

# REGULATING CODE

*for the*



## CENTRAL HERCULES PLAN

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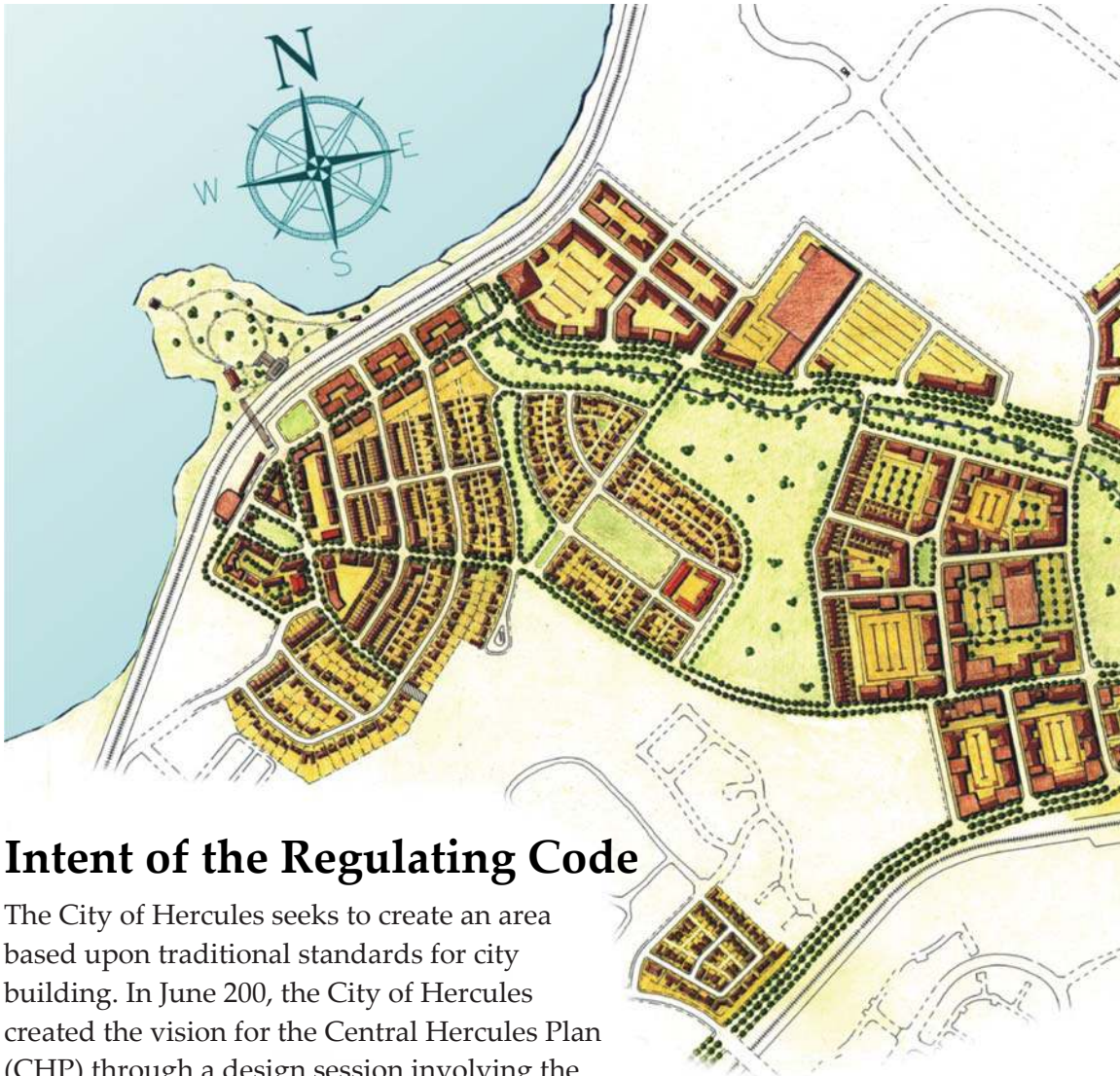
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# CHAPTER I

## INTENT & USE *of this* CODE



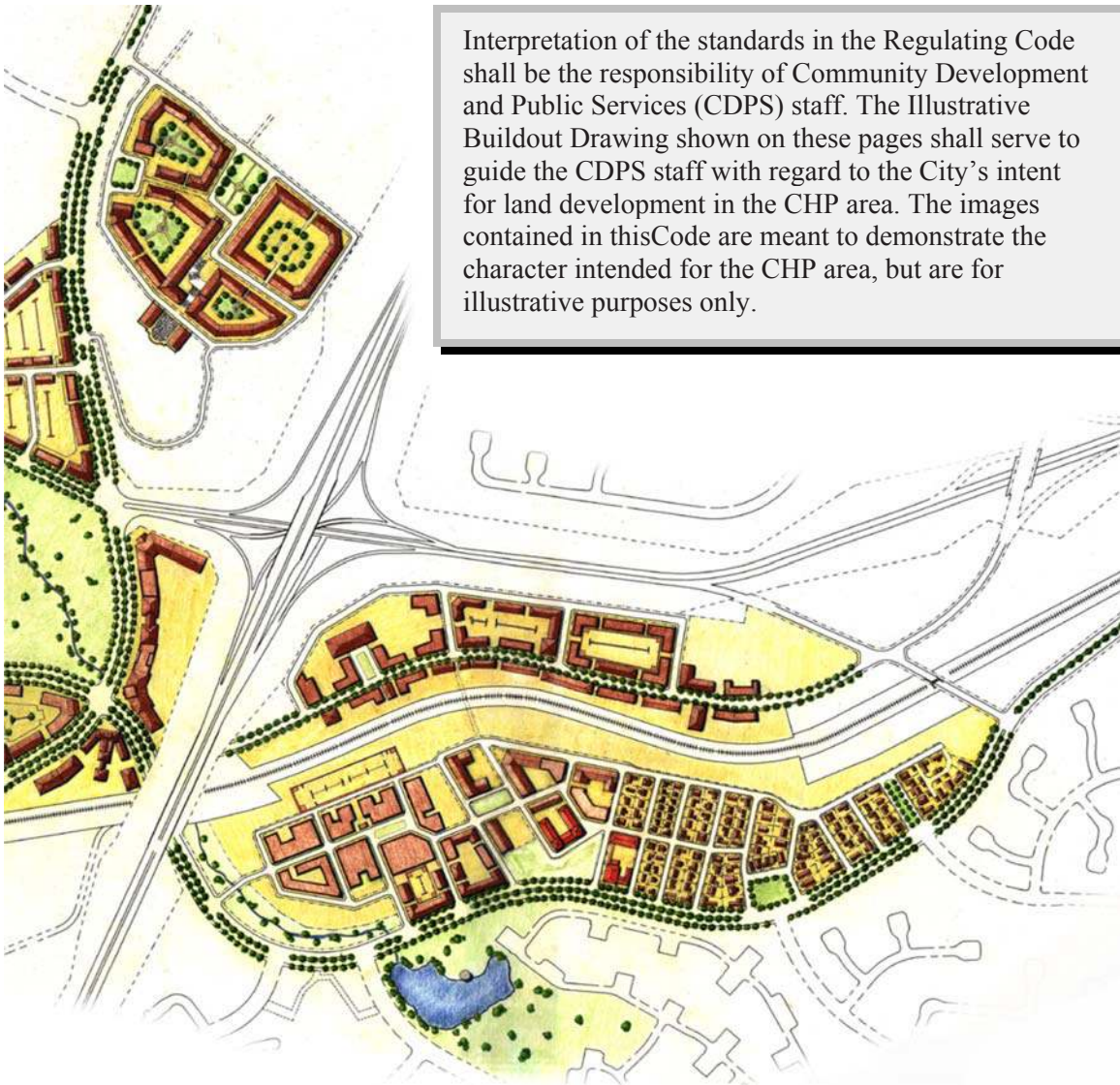
## Intent of the Regulating Code

The City of Hercules seeks to create an area based upon traditional standards for city building. In June 2000, the City of Hercules created the vision for the Central Hercules Plan (CHP) through a design session involving the community and a team of design professionals. This Regulating code applies to those areas delineated on the Central Hercules Plan as illustrated on pages I-1 & I-2.

Traditional urban design conventions have been applied to create a palette of street types that form the four districts of the Central Hercules Plan area, the *Waterfront District*, the *Central Quarter*, the *Civic Center/Hospitality Corridor*, and the *Hilltown*. The Regulating Code is further divided into eight distinct street types: *Four-Lane Avenue*; *Two-Lane Avenue*; *Main Street*; *Town Center Street*; *Neighborhood Street*; *Neighborhood Lane*; *Two-Way Edge Drive*; and *One-Way Edge Drive*.

The Regulating Code shall not be pre-empted by any previously adopted local or state codes that regulate public health and safety such as the Uniform Building, Plumbing, Electrical, or Mechanical Codes. Should any conflict arise between the provisions of this Code and the City of Hercules Zoning Ordinance, the provisions of this Code shall apply. The guidelines of the Waterfront District Master Plan shall not be superseded by the Central Hercules Plan Regulating Code.





## How to Use the Regulating Code

1. Determine whether your use is permitted in the Central Hercules Plan area.
2. Determine whether your site falls within the Waterfront District, Central Quarter, Hospitality Corridor, or Hilltown.
3. Determine which Street Type your lot fronts. (If you have a corner lot, you must determine the primary space or street based on the hierarchy on page II-2. Review Chapter II for provisions about the Street Type that corresponds to the lot.
4. Review the Use Table (Chapter III) and the General Provisions (Chapter VI) which apply throughout the Central Hercules Plan area.
5. Review the Projecting Façade Elements and Architectural Regulations (Chapter IV) which contain specific rules for Buildings.

# Abbreviations

**CHP:** Central Hercules Plan

**CHPRC:** Central Hercules Plan Regulating Code

**CDPS:** Community Development and Public Services

**CC:** City Council

**PC:** Planning Commission

**PCDRS:** Planning Commission Design Review Subcommittee

**TA:** Town Architect



## CHAPTER II

# PALETTE *of* STREET TYPES

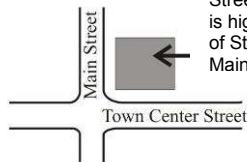


Development under this Code is regulated by street type. The various street types are related to each other in a hierarchical manner. When these spaces intersect, the primary street frontage is determined by its higher order in the hierarchy. The front of a building and its main entrance must face the primary street frontage.

#### A. Hierarchy of Street Types:

- |  |  |
|--|--|
| <p><b>Highest</b><br/>(Primary)</p> <p>↑</p> <p><b>Lowest</b><br/>(Secondary)</p> <p>↓</p> | <ul style="list-style-type: none"> <li>• Four-Lane Avenue</li> <li>• Two-Lane Avenue</li> <li>• Main Street</li> <li>• Town Center Street</li> <li>• Town Center Street B</li> <li>• Neighborhood Street</li> <li>• Neighborhood Lane</li> <li>• Two-Way Edge Drive</li> <li>• One-Way Edge Drive</li> </ul> |
|--|--|

(Alleys are covered under General Provisions, as they are never fronted by main structures.)



##### **Example:**

This building is located at the intersection of Main Street and Town Center Street types. Main Street is higher than Town Center Street in the Hierarchy of Street Types, therefore the building should follow Main Street requirements.



This illustration depicts a district of streets and buildings suited to serve a fine-grained mix of uses. The City expects a mix of allowed uses to occur in all neighborhoods and blocks. The City will require a mix of uses within buildings along Main Street and the Four-Lane Avenue. The City will not require particular uses nor a particular distribution of uses, but will require the integration of residential and commercial uses. Uses allowed by right or by permit or that are prohibited are listed in Chapter V of this Code.

The City will require a variety of architectural styles along all street types. However, along Main Street and the Four-Lane Avenue, proposals for colonnades will be scrutinized to ensure adequate sight distance for automobile drivers.

# 1. Four-Lane Avenue

The Four-Lane Avenue is designed for locations where the movement of larger volumes of traffic is desired. Wide sidewalks, on-street parking, and doors and windows facing the street make this high-traffic street pedestrian friendly as well.

## Notes:

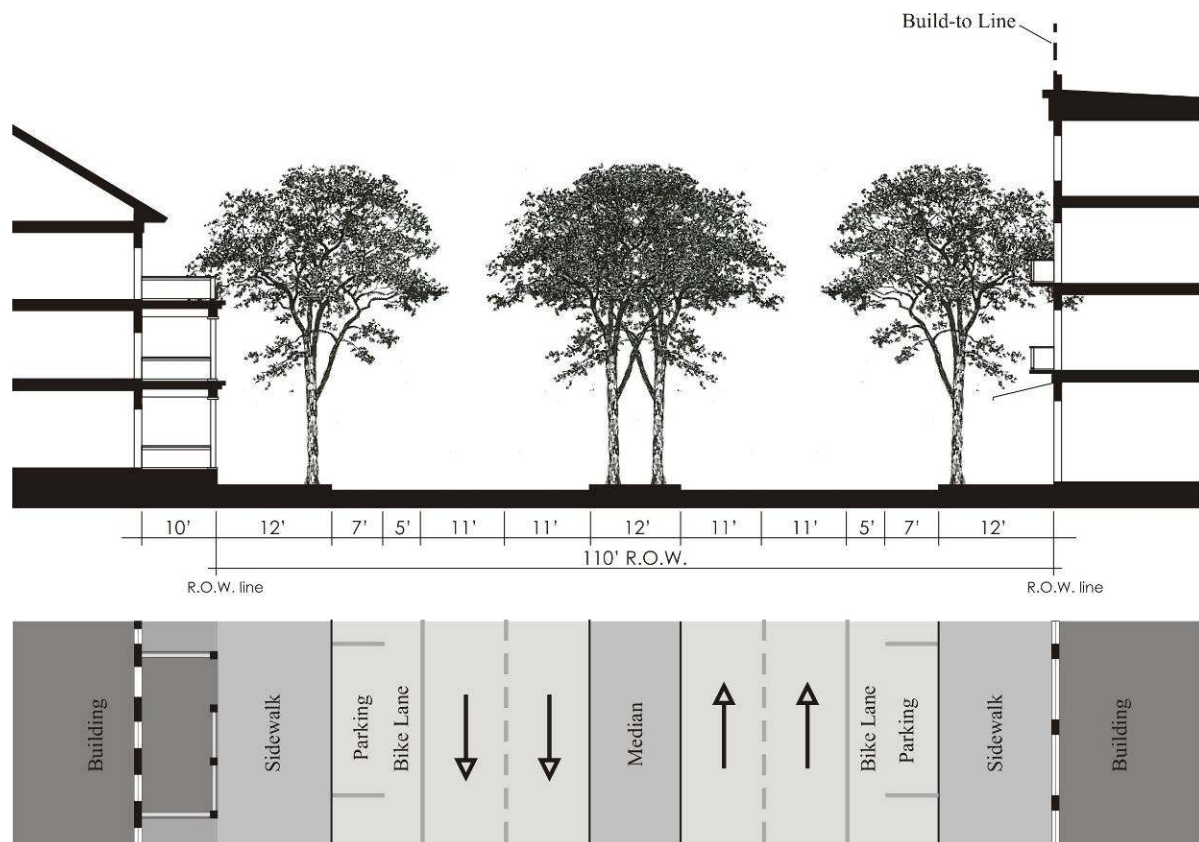
1. Appurtenances may extend beyond the height limit.
2. Building fronts are required to provide shelter to the sidewalk by means of at least one of the following: marquee, awning, or 2nd floor balcony.
3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

## A. Building Placement:

Build-to-line location:	0–10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–10 ft. if detached

## B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum The first floor shall be a minimum of twelve (12) feet in height



# 1. Two-Lane Avenue

A wide median and plentiful street trees make the Two Lane Avenue a quiet address especially well suited to residential and office uses.

