
1. **Abandonment.** The permittee shall notify the director when the permittee intends to abandon or decommission the wireless facility authorized under this permit. In addition, the wireless facility authorized under this permit shall be deemed abandoned if the wireless facility has not operated for any continuous six (6) month period and the permittee fails to resume operations within ninety (90) days from a written notice from the director. Within ninety (90) days after a wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation this Code. The permittee and/or property owner may request an extension to complete restoration to one-hundred eighty (180) days after a wireless facility is abandoned or deemed abandoned, which the director may grant if the applicant presents evidence of good cause for the extension. In the event that neither the permittee nor the property owner complies with the removal and restoration obligations under this condition within the required period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee and property owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities; the City may also collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the City has no obligation to store such facility or associated equipment.
1. **Inspections; emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee and/or property owner. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee and/or property owner, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.

1. **Safety hazard protocol.** If the building official (or designee) finds good cause to believe that the wireless facility presents an immediate fire risk, electrical hazard or other threat to public health and safety in violation of any applicable law, the building official may order the facility to be shut down and powered off until such time as the immediate threat has been mitigated, after a good faith effort is made to notify the applicant, if feasible. Any mitigations required shall be at the permittee's sole cost and expense.
1. **Contact information.** Prior to final inspection and at all times relevant to this permit, the permittee shall keep on file with the division, basic contact and site information. This information shall include, but is not limited to, the following: (A) the name, physical address, notice address (if different), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) site operator, (ii) equipment owner, (iii) site manager and (iv) agent for service of process; (B) the regulatory authorizations held by the permittee and, to the extent applicable, site operator, equipment owner and site manager as may be necessary for the facility's continued operation; (C) the facility's site identification number and/or name used by the permittee and, to the extent applicable, site operator, equipment owner and site manager; and (D) a toll-free telephone number to the facility's network operations center where a live person with power-down control over the facility is available twenty-four (24) hours-per-day, seven days-per-week. Within ten (10) business days after a written request by the City, the permittee shall furnish the City with an updated form that includes all the most-current information described in this condition.
1. **Indemnification.** The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, City Council and the City's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all (A) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this permit, and (B) other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this permit or the wireless facility. If the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the approval authority to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of the WTFPP.

1. **Insurance.** The permittee shall obtain and maintain throughout the term of the permit a type and amount of insurance as specified by City's risk management. The relevant policy(ies) shall name the City, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insured. The permittee shall use its best efforts to provide thirty (30) days prior notice to the Community Development Director of the cancellation or material modification of any applicable insurance policy.
1. **Performance bond.** Prior to issuance of a WTFPP permit, the permittee shall file with the City, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to one hundred percent of the cost of removal of the facility as specified in the application for the WTFPP or as that amount may be modified by the community development director in the permit based on the characteristics of the installation. The permittee shall reimburse the City for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the City Council. Reimbursement shall be paid when the security is posted and during each administrative review.
1. **Record retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the WTFPP application, the WTFPP, the approved plans and photo simulations incorporated into such approval, all conditions associated with the approval, any ministerial permits or approvals issued in connection with the WTFPP approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City's regular files will control over any conflicts between such City- controlled copies or records and the permittee's electronic copies.
1. **Permit revocation.**
 - a. Any Administrative WTFPP approval may be revoked for failure to comply with any imposed conditions, the Code, any City standard, or any applicable code, regulation or law. Said revocation shall be preceded by notice and a reasonable opportunity to cure. The decision of the community development director to revoke an approval shall be final unless appealed to the planning commission within fifteen calendar days after the date of such decision in accordance with the Chapter 11.2.04 of the Code.
 - b. Any Major WTFPP approval may be revoked in accordance with Code §11.2.04.

1. **Truthful and accurate statements.** The permittee acknowledges that the City's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the City in connection with the permit or the wireless facility, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.
 1. **City's standing reserved.** The City's grant or grant by operation of law of a permit does not waive, and shall not be construed to waive, any standing by the City to challenge any provision in federal or state law or any interpretation thereof.
- B. **Modified Conditions.** Each owner or operator of a PWSF shall routinely and regularly inspect each site to ensure compliance with the standards set forth in this Section.

§11.4.26.011 Legal Nonconforming Wireless Telecommunications Facilities on Private Property.

- A. Legal nonconforming wireless telecommunications facilities are those private property wireless facilities that existed but did not conform to this chapter on the date this chapter became effective.
- B. Legal nonconforming wireless telecommunications facilities subject to this chapter shall, within ten years from the date this chapter became effective, be brought into conformity with all requirements of this chapter; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this Code at such time, to the extent the City can require such compliance under federal and state law.
- C. An aggrieved person may file an appeal to the City Council of any decision of the director or other approval authority made pursuant to this section. In the event of an appeal alleging that the ten-year amortization period is not reasonable as applied to a particular property, the City Council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.

§11.4.26.012 Special Exceptions for Federal or State Preemption.

- A. **Preface.** The provisions in this section establish a procedure by which the City may grant an exception to the standards in this chapter but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an exception, the approval authority shall consider the findings in Subsection 11.4.26.012(B) in addition to the findings required under Subsection 11.4.26.006(A). Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

- B. **Findings for an Exception.** The approval authority may grant an exception to any provision or requirement in this chapter only if the approval authority finds that a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both.
- C. **Scope of Exception.** If the approval authority finds that an exception should be granted, the exception shall be narrowly tailored so that the exception deviates from this chapter to least extent necessary for compliance with federal or state law.
- D. **Burden of Proof.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this section. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.

Chapter 11.4.27 Recycling Facilities

§11.4.27.001 Purpose.

This Chapter establishes standards for the siting and operation of various types and sizes of commercial recycling facilities to implement the California Beverage Container Recycling and Litter Reduction Act, as amended, and to protect the surrounding properties from impacts related to the operation of such recycling facilities. Recycling facilities shall comply with the following standards.

§11.4.27.002 Reverse Vending Machines.

- A. **Accessory Use Only.** The machines shall be installed as an accessory use in compliance with the applicable provisions of this Zoning Code, and shall not require additional parking.
- B. **Location Requirements.** If located outside of a structure, the machines shall not occupy required parking spaces, and shall be located within thirty (30) feet of a building entrance, and shall be constructed of durable waterproof and rustproof materials.
- C. **Maximum Size.** When located outdoors, the area occupied by the machines shall not exceed fifty (50) square feet, including any protective enclosure, nor eight exceed (8) feet in height.
- D. **Signs.** Signs shall not exceed a maximum area of two (2) square feet for each machine, exclusive of operating instructions.
- E. **Hours of Operation.** The machines shall have operating hours which are consistent with the operating hours of the primary use.

§11.4.27.003 Small Collection Facilities.

- A. **Accessory Use Only.** A small collection facility shall only operate as an accessory use in compliance with the applicable provisions of this Zoning Code.
- B. **Location Requirements.** Small collection facilities shall:
 - 1. Not be located within one hundred (100) feet of a lot zoned for or occupied by a residential use; and

2. Be set back at least ten (10) feet from a public right-of-way and shall not obstruct pedestrian or vehicular circulation.
- C. **Maximum Size.** Small collection facilities shall not exceed an area of three hundred fifty (350) square feet or three parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers;
- D. **Appearance of Facility.** Collection containers and site fencing shall be of a color and design that is compatible and harmonious with the surrounding uses and neighborhoods.
- E. **Operating Standards for Small Collection Facilities:**
1. Only California Redemption Value (CRV) eligible glass, aluminum, or plastic containers, paper, and other recyclable items shall be accepted;
 2. No power-driven processing equipment shall be used, except for bulk reverse vending machines;
 3. Only containers that are constructed with durable waterproof and rustproof material(s) shall be used. Containers shall be secured from unauthorized entry and removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule.
 4. The site shall be maintained clean, sanitary, and free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis.
 5. The operation shall not exceed noise levels of fifty (50) dBA as measured at the property line of the nearest residentially zoned or occupied property, otherwise shall not exceed sixty (60) dBA.
 6. Dust, fumes, odor, smoke, or vibration, above ambient levels, shall not be detectable on adjoining parcels.
 7. Attended small collection facilities located within five hundred (500) feet of a residential zone shall only operate and have materials picked up or delivered between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, and 9:00 a.m. and 7:00 p.m. on Saturday and Sunday.
- F. **Signs.** Signs shall comply with Chapter 11.5.08 (Sign Regulations), subject to the following requirements:
1. Identification signs shall not exceed a maximum area of ten (10) square feet;
 2. Signs shall be compatible and harmonious with the character of their location; and
 3. Directional signs, consistent with Chapter 11.5.08 (Sign Regulations) and without advertising message, may be approved by the Director only if determined necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.

§11.4.27.004 Large Collection Facilities Prohibited.

Large collection facilities shall not be permitted in La Cañada Flintridge.

Chapter 11.4.28 Day Care Facilities (Child and Adult)

§11.4.28.001 Purpose.

This Chapter provides standards for day care facilities for children and adults, including small family day care, large family day care, small adult day care home, large adult day care home, and day care centers for children and adults.

§11.4.28.002 Care Provider Occupancy.

The single-family dwelling in which each small and large adult or child day care home is located shall be the principal residence of the care provider, and the use shall be clearly residential in character, and shall be accessory to the use of the property as a residence.

§11.4.28.003 Small Family Day Care, Large Family Day Care, and Small Adult Day Care.

Small family day care, large family day care, and small adult day care homes are considered a residential use of property and shall comply with the development standards of the residential district in which they are located.

§11.4.28.004 Standards—Day Care Centers.

- A. All day care centers shall comply with this Section and with any additional requirements imposed as part of any other applicable permit, including but not limited to the following:
 - 1. The minimum setback between the exterior wall of the main facility building and a residential zone shall be thirty (30) feet.
 - 2. Any outdoor play or activity area shall not be located in the front yard or street side yard and shall be separated from vehicular circulation, parking areas, equipment enclosures, storage areas, and refuse and recycling storage areas. A minimum four (4) foot high fence shall enclose an outdoor play or activity area and a minimum five (5) foot high fence shall enclose a pool.
 - 3. Day care centers that are located adjacent to a residential use shall limit outdoor activities to the hours between nine (9) a.m. and seven (7) p.m.
- B. Childcare facilities as an accessory use on the premises of a public or private school or religious facility are exempt from the provisions of this Section. The child day care center may be either operated by the school or religious facility or privately operated.

Chapter 11.4.29 Residential Care Facilities

§11.4.29.001 Purpose and Applicability.

This Chapter provides regulations for the establishment and operation of Large Residential Care Facilities and Residential Care Facilities for the Elderly. A Small Residential Care Facility for six (6) or fewer person is a use regulated by the State and shall be considered a permitted use in all zones permitting residential uses in accordance with Table 11.3.02-1 (Land Use Permit Table for All Zones) and is not subject to the provisions of this Chapter. Standards.

The following standards are intended as minimum requirements for large residential care facilities and residential facilities for the elderly, unless applicable State requirements are more restrictive

- A. The use shall comply with all property development standards applicable to the underlying zone.
- B. Sleeping areas must meet all of the following criteria:
 - 1. A minimum of seventy (70) square feet of sleeping area per resident, exclusive of closet or storage space, shall be provided.
 - 2. No room commonly used for other purposes shall be used as a sleeping area.
 - 3. No sleeping area shall be used as a public or general passageway to another room, bath, or toilet.
 - 4. A minimum of eight (8) square feet of storage (closet and/or drawers) shall be provided per bed.
- C. The facility shall provide at least one (1) full bathroom (toilet, sink, shower, and/or bathtub) per every seven (7) beds.
- D. The facility shall be required to provide a common living area of a minimum of one hundred (100) square feet plus additional common area of five (5) square feet per bed, exclusive of the sleeping, dining, and kitchen areas.

§11.4.29.002 Licenses, Permits, Certifications, and Approvals.

The operator of a residential care facility shall be required to obtain and maintain all applicable licenses, permits, certifications, and approvals as required by any and all governing agencies.

Chapter 11.4.30

Adult Oriented Businesses and Entertainers

§11.4.30.001 Purpose.

- A. The intent of this chapter is to regulate adult oriented businesses and adult entertainers so as to mitigate the significant secondary effects these businesses have on the community, such as: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of the adult oriented businesses; higher crime rates, noise, debris, or vandalism in the vicinity of adult oriented businesses; and blighting conditions such as low level maintenance of commercial premises and parking lots which have a deleterious effect upon adjacent areas. Special regulation of adult oriented businesses and adult entertainers is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the adult oriented businesses.
- B. These regulations are not intended to impose limitations or restrictions on the content of any communicative material, to restrict or deny access by adults to sexually oriented materials or merchandise protected by the First Amendment, or to deny access by the distributors or exhibitors of adult oriented business to their intended market.

§11.4.30.002 Definitions.

Unless it is clear from the context that a different meaning is intended, the following definitions shall apply to this chapter:

“Adult arcade” means an establishment where, for any form of consideration, as a regular and substantial course of conduct one or more still or motion picture projectors, or similar machines, for viewing by 5 or fewer individuals each, are used to show films, computer generated images, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

“Adult bookstore” means an establishment that, for any form of consideration, as a regular and substantial course of conduct offers for sale, rent, or viewing either adult entertainment material, adult oriented merchandise, or both.

“Adult cabaret” means an establishment that serves food or beverages and that, for any form of consideration, as a regular and substantial course of conduct presents live performances that are characterized by an emphasis upon specified sexual activities or feature any nude or seminude person.

“Adult entertainment material” means any audiotape, book, periodical, magazine, photograph, drawing, sculpture, motion picture film, recording, or other visual or audio representation, characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

“Adult entertainer” means any person who dances, models, entertains, and/or performs specified sexual activities or displays specified anatomical parts in an adult oriented business. Such persons shall constitute “entertainers” regardless of their legal relationship (e.g., employee, owner, or independent contractor) with the adult oriented business.

“Adult entertainer permit” shall refer to a permit issued by the City of La Cañada Flintridge to an adult entertainer pursuant to §11.4.30.005.

“Adult modeling studio” means an establishment that provides, for any form of consideration, figure models who expose specified anatomical areas for the purpose of observation, sketching, photography, painting, sculpting or other depiction by persons paying such consideration. This definition shall not include schools maintained pursuant to standards set by the state board of education.

“Adult motion picture theater” means an establishment that, for any form of consideration, as a regular and substantial course of conduct offers to show films, computer generated images, motion pictures, videos, slides, or other photographic or digital reproductions to six (6) or more individuals, which are characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

“Adult oriented business” means any business establishment which as a regular and substantial course of conduct performs as an adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or adult modeling studio; any business establishment or concern which as a regular and substantial course of conduct sells or distributes adult oriented merchandise or adult entertainment material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical parts. Adult oriented business shall not include any business (e.g., web-based) that provides adult entertainment merchandise but that does not provide its customers with access to its premises.

