

DEL REY OAKS MUNICIPAL CODE

1995

**A Codification of the General Ordinances
of the City of Del Rey Oaks, California**

Codified, Indexed and Published by

**Matthew Bender & Co., Inc.
701 East Water Street
Charlottesville, VA 22902
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PREFACE

The Del Rey Oaks Municipal Code is a codification of the general and permanent ordinances of Del Rey Oaks, California. The ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of Steve Endsley, city manager. This volume covers ordinances through Ordinance 233, passed September 26, 1995.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the title, chapter, and section. Thus, Section 2.12.040 is Section .040, located in Chapter 2.12 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by a prior code cross-reference table, which sets out the location of individual sections of the prior code, and an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification.

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section.

This supplement brings the code up to date through Ordinance 244, passed April 15, 1997.

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I. HOW TO USE YOUR CODE

This code is organized to make the laws of the city as accessible as possible to city officials, city employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System. The numbering system is the backbone of a code of ordinances; Book Publishing Company uses a unique and versatile numbering structure that allows for easy expansion and amendment of this code. It is based on three tiers, beginning with **title**, then **chapter**, and ending with **section**. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

Title. A title is a broad category under which ordinances on a related subject are compiled. This code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this code are separated by tabbed divider pages for quick reference. Some titles are **Reserved** for later use.

Chapter. Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material. For example, Chapter 2.06, City Manager, can be added between 2.04, City Council, and Chapter 2.08, City Attorney.

Section. Each section of the code contains substantive ordinance material. The sections are numbered by “tens” to allow for expansion of the code without renumbering.

Tables of Contents. There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

Ordinance History Note. At the end of each code section, you will find an “ordinance history note,” which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).) This note will be updated by Book Publishing Company as each section is amended, with the most recent amendment added to the beginning. The notation “(part)” is used when the code section contains only part of the ordinance (or section of the ordinance) specified; this indicates that there are other areas of the code affected by the same ordinance (or section of the ordinance). If the code section was derived from an earlier codification, the last entry in the note indicates the old or “prior code” section number.

Statutory References. The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. As the statutes are revised, these references will be updated by Book Publishing Company.

Cross-Reference Table. When a code is based on an earlier codification, the cross-reference table will help users find older or “prior” code references in the new code. The cross-reference table is located near the end of the code, under the tabbed divider “Tables.” This table lists the prior code section in the column labeled “Prior Code Section” and the new code section in the column labeled “Herein.” This table will be updated as prior code sections are renumbered or repealed.

Ordinance List and Disposition Table. To find a specific ordinance in the code, turn to the section called “Tables” for the Ordinance List and Disposition Table. This very useful table tells you the status of every ordinance reviewed by Book Publishing Company. The table is organized by ordinance number and provides a brief description and the disposition of the ordinance. If the ordinance is codified, the chapter (or chapters)

will be indicated. (Example: (2.04, 6.12, 9.04).) If the ordinance is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be “(Special).” If the ordinance is for some reason omitted from the code, usually at the direction of the municipality, the disposition will be “(Not codified).” When an ordinance is repealed, the disposition will be changed by Book Publishing Company to “(Repealed by Ord....)” with the appropriate ordinance number. Other dispositions sometimes used are “(Tabled),” “(Pending),” “(Number Not Used)” or “(Missing).”

Index. If you’re not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

BUSINESS LICENSE

See also **BUSINESS TAX**

Fee 5.04.030

Required when 5.04.010

The index will be updated as necessary when the code text is amended.

Insertion Guide. Each supplement to the new code will be accompanied by an Insertion Guide. This guide will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current.

Page Numbers. When originally published, this code was numbered with consecutive page numbers. As it is amended, new material may require the insertion of new pages that are numbered with hyphens. (Example: 31, 32, 32-1.) Backs of pages that are blank (in codes that are printed double-sided) are left unnumbered but the number is “reserved” for later use.

If you have any questions about this code or our services, please contact our Customer Relations Department at 1-800-537-7881 or write to us at the following address:

Book Publishing Company 201 Westlake Avenue North Seattle, WA 98109

II. PROCEDURE FOR DRAFTING ORDINANCES

This code has been codified using a logical, expandable numbering system to allow for additions, repeals or amendments. When drafting ordinances, it is important to designate, within the ordinance, what specific portions of the code are affected. The ordinance(s) underlying the section being changed can be determined from the ordinance history note in parentheses at the end of each section.

Effect of Title.

The title of an ordinance and any introductory language appearing before the ordaining clause has no legal effect. The title may state that the ordinance repeals (or amends or adds) certain provisions, but in order for these changes to be effective, the intended repeal, amendment or addition must be set out following the ordaining clause.

Procedure When Amending Existing Code Material.

Amend the code section specifically. The underlying ordinance section may also be included.

Examples: § 3.04.020 of the _____ Municipal Code is amended to read as follows:
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are amended to read as follows:

If only a portion of a section is being amended, designate the specific portion:

Example: § 3.04.050(A)(2) of the _____ Municipal Code is amended to read as follows:

Procedure When Repealing Existing Code Material.