## Notes:

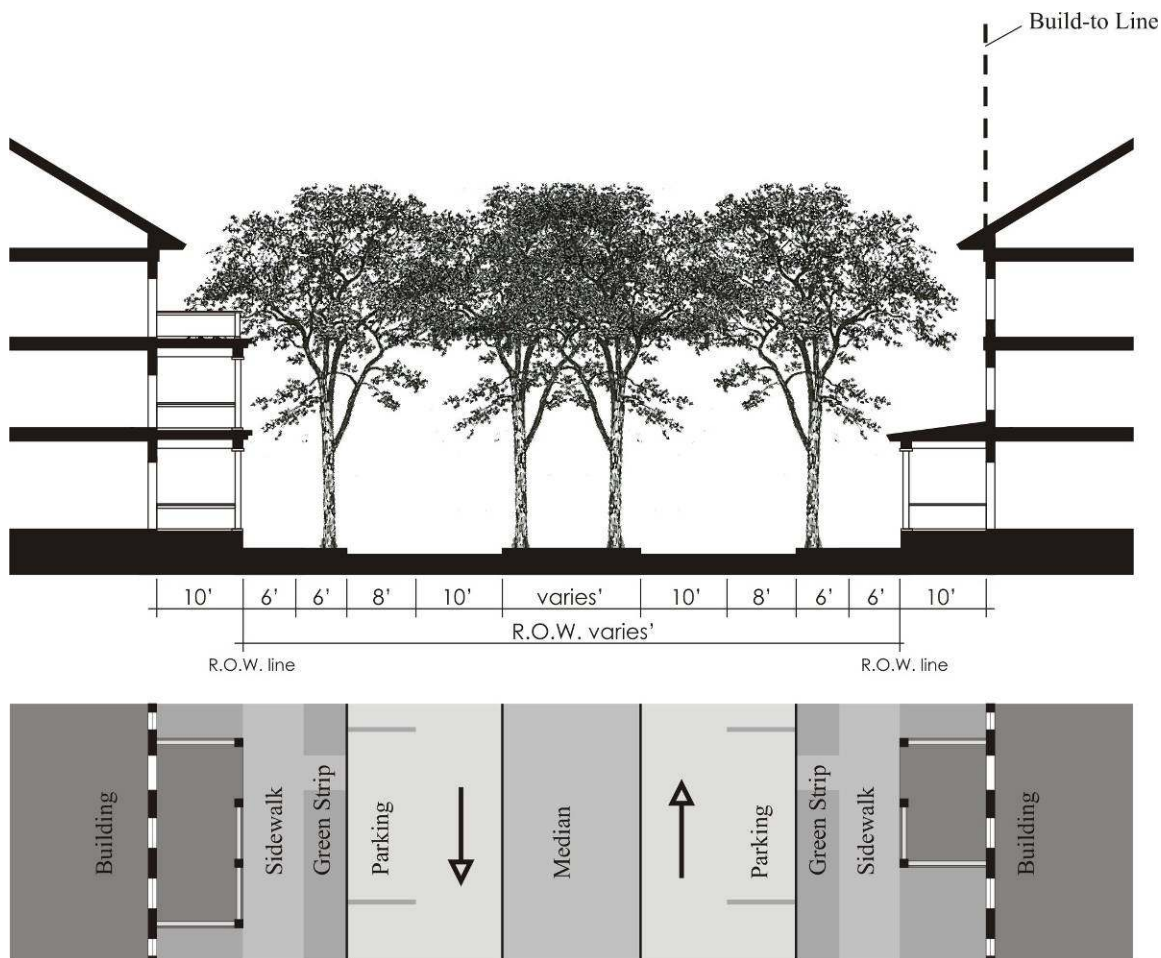
1. Appurtenances may extend beyond the height limit.
2. Building fronts are required to provide shelter to the sidewalk by means of at least one of the following: arcade, colonnade, marquee, awning, or second-floor balcony.
3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

## A. Building Placement:

Build-to-line location:	0–10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–10 ft. if detached

## B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum The first floor shall be a minimum of twelve (12) feet in height





### 3. Main Street

Main Street is lined with mixed-use shopfront buildings that are positioned at the front of each lot. It features angled parking or parallel parking and wide sidewalks. Trees in the right-of-way are optional. Colonnades are encouraged, to help give the street narrower proportions and better spatial definition.

#### Notes:

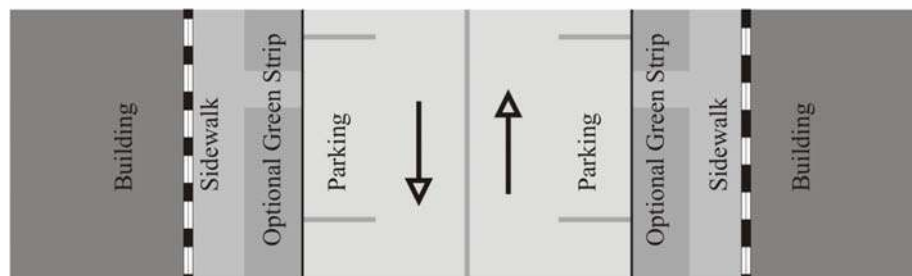
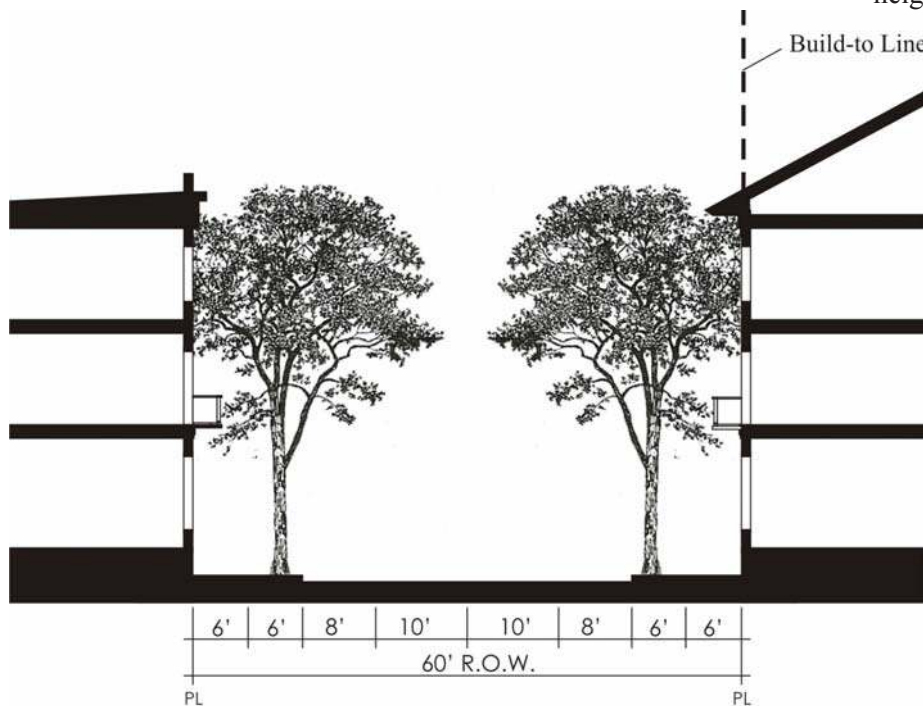
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3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

#### A. Building Placement:

Build-to-line location:	0 ft. from property line
Space Between Buildings:	0 ft. if attached 6–10 ft. if detached

#### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	3 stories minimum 5 stories maximum 55 ft. maximum The first floor shall be a minimum of twelve (12) feet in height



## 4. Town Center Street

Parallel parking and wide sidewalks on both sides of the Town Center Street create a safe inviting place for both pedestrians and motorists. 12-ft-wide sidewalks with tree wells are preferred, but 6-ft-wide sidewalks with 6-ft-wide green strips are also acceptable.

### Notes:

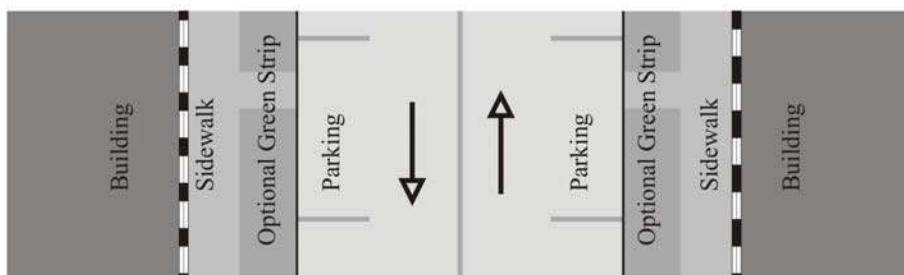
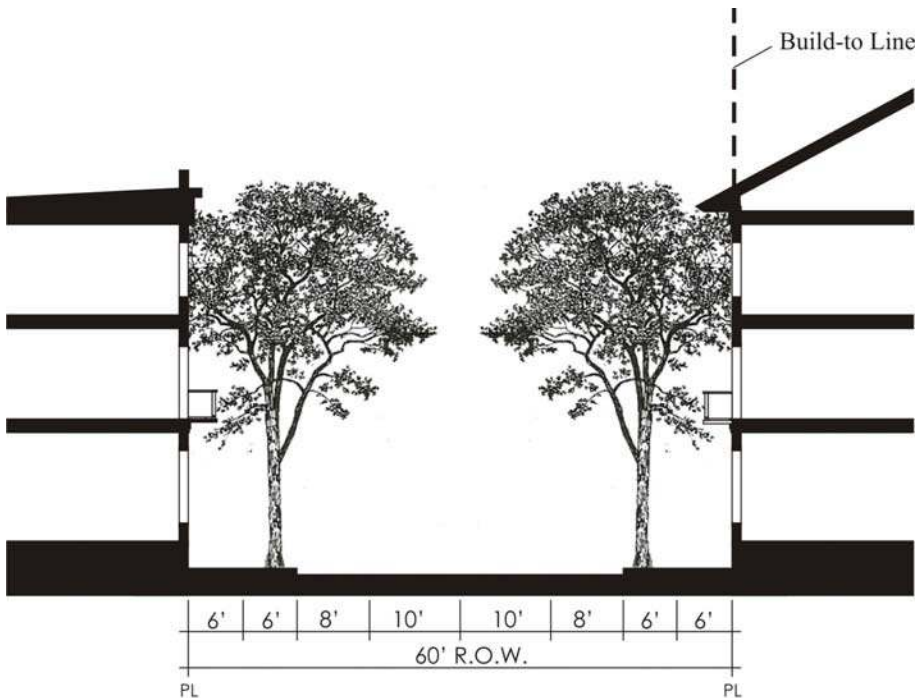
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3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

### A. Building Placement:

Build-to-line location:	0 ft. from property line
Space Between Buildings:	0 ft. if attached 6–10 ft. if detached

### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum The first floor shall be a minimum of twelve (12) feet in height



## 5. Town Center Street B (with bike lanes)

Parallel parking, wide sidewalks, and bike lanes on both sides of the Town Center Street B create a safe inviting place for pedestrians, cyclists, and motorists. 12-ft-wide sidewalks with tree wells are preferred, but 6-ft-wide sidewalks with 6-ft-wide green strips are also acceptable.

### Notes:

1. Appurtenances may extend beyond the height limit.
2. Building fronts are required to provide shelter to the sidewalk by means of at least one of the following: arcade, colonnade, marquee, awning, or second-floor balcony.
3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

### A. Building Placement:

Build-to-line location:	0 ft. from property line
Space Between Buildings:	0 ft. if attached 6–10 ft. if detached

### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum

## 6. Neighborhood Street

The Neighborhood Street is a quieter, more intimate street. Build-to lines are set back and a green strip is incorporated. If needed, the Build-to location can be paved to provide a wider sidewalk for intense uses, thus eliminating the door yard.

### Notes:

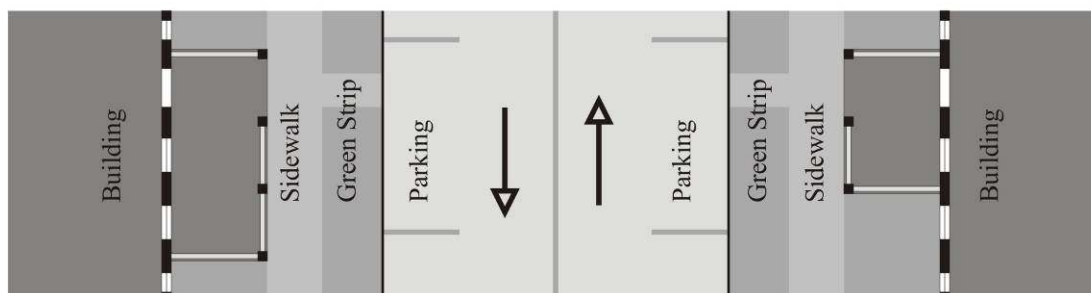
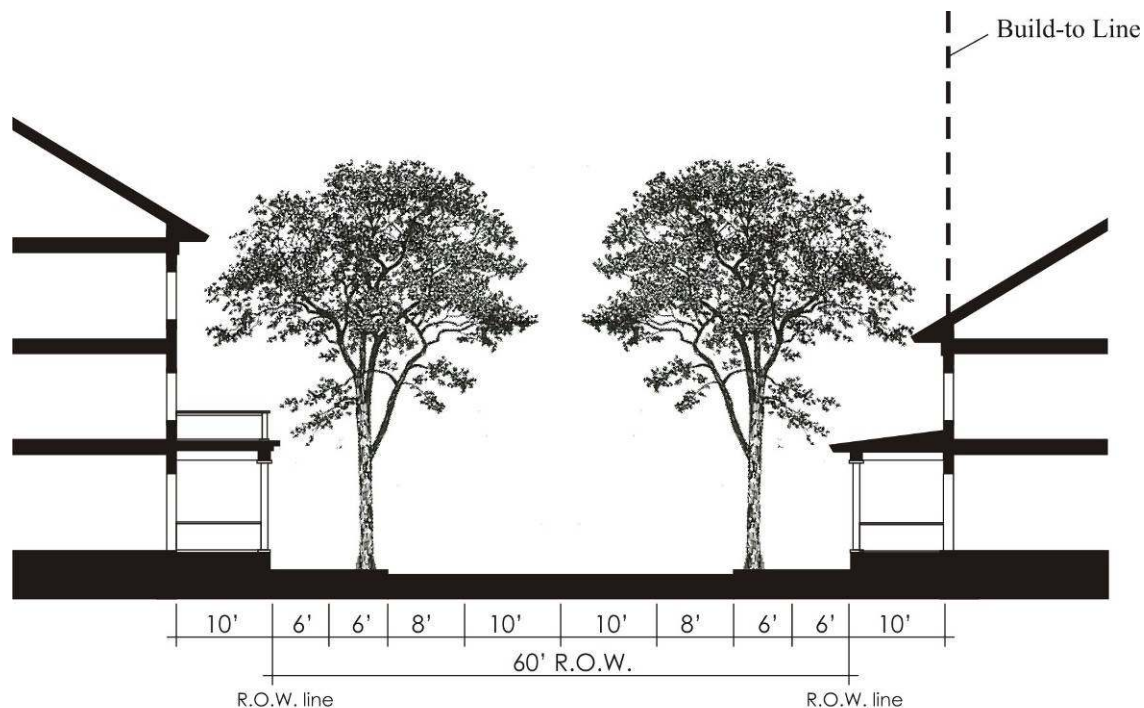
1. Appurtenances may extend beyond the height limit.
2. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

### A. Building Placement:

Build-to-line location:	10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–15 ft. if detached

### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum



## 7. Neighborhood Lane

The Neighborhood Lane is designed to calm traffic. This street section is used primarily in residential areas or secondary streets. On-street parking is located on one side.