“Adult oriented business permit” shall refer to a permit issued by the City of La Cañada Flintridge to an adult oriented business pursuant to §11.4.30.004.

“Adult oriented permits” shall refer to adult entertainer permits and adult oriented business permits, collectively.

“Adult oriented merchandise” means any adult entertainment implements or paraphernalia, such as, but not limited to: dildos; auto sucks; vibrators; edible underwear; benwa balls; inflatable orifices; anatomical balloons with orifices; simulated vaginas; and similar adult entertainment devices that are designed or marketed primarily for sexual stimulation.

“Adult theater” means an establishment that, for any form of consideration, as a regular and substantial course of conduct presents live performances that are characterized by an emphasis upon specified sexual activities or feature any seminude person.

“City Manager” shall have the same meaning as Chapter 2.04 of this Code, and shall include their designee.

“Director” shall mean the Director of Community Development of the City of La Cañada Flintridge and shall include their designee.

“Nude” or “seminude” shall mean a state of dress in which any or all of an individual’s specified anatomical areas are totally or partially visible. An individual, for purposes of this definition, includes a natural person, as well as characters that are created digitally or by any other medium and that are identifiable as having specified anatomical areas.

“Owner” means any of the following:

1. The sole proprietor of an adult oriented business.
2. Any general partner of a partnership that owns and operates an adult oriented business.

3. The owner of a controlling interest in a corporation that owns and operates an adult oriented business.
4. The person designated by the officers of a corporation to be the permit holder for an adult oriented business owned and operated by the corporation.

“Perform at an adult oriented business” means to engage in or participate in, at an adult oriented business, any live performance that is characterized by an emphasis upon specified sexual activities or features any nude or seminude person.

“Permittee” or “permit holder” means either the holder of a current and valid adult oriented business permit or adult entertainer permit issued by the City.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

“Regular and substantial course of conduct” means that any or all of the following:

1. At least 15% (fifteen percent) of the gross receipts of the business are derived from the sale, trade, rental, display or presentation of services, products, materials, or entertainment that is characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas. This criteria shall not apply to mail order businesses or wholesale businesses with no patrons on the premises.
2. At least fifteen 15% (fifteen percent) of the total display area or 15% (fifteen percent) of the total merchandise (by volume or wholesale value), whichever is greater, is devoted to adult entertainment material, adult oriented merchandise, or both; provided, however, that this criteria shall not apply to mail order businesses or wholesale businesses with no patrons on the premises.
3. The business presents or offers to present, on any four (4) or more separate days within any thirty (30) day period, live entertainment that is characterized by an emphasis upon specified sexual activities or features any nude or seminude person.
4. The business presents or offers to present, on any four (4) or more separate days within any thirty (30) day period, non-live entertainment that is characterized by an emphasis upon specified sexual activities or the exposure of specified anatomical areas.

“Specified anatomical areas” means any of the following:

1. Less than completely and opaquely covered genitals, pubic region, buttocks, and nipple of the female breast.
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
3. Any device, costume, or covering, or any animated or digitally created character that simulates any of the body parts included in subsection 1 or 2 of this definition.

“Specified sexual activities” means any of the following, whether performed directly or indirectly through clothing or other covering, or performed by natural persons, animated characters, or digitally created characters:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated;

4. Excretory functions as part of, or in connection with, any of the other activities described in subsections 1 through 3 of this definition.

§11.4.30.003 Adult Oriented Permits – Required.

- A. It is unlawful for any person to operate any adult oriented business unless the owner of such business first obtains, and continues to maintain in full force and effect, both an adult oriented business permit and a business license from the City of La Cañada Flintridge.
- B. No person in charge of an adult oriented business shall allow any individual to provide a live performance at the business unless the entertainer is in possession of a valid adult entertainer permit issued by the City of La Cañada Flintridge.
- C. Businesses that provide adult oriented merchandise in an amount less than their regular and substantial course of conduct shall not be required to obtain an adult oriented business permit, but shall be required every two (2) years to submit proof that the merchandise comprises less than 15% (fifteen percent) of the gross receipts, merchandise, or total floor area.

§11.4.30.004 Adult Oriented Business Permit – Application.

- A. The owner of a proposed adult oriented business shall be the only person eligible to obtain an adult oriented business permit for such business. The owner shall not be eligible to obtain an adult oriented business permit unless the owner is at least eighteen (18) years of age. If the business has more than one owner, the application shall include the necessary identifying and background information for all owners.
- B. The following information shall be submitted to the Director at the time an application for an adult oriented business permit is submitted:
 1. A complete adult oriented business permit application signed by the applicant.
 2. The applicant's completed Live Scan. Any fees for the Live Scan fingerprinting process shall be paid by the applicant. This requirement applies to all owners.
 3. A nonrefundable fee as determined by the City Council, and set forth in the City's master fee schedule.
 4. An operations description letter that describes in detail the proposed adult oriented business and how it will satisfy the design and performance standards of this chapter.
 5. A diagram or floor plan describing the proposed project and a written explanation of how it complies or will comply with the requirements of this chapter. The diagram or floor plan shall be to scale and must show all measurements relating to the size of the business, as well as the layout, including identification of total display area, if any. The floor plan will include a lighting plan for the interior and exterior of the premises.
 6. A signed statement that the applicant, and/or the applicant's officers, partners or investors have not had an adult oriented business permit revoked within the previous two years by any jurisdiction. This requirement applies to all owners.

7. A statement signed by the applicant certifying under penalty of perjury that all of the information submitted in connection with the application is true and correct. This requirement applies to all owners.
 8. All other information as required by City of La Cañada Flintridge adult oriented business permit information sheet.
- C. **Determination of Completeness.** The City Manager shall determine whether the application contains all the information required. If the application is not complete, the applicant shall be notified in writing within ten (10) business days of the date of receipt of the application that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete. The applicant shall have fourteen (14) days to resubmit the application. Failure to timely resubmit the application, or an incomplete resubmittal, will be deemed a withdrawal of the application. Within fourteen (14) days of resubmittal, the applicant shall be notified in writing that the application is complete, or that the application is deemed withdrawn for incompleteness. An applicant whose application is deemed abandoned must submit a brand new application in order to obtain an adult oriented business permit, including the payment of all fees.

§11.4.30.005 Adult Entertainer Permit Application.

- A. No person less than eighteen (18) years of age shall be eligible for an adult entertainer permit.
- B. A completed application form signed by the applicant shall be submitted to the Director at the time of application for an adult entertainer permit.
- C. The application shall include the following information:
 1. The applicant's legal name and any other names (including stage names and aliases) used by the applicant.
 2. A good quality color copy of the applicant's current and valid government issued identification document, such as a state driver's license or identification card. If the applicant does not possess a state driver's license or state identification card, then the applicant shall submit a description of the applicant that sets forth the applicant's date of birth, height, weight, and hair and eye color, including satisfactory written evidence that the applicant is at least 18 years of age.
 3. The applicant's current address.
 4. A nonrefundable application fee in the amount determined by the City Council and included in the City's master fee schedule.
 5. The business name and address where the applicant intends to perform.
- D. If the Director determines that the applicant has completed the application improperly, the Director shall promptly notify the applicant in writing. An applicant shall have ten (10) days to complete the application properly. An application that is resubmitted improperly completed shall be denied in writing. The City Manager shall provide a decision on an adult entertainer permit within ten (10) business days of receiving a properly completed application.

§11.4.30.006 Adult Oriented Permits – Notice of Approval or Denial.

The Director shall issue an adult oriented business permit within forty-five (45) days of receipt of a complete application if the City Manager finds that the application fully complies with the requirements of this chapter; otherwise the permit shall be denied. Notice of the approval or denial of the permit shall be given to the applicant in writing by first class mail, postage prepaid, deposited in the course of transmission with the United States postal service within three (3) business days of the date of such decision. If the application is denied, the Director shall attach to the notice a statement of the reasons for the denial.

§11.4.30.007 Grounds for Denial, Suspension, or Revocation of Adult Oriented Permits.

- A. The Director shall deny, suspend, or revoke an adult oriented business permit when the City Manager or the Sheriff's Department finds, by a preponderance of the evidence, that any of the following have occurred within the prior three (3) years:
1. Failure to comply with any of the provisions of this Chapter relating to such businesses.
 2. The permittee has knowingly made false, misleading, or fraudulent statements of material fact in the application, or in any report or record required to be filed with the City; or has failed to apply for an amendment to a permit following substantial changes to the business.
 3. The permittee has committed, or has knowingly allowed the occurrence of violations of local, state, or federal law on the premises of the adult oriented business.
 4. The permittee, or an employee or independent contractor working on the premises, is conducting operations in a manner which constitutes a public nuisance;
 5. The permittee has failed to abide by any conditions or restrictions imposed on the business by the City Manager following a warning or suspension.
 6. The permittee has knowingly allowed the approved use to be substantially enlarged or modified without City approval.
 7. The permittee, or any owner of the business, is convicted of violating any provision of this chapter, or the equivalent provisions of another jurisdiction, or has an adult oriented permit revoked in any jurisdiction.
 8. The applicant, permittee, or any owner of the business is convicted of any of the following:
 - a. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - b. Lewdness, assignation, or prostitution, including any conduct constituting violations of sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - c. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, sections 311.5 through 311.7, 311.12, and 313.1.
- B. The Director shall deny, suspend, or revoke an adult entertainer permit when the City Manager or the Sheriff's Department finds, by a preponderance of the evidence, that the applicant or permittee has:

1. Knowingly made a false, misleading, or fraudulent statement of material fact in the application for a permit, or in any report or record required to be filed with the City.
2. Is under eighteen (18) years of age.
3. The adult entertainer permit is to be used for performing anywhere other than the location and business indicated on the permit.
4. The applicant or permittee has, within the prior three (3) years, engaged in one of the activities described below while on the premises of an adult oriented business:
 - a. Sexual intercourse, sodomy, oral copulation, or masturbation.
 - b. Solicitation of sexual intercourse, sodomy, oral copulation, or masturbation.
 - b. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - c. Lewdness, assignation, or prostitution, including any conduct constituting violations of sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - d. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, sections 311.5 through 311.7, 311.12, and 313.1.
 - e. Any conduct prohibited by this chapter.
5. The applicant or permittee has, within the prior three (3) years, been convicted of any of the following:
 - a. Any conduct constituting a criminal offense, which requires registration under §290, et seq. of the California Penal Code, or the equivalent statute of another state or of the federal government.
 - b. Lewdness, assignation, or prostitution, including any conduct constituting violations of sections 315, 316, or 318 or subdivision b of §647 of the California Penal Code.
 - b. An act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors including, but not limited to, sections 311.5 through 311.7, 311.12, and 313.1.

§11.4.30.008 Display of Adult Oriented Permits.

- A. Every adult oriented business shall display a current and valid adult oriented business permit for the business. The permit shall be displayed in a conspicuous place so that it may be readily seen by all persons entering the adult oriented business.
- B. Every entertainer shall have his or her adult entertainer permit available for inspection at all times the entertainer is on the premises of the adult oriented business for the purpose of performing.

§11.4.30.009 Term of Adult Oriented Business and Adult Entertainer Permit.

- A. An adult oriented business permit shall be valid for twenty-four (24) months from the date of issuance unless suspended or revoked, or unless relinquished by the permittee. If an adult oriented business ceases operating as such prior to the expiration of its permit, then the permittee shall relinquish the permit by written notice to the City Manager within three calendar days of the cessation of operations.
- B. An adult entertainer permit shall be valid for twenty-four (24) months from the date of issuance unless suspended or revoked, or unless relinquished by the permittee.

§11.4.30.010 Renewal of Adult Oriented Permits.

- A. An adult oriented business permittee shall submit an application for renewal no later than thirty (30) calendar days prior to its expiration. The renewal application shall be on a form provided by the City, and shall include any change of information for the applicant and/or the business, and shall include updated Live Scan reports. The renewal application shall be submitted together with a nonrefundable renewal fee in the amount set by resolution of the City Council. The City Manager shall approve or deny the renewal on the same basis as a new application.
- B. An adult entertainer shall submit an application for renewal on a form provided by the City prior to the expiration of their permit. The renewal application shall include any updated information for the applicant. The renewal application shall be submitted together with a nonrefundable renewal fee in the amount set by resolution of the City Council. The City Manager shall approve or deny the renewal on the same basis as a new application.

§11.4.30.011 Adult Oriented Permits Non-Transferrable.

- A. No adult oriented business permit may be sold, transferred, or assigned to any other person, group, partnership, corporation or any other entity. An adult oriented business permit shall only be valid for the location specified on the permit. Any sale, transfer, or assignment or attempted sale, transfer, or assignment of an adult oriented business permit shall be deemed to constitute a voluntary surrender of the permit and the permit shall be thereafter null and void.
- B. No adult entertainer permit shall authorize the permittee to perform at an adult oriented business other than the business stated in the application for the permit. No adult entertainer permit shall be transferable to any other individual. Any sale, transfer, or assignment or attempted sale, transfer, or assignment of an adult oriented entertainer permit shall be deemed to constitute a voluntary surrender of the permit and the permit shall be thereafter null and void.

§11.4.30.012 Suspension or Revocation of an Adult Oriented Permit.

- A. This section is applicable to both adult oriented business permits and adult entertainer permits.

- B. On determining that grounds for permit revocation exist, the Director shall furnish written notice of intent to suspend or notice of intent to revoke the permittee. Such notice shall set forth the time and place of a public hearing where the permittee will have the opportunity to be heard, and the grounds upon which the proposed suspension or revocation is based. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be personally delivered to the permittee. The hearing shall be held no sooner than (ten) 10 days and no later than thirty (30) days following the notice. The permittee shall be provided with copies of all the evidence against him or her no later than seven (7) days prior to the hearing.
- C. Hearings shall be conducted in accordance with procedures established by the City Manager. All parties involved shall have a right to: 1) offer testimonial, documentary, and tangible evidence bearing on the issues; 2) be represented by counsel; and 3) confront and cross-examine witnesses. The formal rules of evidence shall not apply; any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness.
- D. If, following the hearing, the City Manager determines that grounds exist for disciplinary action, the Director shall impose one of the following penalties, based on the number and severity of the violations:
 - 1. A warning will be issued for minor technical violations that can be corrected within twenty-four (24) hours. The warning will be in writing and include directions regarding correcting any remaining violations, and a period of time during which the permittee will be on probation. The monitoring period will be no less than thirty (30) days and no more than six (6) months. During that time, if the Director establishes any additional violations, the permit will be suspended or revoked.
 - 2. The permit shall be suspended for a specified period not to exceed six (6) months, on the basis of any violation of the operational and performance requirements for adult oriented businesses, or of adult entertainers.
 - 3. The permit shall be revoked when three (3) or more violations have occurred within a ninety (90) day period of the operational and performance requirements for adult oriented businesses, or of adult entertainers. An adult oriented business where more than three (3) total violations, including those by adult entertainers, shall have its permit revoked.
- E. The City Manager may, in conjunction with the issuance of a warning or the suspension of an adult oriented permit, order the permittee to take appropriate corrective action within a specified amount of time.
- F. The Director shall issue a written decision, and shall articulate findings in support thereof.