When repealing material, designate the specific portion of the code to be repealed. Include the underlying ordinance section if you wish; however, we consider **both** code section and underlying ordinance to be repealed whether you mention the underlying ordinance or not.

Examples: § 3.04.020 of the _____ Municipal Code is repealed.
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are repealed.
Subsection B of § 3.04.030 of the _____ Municipal Code is repealed.

Procedure When Adding New Material to Code.

When new provisions are to be added to the code, you should determine where the material would best fit within the subject matter of the existing section, chapter or title. If there is no existing section, chapter or title, you should assign a new section, chapter or title number. Our expandable decimal numbering system is designed to allow for the incorporation of new material without disturbing the numbering system of existing material.

The following language is sufficient to locate new material in the code:

Subsection D is added to § 5.10.040 of the _____ Municipal Code, to read as follows:
§ 5.10.033 is added to the _____ Municipal Code, to read as follows:
Chapter 12.07 is added to the _____ Municipal Code, to read as follows:

If you have any questions as to the proper placement of a new provision, please contact us.

Two copies of all ordinances passed should be forwarded to Book Publishing Company, 201 Westlake Avenue North, Seattle, Washington 98109.

Our editorial staff is always willing to provide assistance should there be any difficulty in amending the code. Please call our Customer Relations Department at 1-800-537-7881.

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption**
- 1.04 General Provisions**
- 1.08 Elections**
- 1.12 Arrest, Citation and Enforcement Procedure**
- 1.16 General Penalty**

Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Adoption.**
- 1.01.020 Title—Citations—
Reference.**
- 1.01.030 Codification authority.**
- 1.01.040 Ordinances passed prior
to adoption of the code.**
- 1.01.050 Reference applies to all
amendments.**
- 1.01.060 Title, chapter and section
headings.**
- 1.01.070 Reference to specific
ordinances.**
- 1.01.080 Effect of code on past
actions and obligations.**
- 1.01.090 Effective date.**
- 1.01.100 Constitutionality.**
- 1.01.110 References to prior code.**

1.01.010 Adoption.

Pursuant to the provisions of Sections 50022.1—50022.8 and 50022.10 of the Government Code, there is hereby adopted the “Del Rey Oaks Municipal Code” as published by Book Publishing Company, Seattle, Washington, together with those secondary codes adopted by reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted or modified by the provisions of the “Del Rey Oaks Municipal Code.” (Ord. 244 § 1 (part), 1997)

1.01.020 Title—Citations— Reference.

This code shall be known as the “Del Rey Oaks Municipal Code” and it shall be sufficient to refer to said code as the “Del Rey

Oaks Municipal Code” in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the “Del Rey Oaks Municipal Code.” Further reference may be had to the titles, chapters, sections and subsections of the “Del Rey Oaks Municipal Code” and such references shall apply to that numbered title, chapter, section and subsection as it appears in the code. (Ord. 244 § 1 (part), 1997)

1.01.030 Codification authority.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city of Del Rey Oaks, California, codified pursuant to the provisions of Sections 50022.1—50022.8 and 50022.10 of the Government Code. (Ord. 244 § 1 (part), 1997)

1.01.040 Ordinances passed prior to adoption of the code.

All ordinances passed by the city council subsequent to the adoption of this code, which are amendments, revisions or additions to this code, shall be deemed to be adopted and incorporated into and made a part of this code. (Ord. 244 § 1 (part), 1997)

1.01.050 Reference applies to all amendments.

Whenever a reference is made to this code as the “Del Rey Oaks Municipal Code” or to any portion thereof, or to any ordinance of the city of Del Rey Oaks, California, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 244 § 1 (part), 1997)

1.01.060 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 244 § 1 (part), 1997)

1.01.070 Reference to specific ordinance.

The provisions of this code shall not in any manner affect any matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 244 § 1 (part), 1997)

1.01.080 Effect of code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date, hereof, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 244 § 1 (part), 1997)

1.01.090 Effective date.

This code shall become effective on the date this ordinance adopting this code as the

“Del Rey Oaks Municipal Code” shall become effective. (Ord. 244 § 1 (part), 1997)

1.01.100 Constitutionality.

If any section, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 244 § 1 (part), 1997)

1.01.110 References to prior code.

References in city forms, documents and regulations to the chapters and sections of the former city code shall be construed to apply to the corresponding provisions contained within this code. (Ord. 244 § 1 (part), 1997)

Chapter 1.04

GENERAL PROVISIONS

Sections:

- 1.04.010** **Definitions.**
- 1.04.020** **Interpretation of language.**
- 1.04.030** **Grammatical interpretation.**
- 1.04.040** **Acts by agents.**
- 1.04.050** **Prohibited acts include causing and permitting.**
- 1.04.060** **Computation of time.**
- 1.04.070** **Construction.**
- 1.04.080** **Repeal shall not revive any ordinances.**
- 1.04.090** **Severability.**

1.04.010 **Definitions.**

The following words and phrases, whenever used in the ordinances of the city of Del Rey Oaks, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

A. "City" means the city of Del Rey Oaks, or the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

B. "Council" means the city council of the city of Del Rey Oaks. "All its members" or "all councilmembers means the total number of councilmembers holding office.