### Notes:

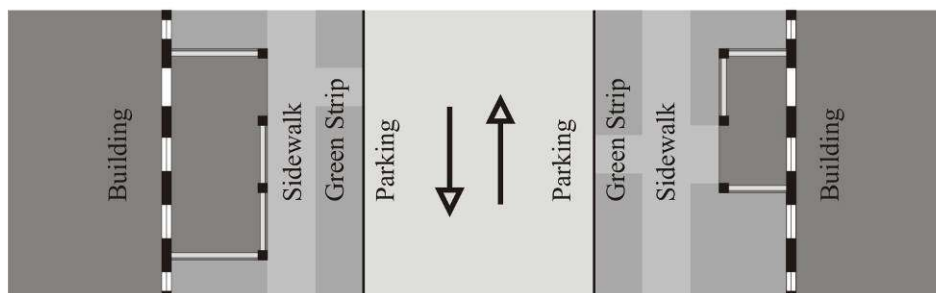
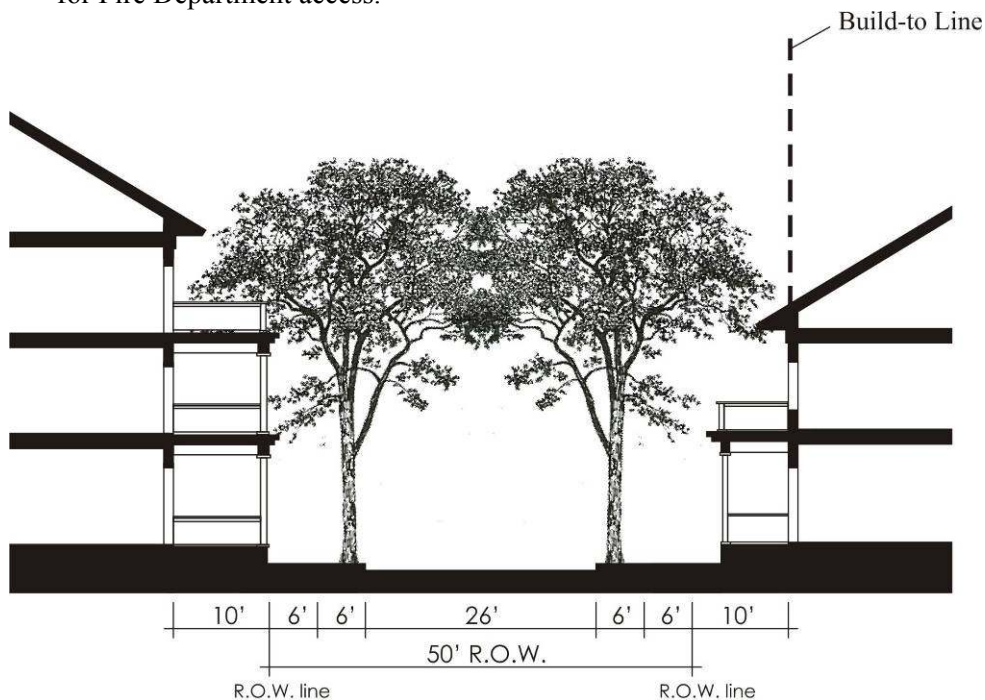
1. Appurtenances may extend beyond the height limit.
2. Parallel parking permitted on both sides of the street.
3. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.
4. A minimum 20-ft clearance must be maintained between parked cars and traffic for Fire Department access.

### A. Building Placement:

Build-to-line location:	10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–15 ft. if detached

### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum





## 8. Two-Way Edge Drive

The Two-Way Edge Drive provides public access along natural boundaries of the Central Quarter area. This street has the front of buildings positioned to face across to scenic open spaces.

### Notes:

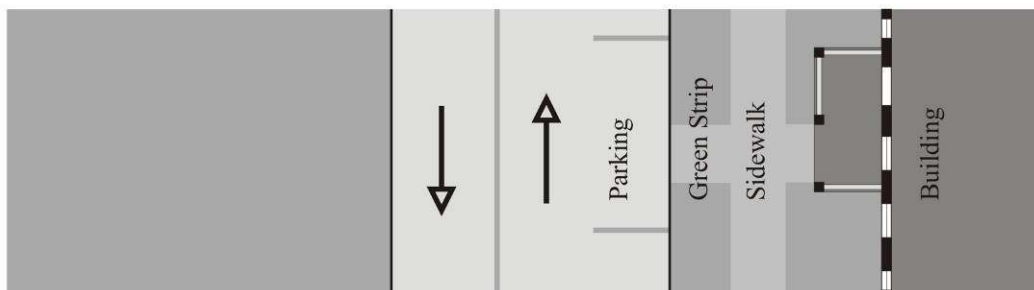
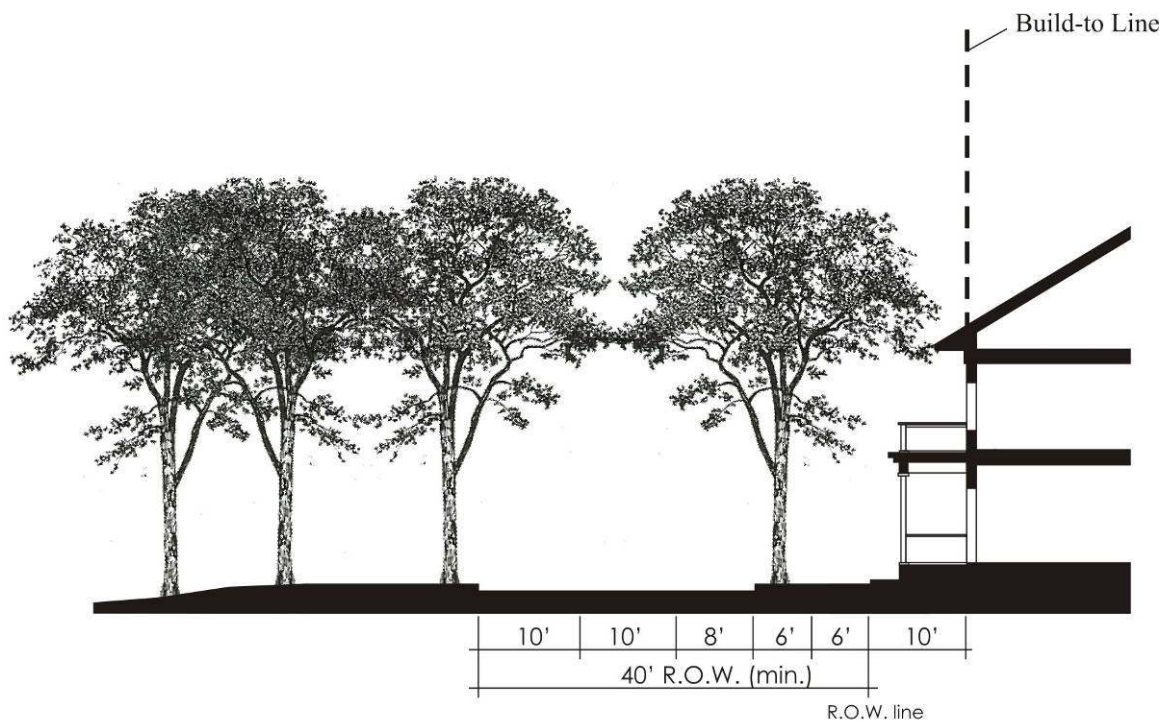
1. Appurtenances may extend beyond the height limit.
2. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

### A. Building Placement:

Build-to-line location:	0–10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–15 ft. if detached

### B. Building Volume:

Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum



## 9. One-Way Edge Drive

The One-Way Edge Drive is a very narrow street primarily used around the edges of open spaces such as neighborhood squares and parks. It provides a layer of on-street parking to uses facing these open spaces and is very easy for pedestrians to cross.

### Notes:

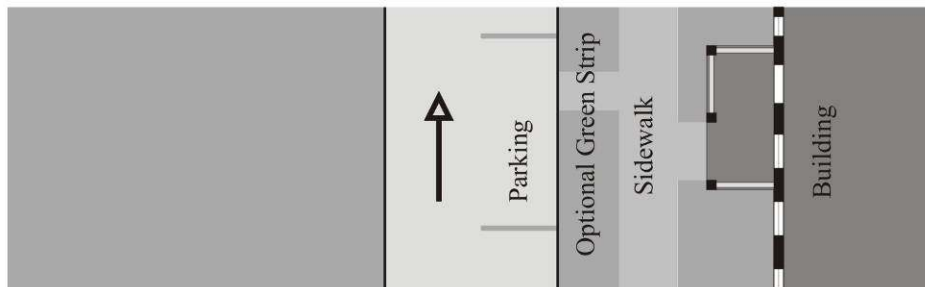
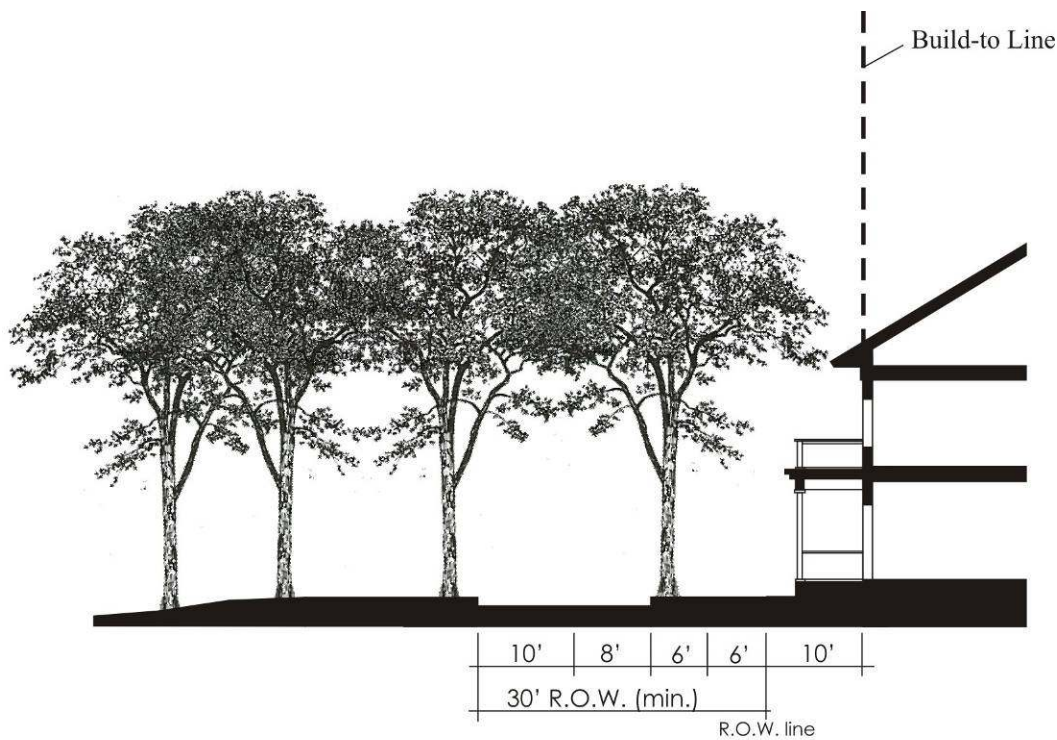
1. Appurtenances may extend beyond the height limit.
2. The alignment of floor-to-floor heights of abutting buildings is encouraged to allow for shared use of elevators.

### A. Building Placement:

Build-to-line location:	0–10 ft. from property line
Space Between Buildings:	0 ft. if attached 6–15 ft. if detached

### B. Building Volume:

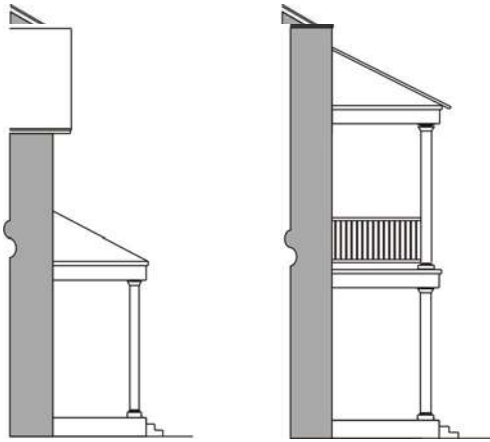
Bldg. Width:	16 ft. minimum 160 ft. maximum
Bldg. Depth:	125 ft. maximum
Bldg. Height:	2 stories minimum 4 stories maximum 55 ft. maximum



## CHAPTER III

# PROJECTING FAÇADE ELEMENTS

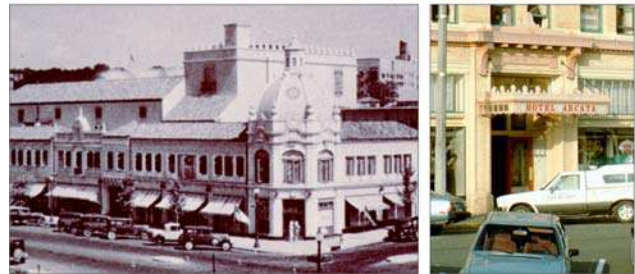
## A. Awnings & Marquees



*Depth* = 5 ft. minimum  
*Height* = 10 ft. minimum clear  
*Length* = 25%–100% of building front

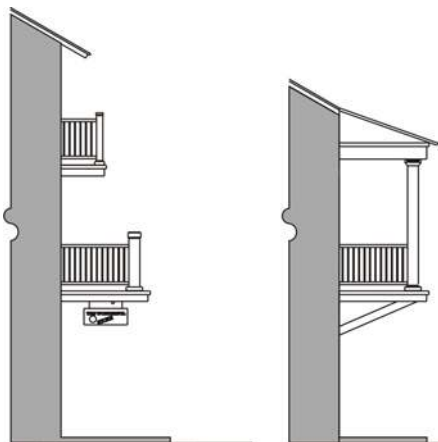


Photograph by Bernard Consoletti



- The above requirements apply to first-floor awnings. There are no minimum requirements for awnings above the first floor.
- Marquees and awnings shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- Awnings shall be made of fabric. High-gloss or plasticized fabrics are prohibited.

## B. Balconies



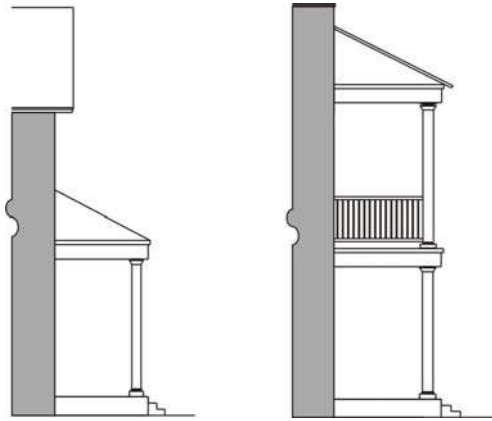
*Depth* = 6 ft. minimum for second-floor balconies  
*Height* = 10 ft. minimum clear  
*Length* = 25%–100% of building front



- Balconies shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- Balconies may have roofs, but must be open, un-air-conditioned parts of the buildings.
- On corners, balconies may wrap around the side of the building facing the side street.