§11.4.30.013 Appeal of the City Manager's Decision.

Any interested person may appeal the City Manager's decisions regarding the issuance, denial, suspension, or revocation of an adult oriented business permit or adult entertainer permit to the City Council in accordance with the provisions of §11.4.30.015.

§11.4.30.014 City Manager’s Decision Stayed During Appeal.

Any decision of the City Manager to suspend or revoke an adult oriented business permit or an adult entertainer permit, or to deny renewal of any such permit, shall be stayed during: (1) the appeal period set forth in this article; and (2) the pendency of any appeal.

§11.4.30.015 Appeal Hearing Before City Council.

- A. An interested party may appeal a decision by the City Manager to City Council by submitting a request for appeal in writing to the City Clerk. The request for appeal must be filed within fifteen (15) days of the decision.
- B. The City Council shall set the matter for an appeal hearing to be held not fewer than fifteen (15) nor more than forty-five (45) days from the date of filing of the request for appeal.
- C. The permittee (and the interested party, if a different person) shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least ten (10) days prior to the hearing. The hearing may be continued from time to time upon the mutual consent of the parties.
- D. At the time of such hearing, the City Council shall review all relevant evidence presented by the parties.
 1. The formal rules of evidence shall not apply. Any relevant evidence may be admitted if it is material and if it is evidence customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of such evidence improper over objection in civil actions. Hearsay evidence may be admissible if it is the sort upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The rules of privilege shall be applicable to the extent they are now, or are hereafter permitted in civil actions. Irrelevant, collateral, and repetitious testimony shall be excluded.
 2. The City Council’s decision shall be communicated in writing to the appellant (and to the permittee, if different from the appellant) within ten (10) days after the close of the hearing. The City Council’s decision shall state whether the permit is suspended, and for how long, or revoked, and shall state the factual basis thereof.
 3. The City Council’s decision shall be final, and shall include notice that judicial review may be sought of the decision pursuant to California Civil Procedure Code §1094.8.

§11.4.30.016 Nonconforming Adult Oriented Businesses.

- A. Except as provided in subsection B of this section, the provisions of this chapter shall be applicable to all adult oriented businesses, whether such businesses were established before or after the effective date of this chapter.
- B. Any adult oriented businesses legally in business prior to the effective date of this chapter shall have six (6) months to comply with the terms of this chapter.

§11.4.30.017 Notices.

- A. All notices required to be given pursuant to this chapter shall be served on the permittee, applicant, appellant, or a representative thereof, either by personal delivery or certified mail to such responsible party as the name and address appear in the most recent application on file with the City. Notices shall include information regarding appeal rights, if applicable, and a statement that the failure to file an appeal shall constitute a failure to exhaust administrative remedies.
- B. In all cases where the permittee is not the property owner, notices shall also be sent to the property owner of record where the notice relates to possible closure of an adult oriented business due to suspension or revocation.

§11.4.30.018 Adult Oriented Businesses – Operational Standards.

- A. No adult oriented business shall be located in any temporary or movable structure, or vehicle.
- B. Trash dumpsters shall be enclosed by a screening enclosure so as not to be accessible to the public.
- C. No landscaping shall exceed 30 inches in height, except trees with foliage not less than 6 feet above the ground.
- D. In addition to requirements set forth in §11.5.05 (Outdoor Lighting Standards), all off street parking areas and premises entries of the adult oriented business shall be illuminated from dusk to closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one foot-candle of light on parking surfaces and walkways.
- E. The premises within which the adult oriented business is located shall provide sufficient sound absorbing insulation so that noise generated inside the premises shall not be audible anywhere on adjacent property, public rights-of-way, or within any separate unit within the same building.
- F. All indoor areas of the adult oriented business within which patrons are permitted, except restrooms, shall be open to view by the management at all times.
- G. All indoor areas of the adult oriented business shall be illuminated at a minimum of 2.0 foot-candle, minimally maintained and evenly distributed at ground level.
- H. The adult oriented business shall provide and maintain separate restroom facilities for patrons and employees. The restrooms shall be free from adult entertainment material and adult oriented merchandise. Restrooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment.
- I. The adult oriented business shall comply with the City's sign regulations.
- J. The adult oriented business shall comply with the development and design requirements of the Zoning Code.
- K. Adult arcades shall comply with the following additional requirements:

1. The interior of the premises shall be configured in such a manner that from a manager's station there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two or more designated manager's stations, then the interior shall be configured in such a manner that from at least one of the manager's stations there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The view required herein must be direct line of sight from the designated manager's station.
 2. At all times the view specified in Subsection (K)(1) of this section shall remain unobstructed by doors, walls, merchandise, display racks, or other materials.
 3. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times. The walls or partitions between viewing rooms or booths shall not contain holes between any two such rooms or booths such as would allow either: a) viewing from one room or booth into another; or b) physical contact of any kind between the occupants of any two such rooms or booths.
 4. Signs prohibiting loitering shall be posted in prominent places in and near viewing rooms and booths.
 5. No alteration in the configuration of a manager's station shall be made without the written approval of the City Manager.
- L. Adult cabarets and adult theaters shall comply with the following additional requirements:
1. The interior of the premises shall be configured in such a manner that from a manager's station there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two (2) or more designated manager's stations, then the interior shall be configured in such a manner that from at least one of the manager's stations there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The view required herein must be direct line of sight from the designated manager's station.
 2. At all times the view specified in Subsection (L)(1) of this section shall remain unobstructed by doors, walls, merchandise, display racks, or other materials.
 3. No alteration in the configuration of a manager's station shall be made without the written approval of the City Manager.
 4. Separate dressing room facilities for entertainers, exclusively dedicated to the entertainers' use, shall be provided.
 5. Access between the stage and the entertainers' dressing room facilities, completely separated from the patrons, shall be provided. If such separate access is not physically feasible, a minimum 3 feet wide aisle between the entertainers' dressing room facilities and the stage shall be provided. Such walk aisle shall contain a railing, fence or other barrier separating the patrons and the entertainers. Such railing, fence or other barrier shall be at least thirty (30) inches in height and shall be sufficient to delineate a separation between patrons and entertainers; provided, however, that such railing may contain individual breaks not exceeding 5 feet in length and not exceeding more than 50% (fifty-percent) of the length of the walk aisle between the entertainers' dressing room facilities and the stage.

§11.4.30.019 Adult Oriented Business – Performance Standards.

- A. No adult oriented business shall be operated in a manner that permits the observation, from public rights of way or locations outside the establishment, of either: (1) adult entertainment material; (2) adult oriented merchandise; (3) specified sexual activities; (4) specified anatomical areas; or (5) any nude or seminude person. This provision shall apply to any display, decoration, sign, show window, or other opening.
- B. Exterior doors and windows of the adult oriented business shall not be propped or kept open at any time while the business is open.
- C. Exterior windows of the adult oriented business shall be covered with opaque covering at all times.
- D. Patrons shall not be permitted access to any area of the adult oriented business that has been designated as an area in which patrons will not be permitted.
- E. No person under the age of eighteen (18) years shall be permitted within the adult oriented business at any time.
- F. Adult oriented businesses served by on-site parking shall maintain a security system that visually monitors and records such parking surfaces. Recordings must be kept for a minimum of thirty (30) days, and shall be provided to peace officers or code enforcement officers upon request.
- G. Security guards shall be employed in accordance with the following standards:
 - 1. Security guards must hold a current and valid license issued by the California Department of Consumer Affairs, Bureau of Security and Investigative Services.
 - 2. Businesses conducted within premises having a maximum occupancy capacity of fifty (50) persons or fewer shall have one (1) security guard on duty at all times while the business is open. Businesses conducted within premises having a maximum occupancy capacity greater than fifty (50) persons shall have two (2) security guards on duty at all times while the business is open. Adult oriented businesses with off-street parking that is not directly visible from the main entrance shall also have an additional security guard on duty in the parking area while the business is open, irrespective of whether the parking is shared with other businesses.
 - 3. The security guard(s) shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public.
 - 4. The security guard(s) shall be charged with enforcing patron compliance with the requirements of this chapter, and with notifying the Los Angeles County Sheriff's Department of any violations of law observed.
 - 5. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.
- H. No adult oriented business shall operate between the hours of midnight and 8:00 a.m. on any day, except that this provision does not apply to businesses also regulated by the California Department of Alcoholic Beverage Control.
- I. The exterior of the premises of the adult oriented business shall be free from all adult entertainment material and adult oriented merchandise.

- J. No operator, entertainer, employee, or agent of an adult oriented business shall permit any patron to touch, caress, or fondle the clothed or unclothed breast, buttocks, anus or genitals of any operator, entertainer, employee, or agent of an adult oriented business providing live entertainment, or permit any entertainer, operator, employee, or agent to touch, caress, or fondle the clothed or unclothed breasts, buttocks, anus, or genitals of any patron.
- K. Adult arcades shall comply with the following additional requirements:
 - 1. No viewing room or video booth may be occupied by more than one person at any one time.
 - 2. At least one employee shall be on duty and stationed at each manager's station at all times that a patron is present inside the premises.
 - 3. Customers, patrons or visitors shall not be allowed to loiter in either: a) the vicinity of viewing rooms or booths; or b) the common area of the business.
 - 4. The floors, seats, walls and other interior portions of viewing rooms and booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any viewing rooms or booths shall be evidence of improper maintenance and inadequate sanitary controls.
- L. Adult cabarets and adult theaters shall comply with the following additional requirements:
 - 1. No entertainer shall perform except upon a stage that is both: a) at least eighteen (18) inches above the level of the floor; and b) separated by a distance of at least six (6) feet from the nearest area occupied by patrons.
 - 2. No patron shall be permitted within six (6) feet of the stage while the stage is occupied by an entertainer nor shall a patron be permitted within six (6) feet of any person dancing for any form of consideration.
 - 3. No entertainer shall fondle or caress any patron and no patron shall fondle or caress any entertainer. This prohibition shall apply before, during, and after a performance, but only on the premises of the business. For the purposes of this subsection, "fondle or caress" means to touch with the intent to sexually arouse or excite.
 - 4. No patron shall directly pay or give any gratuity to an entertainer in conjunction with a performance. For purpose of this provision, "directly pay or give" shall mean the placement of a gratuity by a patron on any portion of an entertainer's person or clothing.
 - 5. No entertainer shall solicit any gratuity from a patron.
- M. No owner or other person with managerial control over the adult oriented business shall permit any person on the premises to engage in a live performance characterized by the exposure of specified anatomical areas.
- N. No adult oriented business shall be operated when the presentation of sale, trade, display or presentation of services, products or entertainment characterized by an emphasis on matters, depicting, describing or relating to specified sexual activity or specified anatomical parts is otherwise prohibited by local, state, or federal law.

§11.4.30.020 Adult Oriented Businesses – Gross Receipts Records.

The owner of an adult oriented business shall maintain complete records that can be segregated with regard to all transactions involving products, merchandise, services, or entertainment characterized by an

emphasis upon specified sexual activities or the exposure of specified anatomical areas. Such records shall be sufficient to establish the percentage of gross receipts of the business that is derived from such transactions. Such records shall be maintained for at least three (3) years after the end of the calendar year for which the records were created.

§11.4.30.021 Adult Oriented Business That Provide Live Performances – Register of Adult Entertainers.

- A. Every adult oriented business that provides live performances shall maintain on the premises a register of all entertainers who perform at the business. The register shall list each entertainer's legal name, stage name(s), and adult entertainer permit number. The register must be updated within forty-eight (48) hours of any change in entertainer personnel.
- B. Upon commencement of the business, and on an annual basis thereafter, every owner of adult oriented business that provides live performances shall file with the City Manager a copy of the register of entertainers who perform at the business. Such filing shall be accompanied by a statement, signed by the owner, that all of the information in the register is correct and current. The owner of the business shall update the information provided to the City within two (2) weeks of any change in entertainer personnel.

§11.4.30.022 Inspections.

The owner, operator, or other person in charge of an adult oriented business shall allow City officers and their authorized representatives to conduct unscheduled inspections of the patron-accessible areas of the premises for the purpose of ensuring compliance with this chapter. Such access shall be afforded at any time the adult oriented business is open for business or is occupied.

§11.4.30.023 Violations.

In addition to the disciplinary actions provided in this chapter, any violation of the provisions of this chapter may also be punished or abated pursuant to the provisions of Chapter 1.04 and 1.07, in addition to any other remedy at equity or at law available to the City. No remedy shall be exclusive of any other remedy.

§11.4.30.024 Regulations Not Exclusive.

The provisions of this chapter regulating adult oriented businesses are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other applicable provisions of this Code or other law, including obtaining and maintaining a valid city business license. Notwithstanding the preceding, neither a conditional use permit for a nightclub use nor a permit for public dancing shall be required for an adult oriented business.

Chapter 11.4.31 Animal Keeping and Animal Clubs in Residential and Mixed Use Zones

§11.4.31.001 Purpose.

The City Council has determined that ownership of horses and other animals is an important tradition and an asset to the community. This Chapter establishes regulations as they pertain to the density of horses and other similar animals, and general standards for their maintenance. This Chapter also establishes regulations governing animals for the personal use of the family residing on the premises in the primary dwelling unit where accessory to the residential use of property, including the manner in which animals are maintained within the city, as opposed to maintenance for commercial purposes. Such regulations presume a significant effort on the part of the animal owner to recognize the rights of surrounding neighbors by maintaining and controlling his or her animals in a safe and healthy manner that does not significantly impact the use and enjoyment of neighboring property.

§11.4.31.002 Animal Keeping in Residential and Mixed Use Zones.