C. "County" means the county of Monterey.

D. "Law" denotes applicable federal law, the Constitution and statutes of the state of California, the ordinances of the city, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

E. "May" is permissive.

F. "Month" means a calendar month.

G. "Must" and "shall" are each mandatory.

H. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

I. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

J. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

L. "Preceding" and "following" means next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes lands, tenements and hereditaments.

O. "Sidewalk" means that portion of a street between the curblines and the adjacent property line intended for the use of pedestrians.

P. "State" means the state of California.

Q. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

R. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

S. "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

T. "Year" means a calendar year. (Added during 1995 codification)

1.04.020 Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. (Added during 1995 codification)

1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the city unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Added during 1995 codification)

1.04.040 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Added during 1995 codification)

1.04.050 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Added during 1995 codification)

1.04.060 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Added during 1995 codification)

1.04.070 Construction.

The provisions of the ordinances of the city, and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Added during 1995 codification)

1.04.080 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not

repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Added during 1995 codification)

1.04.090 Severability.

If any section, subsection, sentence, clause, phrase or portion of this code is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The city council declares that it would have adopted this code and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions of this code be declared invalid or unconstitutional. (Added during 1995 codification)

Chapter 1.08

ELECTIONS

Sections:

1.08.010 Date of general municipal election.

1.08.010 Date of general municipal election.

Pursuant to Government Code § 36503.3, the general municipal election in the city shall be held on the same date as the statewide general election held in November of each even-numbered year. (Ord. 234 § 1, 1995)

Chapter 1.12

ARREST, CITATION AND ENFORCEMENT PROCEDURE

Sections:

1.12.010 Citations.

1.12.020 Actions brought by city.

1.12.010 Citations.

The city council of the city does elect to adopt all of the provisions of Sections 853.5, 853.6, 853.6a, 853.7, 853.7a, and 853.8 of the Penal Code of the State of California as fully as if the same were herein set forth for the violation of any provisions of this Municipal Code. (Ord. 233 § 3, 1995: prior code § 1-902)

1.12.020 Actions brought by city.

A. Civil Action Brought by City. The city attorney may bring civil suit or other action to enforce any provision or section of this Municipal Code, enjoin or prevent any violation of this Municipal Code or to abate any public nuisance as defined or declared by this Municipal Code.

B. Remedies Cumulative. This remedy by civil action to enforce this Municipal Code is in addition to any other remedies available under ordinance, this Municipal Code, or statute and does not replace or support any other remedy but is cumulative thereto.

C. Liability for Costs. In any such action where the city seeks recovery of its costs and attorneys' fees, the prevailing party shall be entitled to recover from the losing party its reasonable costs including but not limited to attorneys' fees, the costs of investigation, court costs and the costs of monitoring compliance. (Ord. 243 § 1, 1997; Prior code § 1-903)

Chapter 1.16

GENERAL PENALTY

Sections:

- 1.16.010** Violation as misdemeanor.
- 1.16.020** Violation as infraction—Exceptions.
- 1.16.030** Punishment—Penalties.

1.16.010 Violation as misdemeanor.

A. Except as expressly set forth in Section 1.16.020, the violation of any provision or section of this Municipal Code, or the failing to comply with any mandatory requirement of an ordinance of the city, shall be a misdemeanor; except, that notwithstanding any other provision of this code, any such violation constituting a misdemeanor under this code may, in the discretion of the city attorney, be charged and prosecuted as an infraction.

B. Any person violating any provision or section of this Municipal Code or ordinance of the city shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision or section of this Municipal Code or ordinance of the city is committed, continued or committed by such person, and shall be punishable accordingly. (Prior code § 1-901A)

1.16.020 Violation as infraction— Exceptions.

Any violation of the provisions of this code relating to parking, operation of bicycles, operation of motor vehicles, and use of freeways, highways and streets by animals, bicycles, motor vehicles or pedestrians shall

constitute an infraction. (Prior code § 1-901B)

1.16.030 Punishment—Penalties.

A. Any person convicted of a misdemeanor under the provisions of this code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment.

B. Any person convicted of an infraction under the provisions of this code shall be punishable as follows: Upon a first conviction, by a fine not exceeding one hundred dollars (\$100.00); upon a second violation of the same ordinance within one year by a fine not exceeding two hundred dollars (\$200.00); and for each additional violation of the same ordinance within one year, five hundred dollars (\$500.00), or a higher fine as permitted by Government Code § 36900. (Prior code § 1-901C)

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

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- 2.08 City Manager**
- 2.12 City Officers Generally**
- 2.16 Peace Officer Standards and Training**
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Chapter 2.04

CITY COUNCIL

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- 2.04.040 Presiding officer—
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2.04.010 Regular meetings.