## C. Front Porches



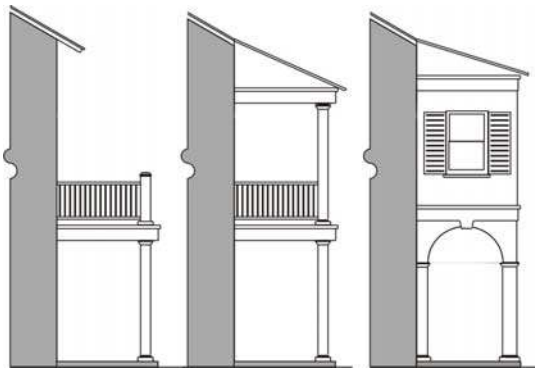
*Depth* = 8 ft. minimum

*Length* = 25%–90% of building front



- Front porches may have multi-story verandas and/or balconies above.
- Front porches shall be forward of the build-to line but shall not extend into the right-of-way.
- Front porches must be open, un-air-conditioned parts of the buildings. No more than 75% of the floor area of a porch shall be screened if the porch extends forward of the build-to line.

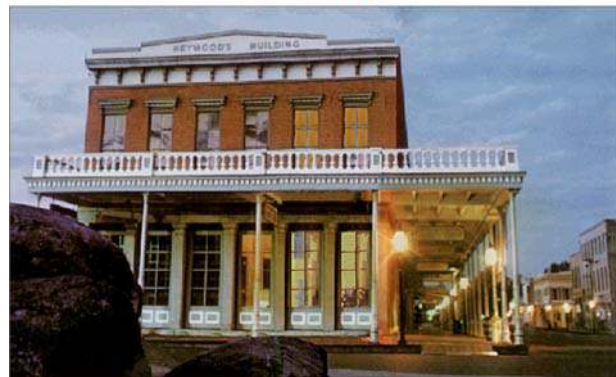
## D. Colonnades/Arcades



*Depth* = 8 ft. minimum from the build-to line to the inside column face

*Height* = 10 ft. minimum clear

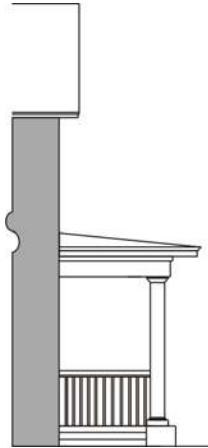
*Length* = 75%–100% of building front



- Columns shall be a maximum of 6-in. wide in front of shop-front windows.
- Open multi-story verandas, awnings, balconies, and enclosed useable space shall be permitted above the colonnade.
- Colonnades shall only be constructed where the minimum depth can be obtained. Colonnades shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- On corners, colonnades may wrap around the side of the building facing the side street.
- Colonnades and arcades are not permitted on the four-lane avenue.



## E. Stoops



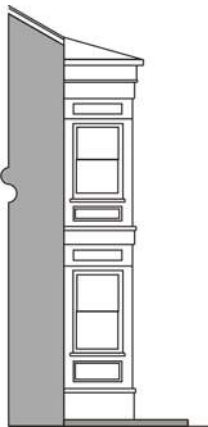
*Depth* = 6 ft. minimum

*Length* = 5 ft. minimum



- Stoops are permitted and may occur forward of the build-to line. Stoops may encroach within the right-of-way with approval from CDPS staff. Sidewalks shall have clear access for pedestrians. Stoops may be covered or uncovered.

## F. Bay Windows



*Depth* = 6 ft. maximum

*Length* = 8 ft. maximum



- Bay windows are permitted and may occur forward of the build-to line. Bay windows projecting from the second-floor or higher may encroach within the right-of-way. Ground floor bay windows may encroach within the right-of-way with approval. Sidewalks shall have clear access for pedestrians.
- Bay windows shall have fenestration on both front and side surfaces.

## CHAPTER IV

# ARCHITECTURAL REGULATIONS

The lists of permitted materials and configurations come from study of traditional buildings found in Northern California and have been selected for their appropriateness to the visual environment and climate.

A primary goal of the Architectural Guidelines is achieving authenticity of design elements that are found on the architecture style of a building. The Guidelines encourage construction that is straightforward and functional, and that draws its ornamentation and variety from the traditional use of genuine materials.

## General Requirements

The following shall be located in rear yards or side yards not facing side streets:

- Window and wall air conditioners;
- Electrical utility meters;
- Air conditioning compressors; and
- Irrigation and pool pumps.

The following shall be located in the rear yards only:

- Antennas;
- Permanent barbecues; and
- Satellite dish antennas greater than 18-inches in diameter;

The following are prohibited:

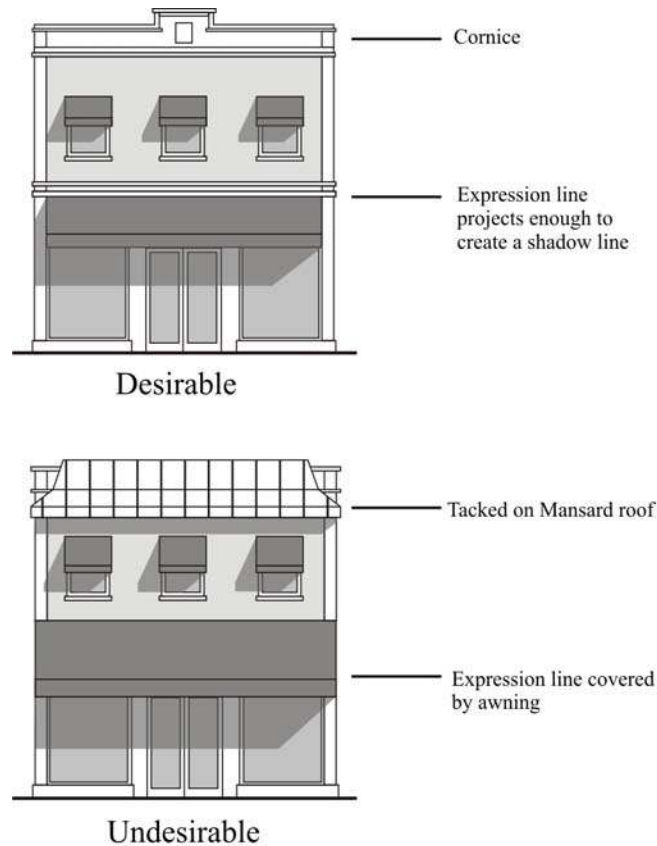
- Undersized shutters (the shutter or shutters must be sized so as to equal the width that would be required to cover the window opening);
- Plastic or inoperable shutters;
- Clotheslines;
- Clothes-drying yards;
- Reflective and/or bronze-tint glass;
- Plastic or PVC roof tiles;
- Backlit awnings;
- Glossy-finish awnings; and
- Fences made of chain link, barbed wire, or plain wire mesh.

# A. Building Walls

## 1. General Requirements

*Required for all buildings except single family houses:*

An expression line shall delineate the division between the first story and the second story. A cornice shall delineate the tops of the facades. Expression lines and cornices shall either be moldings extending a minimum of 2 inches, or jogs in the surface plane of the building wall greater than 2 inches.



## 2. Permitted Finish Materials

- Concrete masonry units with stucco (C.B.S.)
- Reinforced concrete with stucco
- "Hardie-Plank" siding
- Brick
- Wood (termite resistant): painted white, left natural (cypress and cedar preferred), or painted / stained with colors approved by the CDPS staff, or by CDPS in consultation with the Town Architect.
- Painted exterior building surfaces shall have a matte finish. Trim may have a glossy finish.

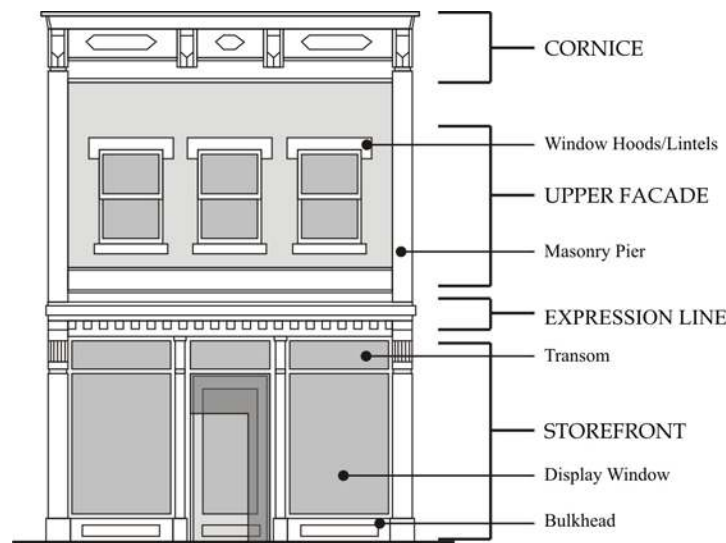
## B. Opacity & Facades

Each floor of any building facade facing a park, square or street shall contain transparent windows covering from 15% to 70% of the wall area.

### *Retail storefront areas only:*

In order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces, the ground floor along the building frontage shall have transparent storefront windows covering no less than 50% of the wall area. Storefronts facing Main Street, parks, and squares shall remain unshuttered at night and shall use transparent glazing material, and shall provide view of interior spaces lit from within.

Doors or entrances with public access shall be provided at intervals no greater than 50 feet, unless otherwise approved by the CDPS staff, or CDPS staff in consultation with the Town Architect.



## C. Columns, Arches, Piers, Railings, & Balustrades

### 1. General Requirements

Column and Pier spacing: Columns and Piers shall be spaced no farther apart than they are tall.

### 2. Permitted Finish Materials

- Columns:
  - Wood (termite resistant), painted or natural
  - Cast iron
  - Concrete with smooth finish
- Arches:
  - Concrete Masonry Units with Stucco (C.B.S.)
  - Reinforced Concrete with Stucco
  - Brick
- Piers:



- Concrete Masonry Units with Stucco (C.B.S.)
- Reinforced Concrete with Stucco
- Brick
- Railings & Balustrades:
  - Wood (termite resistant), painted or natural
  - Wrought Iron

### **3. Permitted Configurations**

- Columns:
  - Square, 6-inch minimum, with or without capitals and bases
  - Round, 6-inch minimum outer diameter, with or without capitals and bases
  - Classical orders
- Arches:
  - Semi-circular & Segmental
- Piers:
  - 8" minimum dimension
- Porches:
  - Railings 2-3/4" minimum diameter
  - Balustrades 4" minimum spacing, 6" maximum spacing.

## **D. Windows, Skylights, & Doors**

### **1. General Requirements**

- Rectangular window openings facing streets shall be oriented vertically.
- Permitted accessories:
  - Shutters (standard or Bahama types)
  - Wooden window boxes
  - Muntins and mullions
  - Fabric awnings (no backlighting; no glossy-finish fabrics)

### **2. Finish Materials**

- Windows, Skylights, & Storefronts:
  - Wood
  - Aluminum
  - Copper
  - Steel
  - Vinyl Clad Wood
- Doors:
  - Wood or Metal

### **3. Permitted Configurations**

- Windows:
  - Rectangular
  - Square
  - Round (18" maximum outer diameter)
  - Semi-circular
  - Octagonal
- Window Operations:
  - Casement
  - Single- and Double-Hung
  - Industrial
  - Fixed Frame (36 square feet maximum)
- Skylights:
  - Flat to the pitch of the roof
- Door Operations:
  - Casement
  - French
  - Sliding (rear only)

## **E. Roofs & Gutters**

### **1. General Requirements**

- Permitted Roof Types:
  - Gabled
  - Hipped
  - Shed  
Shed roofs shall be concealed with parapets along the street frontage.
  - Barrel vaulted
  - Domed.
- Applied mansard roofs are not permitted.
- Downspouts are to match gutters in material and finish.

### **2. Permitted Finish Materials**

- Metal:
  - Galvanized
  - Copper
  - Aluminum
  - Zinc-Alum
- Shingles:

- Asphalt or Metal, "dimensional" type
- Slate
- Cedar shake
- Tile:
  - Clay
  - Terra cotta
  - Concrete
- Gutters:
  - Copper
  - Aluminum
  - Galvanized Steel

### **3. Permitted Configurations**

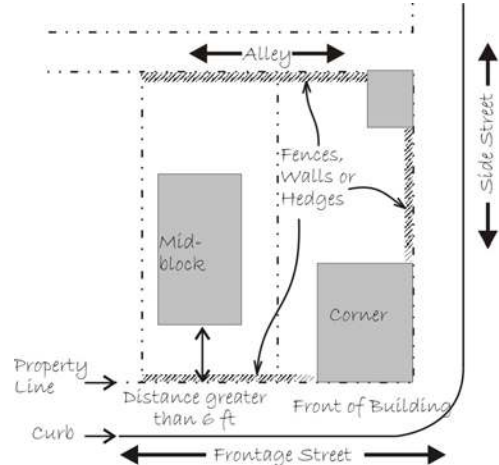
- Metal:
  - Standing Seam or "Five-vee"
  - 24" maximum spacing, panel ends exposed at overhang
- Shingles:
  - Square
  - Rectangular
  - Fishscale
  - Shield
- Tile:
  - Barrel
  - Flat
  - French
- Gutters:
  - Rectangular section
  - Square section
  - Half-round section

## F. Garden Walls, Fences, & Hedges

### 1. General Requirements

Fences, garden walls, or hedges are strongly encouraged and, if built, should be constructed along all un-built rights-of way which abut streets and alleys as shown in the diagram below. Fences, garden walls and hedges shall be minimum 25% opaque.

- Height
  - Front Yard: maximum height of 30–42 inches. Pillars and posts may extend up to 6 inches more, to a height of 48 inches.
  - Side and Rear Yards: maximum height of 72 inches. Pillars and posts may extend up to 6 inches more, to a height of 78 inches.



### 2. Permitted Finish Materials

- Wood (termite resistant): painted white, left natural, or painted/ stained with colors approved by the Town Architect.
- Concrete Masonry Units with Stucco (C.B.S.)
- Reinforced Concrete with Stucco
  - Wrought Iron
  - Brick

### 3. Permitted Configurations

- Wood:
  - Picket Fences: minimum 30% opaque, w/ corner posts
  - Other: to match building walls
- Stucco: with texture and color to match building walls
- Wrought Iron: Vertical, 5/8" minimum dimension, 4" to 6" spacing

# G. Signs

## 1. General Requirements

- All signs shall be subject to a review by the Community Development and Public Services (CDPS) staff in order that signs are consistent and in harmony with the Central Plan. Graphics in this section shall be used as non-binding guidelines, but CDPS staff shall make a determination of appropriateness on a case by case basis.
- Signs shall be flat against the facade, mounted projecting from the facade, or mounted above the top of the facade.
- Signs shall be externally lit. Individual letters and symbols may be internally lit or back-lit.

## 2. Finish Materials

**(care should be taken that material choices compliment the architecture of the building)**

- Wood: painted or natural
- Metal: copper, brass, galvanized steel
- Painted Canvas
- Neon

## 3. Configurations

- Maximum gross area of signs on a given façade shall not exceed 10% of the applicant's façade area.
- Maximum area of any single sign mounted perpendicular to a given façade shall not exceed 10 square feet.
- Protuding, and hanging, signs shall maintain a minimum clear height of 8 feet above the sidewalk.