A person may keep or maintain an animal on any lot or parcel zoned for residential purposes, on any parcel where the principal use listed in this Zoning Code is residential provided the property is being legally used as a single-family residence, or in the residential portion of a development in any mixed use zone, only as specifically authorized by this Chapter of the Zoning Code.

§11.4.31.003 Animals Prohibited.

A person shall not keep or maintain any of the following animals, whether such animal is kept or maintained for the personal use of the occupant or otherwise:

- A. **Pig or Hog:** Any live pig or hog of any age; or
- B. **Rooster:** Any rooster over two (2) months old, in any residential zone; or
- C. **Wild Animal:**
 - 1. Any wild animal which is not normally domesticated in the United States, including, but not limited to: any lion, tiger, bear, nonhuman primate (monkey, chimpanzee, etc.), wolf, cougar, ocelot, wildcat, skunk, venomous reptile, ratites (including ostriches, emus and rheas), rodents attaining an adult weight of over ten (10) pounds, or any crocodilian (order Crocodilia), irrespective of its actual or asserted state of docility, tameness, or domesticity. Such an animal shall be referred to as a "wild animal." In addition, the owner of any boa or python species (family Boidae) attaining an adult weight of over fifteen (15) pounds or an overall length of over three and one-half (3-½) feet, and the owner of any monitor lizard species (family Varanidae) that attains an adult weight of over ten (10) pounds or an adult overall length over three (3) feet, shall keep these animals in cages or enclosures of such size and construction as to preclude the possibility of escape and at the same time permit the animals reasonable freedom of movement. If these animals are maintained in such a manner, and the owner complies with all federal, State, and local laws or regulations affecting such animals, it will not be considered a "wild animal" subject to this Section. However, any failure to maintain a boa, python, or monitor lizard species in the above manner could subject the owner to a dangerous animal abatement proceeding as authorized by this Chapter.

- a. The sale, possession for sale, importation, or breeding of a wild animal is absolutely prohibited. This Section does not apply to birds, small rodents or nonvenomous reptiles commonly used for educational or experimental purposes or for pets.
- b. This Section shall not apply to recognized institutions of learning or scientific research unless the City Manager or his or her designee gives forty-eight (48) hours' advance notice that, by reason of inadequate caging or other means of protection of the public from such animals, or by the ineffectiveness of sanitation measures, or by a particular hazard connected with the animal or animals involved, the public health, safety, and welfare will be endangered. It is further provided that certain raptorial birds or birds of prey, such as hawks and falcons, may be maintained in the city by licensed falconers, who may acquire a qualified ownership of such birds of prey for the practice of falconry by complying with Fish and Game Commission rules and regulations.

§11.4.31.004 Dogs, Cats, and Other Ordinary Household Animals.

Dogs, cats, and any other ordinary household animal which are commonly considered pets, and which are otherwise allowed pursuant to the provisions of this Chapter, are allowed except as follows:

- A. In any single-family residential (R-1), residential planned development (RPD) zone, or any single-family use in any zone, for each parcel with a primary dwelling unit, the occupant may keep for his or her personal use not more than three (3) dogs over four (4) months of age and not more than five (5) cats over four (4) months of age.
- B. In the multifamily residential (R-3) zone or the residential portion of a development in any mixed use zone, the occupant may keep for his or her personal use not more than one (1) dog and one (1) cat over four (4) months of age, or two (2) dogs or two (2) cats over four (4) months of age. An Excess Animal Permit pursuant to §11.4.31.010 shall not be approved for property in the R-3 zone or the residential portion of a development in any mixed use zone.

§11.4.31.005 Livestock Permitted as an Accessory Use.

Livestock may be kept or maintained as an accessory use for the personal use of the occupants of premises in the single-family residential (R-1) zones on any one (1) parcel containing a single-family residential dwelling structure, subject to the requirements of this Section and as otherwise provided for by this Chapter. For purposes of this Section, all lots comprising the premises of one (1) primary residence shall be deemed to constitute one (1) parcel.

A. Maximum Number of Livestock Permitted.

1. The maximum number of livestock, in any combination, shall be permitted as provided by Table 11.4.31-1: Livestock Permitted.

Table 11.4.31-1: Livestock Permitted

Livestock Permitted					
	Lot Size (sf)				
	Under 15,000	15,000-19,999	20,000-24,999	25,000-29,999	30,000+
Total Permitted	0	2	3	4	5

B. Standards for Livestock.

1. Horses, donkeys, mules, cows, steers, llamas, or alpacas up to the age of one (1) year, and sheep and goats up to the age of six (6) months, may be kept on the premises in addition to the animals specified in Table 11.4.31-1, provided:
 - a. Such animals are otherwise kept and maintained as set forth in this Section;
 - b. The mother of such young hoofed animals is also kept on such premises; and
 - b. An Animal Keeping Registration (Animal Keeping—Property Registration) for such young hoofed animal(s) is first obtained from the Director, pursuant to §11.4.31.009 of this Chapter.
2. Any barn, facility, or other area which such animal(s) are allowed to occupy shall be located not less than fifty (50) feet from the primary dwelling unit on any adjacent property, or at such greater distance as is required by any applicable law or ordinance.
3. No barn, structure, or other area used for keeping any such animal(s) shall be located between the front property line or corner side property line and the primary dwelling unit on the site.
4. Adequate fences, walls, or other barriers shall be installed and maintained on the premises so that each such animal is so adequately confined on the premises that such animal cannot damage adjoining property.

§11.4.31.006 Farm Fowl Permitted as an Accessory Use.

Farm fowl may be kept or maintained as an accessory use for the personal use of the occupants of premises subject to the requirements of this Section and as otherwise provided for by this Chapter. For the purposes of this Section, all lots comprising the premises of one (1) primary residence shall be deemed to constitute one (1) parcel.

A. Maximum Number of Farm Fowl Permitted.

1. In the single-family residential (R-1) or residential planned development (RPD) zone on any one (1) parcel containing one (1) primary single-family residential dwelling unit, the maximum number of farm fowl permitted shall be as provided by Table 11.4.31-2.

Table 11.4.31-2: Farm Fowl Permitted

Farm Fowl Permitted			
Lot Size (sf)	Total Permitted¹	Maximum by Type	Type of Fowl
Under 15,000	3	3	Chickens
		0	Ducks

¹ The total number permitted of any combination of chickens, ducks, or geese, unless otherwise specified, provided the maximum for each type of farm fowl is not exceeded.

		0	Geese
15,000-19,999	6	6	Chickens
		6	Ducks
		3	Geese
		9	Chickens
20,000-24,999	9	9	Ducks
		3	Geese
		12	Chickens
25,000-29,999	12	12	Ducks
		3	Geese
		15	Chickens
30,000-34,999	15	12	Ducks
		3	Geese
		18	Chickens
35,000-39,999	18	12	Ducks
		3	Geese
		20	Chickens
40,000+	20	12	Ducks
		3	Geese

B. Standards for Farm Fowl.

1. Chickens, ducks, and geese up to the age of five (5) months may be kept on the premises in addition to the animals specified in Table 11.4.31-2 of this Section, provided such animals are otherwise kept and maintained as set forth in this Chapter.
2. At least one (1) coop shall be provided for all farm fowl on a lot. Minimum space requirements for farm fowl inside the coop and for outside runs shall be provided in accordance with Table 11.4.31-3.

Table 11.4.31-3: Space Requirements for Farm Fowl

Minimum Space Requirements for Farm Fowl		
Type of Poultry Bird	Sq. ft./Inside Coop	Sq. ft./Outside Run
Bantam Chickens	1	4
Layer Hens/Larger Chickens	2	10
Ducks	3	15
Geese	6	18

3. Coops shall be located not less than thirty-five (35) feet from the primary dwelling unit on any adjacent property, or at such greater distance as is required by any applicable law or ordinance, except as permitted through exemption herein.

4. Coops shall be located out of all required single-family residential (R-1) zone setbacks. Additionally, no coop shall be located between the front property line or corner side property line and the primary dwelling unit on the site.
5. On single-family residential (R-1) lots where the thirty-five (35) foot distance radius to offsite primary dwelling units cannot be achieved, or a coop setback does not meet the required single-family residential (R-1) zone setbacks, the Director may waive the distance requirement pursuant to approval of a Zoning Modification as provided for in Subsection 11.6.04.002(G) (Chicken Coop Waiver) only if the following criteria are met:
 - a. The coop is set as far from any offsite main dwelling as possible;
 - b. The coop is designed and constructed in a manner that minimizes emanation of noise and odors;
 - b. The animal owner has maintained the property in accordance with the standards referenced in this Chapter; and
 - c. The use is not found to be a nuisance.
6. Adequate fences, walls, or other barriers shall be installed and maintained on the premises so that each such animal is so adequately confined on the premises that such animal cannot damage adjoining property.

§11.4.31.007 Maintenance of Premises.

The occupant of the premises on which any livestock or farm fowl is kept shall keep and maintain the animal(s) and premises in such a manner as not to be detrimental to the health, safety, or welfare of any person on any adjoining property or of the general public, nor be materially detrimental to the use, enjoyment, or value of property of other persons in the vicinity of the premises. Such maintenance shall be at least sufficient to keep dust, odors, flies, and waste from having an adverse effect on any other property. The following techniques are recommended to meet the maintenance standard specified by this Section and shall be utilized if no other alternative techniques sufficient to meet that standard are utilized:

- A. A sprinkler system adequate to control dust in corrals, turn-out areas, riding rings, or animal pens shall be installed and utilized as necessary on the premises.
- B. Lime, sand, or other appropriate materials shall be utilized on the premises to eliminate odor problems.
- C. All manure shall be removed from the ground, stalls, coops, and pens at least once in every twenty-four (24) hour period and placed in a covered container(s). All manure shall be removed from the premises at least once every seven (7) days.
- D. Chemical spray and/or bait shall be utilized as frequently as necessary for fly control.

§11.4.31.008 Boarding of Livestock.

Not more than two (2) livestock which are not for the personal use of the occupant of the parcel may be kept, maintained, or otherwise boarded on the parcel, whether or not consideration in the form of money,

goods, services, or other valuable consideration is received from the owner or user of the animal, subject to the following conditions:

- A. Such boarding shall not be conducted as a commercial enterprise. For purposes of this Section, boarding shall be deemed a commercial enterprise if the occupant advertises in any manner whatsoever the availability of boarding of animals on the lot or parcel, conducts the boarding with the intent or result of generating profit, or otherwise engages in activities such as are commonly associated with commercial activity.
- B. Any animals boarded pursuant to this Section shall be counted as part of the total number of animals allowed on the lot or parcel.
- C. All requirements of this Section as to the maintenance of animals shall be complied with.

§11.4.31.009 Animal Keeping—Property Registration Required.

Every property in any single-family residential (R-1) and residential planned development (RPD) zone on which any animal subject to Subsection 11.4.31.005(B) (Standards for Livestock) is kept or maintained shall be registered with the City.

- A. **Procedures and Requirements for Animal Keeping—Property Registration.** An Animal Keeping—Property Registration application shall be prepared, filed, and processed as provided by this Subsection.
 - 1. **Application.** Animal Keeping—Property Registration applications shall be submitted to the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Filing and Processing of Applications) of this Zoning Code.
 - 2. **Review process.** The review process for Animal Keeping—Property Registration shall be as provided for in this Subsection.
 - a. *Authority.* The Director shall issue the registration unless the Director determines that keeping of animals is being conducted as a commercial activity on the premises, or the activity is inconsistent with Section 11.4.31.005 (Standards for Livestock), in which case said registration shall be denied, and the applicant notified of such decision.
 - b. *Public Notification.* No.
 - b. *Public Hearing.* No.
 - c. *Appeal.* Yes. The decision of the Director may be appealed by the applicant by filing a written appeal with the Director within thirty (30) days of the date of the Director's decision. The appeal shall be accompanied by a fee established by resolution of the Council. The appeal shall proceed as set forth in Subsection 11.2.03.003(D) (Method of Notice).
- B. **Annual Renewal.** An animal Keeping-Property Registration shall be renewed annually.

§11.4.31.010 Excess Animal Permit.

- A. **Criteria and Permit Required.** In addition to those animals specifically authorized by the provisions of this Chapter to be kept in a residential zone, an animal may be kept or maintained as a pet or for the personal use of the occupants of the premises if any one of the following criteria is met and an Excess Animal Permit is first obtained:
1. The animal is of a species not specifically permitted or prohibited by any law, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare.
 2. Addition of the animal to others on the premises would cause the total number of such animals to exceed the maximum number otherwise permitted, but will not be materially detrimental to the use, enjoyment, or value of property of other persons in the vicinity of the premises. An Excess Animal Permit shall not be issued to permit any livestock to be kept or maintained on any parcel with an area of less than fifteen thousand (15,000) square feet or for property located in the R-3 zone or the residential portion of the mixed use zone.
- B. **Procedures and Requirements for Excess Animal Permit.**
1. **Application.** Excess Animal Permit applications shall be submitted to the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Filing and Processing of Applications) of this Zoning Code, except that no application shall be filed or accepted if final action has been taken within one (1) year prior thereto by the Zoning Hearing Officer on an application requesting the same or substantially the same permit.
 2. **Review Process.** An Excess Animal Permit is subject to Review Process C (Subsection 11.6.02.004(C)).
- C. **Decision and Required Findings.** An Excess Animal Permit shall not be approved unless the Zoning Hearing Officer makes the following findings:
1. Any impacts on adjacent properties will be negligible or can be conditioned to result in no or negligible impacts.
 2. The requested animal(s) at the location proposed will not jeopardize, endanger, or otherwise constitute a public nuisance or menace to the public health, safety, or general welfare.
 3. The proposed site is adequate in size and shape to accommodate the animal(s) requested without material detriment to the use and enjoyment of the property of other persons located in the vicinity of the site.
- D. **Conditions of Approval.** In approving an Excess Animal Permit, the Zoning Hearing Officer may impose any reasonable conditions to ensure that the approval will comply with the findings required, as well as any performance criteria and development standards contained in this Zoning Code.
- E. **Excess Animal Permit Validity.** An Excess Animal Permit is issued for the benefit and use of the applicant thereof and for members of the applicant's family residing with said applicant and shall terminate and be of no further force or effect when said applicant and family cease to occupy the premises described in the Excess Animal Permit application or if the animal is no longer located on the property.

§11.4.31.011 Animal Club Permit.