A. Time. The city council shall hold regular meetings on the fourth Tuesday of each month at 7:30 p.m.; providing, however, that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday.

B. Place. All regular meetings of the city council shall be held in the city hall, a building formerly known as the “Fire House” located in the city at Canyon Del Rey and Carlton Drive. (Prior code § 1-201)

2.04.020 Special meetings.

The mayor may call special meetings of the council whenever in his opinion the public business may require it, or at the express written request of any three members of the council. Whenever a special meeting shall be called, a notice in writing signed by the mayor or the presiding officer of the council shall be served upon each member of the council either in person or by notice left at his place of residence, stating the date and hour of the meeting and the purpose for which such meeting is called, at least twenty-four (24) hours prior to the time set for holding such meeting, and no business shall be transacted thereat, except such as is stated in the notice. (Prior code § 1-202)

2.04.030 Agenda.

All reports, communications or ordinances, resolutions, contract documents, or other matters to be submitted to the council shall, at least six business hours prior to each

council meeting, be delivered to the city clerk, whereupon the city clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the council, the mayor and the city attorney with a copy of the same prior to the council meeting and as far in advance of the meeting as time for preparation will permit. None of the foregoing matters shall be presented to the council by the administrative officials except those of an urgent nature, and the same, when so presented, shall have the written approval of the mayor before presentation. (Prior code § 1-203)

2.04.040 Presiding officer—Election and duties.

The presiding officer of the council shall be the mayor. The presiding officer shall preserve strict order and decorum at all regular and special meetings of the council. He shall state every question coming before the council, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which event a majority vote of the council shall govern and conclusively determine such question of order. He shall vote on all questions, his name being called last. He shall sign all ordinances and resolutions adopted by the council during his presence. In the event of the absence of the mayor the presiding officer shall sign ordinances or resolutions as then adopted. (Prior code § 1-204)

2.04.050 Call to order—Presiding officer.

The mayor shall take the chair precisely at the hour appointed for the meeting, and

shall immediately call the council to order. In the absence of the mayor, the city clerk, or his assistant, shall call the council to order, whereupon a temporary chairman shall be elected by the members of the council present. Upon the arrival of the mayor, the temporary chairman shall immediately relinquish the chair upon the conclusion of the business immediately before the council. (Prior code § 1-205)

2.04.060 Roll call.

Before proceeding with the business of the council, the city clerk or his deputy shall call the roll of the members, and names of those present shall be entered in the minutes. (Prior code § 1-206)

2.04.070 Quorum.

A majority of all the members elected to the council shall constitute a quorum at any regular or special meeting of the council. In the absence of a quorum, the presiding officer, shall, at the instance of any two members present, compel the attendance of absent members. (Prior code § 1-207)

2.04.080 Order of business.

All meetings of the council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the council, the city clerk, and the city attorney shall take their regular stations in the council chambers, and the business of the council shall be taken up for consideration and disposition in the following order:

1. Roll call;
2. Approval of minutes of previous meeting;

3. Petitions, remonstrances and communications;
4. Introduction and adoption of resolutions and ordinances;
5. Report of officers—Boards—Committees;
6. Unfinished business;
7. New business;
8. Miscellaneous;
9. Appropriations;
10. Adjournment. (Prior code § 1-208)

2.04.090 Minutes.

Unless a reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if the clerk has previously furnished each member with a copy thereof. (Prior code § 1-209)

2.04.100 Rules of debate.

Roberts Rules of Order shall govern in all matters not herein referred to.

A. Presiding Officer May Debate and Vote, Etc. The mayor or such other member of the council as may be presiding may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a councilman by reason of his acting as the presiding officer.

B. Getting the Floor—Improper References to be Avoided. Every member desiring to speak shall address the chair, and, upon recognition by the presiding officer, shall confine himself to the question under debate, avoiding all personalities and indecorous language.

C. Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order, he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

D. Privilege of Closing Debate. The councilman moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

E. Motion to Reconsider. A motion to reconsider any action taken by the council may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the council from making or remaking the same or any other motion at a subsequent meeting of the council.

F. Remarks of Councilman—When Entered in Minutes. A councilman may request, through the presiding officer, the privilege of having an abstract of his statement on any subject under consideration by the council entered in the minutes. If, the council consents thereto, such statement shall be entered in the minutes.

G. Synopsis of Debate—When Entered in Minutes. The clerk may be directed by the presiding officer, with consent of the

council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the council. (Prior code § 1-210)

2.04.110 Addressing the council.

Any person desiring to address the council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified person may address the council without securing such prior permission:

A. **Written Communications.** Interested parties or their authorized representatives may address the council by written communications in regard to matters then under discussion.

B. **Oral Communications.** Taxpayers or residents of the city, or their authorized legal representatives, may address the council by oral communications on any matter concerning the city's business, or any matter over which the council has control; provided, however, that preference shall be given to those persons who may have notified the city clerk in advance of their desire to speak in order that the same may appear on the agenda of the council.