### Desirable

- Signs are coordinated in size and placement with the building and storefront



### Undesirable

- Building sign conceals the cornice
- Over-varied sign shapes create visual confusion
- Awning sign covers the masonry piers
- Sale sign too large for storefront and poorly placed in display window



## Examples of Signs Flat Against the Facade:

The sign is centered within the symmetrical arrangement of the window above and the shopfront below.

Internally lit letters.



The sign runs horizontally along the expression line.



Sign painted directly on the façade above the main entrance.



External lighting discreetly located above the awning.

## Examples of Signs Mounted Projecting from the Facade:

Signs on the sides of awnings are directly in the line of sight of pedestrian customers.



Signs hanging from the ceiling of arcades command the attention of pedestrian shoppers..



Vertical projecting signs are highly visible far down the street.



A lower marquee sign caters to people on foot and in cars passing directly in front of the venue.

## Examples of Signs Mounted Above the Top of the Facade:

Projecting signs which break the skyline are visible from a variety of distances and serve as beacons to customers when lit at night.



Signs projecting from the tops of building are highly visible from a great distance.



Signs projecting above the roof stand out against the sky, adding an architectural flair to a shop's identity.



## CHAPTER V

# APPROVED & CONDITIONAL USES

WF <sub>(4,6)</sub>	CQ	HT <sub>(3)</sub>	CC/HC <sub>(4)</sub>	TYPE OF USES
				<b>Public/Civic Uses</b>
C	A	A	C	Churches
A	A	A	A	City Hall
A	A	A	A	Convention center
A	A	A	A	Day care facilities <sub>(1)</sub>
C	A	C	C	Hospitals
A	A	A	A	Information kiosks
A	A	A	A	Parks, recreation areas, local and regional trails
A	A	A	A	Parking garages
A	A	A	A	Post Office
A	A	A	A	Public Safety (police dispatch, fire substations)
C	C	C	C	Public restroom
C	C	C	C	Private schools, religious, K-12
A	A	A	A	Public school <sub>(2)</sub>
A	A	A	A	Public transportation (bus, train, inter-city rail)
A	A	A	A	Public utilities and service structures
A	A	C	A	Recreation centers
				<b>Office/Professional Uses</b>
A	A	A	C	Advertising Agencies
A	A	A	C	Employment Agencies
A	A	A	C	Home Occupations
				<b>Professional Offices</b>
A	A	A	C	➤Architects, Certified Public Accountants, Lawyers, Medical and Dental Offices of less than 5000 square feet. If less than 2000 square feet, no off-street parking is required.
C	C	C	C	➤Architects, Certified Public Accountants, Lawyers, Medical and Dental Offices of more than 5,000 square feet.
C	C	C	P	Veterinary Clinics of less than 2,000 square feet. Board and care facilities for domesticated animals must be associated with a veterinary clinic.
P	C	P	p	Veterinary Clinics of less than 2,000 square feet. Board and care facilities for domesticated animals must be associated with a veterinary clinic.
				<b>Commercial/Service/Retail Uses</b>
C	C	C	C	Alcohol beverage sales establishments (stand-alone or within a hotel, restaurant, or grocery store)
C	A	A	A	Adult congregate care facility/nursing home
P	C	P	P	Adult novelty/Entertainment

WF = Waterfront

CQ = Central Quarter

HT = Hilltown

CC/HC = Civic Center/Hospitality Corridor

A = Allowed

C = Conditional

P = Prohibited

WF <sub>(4,6)</sub>	CQ	HT <sub>(3)</sub>	CC/HC <sub>(4)</sub>	TYPE OF USES
A	A	A	C	Alterations/Tailoring
C	C	C	A	Amusement and Private Commercial Enterprises (bowling alleys, skating rinks, driving range, miniature golf, batting cages, movie theatres, etc.)
A	A	A	A	Antique and Gift Shop
A	A	C	C	Appliance, sales and service
A	A	A	A	Art galleries
A	A	A	A	Artist studios
A	A	C	C	Astrology & related practices (Hypnotists, palm readers, etc.)
A	A	C	C	Automotive accessories sales
C	C	C	C	Automotive repair shops
A	A	A	A	Banks, savings and loans
A	A	A	A	Bakery/café/coffee shop
C	C	C	C	Barber
A	A	A	A	Bed and breakfast
A	A	A	A	Bookstores, newsstands, stationary store
A	A	C	C	Butcher shop
P	P	P	C	Car sales, new or used (outdoor showrooms)
A	A	C	C	Car sales, new or used (indoor showrooms)
C	C	C	C	Cellular transmission facility: transmission apparatus (antennas, poles, panels, tower, etc.) or unmanned equipment structures
A	A	A	C	Clothing, related accessories, retail
A	A	A	C	Coin dealers
A	A	A	C	Computer sales and service
C	C	C	C	Convenience store
A	A	C	C	Copy centers
A	A	A	C	Dance studios
C	C	C	C	Drug stores
A	A	A	C	Electronics, sales and service (includes sales of cell phones)
C	A	P	A	Fast food restaurant (without drive-thru)
C	C	P	C	Fast food restaurant (with drive-thru)
A	A	C	C	Floor coverings
A	A	A	A	Florist and gift shop
A	A	C	C	Furniture, retail, new and used
C	A	P	C	Gasoline station (no convenience store, sales or car wash)
C	C	P	C	Gasoline station (with convenience store, sales or car wash)

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WF <sub>(4,6)</sub>	CQ	HT <sub>(3)</sub>	CC/HC <sub>(4)</sub>	TYPE OF USES
P	C	P	P	Gun sales
C	C	C	C	Grocery store, more than 20,000 sq. feet (including alcohol sales)
A	A	A	C	Hair salon
C	C	C	C	Hardware
A	A	A	C	Health foods
A	A	A	C	Hobby and craft shop
A	A	C	C	Home furnishing store
A	A	A	A	Hotel
A	A	A	A	Ice cream parlor
A	A	A	C	Interior decorating
A	A	A	C	Jewelry stores
A	A	C	C	Loan/mortgage companies, realty office
A	A	A	C	Locksmiths
A	A	A	C	Luggage shops
C	C	C	C	Manufacturing and assembly
P	P	P	P	Motel
C	C	C	C	Mortuary, columbaria, cemetery
A	A	A	C	Nail salon
C	C	C	C	Neighborhood market
C	C	C	C	Nightclub
C	A	C	C	Paint store
P	C	P	P	Pawn shop
C	A	C	C	Pet shops and grooming facilities
A	A	A	C	Photo studios
A	A	A	A	Physical fitness and health clubs
C	C	C	C	Plant nurseries, retail and wholesale
C	C	C	C	Private clubs and lodges
C	C	C	C	Public utilities and service structures
A	A	A	C	Radio and TV broadcasting studios, excluding towers
A	A	C	C	Radio and TV sales and service
A	A	A	A	Restaurants (and on-site alcohol sales with consumption of meals)
C	C	C	C	Schools, service and vocational
A	A	A	A	Shoe repair
A	A	A	A	Sidewalk café
A	A	A	A	Snack shops
A	A	C	C	Sporting goods, retail
P	C	P	P	Storage facilities

WF = Waterfront

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WF <sup>(4, 6)</sup>	CQ	HT <sup>(3)</sup>	CC/HC <sup>(4)</sup>	TYPE OF USES
A	A	A	C	Taxidermists
A	A	A	A	Theater, performance space
A	A	A	C	Title companies
A	A	A	C	Tobacco shops
A	A	A	C	Toy stores
A	A	A	C	Travel agencies
A	A	A	C	Video, sales and rentals
				<b>Residential Uses</b>
A	A	A	C	Residential, single and multi-family (attached and detached)
A	A	A	C	Secondary or carriage units <sup>(5)</sup>
A	A	A	C	Live/Work

## Footnotes

- (1) Refer to definitions regarding the number of children allowed pursuant to state law.
- (2) Not a desired use in the Waterfront District or Hospitality Corridor.
- (3) All uses listed for the Hilltown area would require a General Plan Amendment (GPA) and Rezoning (RZ) in order to apply the Regulatory Code. Until such applications to amend the General Plan land use & zoning district designations are approved, the current General Plan land use designation remains in effect.
- (4) The City Wastewater Treatment Plant is excluded from the list of uses. Additionally, the Civic Center area, BART Park & Ride lot, Williamson, CalTrans, PG&E, and Carone 3&4 properties are excluded from this list of uses. Until such applications to amend the General Plan land use & zoning district designations are approved, the current General Plan land use designation remains in effect.
- (5) A secondary or carriage unit shall be a maximum of 660 square feet, as stated within Chapter VI, General Provisions, and the 800 square foot maximum in Chapter 35, Section 320, Second Residential Units of the Specific Land Use requirements of the Zoning Ordinance.
- (6) The uses and guidelines of the Waterfront District Master Plan shall not be superseded by the Central Hercules Plan Regulating Code.

**Note:** The Community Development and Public Services Director reserves the right to determine the best fit for a proposed use that does not appear on this list. If the applicant disagrees with this determination, they may appeal this interpretation to the Planning Commission

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CQ = Central Quarter  
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## CHAPTER VI

# GENERAL PROVISIONS

## A. Maximum Block Size

The maximum perimeter of any block shall be no more than 1,600 ft. The minimum dimension of each block face shall be no more than 500 ft. Pedestrian passages leading from the street to the middle of the block shall be provided at intervals no greater than 250 ft.

## B. Alleys

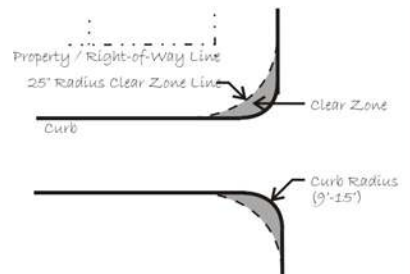
Alleys are required in the Central Hercules Plan area to minimize curb cuts and to provide access to parking and service areas behind buildings. Alley locations and dimensions are not fixed but shall be designed to accommodate the alley's purpose. Additional curb cuts shall be added only with the permission of the CDPS staff or Town Architect. Alleys may be incorporated into parking lots as drive aisles and fire lanes.

## C. Fronts and Backs

The front or side of every building must face the street. Rear facing buildings, loading docks, overhead doors and service entries are prohibited on street facades.

## D. Corner Radii & Clear Zones

Corner curb radii shall be between 4 feet and 15 feet. These fairly tight turning radii are intended to shorten pedestrian crossings and inhibit drivers from turning corners at high speeds. To allow for emergency vehicles (e.g., fire trucks) to turn corners, a 25-foot radius Clear Zone shall be established free of all vertical obstructions including but not limited to telephone poles, sign poles, fire hydrants, electrical boxes, or newspaper boxes.



## E. Single- vs. Double-Loaded Roads

Segments of single-loaded road are designated in order to provide public access to significant natural areas and to enhance these significant natural areas by facing them with the fronts of buildings. Single-loaded roads may, by special exception, be replaced with a double-loaded alternative. Double-loaded roads may be appropriate in locations where:

- there is no significant natural view;
- there is no significant negative visual impact created by having the developed properties back up to the natural area or park space; or
- it is deemed to be in the balanced public-private interest to incorporate double-loaded roads for the economical use of the property.

## **F. Street Trees**

Streets shall be planted with regularly spaced shade trees. Trees shall be selected in consultation with the City of Hercules Planning Department or Town Architect.

## **G. Street Lighting**

Street lighting shall be provided on all streets. Street light fixtures shall be located within 3 feet of the curb and at intervals no greater than 50 feet. Street light fixtures shall be chosen in consultation with the CDPS staff. Street light fixtures shall be made of metal painted with a black or dark green matte finish and shall be consistent in color and style along both sides of any street. Street lighting should be scaled to the pedestrian and no taller than 14 feet.

## **H. Street Furniture**

Street furniture includes benches, trash receptacles, street signs, and traffic lights. Street furniture shall be chosen in consultation with the CDPS staff. Benches and trash receptacles shall be provided on all streets at intervals no greater than 200 feet. Street furniture shall be located so as to maintain a clear pedestrian path and shall be placed within 6 feet of the curb. Benches may also be placed at the rear of the sidewalk within 3 feet of the right-of-way line. Benches with backs shall be oriented to face the street. Street furniture shall be made of metal painted with a black or dark green matte finish and/or wood with a natural finish. Street furniture shall be consistent in color and style along both sides of any street.

## **I. Placement of Utilities**

All new utilities shall be placed underground in all public streets or in rear service alleys.

## **J. Civic Sites**

Civic buildings are of special public importance. Civic buildings include, but are not limited to, municipal buildings, churches, libraries, schools, recreation facilities, and places of assembly. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings. In order to provide greater flexibility to create a special architectural statement, civic buildings are not subject to Build-to Line requirements or Building Frontage requirements. The design of civic buildings shall be subject to review and approval by the Planning Commission.

## **K. Parking**

### **1. Parking Requirements**

The intent of these parking regulations is to encourage a balance between compact pedestrian-oriented development and necessary car storage. The goal is to construct neither more nor less parking than is needed.

On-street parking is permitted throughout the district. Parking need not be contiguous with the building or the use it serves.

Minimum parking requirements in the Hercules Central District are as follows:

- 1.25 spaces / dwelling unit
- 1 space / 400 sf of retail
- 1 space / 300 sf of office

Shared parking solutions are encouraged. Required parking minimums can be reduced by up to 50% with a shared parking solution approved by the CDPS. The applicant shall provide a parking analysis justifying the proposed parking solution.

Minimum parking space dimensions for head-in or diagonal parking shall be 9 ft. x 18 ft. with 11-ft drive lanes (20 ft. for two-way traffic) and parallel parking spaces shall be 6 ft. x 20 ft. minimum with 10-foot drive lanes (20 ft. for two-way traffic).

Parking shall be provided as necessary to meet the requirements of the Americans with Disabilities Act.

### **2. On-Street Parking**

The selection of diagonal or parallel parking along any section of road shall be determined in consultation with the Public Works Director. In the event that CDPS staff approves diagonal instead of parallel parking, dimensions should be adjusted in Chapter II.

### **3. Off-Street Surface Parking Lot Placement**

Off-street surface parking lots shall be set back a minimum of 50 feet from the property line along all streets. CDPS shall have discretion to make this requirement applicable elsewhere on prominent frontages, such as along key pedestrian connections, within significant vistas, and within important public spaces. Outbuildings serving as garages facing alleys shall be permitted within this setback. Surface parking lots may be built up to the property line on all other street frontages.