- A. **Criteria and Permit Required.** Any group, club, or association operated on a nonprofit basis for recreational purposes may conduct regular, periodic meetings of people and animals owned by those people on any property with a minimum area of thirty thousand (30,000) square feet in a residential zone; provided that an Animal Club Permit is first obtained pursuant to the provisions of this Section.
- B. **Procedures and Requirements for Animal Club Permit.**
1. **Application.** Animal Club Permit applications shall be submitted to the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Filing and Processing of Applications).
 2. **Review Process.** An Animal Club Permit is subject to Review Process C (Subsection 11.6.02.004(C)).
- C. **Decision and Required Findings.** An Animal Club Permit shall not be approved unless the Zoning Hearing Officer makes the following findings:
1. Any impacts on adjacent properties will be negligible or can be conditioned to result in no or negligible impacts.
 2. The requested animal club activities at the location proposed will not jeopardize, endanger, or otherwise constitute a nuisance to the public health, safety, or general welfare.
 3. The proposed site is adequate in size and shape to accommodate the animal club activities requested without material detriment to the use and enjoyment of the property of other persons located in the vicinity of the site.
- D. **Conditions of Approval.**
1. In approving an Animal Club Permit, the Zoning Hearing Officer may impose any reasonable conditions to ensure that the approval will comply with the findings required, as well as any performance criteria and development standards contained in this Zoning Code.
 2. Additional required condition of approval: Except as otherwise provided by law, all animals brought to the premises by any person not residing on the premises in connection with animal club activities shall be removed from the premises upon conclusion of such activities on any day.
- E. **Animal Club Permit Validity.** An Animal Club Permit shall be valid for a period of one (1) year. The permit may be renewed by filing an application for renewal containing any change in the information on file with the City. The Director shall renew the Animal Club Permit for the premises if no written complaint has been received about club activities during the prior year on that property. If any such complaint has been received within the year prior to the renewal application, the Director shall refer the application to the Zoning Hearing Officer to conduct a hearing to determine if the permit shall be renewed, according to Review Process C (Subsection 11.6.02.004(C)). At the conclusion of the hearing, the Zoning Hearing Officer may approve or deny the renewal or may approve the renewal subject to conditions.

Chapter 11.4.32 Cottage Food Operations

§11.4.32.001 Purpose.

This Chapter provides minimum standards and requirements for cottage food operations, as defined in California Health and Safety Code §113758, to be established in residential neighborhoods, under conditions that these uses shall not alter or disturb the character of the surrounding residential environment regarding spacing and concentration, traffic control, parking, and noise control. All definitions related to cottage food operations as set forth in California Health and Safety Code §113758 are hereby incorporated by reference, as currently enacted and as may hereafter be amended.

§11.4.32.002 Permit Required and Compliance with Permit.

Cottage food operations shall be permitted in any residential zone with approval of a Director's Use Permit application, in accordance with the procedure established in §11.6.06.002 and the requirements and standards set forth in this Chapter.

- A. A Director's Use Permit for a cottage food operation shall be granted if the application is complete and the cottage food operation complies with the requirements set forth in this Chapter, the underlying zone, and all other applicable LCFMC provisions.
- B. If a Director's Use Permit for a cottage food operation is approved, conditions may be placed on the permit to mitigate or eliminate adverse impacts on surrounding properties and/or residents. Any use or activity authorized under said permit shall be in compliance with any conditions of approval shown on and/or attached to the approved permit, inclusive of the requirements of subsection (D) of this section. Failure to comply with the applicable requirements and conditions of approval may result in revocation of the permit.
- C. The permit applicant shall be the individual who conducts the cottage food operation from his or her private residential dwelling unit and is the owner of the cottage food operation. The permit shall be attached to the property address and is not transferable to another operator or address.
- D. If the property on or in which the cottage food operation will be conducted is part of an active homeowners' association, the permit applicant shall provide written authorization by the homeowner association to conduct the cottage food operation from the property.

§11.4.32.003 Standards.

A cottage food operation shall comply with the following standards:

- A. The cottage food operation shall be registered or permitted as a "Class A" or "Class B" operation by the Los Angeles County Department of Environmental Health. Evidence of said registration or permit issuance by the County shall be provided to the Director prior to issuance of a business license.
- B. All cottage food operations shall require a City business license to be procured subsequent to, and in compliance with, approval of the DUP application and associated conditions of approval.
- C. The cottage food operation shall be clearly accessory to the use of the structure as a dwelling unit, and shall not create dust, noise, or odors in excess of that normally associated with a residential use.

- D. The cottage food operation shall not generate pedestrian or vehicular traffic in excess of that normally associated with a residential use.
- E. Where a cottage food operation is permitted in a legal nonconforming residence, the cottage food operation shall not cause any such nonconforming situation(s) to be increased.
- F. The cottage food operation shall be conducted solely within a primary residence.
- G. No sign(s) identifying the cottage food operation shall be permitted to be posted or displayed on the premises, nor on or within anything located on the premises, except as may be required by any federal, State, and/or local permitting agency. Neither the dwelling nor the property shall be altered to appear other than a residence, either by color, materials, construction, lighting, sounds, vibrations, or other characteristics.
- H. No more than one (1) cottage food employee, as defined by California Health and Safety Code §113758(b)(1), shall be employed by the cottage food operation, not including any residing family or household member.

§11.4.32.004 Enforcement.

In addition to the provisions of Chapter 11.2.04 (Enforcement) the following provisions shall apply to cottage food operations:

- A. **Revocation.** A Director's Use Permit issued under this Chapter may be revoked for any violation of this Chapter or of §114365 et seq., of the California Health and Safety Code.
- B. **Inspections.** The City may, for inspection purposes, access the permitted area of a private home where a cottage food operation is located if the City has, on the basis of any complaint(s), reason to suspect that the cottage food operation has violated the provisions of this Section and/or California Health and Safety Code §114365 et seq. Furthermore, the City may also conduct routine periodic inspections to ensure compliance with the provisions and conditions of the cottage food operation's Director's Use Permit (DUP) and City business license.

Chapter 11.4.33 Donation Collection Bins

§11.4.33.001 Purpose.

This Chapter establishes standards and regulations for the placement and use of unattended donation collection bins for the purpose of mitigating potential adverse effects on the health, safety, and welfare of persons and property, both on the subject property and within neighboring areas, which may arise from the undue proliferation and/or inappropriate placement and operation of donation collection bins. The regulations of this Chapter are further intended to:

- A. Ensure that unattended donation collection bins do not pose a hazard to pedestrian, vehicular, and bicycle circulation.
- B. Mitigate other potential public health hazards.
- C. Ensure that unattended donation collection bins do not displace parking spaces and landscaping.
- D. Ensure that material is not allowed to accumulate outside of the unattended donation bins and become depositories for discarded items or other uncollected refuse.
- E. Ensure that the placement and operation of unattended donation bins do not degrade the appearance and aesthetic qualities of the community.

§11.4.33.002 Applicability.

It shall be unlawful and a public nuisance for any person to place, operate, maintain, or allow an unattended donation collection bin on real property within any zone as provided for in Table 11.3.02-1 (Land Use Permit Table for All Zones) or any specific plan in the city, and for any person to allow another person to operate a donation collection bin on property they own, lease, manage, or control within any zone or specific plan in the city, except as expressly provided for in this chapter.

§11.4.33.003 Donation Collection Bin Permit Required.

- A. **Permit Required.** Unless otherwise exempt, the operator of the donation collection bin shall first obtain a Donation Collection Bin Permit pursuant to this Chapter prior to placement and operation of an unattended donation collection bin within the city.
- B. **Limitations.**
 - 1. A permit issued hereunder shall be valid for one (1) unattended donation box. Each unattended donation box shall have its own individual permit.
 - 2. No more than one (1) unattended donation box shall be placed on each parcel of real property or each shopping center, where the shopping center includes two (2) or more parcels.
- C. **Permit Application Requirements.**
 - 1. The Donation Collection Bin Permit application shall be filed with the Director on a form provided by the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Filing and Processing of Applications) of this Zoning Code.
 - 2. The property owner's signature is required.

- D. **Permit Fee.** The fee for the Donation Collection Bin Permit shall be as established by Council resolution as may be amended from time to time.
- E. **Decision.**
1. Within thirty (30) days of receiving a completed application, the Director shall issue a Donation Collection Bin permit or deny the issuance of the permit.
 2. The Director shall not issue such permit unless the Director determines that all requirements of this Chapter have been met.
 3. If the Director denies an application, the Director shall provide the applicant, in writing, the specific reason(s) for denial.
 4. The Director's decision may be appealed to the Planning Commission pursuant to Chapter 11.2.03 (Call-Up and Appeals).
- F. **Transfer of Permit Prohibited.** No person to whom a Donation Collection Bin permit has been issued shall transfer, assign, or convey such permit to another person or operator.
- G. **New Permit Required.** If the donation collection bin is to be moved to a different location on the same property, a new Donation Collection Bin Permit shall be required.

§11.4.33.004 Regulations.

A Donation Collection Bin Permit shall be issued by the Director only if the following regulations are met:

- A. **Placement.** In no case shall a donation collection bin:
1. Be placed on required parking spaces;
 2. Be located within any landscaped area;
 3. Interfere with vehicular, pedestrian, or bicyclist circulation;
 4. Impede pedestrian, bicyclist, and vehicular sight distances;
 5. Be located within three hundred (300) feet of any establishment that stores large amounts of, or sells, fuels or other flammable liquids or gases;
 6. Be located within four hundred (400) feet of another donation collection bin;
 7. Be located within any residential zone;
 8. Be located within one hundred (100) feet of any single-family residential (R-1) zoned property;
 9. Be visible from any of the city's scenic corridors as shown on Figure CNE-3 of the City's General Plan Conservation Element.
- B. **Maintenance and Operation.**
1. The operator of the donation collection bin and property owner of the subject property shall be individually and severally responsible for maintaining, or causing to be maintained, the area surrounding the unattended donation boxes free of any junk, garbage, trash, debris, or other refuse material.

2. The operator of the donation collection bin and property owner of the subject property shall be individually and severally responsible for abating and removing all junk, garbage, trash, debris, and other refuse material in the area surrounding the unattended donation boxes within twenty-four (24) hours of written or verbal notice from the City.
 3. The operator placing, using, or employing a donation collection bin shall maintain the bin in good condition and appearance with no structural damage, holes, or visible rust, or graffiti. Any graffiti shall be removed within forty-eight (48) hours of discovery.
 4. Unattended donation collection bins shall be locked or otherwise secured.
 5. Unattended donation collection bins shall be serviced and emptied as needed, but at least once per month, or within five (5) business days of a request by the Director.
- C. **Information Required to be Displayed.** The following information shall be clearly and conspicuously displayed on the exterior of the donation collection bin:
1. A copy of the Donation Collection Bin Permit issued by the City in a prominent and visible location in the front of the box in plain view for inspection by the public and City officials; and
 2. The following contact information in two (2) inch type visible from the front of each unattended donation box: the name, address, e-mail, and phone number of both the operator and property owner.

§11.4.33.005 Revocation of Permit, Removal of Unattended Donation Boxes, and Liability.

The Director shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists pursuant to Chapter 11.2.04 (Enforcement). In addition, the failure of the operator or property owner to comply with the provisions of this Section, or other provisions of this Zoning Code or other law, shall also constitute grounds for revocation of the permit. The Director shall provide a written notification to both the operator and property owner stating the specific grounds for revocation. Upon revocation, the unattended donation box shall be removed from the real property within thirty (30) calendar days and, if not removed within this time period, the City may remove, store, and dispose of the unattended donation box at the operator's sole cost and expense. Upon revocation, the operator shall be prohibited from applying for a Donation Collection Bin Permit at any location for a period of one (1) year. Any violation of the provisions of this Section is a public nuisance subject to abatement pursuant to this Zoning Code or as otherwise permitted by law.

§11.4.33.006 Amortization Period and Removal.

The provisions of this Zoning Code regarding legal nonconforming uses (Chapter 11.5.03, Legal Nonconforming Uses, Structures, and Parcels) do not apply to donation boxes. Instead, all operators of donation collection boxes existing on the effective date of this Chapter will have ninety (90) days to bring any existing donation collection bins that are located within the City limits into compliance with this Chapter. If a donation collection bin that is located within the City limits after ninety (90) days from the effective date of this Chapter is not brought into compliance with this Chapter, such donation collection bin shall be deemed a nuisance, subject to abatement and enforcement as provided for in Chapter 11.2.04 (Enforcement).

§11.4.33.007 Exceptions.

This Chapter does not apply to the following:

- A. Unattended donation collection bins located entirely within the interior of a building.
- B. A donation collection bin that is part of a temporary fundraiser and that is fully staffed by attendants.
A temporary fundraiser utilizing a donation collection bin must be limited in duration to a single day.

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Chapter 11.4.34 Flags and Flagpoles

§11.4.34.001 Purpose.

This Chapter regulates the height and placement of flagpoles and the flags flown on them. Without regulations, flagpole installations may impact neighboring properties negatively in the areas of noise and visual clutter. These regulations are in no way intended to prevent one from flying an American or State of California flag. They are intended only to ensure the impacts to neighboring properties are mitigated.

§11.4.34.002 Standards.

The following standards apply, except as otherwise provided for in this Chapter.

- A. **General.** The following standards apply to flags and flagpoles in all zones.
1. Flags shall comply with the prohibitions of §11.5.09.006 (Removal).
 2. The halyard system shall be an internal system located inside the flagpole and shall be made of material other than metal to mitigate noise.
 3. Flagpole installation shall comply with Building Department regulations and permits.
 4. In no case shall the flag extend beyond the property line of the subject property.
 5. Flags shall be replaced when they become faded, tattered, or torn.
 6. Lighting of flags and associated flag poles shall comply with Chapter 11.5.05 (Outdoor Lighting Standards).
- B. **Residential Zones.** The following standards apply to flags and flagpoles in all residential zones.
1. Property within all residential zones is limited to one (1) flagpole for each parcel.
 2. The height of a flagpole shall be limited to fifteen (15) feet, not including any finial.
 3. The flagpole shall not be placed in any required side or rear yard setback that is adjacent to a single-family residential (R-1) zoned property. The flagpole should not be closer than ten (10) feet to the front property line.
 4. The area of the flag shall not exceed twenty-four (24) square feet per flag.
 5. Exceptions. Any flag and/or flagpole in a residential zone that does not comply with the standards listed in Subsection (B) of this Section shall require a Conditional Use Permit.
- C. **All Other Zones.** The following standards apply to flags and flagpoles in all non-residential and mixed use zones.
1. Property within all non-residential and mixed use zones is limited to one (1) flagpole for each parcel; except that a maximum of three (3) flagpoles in not more than one (1) location may be permitted with a Conditional Use Permit.
 2. The height of a flagpole shall be limited to thirty-five (35) feet, not including any finial.
 3. The flagpole(s) shall not be located within fifty (50) feet of a residential zone.
 4. The flagpole(s) shall not be closer than ten (10) feet to the front property line.