C. **Reading of Protests, Etc.** Interested persons or their authorized representatives may address the council by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearings on protests, appeals and petitions, or similar matters, in regard to matters then under consideration. (Prior code § 1-211)

2.04.120 Addressing the council after motion made.

After a motion is made by the council, no person shall address the council without first securing the permission of the council so to do. (Prior code § 1-212)

2.04.130 Manner of addressing council—Time limit.

Each person addressing the council shall stand, and shall give his name and address in an audible tone of voice for the records, and unless further time is granted by the council, shall limit his address to three minutes. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked a councilman except through the presiding officer. (Prior code § 1-213)

2.04.140 Silence constitutes affirmative vote.

Unless a member of the council states that he is not voting, his silence shall be recorded as an affirmative vote. (Prior code § 1-214)

2.04.150 Decorum.

A. **By Council Members.** While the council is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the council nor disturb any member while speaking or refuse to obey the

orders of the council or its presiding officer, except as otherwise herein provided.

B. By Persons. Any person making personal, impertinent, or slanderous remarks or who shall become boisterous while addressing the council shall be forthwith, by the presiding officer, barred from further audience before the council, unless permission to continue be granted by a majority vote of the council.

C. No smoking shall at any time be permitted or allowed within the council chambers.

D. The rules and regulations contained in this chapter shall be applicable to all meetings by the various commissions or public hearings held at the city hall. (Prior code § 1-215)

2.04.160 Enforcement of decorum.

The chief of police, or such member or members of the police department as he may designate, shall be sergeant-at-arms of the council meetings. He, or they shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meeting. Upon instructions of the presiding officer, it shall be the duty of the sergeant-at-arms, or any of them present, to place any person who violates the order and decorum of the meeting under arrest, and cause him to be prosecuted under the provisions of this code, the complaint to be signed by the presiding officer. (Prior code § 1-216)

2.04.170 Persons authorized to be within rail.

No person, except city officials, shall be permitted within the rail in front of the

council chamber without the express consent of the council. (Prior code § 1-217)

2.04.180 Special committees.

The mayor shall appoint special committees which shall consist of a public safety committee of three members, recreation and parks committee of three members, public works committee of three members and a financial committee of three members. (Prior code § 1-218)

2.04.190 Standing committees.

The only standing committee of the council shall be the committee of the whole. The president of the council shall be the presiding officer of the committee of the whole, and the rules of proceedings in the council shall be observed in the committee of the whole as far as the same may be applicable. (Prior code § 1-219)

2.04.200 Members may file protests against council action.

Any member shall have the right to have the reasons for his dissent from, or protest against, any action of the council entered on the minutes. (Prior code § 1-220)

2.04.210 Claims against city.

No account or other demand against the city shall be allowed until the same has been considered and reported upon by the financial committee. (Prior code § 1-221)

2.04.220 Ordinances, resolutions, motions and contracts.

A. Preparation of Ordinances. All ordinances shall be prepared by the city attorney. No ordinance shall be prepared for

presentation to the council unless ordered by a majority vote of the council, or requested in writing by the mayor, or prepared by the city attorney on his own initiative.

B. Prior Approval by Administrative Staff. All ordinances, resolutions and contract documents shall, before presentation to the council, have been approved as to form and legality by the city attorney.

C. All ordinances of the city shall be posted in three public places in the city by the city clerk within fifteen (15) days after their final adoption.

D. All ordinances of the city shall be inscribed in the ordinance book of the city and filed in proper order by looseleaf insertion in the Municipal Code. (Prior code § 1-222)

2.04.230 Reports of committees.

The committees of the council shall make reports in writing, and shall return petitions, resolutions, accounts, or other paper submitted for consideration. (Prior code § 1-223)

2.04.240 Reports and resolutions to be filed with clerk.

All reports and resolutions shall be filed with the clerk and their title entered in the minutes. (Prior code § 1-224)

2.04.250 Adjournment.

A motion to adjourn shall always be in order and decided without debate. (Prior code § 1-225)

Chapter 2.08

CITY MANAGER

Sections:

2.08.010	Office established.
2.08.020	Eligibility.
2.08.030	Residence.
2.08.040	Bond.
2.08.050	Acting city manager.
2.08.060	Compensation.
2.08.070	Powers and duties.
2.08.080	Council—Manager relations.
2.08.090	Internal relations.
2.08.100	Removal of city manager.
2.08.110	Agreement on employment.
2.08.120	Evaluation.