### **4. Structured Parking Lot Placement**

Parking structures shall be set back a minimum of 50 feet from the property lines of all adjacent streets to reserve room for Liner Buildings between parking structures



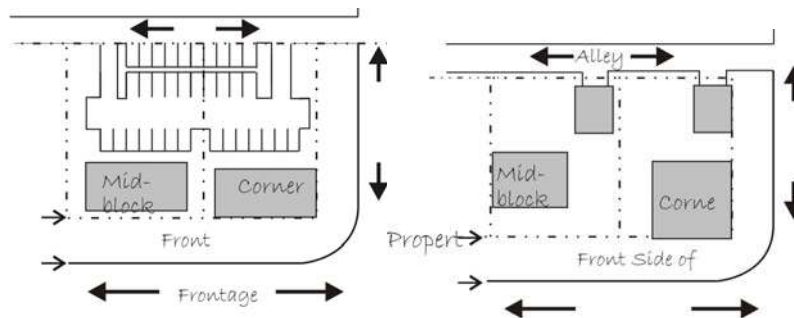
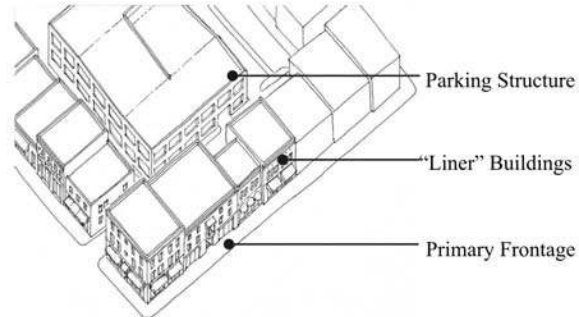
and the lot frontage. The Liner Building shall be no less than two stories in height. Liner Buildings may be detached from or attached to parking structures.

## 5. Access to Off-Street Parking

Alleys shall be the primary source of access to off-street parking. Parking along alleys may be head-in, diagonal, or parallel.

Alleys may be incorporated into parking lots as standard drive aisles. Access to all properties adjacent to the alley shall be maintained. Access between parking lots across property lines is also encouraged.

Corner lots that have both rear and side access shall access parking through the rear (see diagram below).



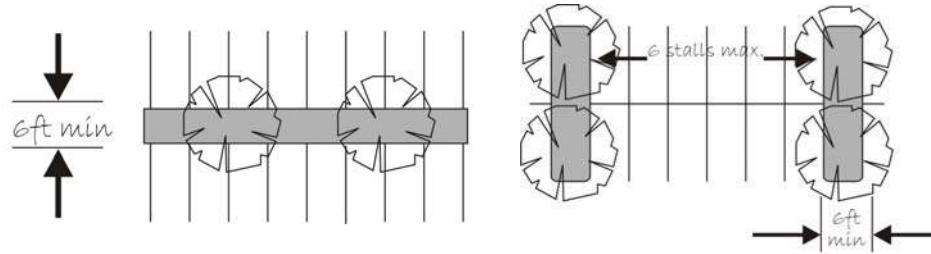
Circular drives are prohibited except for civic buildings.

Garage door(s) shall be positioned no closer to streets, squares, or parks than 20 feet behind the principal plane of the building frontage. Garage doors facing streets, squares, or parks shall not exceed 10 feet in width. Where space permits, garage doors shall face the side or the rear, not the front.

## 6. Parking Lot Landscaping Requirements:

Landscape strips of at least six feet in width shall be provided between parking aisles of either head-in or diagonal parking. Tree spacing, shrubs, and groundcover in parking lots shall be determined by the CDPS Staff based upon tree species and location. The objective is to create a continuous shade canopy. A diversity of tree species throughout the Central Hercules Plan area is encouraged. To minimize water consumption, the use of low-water vegetative ground cover other than turf is encouraged. Plant material and trees should be of native species that are climate and draught tolerant.

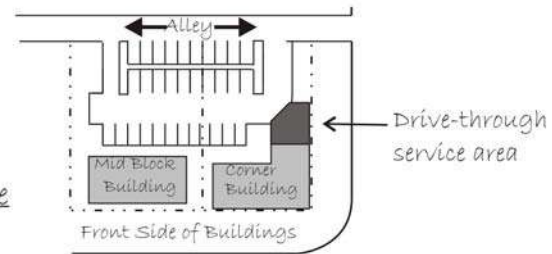
In lieu of landscape strips, landscape islands can be provided. No more than six (6) consecutive parking stalls are permitted without a landscape island at least six (6) feet wide and extending the entire length of the parking stall. A minimum of one tree and a combination of shrubs and/or ground cover shall be planted in each landscape island. Permanent irrigation systems must be installed in each island.



## L. Drive-Throughs

Drive-through service windows are permitted in the rear in mid-block and alley accessed locations provided they do not substantially disrupt pedestrian activity or surrounding uses.

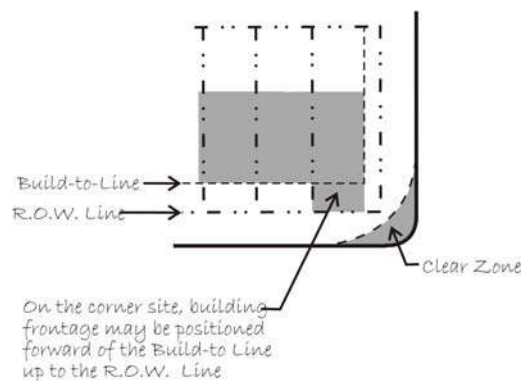
Example



## M. Exceptions from Build-To Lines

Exceptions from Build-to Lines may be granted by the CDPS to avoid trees with calipers greater than eight (8) inches.

On corner sites (within 50 feet of the corner) with Build-to Lines from the Right-of-Way line, building frontage may be positioned forward of the Build-to Line up to the Right-of-Way Line, provided it does not encroach upon the Clear Zone.



## N. Side and Rear Setbacks

No side or rear setbacks are required by the Regulating Code. See Chapter II, Palette of Street Types in this Code for rules regarding spacing between buildings.

## O. First Floor Height for Residential

Residential uses on the first story shall have finished floor height raised a minimum of two (2) feet above sidewalk grade.

## P. Accessory Structures

Accessory Structures are permitted and may contain parking, accessory dwelling units, home occupation uses, storage space, and trash receptacles. Home occupation uses are restricted to owner plus one employee, shall not include noxious or disruptive functions, and may not disrupt parking for neighboring residents.

Accessory structures shall not be greater than 660 square feet in footprint and shall not exceed two (2) stories in height.

## Q. Large Footprint Buildings

Buildings with a footprint greater than 20,000 square feet may be built within the CHP area by an approved CUP only. Such buildings must abide by all rules in this code with the following special limitations:

- a. Buildings may be only one story in height on any street frontages except Main Street. One-story buildings shall be at least 24 feet in height. This may be accomplished with

Liner Buildings or higher ceiling heights and/ or parapets.

- b. To encourage use by pedestrians and decrease the need for solely auto-oriented patronage, Large-Footprint Buildings must reinforce the urban character of the Large Footprint Building has blank facades and CHP area and shall therefore continue a sits behind a field of parking.  
connected system of walkable street frontages.
- c. Buildings are exempt from maximum lot size restrictions, however building footprints may not be larger than a single block.
- d. Loading docks, service areas and trash disposal facilities shall not face streets, parks, squares, or significant pedestrian spaces.



### Desirable

Large footprint buildings are wrapped in a liner of smaller buildings with doors and windows facing the street.



### Undesirable

Large footprint building has blank facades and sits behind a field of parking.

## **R. Additional Prohibitions**

The following are prohibited where visible from parks, squares, and primary streets:

- Utility boxes and machinery including, but not limited to:
  - Backflow devices;
  - Electric meters;
  - Air conditioning units.

CHAPTER VII

ADMINISTRATION  
*of the*  
REGULATING CODE



## **Submission Requirements**

Applicants shall submit the following items to the Community Development and Public Services (CDPS) Staff for review:

1. Site survey, no more than 6 months old.
2. Tree survey, no more than 6 months old.
3. Site plan, drawn to scale, which shall indicate:
  - Lot lines;
  - Building locations and orientations;
  - Parking locations and number of spaces;
  - Paved surfaces, materials and location(s);
  - Site location diagram & legal description;
  - Signage; and
  - Landscaping.
4. Building elevations illustrating all sides of structures.
5. Grading plan.
6. Parking analysis justifying the proposed parking solution.
7. Digital version of the site plan and all exterior elevations of the proposed buildings and other related components of the proposed development in a format suitable for viewing on a web site. These should be at least 800 x 600 dpi in either JPEG or TIFF format.

## **Review Process**

### **Phase I, Mandatory / Phase II, Permissive Distinction**

The criterion for designating parcels in either Phase I or Phase II is based upon the consistency between the current General Plan designation and the intent of the Regulating Code.

### **Phase I Parcels**

For some sites within the CHP area, the land uses envisioned by the Central Hercules Plan (and allowed by the Regulating Code) would be consistent with the current land use designations in the General Plan. These sites are considered “Phase I” sites, and development of those sites must conform with the proposed Regulating Code. Phase I sites include, without limitation: all of the Waterfront District (except the Wastewater Treatment Plant), all of the Central Corridor (except the BART parking lot), and the Creekside Shopping Center, proposed Amerisuites Hotel suite, Carone 1, and the K&B 125-lot residential subdivision that is under construction within the Civic

Center/Hospitality Corridor (but excludes the Civic Center area, the Williamson property, PG&E, CalTrans, and Carone 3 and 4).

### **Phase II Parcels**

For those sites on which the land uses envisioned are not consistent with the General Plan, compliance with the Regulating Code would not be required. That is, development of those “Phase II” sites could proceed, consistent with the existing General Plan and other current land use regulations. Should an applicant wish to develop a Phase II parcel according to the Central Hercules Plan and Regulating Code, the applicant would need to request amendments to the General Plan and Zoning Ordinance. Phase II sites include, without limitation: the Wastewater Treatment Plant, BART Park & Ride, Penterra/Albertson’s sites in the Central Quarter, the entire Hilltown area, and the Civic Center, Williamson property, PG&E, CalTrans, and Carone 3 and 4 in the Civic Center/Hospitality Corridor area.

### **Mandatory/Permissive Discussion**

The land uses allowed by the Regulating Code are consistent with the current land use designations in the General Plan on certain sites within the CHP area (the Phase I parcels). The provision of the Regulating Code will apply to all land uses applications on these parcels. However, on proposed parcels where an inconsistency occurs between the current General Plan land use designation and the uses and intensity of development allowed by the Regulating Code, the property owner may elect to develop the property based upon the proposed General Plan land use designation. Thus, application of the Regulating Code is at the permissive discretion of the applicant.

Mandatory application of the Regulating Code is not meant to impose new procedurew on projects that are under construction (such as, for example, the 125-lot residential development along Sycamore being constructed by K&B), or currently being reviewed (such as, for example, the warehouse proposal on two parcels along San Pablo Avenue at the North Shore Business Park, the 56-lot residential proposal and Hercules and San Pablo Avenues) or to interfere with any effective current Development Agreements (such as for example, the Amerisuites Hotel proposal, Penterra site, or the Creekside Shopping Center).

Permissive application means that the applicant has the discretion to adhere to the uses and intensity of development allowed under the Regulating Code. The map entitled “Application of the Central Hercules Regulating Code” at the end of this section indicates that a developer could pursue a discretionary permit \*such as a Conditional User Permit, Variance, Planned Development Plan, Parcel, or Subdivision Map) for the zoning designation and allowed uses of those parcels under the existing Planned Development Plan and/or Design Review process (see Application of the Central Hercules Plan Regulating Code). Table 1 illustrates the Phase I/Phase II, Mandatory/Permissive distinction.

<b>Table 1: Phase I/II, Mandatory/Permissive Distinction</b>		
	<b>Phase I</b>	<b>Phase II</b>
<b>Mandatory</b>	<ul style="list-style-type: none"> <li>• Waterfront District</li> <li>• Central Quarter</li> <li>• North Shore Business Park</li> <li>• Cottage Lane by K&amp;B at corner of Hercules &amp; San Pablo</li> </ul>	Not applicable
<b>Permissive</b>	<ul style="list-style-type: none"> <li>• Creekside Shopping Center</li> <li>• K&amp;B</li> <li>• Hotel</li> </ul>	<ul style="list-style-type: none"> <li>• Wastewater treatment plant</li> <li>• Civic Center area</li> <li>• BART parking lot</li> <li>• Hilltown</li> <li>• Williamson property</li> <li>• PG&amp;E property</li> <li>• CalTrans</li> <li>• Carone 3 &amp; 4</li> <li>• Penterra/Albertson's properties</li> </ul>

### **Environmental Review**

As part of any development application that would be submitted for parcels in either Phase I or II, environmental review is required. For parcels in Phase I, a traffic, noise, air, and photosimulation study will be required to be submitted to the CDPS staff to conduct the environmental review. Additional studies beyond those listed may be required for parcels in Phase II. CDPS staff will prepare and Initial Study checklist to determine what level of environmental review is appropriate for parcels in Phase II.

### **Design Review by CDPS Staff**

Applications are subject to review by the CDPS staff. The staff shall have authority for approving all aspects of site planning and exterior architecture, including aesthetic appropriateness, of a development proposal.

If the proposal adheres to the guidelines and design, is an allowed use, and offers a mix of uses as required for its specific area, the proposal will be approved over the counter within a 10-day work period. Applicants may, at their option, submit designs in schematic or sketch form to the CDPS staff for preliminary approval, subject to further review.

### **Exceptions**

Exceptions may be granted by CDPS staff or the Town Architect (TA) at their sole discretion for certain requests, such as to increase building height less than or equal to ten

percent of the total maximum building height. Requests for modifications that are more than 10% of the development standard shall be considered as a variance.

### **Town Architect Review**

If staff and the Town Architect deny approval through the Administrative Review Process for design-related issues, the applicant may appeal the decision to the Planning Commission Design Review Subcommittee (PCDRS).

### **Planning Commission Design Review Subcommittee**

Appeals to decisions made by staff and the Town Architect shall be heard by the Planning Commission Design Review Subcommittee (PCDRS). The PCDRS may take into consideration the previous meetings between staff, the TA, and the developer/applicant when reviewing an appeal. The PCDRS shall be held at least seven calendar days following review by staff and the Town Architect.

Requests for design review by the PCDRS under this Code shall include each exhibit required in the Administration Review Process of this code. In addition, the PCDRS may require additional exhibits, and may defer approval of an exception application, or schedule a public hearing or hearings to review those exhibits.

The PCDRS shall have authority to require that the applicant satisfy any additional conditions it deems necessary to fulfill goals of the Hercules General Plan, including reasonable offsite improvements directly related and proportionate to the specific impact of the request.

Appeals to decisions made by the PCDRS shall be heard by a public hearing before the Planning Commission (PC).

### **Planning Commission**

The Planning Commission may approve an appeal for an exception or design review, and may approve a conditional use permit or variance. The Planning Commission may also provide a recommendation to the City Council for an amendment to or policy determination on the Regulating Code.

Appeals to decisions made by the Planning Commission shall be heard in a public hearing before the City Council (CC).

### **City Council**

The City Council may approve an appeal regarding an exception or design review, conditional use permit, or variance, and is the only decision-making body that may approve an amendment to or policy determination on the Regulating Code.

### **Site Development Agreement Option**

The City may enter into a Site Development Agreement with the user or developer of a property, relating to development of a particular parcel or tract of land. An agreement

may address such issues as: impact fee credits; a specialized or negotiated concept of design or site plan development; infrastructure service credits or public-private participation in funding, design, or construction; or other incentives based upon strict compliance with requirements of this code. The Agreement will be mutually acceptable to all parties. Considerations for the City in deciding whether to participate in such an agreement will include: compliance with the objectives and design criteria specified in this code; demonstration of a cost benefit to the City and developer; and consideration of development amenities provided by the developer. Such a Site Development Agreement shall be adopted by the City Council and conform with the requirements of state statutes, as to effect, duration, public hearing requirements, and other issues.