5. The area of the flag shall not exceed sixty (60) square feet per flag.
6. Lighting of the flag(s) is subject to approval of a Conditional Use Permit and additionally shall comply with Subsection 11.5.05.003(G).
7. Exceptions. Any flag and/or flagpole in a non-residential or mixed use zone that does not comply with the standards listed in this Section shall require a Conditional Use Permit.

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Chapter 11.4.35 Home Occupations

§11.4.35.001 Purpose.

This Chapter provides standards for the conduct of home occupations that are deemed accessory to, and compatible with, surrounding residential uses. A home occupation represents a legal commercial enterprise conducted by an occupant(s) of the dwelling.

§11.4.35.002 Applicability.

The Home Occupation Permit is intended to allow for home occupations that are conducted within a dwelling located in a residential zone and are clearly incidental and secondary to the use of the dwelling for residential purposes and compatible with surrounding residential uses.

§11.4.35.003 Home Occupation Permit Required.

No home occupation shall be permitted without first obtaining a Home Occupation Permit pursuant to the standards and requirements of this Chapter.

- A. **Permit Application Requirements.** The Home Occupation Permit application shall be filed with the Director on a form provided by the Director and shall be processed in compliance with the procedures specified in Chapter 11.6.01 (Filing and Processing of Applications) of this Zoning Code.
- B. **Permit Fee.** The fee for the Home Occupation Permit shall be as established by City Council resolution as may be amended from time to time.
- C. **Review Process.** A Home Occupation Permit is subject to Review Process A (Subsection 11.6.02.004(A)).

§11.4.35.004 Standards.

Home occupations are permitted if such uses meet the following standards:

- A. A home occupation shall only be operated in a residence occupied by a single housekeeping unit and by a member(s) of that single housekeeping unit.
- B. The sum of the area of all interior space(s) used for home occupational purposes shall not exceed twenty (20) percent of the combined total floor area of the dwelling unit and accessory structures. Any construction, structural alteration, or addition to the main or accessory building shall be designed to be completely usable for residential purposes.
- C. All aspects of the home occupation shall be conducted entirely within an enclosed structure. Articles, supplies, tools, equipment, and other related items used in conjunction with a home occupation shall not be stored outside.
- D. Employment of help shall be limited to no more than one (1) nonresident in addition to persons residing at the residence, either for pay or as a volunteer. One on-site parking space, whether open or enclosed, shall be available for the nonresident employee.

- E. There shall be no goods, samples, materials, or objects publicly displayed or sold on the premises to clients in connection with the operation of the home occupation.
- F. There shall be no significant and sustained increase in pedestrian and vehicular traffic, above normal activities for a single-family residence generated by any home occupation. A home occupation activity that includes transients to and from the residence, successively in one (1) car at a time, between eight (8) a.m. and ten (10) p.m. for purposes of tutoring, counseling, language, music instruction, or similar home occupation, shall not constitute a significant and sustained traffic increase for purposes of this Section.
- G. No portion of any garage shall be used for home occupational purposes except work or storage areas which do not conflict with parking spaces as required by Table 11.5.05-1. Any reduction in required parking spaces is prohibited.
- H. There shall be no sign posted on the premises which identifies the home occupation use.
- I. There shall be no use of any equipment which may cause radio or television interference or fluctuation in line voltage off the property.
- J. There shall be no emission of smoke, fumes, dust, gas, odor, or glare from the property as a result of the home occupation.
- K. There shall be no significant and sustained increase in noise above normal activities for a single-family residence generated by any home occupation and as otherwise provided in Chapter 5.02 (Regulation of Community Noise).

§11.4.35.005 Prohibited Uses.

The following uses are not incidental and secondary to the use of the dwelling for residential purposes and compatible with surrounding residential uses and are prohibited as home occupations:

- A. Adult businesses;
- B. Alcohol sales;
- C. Ammunition, explosives, or fireworks sales, use, or manufacturing;
- D. Dance club/night clubs;
- E. Massage establishments;
- F. Tattoo establishments and/or body art/piercing studios;
- G. Tobacco, smoke, and/or electronic cigarette shops or lounges;
- H. Vehicle repair (body or mechanical), upholstery, automobile detailing (e.g., washing, waxing, etc.) and painting;
- I. Vehicle sales;
- J. Other similar uses determined by the Director not to be incidental or secondary to or compatible with residential activities.

§11.4.35.006 Revocation.

The Zoning Hearing Officer may revoke or modify any Home Occupation Permit if any conditions of the permit are being violated or the home occupation activity is in violation of any of the criteria set forth above, in accordance with §11.2.04.005 (Permit Revocation or Modification). The determination of the Zoning Hearing Officer shall be final, subject to appeal to the City Council in the manner prescribed in Chapter 11.2.03 (Call-up and Appeals).

§11.4.35.007 Business License Required.

Immediately following the effective date of an approved Home Occupation Permit, the applicant shall obtain a Business License in compliance with Title 6 (Business Licenses and Regulations).

§11.4.35.008 Expiration of Permit.

A Home Occupation permit shall expire if a Business License is not obtained or renewed within six (6) months of the date of expiration.

Chapter 11.4.36 Kiosk Uses

§11.4.36.001 Purpose.

This Chapter provides regulations for uses operating from kiosks on private or public property.

§11.4.36.002 Standards for Kiosk Uses.

All kiosk uses shall comply with the following standards:

- A. All kiosk uses shall be accessory to a primary use. Kiosk uses include, but are not limited to, flower stands, key shops, parcel services, automated tellers, bicycle rental, and information booths. Food and beverage service from a kiosk shall be restricted to "limited food preparation," as defined by the Environmental Health Division of the County of Los Angeles Department of Public Health.
- B. All kiosk structures shall comply with the development standards applicable to the base zone and with the development standards for accessory commercial uses.
- C. The design, color scheme, material, and signage of the kiosk shall be appropriate to its location and compatible with the design, color scheme, materials, and signage of the primary structure(s) on the property, as applicable.
- D. No kiosk shall exceed one hundred twenty (120) square feet.
- E. The kiosk shall not obstruct or impede pedestrian or vehicular circulation and shall not obstruct access to or occupy a parking space.
- F. The kiosk shall not result in a net loss of required on-site parking.
- G. Kiosks are prohibited within the public right-of-way, except as provided for in Chapter 8.02 (Private Encroachments within Public Right of Way).
- H. All kiosk uses shall be self-contained or located on a site that has been specifically designed to provide for water, waste, and power to operate. No exposed pipes or wires are permitted.
- I. The number of employees per individual kiosk shall be a maximum of two (2) persons at any one (1) time.
- J. Seating for the kiosk use shall be prohibited.
- K. All packaging containers or boxes shall be stored within the kiosk.
- L. The sale of alcoholic beverages, tobacco products, tobacco paraphernalia, electronic cigarettes, and electronic cigarette paraphernalia from a kiosk shall be prohibited.
- M. Drive-through service for kiosk uses shall be prohibited.

Chapter 11.4.37 Outdoor Dining

§11.4.37.001 Purpose.

This Chapter provides standards for outdoor dining on private property or within the public right-of-way to ensure compatibility of such uses with surrounding uses and properties and to avoid any safety impacts associated with such uses

§11.4.37.002 Standards

- A. Outdoor dining may only be permitted in areas where restaurants are otherwise permitted and shall be conducted as an accessory use to a legally established restaurant or other eating and drinking establishment.
- B. Patron tables, serving stations, umbrellas, heaters and/or other outdoor dining area components shall be located on the same site as the other facilities of the restaurant or within the adjacent public right-of-way. If any portion of the outdoor dining area is proposed to be located within a public right-of-way, the requirements of §11.4.37.003 shall also be required in addition to the requirements of this Section.
- C. A seating plan showing the number and location of tables and chairs and any other physical elements (e.g., barriers, awnings, covers, other furniture, heaters, umbrellas, etc.) shall be provided as a part of the Director's Use Permit application. The seating plan shall clearly delineate those elements that will be located within the public right-of-way and those on private property. The physical elements shall not exceed those approved by the Director, or Planning Commission upon appeal. The physical elements shall be placed only in the locations shown on the approved site plan.
- D. Outdoor dining areas shall be prohibited from being located within fifteen (15) feet of a single-family residential (R-1), multifamily residential (R-3), or residential planned development (RPD) zone.
- E. When an outdoor dining area is located adjacent to a driveway, street or alley, a five (5) foot setback shall be maintained from the driveway, street or alley.
- F. Crash-tested barriers shall be placed between outdoor dining areas and public sidewalks, public or private parking, and vehicular circulation areas and may be located within the five (5) foot setback. Outdoor dining areas shall be separated from on-site pedestrian circulation with barriers such as decorative fences, railings or planters. Barriers shall serve only to define the areas and shall not constitute a permanent all-weather enclosure.
- G. Physical elements (e.g., awnings, covers, furniture, umbrellas, etc.) that are visible from public rights-of-way shall be compatible with one another and with the overall character and design of the principal structure(s).
- H. The use of awnings, plants, umbrellas, and other human scale elements is encouraged to enhance the pedestrian experience. Planters may be made from wood, ceramics, stone, or metal. Plastic planter boxes and/or synthetic plants are prohibited.
- I. A restaurant that proposes to serve alcoholic beverages within an outdoor dining area shall provide supervision by a restaurant employee to ensure compliance with State laws regarding the on-site consumption of alcoholic beverages.

- J. The hours of operation of the outdoor dining area shall be limited to the hours of operation of the associated eating and drinking establishment.
- K. Parking shall be provided as required by the zone in which the outdoor dining area is located.
- L. The property owner and operator of the outdoor dining use shall indemnify and provide insurance in favor of the City.

§11.4.37.003 Additional Standards for Outdoor Dining within the Public Right-of-Way

- A. An Encroachment Permit shall be obtained from the Director of Public Works before approval of a Director's Use Permit for the outdoor dining area.
- B. If located within a public right-of-way where the speed limit exceeds thirty (30) miles per hour, a Threat, Risk, and Vulnerability Assessment or Traffic Engineering Study shall be prepared to identify location-specific hazards and recommended mitigation measures.
- C. All chairs, tables, and other physical encroachments located within the public right-of-way per an approved Encroachment Permit shall be removed every day upon closing of the outdoor dining service.
- D. Outdoor dining areas shall be separated from vehicular traffic by a crash-tested physical barrier. The barrier design must be submitted to the City Engineer for review and approval. All required barriers shall conform to the Public Works Department installation standards and shall be removable.
- E. A continuous pedestrian path of not less than four (4) feet clear width on the sidewalk shall be required for pedestrian circulation outside of the outdoor dining area, provided that the City Engineer may require additional width to protect the public safety. As used herein, pedestrian path means a continuous obstruction-free sidewalk area, paved to City standards, between the outside boundary of the dining area and any obstruction, including but not limited to curb lines, parking meters, street trees, landscaping, street lights, bus benches and enclosures, and public art. These requirements may be modified at the discretion of the City Engineer in locations where unusual circumstances exist and where public safety would not be jeopardized.
- F. Umbrellas may project into the minimum required clear public right-of-way for pedestrians, if the bottom edge of the umbrella is at least seven (7) feet from the surface of the sidewalk, and the required horizontal clearance is maintained pursuant to Title 24 of the California Building Code.
- G. Sale and service of alcoholic beverages shall be prohibited within any portion of any outdoor dining area that is located within the public right-of-way.

§11.4.37.004 Criteria and Conditions

When reviewing an application to allow outdoor dining, the decision-making authority shall consider the relation of outdoor dining areas to sensitive receptors (e.g., schools and residential uses). Conditions of approval may be applied to eliminate potential impacts including but not limited to glare, light, loitering, and noise.

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Chapter 11.4.38 Outdoor Display and Activities in Nonresidential Zones

§11.4.38.001 Purpose.

This Chapter provides standards for outdoor display of materials, merchandise, and equipment and for outdoor activities that are accessory to an allowed use, as provided in this Chapter.

§11.4.38.002 Outdoor Display.

Outdoor display of merchandise, exclusive of any signage, shall be allowed in commercial and mixed use zones only when accessory to an allowed use located on the same premises, as provided in Table 11.3.02-1 (Land Use Permits for All Zones), unless otherwise regulated through a Temporary Use Permit, pursuant to Chapter 11.6.12 (Temporary Use Permits), provided the following criteria are met:

- A. Outdoor displays shall be:
 - 1. Directly related to a business occupying a permanent structure on the same site;
 - 2. Limited to displaying only goods of the primary business, such as artwork and pottery, flowers and plants, handcrafted products and goods, furniture, clothing and apparel, acceptable for nursery goods, or other items which are determined by the Director to be similar in nature, except that no packaged goods shall be displayed;
 - 3. Managed so that display structures and goods are maintained at all times in a clean and neat condition, and in good repair;
 - 4. Allowed only during regular hours of operation, except for nurseries and hardware stores.
- B. Outdoor displays shall be approved for a defined fixed location that does not:
 - 1. Disrupt the normal function of the site or its pedestrian and vehicular circulation;
 - 2. Encroach upon or block driveways, landscaped areas, or parking spaces, and does not block structure entrances;
 - 3. Obstruct traffic safety sight areas or otherwise create hazards for vehicle or pedestrian traffic;
 - 4. Shall not encroach upon the public right-of-way, except that the display may extend into or enter over any public sidewalk by a maximum of two (2) feet, where authorized by an Encroachment Permit issued by the City Engineer.
- C. Outdoor displays shall not be placed within fifty (50) feet of any residential dwelling, except for mixed use projects.

§11.4.38.003 Outdoor Activity in Commercial and Mixed Use Zones.

- A. Repair, installation, manufacturing, and assembly uses allowed in commercial and mixed use zone shall be conducted within a completely enclosed building.
- B. Outdoor activity or work areas shall be allowed for uses other than those listed in Subsection (A) of this Section only when associated with an allowed use located on the same premises and when not encroaching on required parking areas or landscaped areas.

Chapter 11.4.39 Outdoor Vending / Service Facility

§11.4.39.001 Purpose.

This Chapter provides standards and regulations for the placement and use of outdoor vending/service facilities to mitigate potential adverse impacts which may arise from the undue proliferation and/or inappropriate location and operation of such facility. The regulations of this Chapter are further intended to ensure that outdoor vending/service facilities do not pose a hazard to circulation and that their placement and operation do not degrade the appearance and aesthetic qualities of the community.

§11.4.39.002 Applicability.