2.08.010 Office established.

The office of city manager is established. The city manager shall be selected by and appointed by the city council on the basis of administrative and executive ability and qualifications and shall hold office for and during the pleasure of the city council, under the provisions set forth in this chapter. (Ord. 223 § 1 (part), 1993)

2.08.020 Eligibility.

A member of the city council is not eligible for appointment as city manager until two years elapses after the council member ceases to be a member of the council. (Ord. 223 § 1 (part), 1993)

2.08.030 Residence.

There shall be no requirement that the city manager shall reside within the city. (Ord. 223 § 1 (part), 1993)

2.08.040 Bond.

The city manager and any acting city manager shall furnish a corporate surety bond, to be approved by the city council, in such sum as may be determined by the city council, and shall be conditioned upon the faithful performance of the duties imposed upon the administrator by this section. The cost of such bond shall be borne by the city. (Ord. 223 § 1 (part), 1993)

2.08.050 Acting city manager.

The mayor may appoint an assistant city manager to serve as acting city manager during the temporary absence or disability of the city manager. If there is no assistant city manager, the mayor shall designate a qualified city employee to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability by filing a written notice with the city council. In making such delegation, the mayor may specifically exclude certain powers and/or duties of his office, in which case those powers shall revert to the mayor for the period of such delegation. If the city manager's absence or disability extends over a two-month period, the city council may appoint an acting city manager. (Ord. 223 § 1 (part), 1993)

2.08.060 Compensation.

A. The city manager shall receive such compensation as the city council shall, from time to time, determine.

B. In addition to compensation, the city manager shall be reimbursed for all actual and necessary expenses incurred in the performance of the city manager's official duties.

C. On termination of employment of the city manager by reason of involuntary removal from office, other than for willful misconduct in office, the city manager shall receive cash severance pay in a lump sum equal to the following:

1. After one year of continuous service: one month's pay;
2. After three or more years of continuous service: one and one-half month's pay;
3. Such pay is to be computed at the highest salary received during the person's service as city manager. Involuntary removal from service shall include removal immediately following a reduction in compensation not applicable to all employees of the city. (Ord. 223 § 1 (part), 1993)

2.08.070 Powers and duties.

The city manager is the administrative head of the government of the city, subject to the direction and control of the mayor and city council. The city manager is responsible for the efficient administration of all the affairs of the city which are under his or her control. In addition to such general powers as administrative head, and not as a limitation on them, the city manager shall:

A. Enforce the laws and ordinances of the city and see that the franchises, contracts, permits and privileges granted by the council are faithfully observed;

B. Control, order and give directions to all heads of departments and to subordinate officers and employees of the city, who are subject to removal by the city manager;

C. Appoint, remove, promote and demote each officer and employee of the city, excepting the city attorney, subject to personnel ordinances, rules and regulations;

D. Conduct studies and effect such administrative reorganization of offices, positions and units under the city manager's direction as are in the interest of efficient, effective and economical conduct of the city's business;

E. Recommend to the council for adoption such measures and ordinances as the city manager considers necessary;

F. Attend all meetings of the council unless excused by the mayor individually or the council, except when the city manager's approval is under consideration;

G. Keep the council advised at all times as to the financial condition and needs of the city;

H. Prepare and submit the proposed annual budget and the proposed salary plan to the council for its approval;

I. See that no expenditures are submitted or recommended to the council except on approval of the city manager or authorized representative. The city manager or authorized representative is responsible for the purchase of all supplies for all the departments and divisions of the city;

J. Make investigations into the affairs of the city and each department and division of it and each contract and its proper performance by the city. The city manager shall investigate all complaints of matters concerning the administration of the city government and of the service maintained by public utilities in the city;

K. Exercise general supervision over all public buildings, public parks and all other

public property under the control and jurisdiction of the council;

L. Perform such other duties and exercise such other powers as the city council may delegate to him from time to time. (Ord. 223 § 1 (part), 1993)

2.08.080 Council—Manager relations.

Each member of the council shall deal with the administrative services of the city through the city manager, except for the purpose of inquiry. (Ord. 223 § 1 (part), 1993)

2.08.090 Internal relations.

A. It shall be the duty of all subordinate officers, including department heads, and the city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously.

B. The city manager may, and upon request of the city council shall, attend meetings of all commissions, boards and committees created by the council. At such meetings, boards and committees shall hear the city manager upon matters which he/she wishes to address the members, and the city manager shall inform the members as to the status of matters being considered by the council. (Ord. 223 § 1 (part), 1993)

2.08.100 Removal of city manager.

A. The city manager may be removed only by a majority vote of the whole city council, as then constituted, convened in a regular council meeting. In case of removal by the council, the council shall furnish the city manager with a written notice stating the council's intention to remove him or her

at least thirty (30) days before the effective date of such removal. If the city manager so requests, the council shall provide, in writing, reasons for the intended removal, within seven days after said request. The city manager may request a hearing before the council by filing written notice with the council. Thereafter the council shall fix a time for the hearing. The council shall hold the hearing at its usual meeting place, before the effective date of the intended removal. The city manager may be heard with or without counsel.

B. After furnishing the city manager with written notice of intended removal, the council may suspend the city manager from duty, with compensation continuing, until the effective date of such removal by action of the council taken after the hearing referred to above.

C. In removing the city manager, the council has absolute discretion and its action is final and conclusive and does not depend upon any particular showing or degree of proof at the hearing.