### **Install Sign on Site if Project Approved**

Should the project receive Design Review approval by the CDPS staff, and approval of the Environmental Review by the Planning Commission, at least one temporary sign of 4 ft. by 5 ft. shall be placed on that site in a prominent and viewable location. The sign shall display perspective drawings of the approved project.

## **Findings**

The CDPS staff, Town Architect, Planning Commission, Design Review Subcommittee, or City Council may approve the design and/or use of a development proposal based upon the following findings:

### **Design Review Findings**

1. The approval of the design review plan is in conformance with all provisions of the City of Hercules Zoning Ordinance, Chapter 53, Regulating Code, pertinent provisions of the Zoning Ordinance, and applicable zoning and land use regulations, including, but not limited to, the Hercules General Plan.
2. The approval of the plan is in the best interest of the public health, safety, and general welfare.
3. General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, heights, walls, fences, public safety, and similar elements have been designed to provide a desirable environment for the development.
4. General architectural considerations, including the character, scale, and quality of design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing, and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings.
5. General landscape considerations, including the location, type, size, color, texture, and coverage of plant materials at the time of planting and after a five-year growth period, provision for irrigation, maintenance, and protection of landscaped areas and

similar elements have been considered to ensure visual relief, to complement buildings and structures, and to provide an attractive environment for the enjoyment of the public.

### **Exception Findings**

1. That strict interpretation and application of the specific regulation would result in practical difficulty inconsistent with the purposes and intent of the General Plan and Central Hercules Plan Regulating Code while the exception allows for a site plan or development that better meets the purposes and intents of the General Plan and Central Hercules Regulating Code.
2. That the granting of an exception will not constitute a grant of special privilege inconsistent with the limitation on other properties in the vicinity and zoning district in the which the property is located.
3. That the granting of an exception will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

### **Variance Findings**

1. That strict or literal interpretation and enforcement of the Central Hercules Plan Regulating Code would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the General Plan and the Central Hercules Plan Regulating Code. The hardship shall be specific to the property and not created by any act of the owner. Personal, family, or financial difficulties, loss of anticipated profits, and zoning violations of neighbors shall not be considered hardships justifying a variance.
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use of the property including size, shape, topography, location, or where the strict or literal interpretation and enforcement of the Central Hercules Plan Regulating code would deprive the property of privileges enjoyed by other properties in the vicinity and classified in the same zoning district(s). That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;
3. That the granting of a variance will not constitute a grant of special privilege inconsistent with the limitation on other properties in the vicinity and zoning district in which the property is located.
4. That the granting of a variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

### **General Conditional Use Permit Findings**

1. That the proposed use is consistent with the General Plan.



2. That the proposed location of the use conforms with the purposes of the Regulating Code, and the purposes of the district in which the site is located, and will comply with the application provisions of the Regulating Code.
3. That the location, size, design, and operating characteristics of the proposed use will be compatible in design, scale, coverage, and density with the existing and anticipated adjacent uses.
4. There is adequate access, traffic, and public service capacity for the proposed use and surrounding existing and anticipated uses.
5. There is no potentially significant adverse environmental impacts that could not be feasibly mitigated and monitored.

### **Findings for an Amendment the Regulating Code**

1. The proposed amendment is consistent with the General Plan.
2. The proposed amendment would not be detrimental to the health, safety welfare, and public interest of the City.
3. That the proposed amendment is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

## **Findings for Specific Uses**

### **Drive-Through Facilities**

1. That the proposed facility will not impair a generally continuous wall of building facades;
2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage.
3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.
4. Standards: A driveway serving as a vehicle stacking or queuing lane for a drive-through window shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.
5. Dimensions: Each vehicle space composing a stacking or queuing lane for a drive-through window shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing land shall have a maximum capacity of eight vehicles.

## **Hotels**

1. That the proposal is: located in the Waterfront District, Central Quarter, Hilltown, or Civic Center/Hospitality Corridor areas of the Central Hercules Plan area; a use that is allowed by the Regulating Code; near the I-80 freeway and State Route 4 and/or in an area with a concentration of amenities for hotel patrons, including restaurant, retail, recreation, open space, and exercise facilities; and is served by public transit.
2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services;
3. That the proposal is consistent with the goal of attracting the highest quality hotels in the Downtown area, along the waterfront, or along the I-80 freeway and provides: (a) a full service restaurant serving three meals per day; and (b) on-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts;
4. That the proposed development will be of an architectural and visual quality and character that harmonize and enhance the surrounding area, and includes:
  - a. Site planning that ensures appropriate access and circulation, locates building entries to face the primary street, provides a consistent development pattern along the primary street, and promotes safety for its users;
  - b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high-quality landscape materials;
  - c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;
  - d. The majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that consistent, compatible, and integrated into the overall development.
  - e. Appropriate design treatment for ventilation of room units as well as structured parking areas, and prominent entry features that may include attractive porte-cochères;
  - f. Building design that enhances the building's quality with strong architectural statements, high-quality materials, particularly at the pedestrian level, and appropriate attention to detail.
  - g. Lighting standards for hotel buildings, grounds, and parking lots that are not overly bright and directed downward.
5. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets.

## **Convenience Markets, Fast-Food Restaurants, and Alcohol Beverage Sales Establishments**

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the

area's function and character, problems of crime and loitering, and traffic problems and capacity;

2. That the proposal will not adversely affect adjacent or nearby: churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street;
4. That the proposed development will be of an architectural and visual quality and character, which harmonizes with, or where appropriate enhances, the surrounding area;
5. That the design will avoid unduly large or obtrusive signs, bleak un-landscaped parking areas, and an overall garish impression;
6. That adequate litter receptacles will be provided where appropriate;
7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of 10:00 P.M. and 7:00 A.M.
8. No alcoholic beverage sales establishment shall be located closer than 1,000 ft. to any other alcoholic beverage sales establishment, except if the activity is in conjunction with a full-service restaurant; or
9. A conditional use permit for an Alcohol Beverage Sales license in an area of over-concentration shall be granted and a finding of Public Convenience or Necessity made only if the proposal conforms to all of the following criteria
  - a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing specifically how the project would serve an unmet or undeserved need or population within the overall Hercules community or larger West County in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including but not limited to alcohol; and
  - b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and
  - c. That alcohol sales are typically a part of this type of business in the City of Hercules (for example and not by way of limitation, alcohol sales in a Laundromat would not meet this criteria).
  - d. Projects shall not have to meet all of the criteria to make a finding of Public Convenience or Necessity if the project that will result in 25 or more full-time-equivalent (FTE) employees and will result in at total floor area of 20,000 square feet or more.

- e. The proposed project is no within 1,000 feet of another alcohol outlet (except for full-service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and
- f. Police department calls for service within the “beat” where the project is located do not exceed by 20% the average calls for police service in police beats city-wide during the preceding 12 months.

### **Fast-Food Restaurants**

1. Ingress and egress to fast-food facilities shall be limited to commercial streets rather than residential streets. No access shall be provided to adjacent residential streets, which are less than 26 feet in pavement width. Exceptions to either of the requirements may be obtained where the City Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations, widths, entrances, and exits to fast-food facilities shall be subject to the approval of the City Engineer.
2. Trash and litter: Disposable containers, wrappers, and napkins used by fast-food restaurants shall be imprinted with the restaurant name or logo.
3. Vacated/Abandoned Fast-Food Facilities: The project sponsor of a proposed fast-food facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or vacated within a prescribed high-risk period. As used in this code, the words “abandoned” or “vacated” shall mean any facility that has not been operational for a period of 30 consecutive days, except where non-operation is the result of maintenance or renovation activity pursuant to valid city permits. The defined period of coverage is four years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Community Development and Public Services Director. The bond amount shall be determined by the City and shall be adequate to defray expenses associated with the requirements outlined below.

If a fast-food facility has been vacated or abandoned for more than 30 consecutive days, the projects sponsor must comply with the following requirements, pursuant to the relevant cited city, county, and state codes:

1. Enclose the property with a security fence and secure the facility;
2. Post signs indicating that vehicular parking and storage are prohibit on the site, that violators will be cited, vehicles will be towed at the owner’s expense, and that it is unlawful to litter or dump waste on the site. All signs shall conform to the limitations on signs for the specific zone and shall be weatherproof and of appropriate size and standard design for the particular function;
3. Install and maintain security lighting as appropriate if required by the Hercules Police Department;

4. Keep the site free of handbills, posters, and graffiti and clear of litter and debris.
5. Maintain existing landscaping and keep the site free of overgrown vegetation.

### **Tobacco-Oriented Uses**

1. No tobacco-oriented activity shall be located within, nor closer than 1,000 feet to the boundary of a residential zone, school, public library, park or playground, recreation center, or licensed daycare facility.

## **Standards/Criteria for Uses**

### **Live/Work Quarters**

1. Joint living and work quarters are permitted in all zones where residential uses are permitted or conditionally permitted
2. Joint living and work quarters may be permitted if allowed in the district and pursuant to Chapter 13, Section 300, Performance Standards of the Industrial Residential Mixed Use District. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 50, Use Permits of the Hercules Zoning Ordinance, as well as these additional findings:
  - a. That the workers and others living there will not interfere with, nor impair, the uses of the particular area; and
  - b. That the workers and others living there will not be subject to unreasonable noise, odors, vibration, or other potentially harmful environmental conditions.

### **Sidewalk Cafés**

1. Sidewalk cafés must have at least six feet of unobstructed right-of-way improved sidewalk for pedestrians. The minimum distance shall be measured from the portion of the sidewalk café encroachment, which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall constitute obstruction.
2. Operators/owners of sidewalk cafes shall obtain an encroachment permit from the city's Building Services Division, and shall comply with all requirements imposed by other affected departments. The encroachment permit shall include language that a waste receptacle be placed outside, all garbage/litter associated with sidewalk cafes must be removed within 24 hours, and proof of liability insurance. The city shall be named as an additional insured and the amount of the insurance shall be determined by the City's Risk Manager.
3. The operators/owners of a sidewalk café agrees to hold harmless and to defend, at the sole expense of operator/owner, any action brought against the City based upon the issuance of a building or encroachment permit for this use. The operator/owner shall indemnify and reimburse the City for any judgment for damages, court costs, and attorney's fees that the City may be required to pay as a result of any such action. The

City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve permittee of the obligations under this condition. Commencement of construction or operations under this permit shall be deemed to be acceptance by operator/owner of all conditions of this permit.

4. The operator/owner of a sidewalk café shall continually bus tables and provide a final cleanup at the end of the business day that will include litter pickup 100 feet in each direction from the site.

Refer to Section 3, Chapter 35, Specific Land Use Requirements of the City of Hercules Zoning Ordinance for the specific standards for the following uses that could be established in the Central Hercules Plan area: Adult Entertainment, Antennae and Satellite Dishes, Bed & Breakfast Inns, Family Day Care Homes, Homes Occupations, Mini-Storage Facilities, Second Residential/Carriage Units, and Service Stations.

However, there are no specific square footage or setback requirements for these uses in the Central Hercules Plan area. The building volume and placement criteria as indicated in the Palette of Street Types shall apply for that area.

## **Duration of Design Review, Exception, Variance, or Conditional Use Permit Approval**

Except for Vesting Tentative Maps approved under Title 10, Chapter 2, Article 3.1 of the Hercules Municipal Code, and Development Agreements approved under Title 10, Chapter 8 of the Hercules Municipal Code, approved Design Review plans, Exceptions, Conditional Use Permits, or Variances shall expire one (1) year from the date of approval unless, prior to the expiration date, a building permit is issued by the Building Official and construction has begun and is diligently being pursued toward completion.

A Design Review plan, Exception, Conditional Use Permit, or Variance approved in conjunction with approval of a Vesting Tentative Map or Development Agreement shall expire concurrently with the expiration of the Vesting Tentative Map or according to the terms of the Development Agreement.

Approval for Design Review, Exception, Conditional Use Permits, or Variances may be renewed for a maximum of one (1) additional year beyond the original date of expiration provided that a request for such renewal is submitted to the Planning Department before the date of expiration. The Planning Commission may grant or deny a request for renewal, which may be appealed to the City Council.

## **Specific Criteria for Conditional Use Permits**

In addition to the criteria and process described above, a Conditional Use Permit shall expire one (1) year from the date of approval unless prior to the expiration, one or more of the following occurs:

- A certificate of occupancy is issued by the Building Official for the site or the structure in which was the subject of the use permit application.



- A longer time period, not to exceed two (2) years, is approved by the Planning Commission or City Council.

A Conditional Use Permit shall be considered abandoned, and shall no longer be valid, if the use has been discontinued or changed to another use for a continuous period of six (6) months. If the Community Development Director determines that a use permit has been abandoned, such determination shall be reported to the Planning Commission, the last known operator of the use, and the owner of the property for which use permit was secured. This determination may be appealed by the property owner, provided that a written request of appeal is filed with the Community Development Director within ten (10) working days of the mailing of the notice of abandonment. The Planning Commission shall act on such an appeal after holding a public hearing on the appeal.

A temporary use permit shall expire 30 days after the commencement of the activity or use for which the permit is secured, or six (6) months after the approval of the permit, whichever is sooner. A single 30-day extension may be approved by the Community Development Director if unforeseen circumstances require extending the use or activity beyond the original 30-day period.

#### **Authority for Proposal Review and Approval**

		Level of Review			
		Staff & Town Architect (TA)	Planning Commission		City Council
			Design Review Subcommittee		
Type of Application	Exception	Approve	Information + Appeal	Information + Appeal	Information + Appeal
	Design Review	Approve	Information + Appeal	Information + Appeal	Information + Appeal
	Conditional Use Permit	Recommend		Approve	Appeal
	Variance	Recommend		Approve	Appeal
	Parcel Maps	Approve		Appeal	Appeal
	Subdivision Maps	Recommend		Approve	Appeal
	Amendment	Recommend		Recommend	Approve
	Policy Determination	Recommend		Recommend	Approve

## CHAPTER VIII

# DEFINITIONS

**Accessory Structure:** a building or structure subordinate to the principal building and used for purposes customarily incidental to the main or principal building and located on the same lot or set of attached lots therewith.

**Alley:** a publicly- or privately-owned secondary way which affords access to the side or rear of abutting property.

**Appurtenances:** architectural features consisting of: spires, belfries, cupolas or dormers; silos; parapet walls, and cornices without windows; chimneys, ventilators, skylights, and antennas.

**Awning:** a roofed architectural projection with flexible material supported entirely from the exterior wall of a building.

**Balcony:** a porch connected to a building on upper stories supported by either a cantilever or brackets.

**Block:** an increment of land composed of an aggregate of lots, tracts and alleys circumscribed by thoroughfares.

**Build-To-Line:** a line parallel to the property line, along which a building shall be built.

**Building Frontage:** the vertical side of a building which faces the primary space or street and is built to the Build-To-Line.

**Building Volume:** the space displaced by the exterior walls and roof of a building; a product of building width, depth, and height. Building volume is regulated in order to shape public spaces that are human-scaled, well-ordered, and which maximize the amenity of shared public spaces.

**Building Width:** the distance from one side of a building frontage to the other. In conditions where buildings are attached, building width is the distinction between buildings which shall be expressed via a change in architectural expression.

**Colonnade or Arcade:** a covered, open-air walkway at standard sidewalk level attached to or integral with the building frontage; overhead structure is supported architecturally by columns or arches along the sidewalk.

**Dwelling Area:** the total internal useable space on all residential floors of a structure, excluding porches, balconies, terraces, stoops, patios, or garages.