The provisions of this Chapter shall apply to the placement, operation, or maintenance by any person of an outdoor vending/service facility on real property, whether owned, leased, managed, or otherwise controlled, within any zone as provided for in Table 11.3.02-1 (Land Use Permit Table for All Zones) or any specific plan in the city.

§11.4.39.003 Outdoor Vending/Service Facility Permit Required.

Unless otherwise exempt, the operator of an outdoor vending/service facility shall first obtain an Outdoor Vending/Service Facility Permit pursuant to this Chapter prior to placement and operation of such a facility within the city.

A. Limitations.

1. A permit issued hereunder shall be valid for one (1) outdoor vending/service facility. Each outdoor vending/service facility shall have its own individual permit.
2. No more than one (1) outdoor vending/service facility shall be placed on each parcel of real property or each shopping center, where the shopping center includes two (2) or more parcels.

B. Permit Application Requirements. The Outdoor Vending/Service Facility Permit application shall be filed with the Director on a form provided by the Director and shall be processed in compliance with the procedures specified by Chapter 11.6.01 (Application Filing and Processing) of this Zoning Code.

C. Permit Fee. The fee for the Outdoor Vending/Service Facility Permit shall be as established by Council resolution as may be amended from time to time.

D. Decision.

1. Within thirty (30) days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.
2. The Director shall not issue the permit unless the Director determines that all requirements of this Chapter have been met.
3. If the Director denies an application, the Director shall provide the applicant, in writing, the specific reason(s) for denial.
4. The Director's decision may be appealed to the Planning Commission pursuant to Chapter 11.2.03 (Call-Up and Appeals).

- E. **Transfer of Permit Prohibited.** No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person or operator.
- F. **New Permit Required.** If the outdoor vending/service facility is to be moved to a different location on the same property, a new Outdoor Vending/Service Facility Permit shall be required.

§11.4.39.004 Regulations.

- A. **Use.** All outdoor vending/service facilities shall be accessory to an approved primary use as provided for in Table 11.3.02-1 (Land Use Permit Table for All Zones) or in any specific plan and may not be located on an unimproved lot.
- B. **Placement.** In no case shall an outdoor vending/service facility:
 - 1. Be placed on required parking spaces;
 - 2. Be located within any landscaped area;
 - 3. Obstruct pedestrian pathways, including the provisions of Title 24 of the California Code of Regulations (California Physical Access Laws), driving aisles, or any areas necessary for proper pedestrian, vehicular, or bicycle circulation;
 - 4. Be placed such that the back of the outdoor vending/service facility is more than eighteen (18) inches from an exterior wall of the primary structure on the lot;
 - 5. Be located within four (4) feet of the public right-of-way, or located in a manner as to encourage or require customers to stand or park in the right-of-way to use the facility;
 - 6. Be located on a building elevation that does not contain a primary entrance;
 - 7. Visually obstruct windows, the sales counter as viewed from outside the establishment, or any exits;
 - 8. Impede pedestrian, bicyclist, and vehicular sight distances;
 - 9. Be visible from any of the city's scenic corridors as shown on Figure CNE-3 of the City's General Plan Conservation Element.
- C. **Additional Requirements.**
 - 1. Notwithstanding the requirements of Subsection (B) of this Section, the Director shall approve the placement of the outdoor vending/service facility. The Director may require screening, such as a fence, wall, or vegetation, to ensure the requirements of Subsection (B) are met.
 - 2. The outdoor vending/service facility shall not exceed eighty (80) inches in height, thirty-six (36) inches in depth, and forty-two (42) inches in width.
 - 3. The outdoor vending/service facility shall not be illuminated except for illumination intrinsic to the device.
 - 4. The area occupied by an outdoor vending/service facility shall not exceed fifteen (15) percent of the width of the building elevation along which it is located.
 - 5. In addition to the provisions of Chapter 11.5.08 (Sign Regulations), sign copy on an outdoor vending/service facility shall:

- d. Be limited to that which fits on the exterior panels of the machine;
- e. Only advertise the actual product or service provided by the machine; and
- f. Be intrinsic to the facility.

D. Maintenance and Operation.

1. The operator placing, using, or employing an outdoor vending/service facility shall maintain such facility in a clean and attractive condition and appearance with no structural damage, holes, or visible rust, or graffiti. Any graffiti shall be removed within forty-eight (48) hours of discovery.
2. If the outdoor vending/service facility is removed, the area shall be cleaned and restored to its previous condition, including the removal of any abandoned pipes, conduits, or other connecting hardware.

Chapter 11.4.40

Personal Indoor Cultivation of Marijuana

§11.4.40.001 Intent and Purpose.

- A. **Intent.** The intent of this Chapter is to prohibit throughout the entire city the outdoor cultivation of marijuana, and to establish, consistent with the meaning of §11362.2 of the Health & Safety Code, and as may be amended, reasonable regulations governing the indoor cultivation of up to six (6) marijuana plants at a private residence.
- B. **Purpose.** The purpose of this Chapter is to regulate the personal indoor cultivation of marijuana in a manner that protects the health, safety, and welfare of the community consistent with state law. This Chapter is not intended to interfere with a patient's right to medical marijuana pursuant to state law. This Chapter is not intended to give any person unfettered legal authority to grow marijuana.

§11.4.40.002 Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

"Adult Use of Marijuana Act" means the Control, Regulate and Tax Adult Use of Marijuana Act, also known as Proposition 64, that will be submitted to the voters of the State of California at the November 8, 2016 statewide general election, and which adds to or amends parts of California law, including the California Health and Safety Code, Business and Professions Code, Revenue and Taxation Code, and Food and Agricultural Code.

"Applicant" means a person applying for a personal marijuana cultivation permit pursuant to this Chapter.

"Marijuana" has the same definition as provided for in Business and Professions Code §26001(f) for the term "cannabis," and as may be amended, defined as "all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by §11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana cultivation" means the growing, planting, harvesting, drying, curing, grading, trimming, processing, or storing of one or more marijuana plants or any part thereof.

"Marijuana cultivation site" means the private residence, or fully enclosed accessory structure to that residence, at which marijuana cultivation is occurring under the provisions of this Chapter, or the property on which the private residence, or fully enclosed accessory structure to that residence, at which an applicant for a personal marijuana cultivation permit proposes to conduct marijuana cultivation.

"Permit" means a personal marijuana cultivation permit described in this Chapter.

“Primary caregiver” has the same definition as provided for in Health and Safety Code §11362.7(d), and as may be amended, defined in part as “the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.”

“Private residence” has the same definition as provided for in Health and Safety Code §11362.2(b)(5), and as may be amended, defined as “a house, an apartment unit, a mobile home, or other similar dwelling.”

“Qualified patient” has the same definition as provided for in Health and Safety Code §11362.7(f), and as may be amended, defined as “a person who is entitled to the protections of §11362.5, but who does not have an identification card issued pursuant to this Chapter.”

§11.4.40.003 Marijuana Cultivation Prohibited—Exception.

- A. **Prohibition.** Marijuana cultivation is prohibited in all zones of the city. No person shall engage in marijuana cultivation in the city for any purpose.
- B. **Exception.** Provided that the provisions of this Chapter are otherwise complied with in their entirety, the prohibition on marijuana cultivation by any person in all zones throughout the city does not apply to the indoor personal cultivation of six (6) or fewer marijuana plants inside a private residence, or inside a fully enclosed accessory structure to such a private residence, occurring cumulatively in an area of no more than fifty (50) square feet, for personal use or for a qualified patient, as authorized under Health and Safety Code §11362.1(a)(3) and §11362.2, and as may be amended.

§11.4.40.004 Personal Indoor Cultivation of Marijuana Permit Required.

- A. **Permit Required.** No person, who is otherwise qualified to engage in the cultivation of marijuana under Health and Safety Code §11362.1 and §11362.2, and as may be amended, shall engage in the cultivation of marijuana, unless that person has a current valid Personal Indoor Cultivation of Marijuana Permit from the City, pursuant to this Chapter.
- B. **Application.** An applicant shall submit a Personal Indoor Cultivation of Marijuana Permit application to the Director, on a form provided by the Director, and proof of payment of the permit fee, in an amount to be set by resolution of the City Council.
 - 1. The application submitted by an applicant shall include, but not be limited to, the following information, affirmed under penalty of perjury by the applicant:
 - a. The property address of where the marijuana will be cultivated.
 - b. The name of each person owning, leasing, occupying, or having charge of any legal parcel or premises where marijuana will be cultivated.
 - b. The name of each person who participates in the marijuana cultivation.
 - c. Property owner acknowledgement of cultivation of marijuana at the subject property, affirmed under penalty of perjury.

2. The application submitted by an applicant shall include a scaled property site plan and a scaled diagram of the floor plan within the residence or fully enclosed accessory structure to be used for cultivation at the marijuana cultivation site, and an itemized list of measures taken to comply with the provisions of this Chapter, including, but not limited to, odor control, security, electrical, and building and safety provisions, as well as any equipment that will be used for marijuana cultivation.
 3. Within thirty (30) calendar days of receiving an application for a Personal Indoor Cultivation of Marijuana Permit, the Director either shall accept for processing the application upon finding that the application fully meets the requirements of this Chapter, or shall return the application to the applicant with a written description of the reasons for rejecting the application, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- C. **Application Process.** Within sixty (60) calendar days after the Director deems an application for a Personal Indoor Cultivation of Marijuana Permit fully meets the requirements of this Chapter, the applicant shall provide to the Director written proof (as deemed sufficient by the Director), for purposes of verification, of successful completion and passing of both of the following inspections:
1. That the Building and Safety Division of the Community Development Department of the City has inspected the marijuana cultivation site and determined that the private residence or fully enclosed accessory structure, including, but not limited to, the area dedicated to marijuana cultivation, is in compliance with the cultivation application, this Chapter, the Building Code, the Electrical Code, the Plumbing Code, and any other applicable requirement of Title 7 (Buildings and Construction) of the La Cañada Flintridge Municipal Code or any other relevant provision of the La Cañada Flintridge Municipal Code concerning health and safety. This shall include inspection of the equipment, including any artificial lighting and/or ventilation systems, and other materials the applicant proposes to use for the marijuana cultivation.
 2. That the Fire Department has inspected the marijuana cultivation site, and determined that the area dedicated to marijuana cultivation, and (as warranted) the private residence or fully enclosed accessory structure, is in compliance with the Fire Code and any other applicable requirement of Chapter 4.01 (Fire Code) of Title 4 (Public Welfare) of the La Cañada Flintridge Municipal Code. This shall include inspection of the equipment, including fire suppression/extinguishing system, any artificial lighting and/or ventilation systems, and other materials the applicant proposes to use for the marijuana cultivation.
- D. **Application Approval.** Upon verification of the information described in Subsection C above, for a cultivation application which fully meets all the requirements of this Chapter, the Director shall issue a notice of decision of a Personal Indoor Cultivation of Marijuana Permit within sixty (60) calendar days, upon making the following findings, or shall deny the application if the following findings cannot be made, and so notify the applicant in writing by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application:
1. The applicant meets all the requirements of this Chapter, including, but not limited to, those described in §11.4.40.005, as well as any other applicable requirements of the La Cañada Flintridge Municipal Code and any regulations promulgated under Subsection 11.4.40.005(B) of this Chapter.

2. The applicant for the permit and the marijuana cultivation site are both in compliance with State law, including, but not limited to, Health and Safety Code Sections 11362.1, 11362.2 and 11362.3, and as they may be amended.
- E. **Permits Not Transferable.** A Personal Indoor Cultivation of Marijuana Permit issued pursuant to this Chapter is nontransferable and is specific to the permit-holder and the private residence or fully enclosed accessory structure for which it is issued.
- F. **Permit Renewal.** A Personal Indoor Cultivation of Marijuana permit issued under this Section shall automatically expire one (1) year after the notice of decision. Permit renewal shall be requested through compliance with the procedures for issuance of a permit as provided in this Section including inspection. An applicant for a permit renewal shall be required to pay a permit renewal fee in an amount to be set by resolution of the City Council. However, an applicant for permit renewal shall not be required to submit a new cultivation plan annually, provided the marijuana cultivation site follows the original cultivation plan and the permit holder is not engaged in additional or expanded marijuana cultivation, as affirmed in the renewal form. Renewal applications must be received at least thirty (30) calendar days prior to the expiration of an existing permit, but not earlier than ninety (90) calendar days prior to such expiration. Renewal inspections must occur no earlier than sixty (60) calendar days prior to the submission of the renewal application.
- G. **Permit Revocation.** Permits issued under this Section may be revoked by the Director upon making any of the following findings:
1. The permit was issued in error or the cultivation plan form included incorrect information.
 2. The marijuana cultivated at the marijuana cultivation site has been sold or used for any commercial use, or any other use or activity has occurred that is prohibited by Health and Safety Code Sections 11362.1, 11362.2 and 11362.3, and as they may be amended.
 3. Any violation of the AUMA, and as it may be amended, has occurred at the marijuana cultivation site.
 4. Violation of any of the provisions of this Chapter has occurred at the marijuana cultivation site.
 5. The marijuana cultivation site has become a public nuisance or has been operated in a manner constituting a public nuisance.
 6. The marijuana cultivation is not in compliance with conditions of the permit.
 7. The permit holder has engaged in any activity for which the Personal Indoor Cultivation of Marijuana Permit could have been denied originally.

- H. **Appeals.** Any decision of the Director under this Chapter may be appealed to the City Manager or designee. Any such appeal must be in writing, stating the grounds therefore, and be filed within fifteen (15) calendar days of the date of the decision being appealed. The written appeal shall specify the person making the appeal, the decision appealed from, shall state the reasons for the appeal, and shall include any evidence in support of the appeal which the appellant seeks to be considered by the City Manager. The appeal must include the filing of an appeal fee as established by resolution of the City Council. Notice of the time and place of an appeal hearing shall be provided to the appellant at least fifteen (15) calendar days before the date set for the hearing. The City Manager shall, within sixty (60) calendar days of receipt of the appeal, review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, consider any oral testimony offered at the hearing, and then determine whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final. The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedures for judicial review of any final determination.

§11.4.40.005 Personal Indoor Cultivation of Marijuana—Conditions.