D. Notwithstanding subsection (C) of this section, the city manager may not be removed from office other than for misconduct in office during the period of one hundred eighty (180) days following:

1. A general municipal election held in the city at which a member of the city council is elected; or

2. The time when a new city council member is appointed. The purpose of this section is to allow each newly elected or appointed member of the council, or a reorganized council, to observe the actions and ability of the city manager in the performance of the powers and duties of the office. (Ord. 223 § 1 (part), 1993)

2.08.110 Agreement on employment.

Nothing in this section shall be construed as a limitation on the power or authority of the city council to enter into any supplemental agreement with the city manager to establish additional terms and conditions of employment not consistent with any provisions of this chapter. (Ord. 223 § 1 (part), 1993)

2.08.120 Evaluation.

The city council shall periodically (preferably annually) evaluate the performance of the city manager. (Ord. 223 § 1 (part), 1993)

Chapter 2.12

CITY OFFICERS GENERALLY

Sections:

- 2.12.010** City clerk—
Compensation.
- 2.12.020** City clerk—Bond.
- 2.12.030** Deputy city clerk—
Established—
Compensation—Bond.
- 2.12.040** Salaries—Officers and
employees.
- 2.12.050** Salaries—City council.
- 2.12.060** Expenses
reimbursement—
City council.

2.12.010 City clerk—
Compensation.

The city clerk and ex-officio city treasurer of the city shall receive as compensation for services rendered by her to said city the sum of one thousand seven hundred sixty-eight dollars (\$1,768.00) per month as city clerk and three hundred twelve dollars (\$312.00) per month as city treasurer, payable as other claims are paid by the city. (Ord. 224 § 1, 1993; Ord. 219 § 1, 1992; prior code § 1-301)

2.12.020 City clerk—Bond.

The city clerk and ex-officio city treasurer shall, before entering upon the duties of his office, execute a bond to the city, in the penal sum of two thousand dollars (\$2,000.00). (Prior code § 1-302)

2.12.030 Deputy city clerk—
Established—
Compensation—Bond.

A. The office of deputy city clerk-city treasurer is created in the city. The person filling such office shall be appointed by the city clerk and city treasurer and confirmed by the city council.

B. As and for compensation of said office, the deputy city clerk-treasurer shall receive the sum of nine hundred ten dollars and thirty-five cents (\$910.35) per month, payable as other wage claims are paid by the city. The deputy city clerk-treasurer shall have all of the rights, powers and duties of the principle city clerk and ex-officio city treasurer, and shall execute a bond to the city in the penal sum of two thousand dollars (\$2,000.00). (Prior code § 1-303)

2.12.040 Salaries—Officers and
employees.

The salaries of all officers and employees of the city shall be established by resolution from time to time by the city council. (Prior code § 1-401)

2.12.050 Salaries—City council.

Pursuant to the provisions of Government Code § 36516, the salary of each member of the city council of the city is established at the rate of seventy-five dollars (\$75.00) per month for each councilman. (Prior code § 1-402)

2.12.060 Expenses
reimbursement—
City council.

A. Pursuant to the provisions of Government Code § 36514.5, the city council does

ordain and establish that all city councilmen may be reimbursed for actual necessary expenses incurred in the performance of their official duties. The sum of fifty dollars (\$50.00) per month shall be deemed to be the sum deemed adequate to reimburse the city councilmen for actual necessary expenses incurred in the performance of their duties.

B. Nothing herein contained shall prohibit or deter any councilman from submitting a voucher or oral presentation for the allowance of a claim for actual expenses or travel expenses incurred when on city business in excess of said sum. (Prior code § 1-403)

Chapter 2.16

**PEACE OFFICER STANDARDS
AND TRAINING**

Sections:

2.16.010 State aid qualification.

2.16.020 Recruitment and training standards.

2.16.010 State aid qualification.

The city declares that it desires to qualify to receive aid from the State of California under the provisions of Chapter 1 of Title 4, Part 4 of the California Penal Code. (Prior code § 8-701)

2.16.020 Recruitment and training standards.

Pursuant to Section 13522 of Chapter 1, Title 4, Part 4 of the California Penal Code, the city, while receiving aid from the state of California pursuant to said Chapter 1, will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training. (Prior code § 8-702)

Chapter 2.20**PLANNING COMMISSION****Sections:**

- 2.20.010** **Established—
Composition—Term.**
- 2.20.020** **Powers—Duties.**

2.20.010 **Established—
Composition—Term.**

A planning commission is established. The commission shall consist of seven members, appointed by the city council. The term of office of each commission member is four years, and each member shall serve until his or her successor is appointed and qualified. (Prior code § 11-101)

2.20.020 **Powers—Duties.**

The planning commission shall have all the powers and perform duties as in the Government Code provided, and it shall be the function and duty of the planning commission to prepare and adopt a comprehensive long-term general plan for the visible development of the city, and of any land outside of the boundaries thereof, which in the commission's judgment, bears a relation to the planning of the city. (Prior code § 11-102)