**Front Porch:** a roofed area, attached at the ground floor level or first floor level, and to the front

**Garden Wall:** a freestanding wall along the property line dividing private areas from streets, alleys, and or adjacent lots.

**Height:** the vertical distance from the lowest point on the tallest side of the structure to the top of the parapet, cornice or eave.

**Liner Building:** a building built in front of a parking garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the street space with a facade that has doors and windows opening onto the sidewalk (see diagrams pp.8 and 9). Parking garages and their Liners may be built at different times.

**Lot:** a single building plot; the smallest legal increment of land which may be bought and sold.

**Lot Frontage:** the property line adjacent to the frontage street.

**Marquee:** a permanently roofed architectural projection the sides of which are vertical and are intended for the display of signs; which provides protection against the weather for the pedestrian; and which is supported entirely from an exterior wall of a building.

**Primary Space or Street:** the space or street that a building fronts. At squares and street intersections the space or street highest in the hierarchy is the primary street.

**Stoop:** a small platform and / or entrance stairway at a house door, commonly covered by a secondary roof or awning.

**Storefront:** building frontage for the ground floor usually associated with retail uses.

**Structured Parking:** layers of parking stacked vertically.

## Definition of Types of Uses

**Adult congregate care/Nursing home:** structure in which nursing, dietary, and other personal services are rendered to convalescents, invalids, or elderly persons residing thereat, and in which surgery or other medical treatment customarily given in hospitals is not performed. A convalescent home or rest home shall be deemed a nursing home. The term shall not include a so-called half-way house or rehabilitation center occupied by persons under treatment for alcoholism, drug abuse, or any contagious disease. This type of use includes:

**Community Care Facility (Small):** dwelling where non-medical care is provided to 6 or fewer persons on a 24-hour basis and that is operated and occupied by the owners. Small community care facilities shall be licensed by the State Department of Social Services; or

**Community Care Facility (Large):** dwelling where non-medical care is provided to no less than 7 and no more than 12 persons on a 24-hour basis and that is operated and occupied by the owners. Large community care facilities shall be licensed by the State Department of Social Services, shall permit no more than 2 persons per bedroom, and shall be designed so as to be compatible with the residential character of the neighborhood.

**Long-Term Care Facility:** institution or a portion of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours. Typical uses include extended-care facilities, intermediate-care facilities, skilled nursing facilities, hospices, and other facilities licensed by the State Department of Health Services.

### **Adult Entertainment:**

1. **Adult Arcade:** Building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any time, and where a substantial portion of the images so displayed are distinguished or characterized by an emphasis on matters depicting or describing “specified sexual activities” as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only.
2. **Adult Bookstore:** Building or portion thereof used by an establishment having a substantial part of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications that are distinguished or characterized by their emphasis on matters depicting, describing, or relative to “specified sexual activities” as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only.
3. **Adult Cabaret:** Building or portion thereof or area in which a substantial portion of the total presentation time is devoted to the presentation, exhibition, or featuring of any of the following activities for observations by patrons or customers, and which establishment restricts admission to such building, or portion thereof, or area, to adults only:
  - a. Male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;
  - b. Male or female stripteasers, whether nude or partially clothed;
  - c. Burlesque-type entertainment, including shows or skits that include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.
4. **Adult Hotel/Motel:** Building or portion thereof in which substantial portion of material is presented that is distinguishable or characterized by an emphasis on depicting or describing “specified sexual activities” as hereinafter defined, and which establishment restricts admission to such building or portion thereof to adults only.
5. **Adult Motion Picture Theater:** Building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” as hereinafter defined, for observation by patrons or customers,; and which establishment restricts admission to such building or portion thereof or area to adults only.
6. **“Specified sexual activities”:** Includes the following:
  - a. Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship or the use of excretory functions in the context of sexual relationship, and any of the following depicted

- sexually-oriented acts or conduct means anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
  - c. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
  - d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
  - e. Masochism, erotic, or sexually-oriented torture, beating, or the infliction of pain; or
  - f. Erotic or lewd touching, fondling, or other contact with an animal by a human being; or
  - g. Human excretion, urination, menstruation, vaginal, or anal irrigation.
7. **Adult-Related Establishment:** Bathhouse, escort bureau, massage parlor, outcall massage service, modeling studio, or sexual encounter center, as defined by this section. “Adult-related establishment” also includes any other business or establishment which has available for or offers any patron, for pecuniary compensation, consideration, hire, or reward, services, or entertainment or activities that involve “specified sexual activities” or the display of “specified anatomical areas.” “Adult-related establishment” does not include an adult bookstore, adult cabaret, adult motion picture theater, adult arcade, or adult hotel/motel as defined above.
- a. **Bathhouse:** Establishment whose primary business is to provide, for pecuniary compensation, consideration, hire, or reward, access to any kind of bath facility, including showers, saunas, and hot tubs.
  - b. **Escort:** Person who, for pecuniary compensation, consideration, hire, or reward, (i) accompanies others to or about social affairs, entertainment, or places of amusement, or (ii) keeps company with others about any place or public resort or within any private quarters.
  - c. **Escort Bureau:** Business that, for pecuniary compensation, consideration, hire, or reward, furnishes or offers to furnish escorts.
  - d. **Figure Model:** Any person who, for pecuniary compensation, consideration, hire, or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed, or otherwise depicted.
  - e. **Massage Service (Outcall):** Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire, or reward, not at a fixed location, but at a location designated by the customer or client.



- f. **Modeling Studio:** Business that provides, for pecuniary compensation, consideration, hire, or reward, figure models who, for the purpose of sexual stimulation of patrons, display “specified anatomical areas” to be observed, sketched, photographed, painted, sculpted, or otherwise depicted by persons paying such consideration. “Modeling studio” does not include schools maintained pursuant to standards set by the State Board of Education. “Modeling studio” further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and that do not provide, permit, or make available “specified sexual activities.”
- g. **Sexual Encounter Center:** means a business that provides two or more persons, for pecuniary compensation, consideration, hire, or reward, with a place to assemble for the purpose of engaging in “specified sexual activities” or displaying “specified anatomical areas.” “Sexual encounter center” does not include hotels or motels.
- h. **Specified Anatomical Areas:** Includes:
  - i. Less than completely and opaquely covered human genitals or pubic region, buttocks, and female breast below a point immediately above the top of the areola; and
  - ii. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

**Alcoholic Beverage Sales Establishment:** Location where alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, containing one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances is sold.

**Alcoholic Beverage License Over-concentrated Area:** A police beat with crime rates that exceed the city median by twenty (20) percent or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Contra Costa County median.

**Amusement Enterprises:** An entertainment or amusement complex developed as a regional visitor tourist attraction and organized around a central theme, such as amusement rides and attractions, tours, or exhibitions, including all related accessory uses, buildings, and structures designed and operated for patron participation and pleasure in conjunction therewith. The uses may occur within an enclosed building, or may occur in unscreened facilities as illustrated below:

**Indoor Sports and Recreation:** Includes predominantly sports and health activities conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, indoor racquetball courts, soccer arenas, athletic clubs, and health clubs.

**Outdoor Entertainment:** Include predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include outdoor

amphitheaters, concert halls, and sports arenas, BMX tracks, racing facilities, drive-in theaters, and zoos.

**Outdoor Sports and Recreation:** Includes predominantly participant sports conducted in open or partially enclosed or screened facilities. Typical uses include amusement parks, driving ranges, miniature golf courses, swimming pools, and tennis courts.

**Large Amusement Complexes:** Includes a theme park or similar complex open to the public that exceeds 100,000 square feet and that: (1) includes outdoor amusement attractions such as mechanized or carnival-type rides or water slides; and (2) meets any of two of the following three criteria:

- The complex has a maximum daily capacity of more than 500 users per day;
- The complex is required to provide off-street parking for more than 200 vehicles; or
- The complex operates during any part of the year during the hours after 6:00 p.m.

**Astrology and related practices:** The practice of the business or art of astrology, palmistry, phrenology, fortune telling, cartomancy, clairvoyance, clairaudience, crystal gazing, mediumship, prophecy, augury, seership, necromancy, reading of tarot cards, hypnotism, and other similar practices.

**Bed and Breakfast Inn:** Dwelling, including on-site accessory structures, containing a single-family dwelling unit in which the inn owner or manager resides; and in which, for compensation, temporary night-to-night lodging not to exceed fourteen (14) consecutive days with or without meals being provided.

**Cellular Transmission Facilities:** Those uses which provide commercial and private electromagnetic and photoelectric transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, cellular telephone, microwave communications, and data network communications, including commercial earth stations for satellite-based communications. This use includes antennas, towers, and equipment buildings, and is not limited to the current modes of transmission and reception:

**Antenna array or wireless telecommunications:** One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antennas (whip), directional antennas (panel), and parabolic antennas (disc), but excluding any support structure as defined herein.

**Wireless telecommunications services:** Any personal wireless services as defined in the federal Telecommunications Act of 1996, including federally-licensed wireless telecommunications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future.

**Co-located cellular transmission facility:** The use of a common wireless telecommunications antenna facility, or a common site, by two or more providers of wireless telecommunications services, or by one provider of wireless telecommunications services for more than one type of telecommunications technology.

Cellular transmission facilities do not include:

- a. Home television and radio receiving antennas and HAM radio antennas;
- b. Telephone, telegraph, and cable television transmission facilities using hard-wired or direct cable connections;
- c. Satellite dishes; and
- d. Communications facilities for community services provided by a public agency.

**Convenience Market/Store:** A market whose primary activity is the retail sale of food, beverages, and small personal items, predominantly for off-premises consumption and typically found in establishments with long or late hours of operation and in relatively small buildings. Convenience market/store does not include establishments whose operation is primarily characterized by (a) the sale of alcohol, such as a liquor store; (b) on-site preparation of food, such as a delicatessen or restaurant; (c) stores that sell fresh fruits, vegetables, and/or meats, such as a food store; or (d) a gas station with a retail sales areas with food and drink products of 100 square feet or less.

**Day Care Centers:** Includes commercial or non-profit facilities that provide care, protection, and supervision of 13 or more minor children or adults in need of assistance for periods of less than 24 hours per day, typically while parents or family are working and/or before or after daily attendance at an elementary school, and includes preschools.

**Day Care Centers (On-Site):** Includes commercial or non-profit facilities that provide care, protection, and supervision of 13 or more minor children or adults in need of assistance for periods of less than 24 hours per day, while parents or family are working on-site, and/or before or after daily attendance at an elementary school. Includes preschools. Secondary day care centers are incidental and accessory to the primary industrial use of the property and are only for on-site employees.

**Drive-through service:** An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles. A drive-through service facility refers to the drive through lane, the ordering point, and pick-up window or any combination thereof. The business transaction can be conducted by an employee or an automated machine.

**Family Day Care Homes (Small):** Includes private single-family dwellings where care, protection, and supervision of 6 or fewer minor children is provided for periods of less than 24 hours or as otherwise provided by state law.

**Family Day Care Homes (Large):** Includes private single-family dwellings where care, protection, and supervision of 7 and up to 12 children is provided for periods of less than 24 hours or as otherwise provided by state law.

**Full-Service Restaurant:** A place that is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and that has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods that may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant.

**Gas Station:** A retail business establishment limited to the sale of motor fuels and supplying goods and services generally required in the operation and maintenance of automotive vehicles. These may include sale: of petroleum products; sale and servicing of tires, batteries, automotive accessories, and replacement items; washing and lubrication and repair. Major automotive repairs, engine, transmission, and differential overhaul, painting, and body and fender work are excluded except for such uses that are otherwise permitted in the district. "Service station" as used in this title does not include chain, automatic, or coin-operated wash racks. A gas station use with greater than 100 square feet of retail sales, unrelated to automobile service, shall be considered to include a convenience market and must meet the regulations for a convenience market.

**Hotel:** A facility designed for or occupancy as the temporary place of abode for individuals who are lodged with or without meal, in which there are six or more guest rooms. Access to individual units is predominantly by means of common interior hallways. A hotel is typically larger than a motel and often includes conference and banquet facilities.

**Live-Work Quarters:** An area comprising one or more rooms that accommodates joint work activity and residential occupancy, and that includes (1) working space reserved for and regularly used by one or more of the persons residing therein, and (2) cooking, sleeping, and sanitary facilities. All living space shall be contiguous with and made an integral part of the working space with direct access between living and working areas.

**Manufacturing and Assembly:** Includes the manufacture, assembly, or packaging of products from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, but does not include such operations as saw and planing mills, or any manufacturing uses involving primary production of wood, metal, or chemical products from raw materials. Typical uses include electronic equipment assembly and computer component assembly.

**Motel:** A group of attached or detached building containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage attached or automobile parking space conveniently located on the lot or parcel of land, and that is designed, used, or intended to be used wholly or in part for the accommodation of automobile transients. Motels include auto courts, motor lodges, and tourist courts.

**Neighborhood Market/Store:** Includes delicatessens and other specialty food shops and also establishments that have a sizeable assortment of fresh fruits and vegetables and fresh-cut meat.

**Nightclub:** Any bar, cocktail lounge, or restaurant, other than a cabaret, wherein live entertainment is provided and an occupant load of at least 200 people is established. Live entertainment means any use of any premises, whether a principal or subsidiary use, that involves the presentation of music or voice by live entertainers to a specific audience or for the incidental enjoyment of patrons. Live entertainment includes the following activities where they occur as part of a commercial use three or more times during a calendar year:

- a. Bands, dance bands, or disc jockeys;
- b. Performances (comedy, music, theatrical, dance) by one or more persons, regardless of whether performers are compensated. A single performer, such as a singer or a pianist providing background music (without billing or advertisement) at a restaurant or bar is exempt from this definition.

**Nurseries (Retail):** The retail handling of any article, substance, or commodity related to the occupation of gardening, including the sale of plants, shrubs, trees, packaged fertilizers, soils, chemical or other nursery goods, and related products. This aspect of a retail nursery is typically conducted primarily outdoors. The bulk sale or bulk storage of fertilizers, soils, chemicals, or other garden supplies shall be within a completely enclosed building.

**Nurseries (Wholesale):** All nurseries other than those defined as retail nurseries.

**Pawnbroking:** A commercial activity that features both the making of loans and the holding jewelry, clothing, or other articles as security therefore and that is conducted by a pawnbroker.

**Storage Facility:** Any real property designed and used for the renting or leasing of individual storage spaces to tenants who have access to such spaces for the purpose of storing personal property. Typical uses include mini-warehouses.

**Theater/Performance Space:** An enclosed building used for public assembly and/or entertainment, including sports events, theatrical performances, concerts, and recitals. Theater shall include auditorium.

**Tobacco-Oriented Activities:** Any activities devoting 20% or more of floor area or display area to or deriving 75% or more of gross sales receipts from the sale or exchange of tobacco-related products, which are defined as any substance containing tobacco, including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco; cigarette papers; or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco.

## CHAPTER IX

# ADDITIONAL RESOURCES



Where approvals, interpretations, and judgments are left to the discretion of City officials, these officials shall use the following texts for guidance as to best practices:

Civic Art, by Hegemann and Peets;

Great Streets, by Allan B. Jacobs;

The New Urbanism: Toward an Architecture of Community, by Peter Katz;

AIA Graphic Standards, 9th Edition;

The Lexicon of the New Urbanism, by Duany et al, Congress for the New Urbanism;

Shared Parking, by Barton-Aschman Associates, The Urban Land Institute