A. **Conditions.**

1. **Visibility.** All marijuana cultivation authorized by this Chapter shall be conducted inside a private residence or inside a fully enclosed accessory structure and shall not occur in an area visible from any neighboring property, any public right-of-way, or public view. No exterior evidence of marijuana cultivation occurring at the property shall be visible from public view. A fully enclosed accessory structure shall be located within a securely fenced area in the rear yard of the private residence.
2. **Odor.** The odor resulting from all marijuana cultivation shall not be detectable by unaided human senses from any neighboring property or any public right-of-way. A marijuana cultivation site must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with all applicable Building Code regulations, including obtaining all required permits and approvals. The ventilation and filtration system must be approved by the City and installed prior to commencing cultivation at the marijuana cultivation site.
3. **Locks and alarm.** Any private residence or fully enclosed accessory structure utilized for marijuana cultivation pursuant to this chapter shall be secured with locks to prevent unauthorized entry and/or theft, remain secure at all times, and have a working security system which consists of a standard audible residential alarm in compliance with Chapter 5.04 (Burglar and Robbery Alarm Provisions) of this Code.
4. **Fire extinguisher.** A fully charged portable fire extinguisher, which complies with the regulations and standards adopted by the State fire marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation of marijuana. If cultivation occurs in a residential structure, the portable fire extinguisher shall be kept in the cultivation room.
5. **Six (6) plants.** Cultivation at a single private residence (which includes fully enclosed accessory structures on the grounds of that private residence) is limited to up to six (6) living plants.

6. **Residence.** The person or primary caregiver cultivating the marijuana shall reside full-time on the premises where the marijuana cultivation occurs.
 7. **Personal use.** Marijuana plants shall be cultivated by a person or primary caregiver exclusively for personal use only and shall not be sold or used for any commercial use, or any other use or activity that is prohibited by Sections 11362.1, 11362.2 and 11362.3 of the Health and Safety Code, and as they may be amended, with the exception that a primary caregiver may cultivate for a qualified patient.
 8. **Electricity use.** The collective draw from all electrical appliances at the marijuana cultivation site shall not exceed the maximum rating of the approved electrical panel for the primary legal residence at the marijuana cultivation site. The maximum rating shall be as established in the manufacturer specifications for the approved electrical panel. Gas products (including, without limitation, CO2, butane, propane, and natural gas) or generators shall not be used for the cultivation of marijuana.
 9. **Lighting.** Any lighting fixture used for marijuana cultivation shall not exceed the rated wattage and capacity of the circuit breaker and shall be shielded so as to completely confine light and glare to the interior of the private residence or fully enclosed accessory structure.
 10. **Humidity and mold.** Marijuana cultivation shall not create a humidity or mold issue within the private residence or fully enclosed accessory structure in violation of the Building Code, as adopted by the City, or the City's health and safety regulations, including, but not limited to, the property maintenance standards of the La Cañada Flintridge Municipal Code.
 11. **Code compliance.** The private residence or fully enclosed accessory structure used for marijuana cultivation shall at all times be in full compliance with the City Building Code, Electrical Code, Mechanical Code, Plumbing Code, Fire Code, and any other requirement found in Title 7, Chapter 4.01 of Title 4, or any other applicable building, health, or safety standard in the La Cañada Flintridge Municipal Code.
 12. **Area.** Marijuana cultivation occurring within a private residence or fully-enclosed accessory structure shall be in a cumulative area totaling no larger than fifty (50) square feet.
 13. **Residential structure.** The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with code-compliant ingress and egress. These rooms shall not be used for marijuana cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.
 14. **Accessory structure.** A fully-enclosed accessory structure, as defined herein, used for the cultivation of marijuana shall be located in a fully fenced and secured rear yard of the residence, and shall maintain the minimum rear and side yard setbacks required for the residential lot. An accessory structure operating as a marijuana cultivation site shall at all times be fully enclosed so that none of the interior area is visible from any neighboring property, any public right-of-way, or public view.
- B. The City Council may, by resolution, adopt both additional conditions to further the purposes of this Section, as well as additional regulations to further the purposes of this Chapter. The City Council may also delegate, by resolution, authority to adopt such conditions or regulations to the City Manager or designee.

§11.4.40.006 Violation and Enforcement—Public Nuisance Declared.

- A. A violation of this Chapter or noncompliance with any of the requirements of this Chapter shall be subject to any criminal or civil enforcement remedies available under the law and the La Cañada Flintridge Municipal Code. In addition, the City may prosecute a violation of this Chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction, or by any other means authorized by law or equity. Notwithstanding any other provision of this Code, no conduct which is protected from criminal liability pursuant to State law shall be made criminal by this Chapter.
- B. Any violation of the provisions of this Chapter is declared to be a public nuisance and may be abated by the City either pursuant to the La Cañada Flintridge Municipal Code, including, but not limited to, procedures provided for in Chapter 4.33 (Property Maintenance Requirements) or any other available remedies at law or equity.
- C. At the discretion of the City Prosecutor, any violation of Section 11.4.40.003, 11.4.40.004, or 11.4.40.005 of this Chapter is punishable as an infraction pursuant to Subsection 1.04.010(B) of the LCFMC, or punishable as a misdemeanor pursuant to Subsection 1.04.010(A) of the LCFMC.

Chapter 11.4.41 Sports Courts and Batting Cages (Private) in Residential Zones

§11.4.41.001 Purpose.

There are a number of private batting cages and private sport courts located in residential neighborhoods in the city. The purpose of this Chapter is to establish standards and regulations for all private batting cages and private sport courts within any residential zone in the city. The standards and regulations adopted herein are designed and intended to minimize the negative impacts that can result to residents when these uses and structures are located in residential neighborhoods.

§11.4.41.002 Use Permit Required.

No person or persons shall construct, erect and maintain, or modify a batting cage or private sport court in a residential zone without a permit as required in Table 11.3.02-1 (Land Use Permit Table for All Zones). No use permit shall be issued for a batting cage or private sport court in a residential zone unless it conforms to the requirements of this chapter, and is an accessory use to a primary residential use on the same lot. A use permit will not be issued for a batting cage or private sport court on a vacant residential parcel. A temporary batting cage shall be exempt from the requirement for a use permit and from the requirements of this Chapter except for Subsection 11.4.41.003(E) and (F) and Section 11.4.41.004.

§11.4.41.003 Construction and Operation Standards.

Batting cages and private sport courts located in any residential zone, including any slabs, fences, overhead light-standards, or other fixtures accessory thereto, shall comply with the following subsections:

- A. **Location of Courts.** Batting cages and private sport courts shall comply with the following location standards:
1. **Side yard.** Private sport courts, including any slabs, fences, overhead light-standards, or other fixtures accessory thereto, shall be setback at least fifteen (15) feet from all side property lines. Batting cages, including any slabs, fences, or other fixtures accessory thereto shall be setback at least 10% (ten percent) of the average width of the subject lot but in no case shall the required setback be less than five feet (5) or more than fifteen (15) feet. The Director may approve an encroachment into the side setback for batting cages pursuant to a Zoning Modification as provided for in Subsection 11.6.04.002(H).
 2. **Rear yard.** Private sport courts, including any slabs, fences, overhead light-standards, or other fixtures accessory thereto, shall be setback at least fifteen (15) feet from the rear lot line. Batting cages, including any slabs, fences, or other fixtures accessory thereto shall be setback at least ten feet from the rear property line. The Director may approve an encroachment into the rear setback for batting cages pursuant to a Zoning Modification as provided for in Subsection 11.6.04.002(H).
 3. **Front yard.** Batting cages and private sport courts shall not be located in the front yard unless a conditional use permit is reviewed and approved by the Planning Commission.

B. Grade/Grading.

1. Grading for the construction of a private sport court that exceeds fifty (50) cubic yards shall require review and approval pursuant to Section 11.5.01.002 and shall otherwise comply with the provisions of Chapter 11.5.01 (Grading).
2. No grading is permitted in connection with the construction or use of any temporary batting cage.

C. Fencing.

1. The height of any fence enclosing a private sport court shall not exceed ten (10) feet above the finished surface of the court, and all portions of such fence shall be mesh, chain-link type fencing.
2. All fencing for batting cages must be lined with a mesh-netting interior to capture balls and reduce noise during use.
3. For all batting cages, padding and a hanging net in front of the rear backstop shall be provided behind home-plate to reduce noise resulting from balls hitting the back of the cage.
4. All structural support posts and framing shall be padded to reduce noise.

D. Lighting. All batting cages and private sport courts shall be unlighted unless a Conditional Use Permit has been obtained pursuant to Chapter 11.6.06 (Use Permits). In addition to the requirements of Chapter 11.5.05 (Outdoor Lighting Standards), the following minimum standards shall be met in the installation of lights for batting cages and private sport courts. In addition to the following standards, the Planning Commission may impose other conditions which are deemed appropriate.

1. **Height.** Light standards and fixtures for private sport courts shall not exceed twenty (20) feet in height, measured from the finished surface of the court. Light standards and fixtures for batting cages shall not exceed fifteen (15) feet in height.
2. **Hours of illumination.** Lights for private sport courts and batting cages shall be turned off between 10:00 p.m. and 7:00 a.m. A timer shall be installed on each private sport court and batting cage light such that it automatically shuts off within one (1) hour of non-use.
3. **Prohibition on type.** Lights for private sport courts and batting cages shall not blink or flash.
4. **Existing lighted batting cages and private sport courts.** Batting cages, temporary batting cages, and private sport courts shall comply with the hours of illumination as stated in Subsection (D)(2) of this Section. If the existing light standards and fixtures are changed, or new light standards and fixtures are added, the new lighting shall comply with the provisions of Subsection (D) of this Section in all respects.
5. **Existing unlighted batting cages and private sport courts.** No existing unlighted batting cage or private sport court shall have lights installed unless a Conditional Use Permit is obtained, and the cage or court is brought into full compliance with the requirements of this Section.
6. **Engineered Lighting Plan required.** An Engineered Lighting Plan that complies with §11.5.05.006 shall be required for all private sports courts or batting cages that are subject to this Chapter.

- E. **Batting Cage and Temporary Batting Cage Size.** Batting cages and temporary batting cages shall be no larger than seventy (70) feet in length; twelve (12) feet in width; and twelve (12) feet in height, measured from the finished surface of the batting cage.
- F. **Equipment for Batting Cages and Temporary Batting Cages.**
1. Composite baseball bats or wooden baseball bats shall be used in all batting cages and temporary batting cages subject to this chapter.
 2. Aluminum or other metal bats shall not be permitted.
 3. Pitching machine dimpled baseballs, soft covered baseballs, and other similar types of balls shall be used to decrease the noise associated with batting practice.
 4. Regulation baseballs and softballs are prohibited because of the loud noise that accompanies their use during batting practice.
 5. Pitching machines shall be low-noise emitting and approved by the Director.

§11.4.41.004 Commercial Use Prohibited.

A batting cage, temporary batting cage, or private sport court subject to the provisions of this Chapter shall only be used by the occupants of the primary or accessory dwelling unit on the same lot, by their invited guests, or by guests of an approved Bed and Breakfast Inn. A batting cage, temporary batting cage, or private sport court shall not be rented nor used as a private club, nor used for commercial purposes, except that batting or tennis instruction may be permitted on an individual basis provided a Home Occupation Permit has been obtained in accordance with Chapter 11.4.35 (Home Occupations).

Chapter 11.4.42 Late Night Hours

§11.4.42.001 Purpose.

This Chapter provides criteria and regulations to minimize the potential impacts of non-residential uses operating during Late Night Hours that adjoin or are adjacent to residentially zoned property.

§11.4.42.002 Applicability.

The provisions of this Chapter apply to all non-residential uses that adjoin or are adjacent to residentially zoned property.

§11.4.42.003 Conditional Use Permit Required for Operating During Late Night Hours.

- A. No new establishment that adjoins or is adjacent to residentially zoned or utilized property may conduct the use during Late Night Hours (as defined in Part 8) unless a Conditional Use Permit for such activity during those hours has been granted.
- B. No residentially adjoining or adjacent establishment that was legally in existence as of the date of adoption of this Zoning Ordinance may increase the amount of floor area of such establishment or increase or extend the hours that it conducts business during Late Night Hours for any period of time during Late Night Hours unless a Conditional Use Permit for Late Night Hours during such hours has been granted.

§11.4.42.004 Review Criteria.

When reviewing an application for a Conditional Use Permit to allow the conduct or expansion of a use and/or extension of current hours during Late Night Hours, the decision-making authority shall consider the following potential impacts upon adjacent or nearby uses, which may include but are not limited to the following:

- A. Noise;
- B. Lighting and illumination;
- C. Pedestrian activity and vehicular traffic during Late Night Hours;
- D. Trash and recycling activities;
- E. Occupancy loads of the use;
- F. Any other factors that may affect adjacent or nearby uses; and
- G. Loading and unloading and/or delivery activities.

§11.4.42.005 Operational Standards.

In addition to any conditions imposed pursuant to approval of a Conditional Use Permit, the use operating during Late Night Hours also shall comply with the following operational standards:

- A. **Responsible Person.** The name and telephone number of a person who will be available during the operational hours of the business to address any problems with the subject establishment shall be posted in a conspicuous place on the exterior of the building housing the establishment. The contact person shall be the business owner, business manager, or other similar person who has sufficient authority over the business twenty-four (24) hours a day to address problems that may disturb neighbors.
- B. **No Congregating.** For the purpose of noise abatement, no person conducting a commercial use on a site that is within one hundred fifty (150) feet of any residentially zoned or utilized property shall permit the patrons, employees, agents, associates, or contractors of the nonresidential use to congregate behind the structure containing the nonresidential use, or in any open area or public right-of-way that separates the property containing the nonresidential use from adjoining or adjacent residentially zone property, during Late Night Hours.

§11.4.42.006 Amortization.

- A. The provisions of this Zoning Code regarding legal nonconforming uses (Chapter 11.5.03—Legal Nonconforming Uses, Structures, and Parcels) do not apply to Late Night Hours. Instead, all owners or operators of establishments operating during Late Night Hours existing on the effective date of this Chapter will have two (2) years to bring any Late Night Hours establishment into compliance with this Chapter.
- B. If an establishment operating during Late Night Hours is not brought into compliance with this Chapter after two (2) years from the effective date of this Chapter, such establishment shall be deemed a nuisance, subject to abatement and enforcement as provided for in Chapter 11.2.04 (Enforcement), unless an extension of time has been approved pursuant to Subsection (C) of this Section.
- C. **Request for Time Extension.**
 - 1. The Planning Commission, with appeal rights to or call-up rights by the City Council, may approve a time extension based on good cause as demonstrated by the Applicant, provided an application requesting such extension is filed a minimum of ninety (90) prior to such expiration date, or as allowed by State law. The application requesting such extension shall include information prescribed by the Director to enable the Planning Commission to recommend, and the City Council to approve, the time extension prescribed in this Subsection. The renewal period, if approved, shall specify the new expiration date.
 - 2. The time extension shall be subject to public hearings in accordance with §11.2.02.004.