Chapter 2.24**POLICE RESERVE****Sections:**

- 2.24.010** **Definitions.**
- 2.24.020** **Reserve created.**
- 2.24.030** **Appointment standards promulgation.**
- 2.24.040** **Duties—Powers.**
- 2.24.050** **Injuries.**
- 2.24.060** **Compensation.**
- 2.24.070** **Uniforms and equipment.**
- 2.24.080** **Impersonation unlawful.**
- 2.24.090** **Eligibility.**
- 2.24.100** **Dismissal—Resignation.**
- 2.24.110** **Rules and regulations promulgation.**

2.24.010 **Definitions.**

Whenever in this chapter the following terms are used, they shall have the meaning ascribed to them in this section, unless otherwise apparent from the context.

“Chief” means chief of police.

“Member” means member of the police reserve.

“Reserve” means the police reserve. (Prior code § 8-900)

2.24.020 **Reserve created.**

A police reserve in the city is created. Said reserve shall consist of such number of persons as the city council shall determine from time to time as necessary. (Prior code § 8-901)

2.24.030 Appointment standards promulgation.

The chief of police shall, by rule, prescribe the qualifications and standards by which applicants for membership in said reserve shall be governed; and persons possessing said qualifications and conforming to said standards may be appointed to said reserve by the chief with the consent of the city council. (Prior code § 8-902)

2.24.040 Duties—Powers.

A. Members shall perform only such public service as may be ordered by the chief of police; and it is unlawful for any person to willfully resist, delay or obstruct any member in the discharge, or in the attempt to discharge, of any duties of his office.

B. In addition to the duties assigned by the chief, the reserve is assigned the duty of preparing against the perils of civilian life and property that may be expected to result from or during war or from any disaster that may threaten lives and property in the city.

C. In the enforcement of the penal laws of the state, or the penal ordinances of the city, and in the performance of such other duties as may be designated by the chief, every duly authorized member shall be deemed to have all the powers of a peace officer. (Prior code §§ 8-903, 8-904, 8-905)

2.24.050 Injuries.

Members suffering injury arising out of and in the course of duties assigned to them by the chief, are entitled to such medical care, hospitalization and other benefits as the city may by ordinance provide, or to

such benefits as said members shall be entitled to under the Workmen's Compensation Laws of the State of California. (Prior code § 8-906)

2.24.060 Compensation.

Members shall receive compensation from the city for any services rendered in such amounts as may be prescribed by the city council, but in no event shall such compensation exceed the amount which would be paid to a first year patrolman of the police department for similar service. In event of injury or death to a member while he is discharging duties assigned to him by the chief, said member or his beneficiaries shall be entitled to benefits provided by the Workman's Compensation Laws of California and such benefit shall be based upon the salary of a first year patrolman in the police department. (Prior code § 8-909)

2.24.070 Uniforms and equipment.

A. The uniforms, badges and equipment to be worn and carried by the members shall be prescribed by the chief.

B. Uniform, badge and other equipment shall be purchased by the member at his own expense; provided, however, that upon the separation of any person from the reserve, the badge issued to him shall be returned to the chief and the member so returning said badge shall be entitled to no compensation therefore.

C. The city is authorized to purchase the uniform, badge and equipment, or portion thereof of the member, out of public funds, upon approval of the city council. (Prior code §§ 8-907, 8-911, 8-912)

2.24.080 Impersonation unlawful.

It is unlawful for any person to falsely impersonate or represent himself to be a member or to wear, use or possess a badge used by the reserve. (Prior code § 8-908)

2.24.090 Eligibility.

To be eligible to membership in the reserve, each applicant must indicate his willingness to serve an average minimum of eight hours per month in the public service, and where any member has failed to give said minimum hours of services for a period of two months, the chief shall inquire into the reasons therefore and unless good reason is shown for said failure to render the minimum hours herein required, the chief may recommend to the city council the dismissal of the member from the reserve. (Prior code § 8-913)

2.24.100 Dismissal—Resignation.

The chief may dismiss a member from the reserve without any hearing whatsoever, and such member shall have the right to resign from said reserve at any time. (Prior code § 8-910)

2.24.110 Rules and regulations promulgation.

The chief is empowered and directed to appoint administrative officers from the officers of the regular police department and to prepare and promulgate such organizational order, rules and regulations and revisions and amendments thereof, as may be, in his discretion, necessary to carry out the express intent of this chapter. (Prior code § 8-914)

Chapter 2.28

CIVIL DEFENSE

Sections:

- 2.28.010 Purposes.**
- 2.28.020 Definitions.**
- 2.28.030 Civil defense and disaster council—Membership.**
- 2.28.040 Civil defense and disaster council—Powers and duties.**
- 2.28.050 Director of civil defense and disaster powers and duties.**
- 2.28.060 Disaster proclamation—Director powers and duties.**
- 2.28.070 Civil defense and disaster organization.**
- 2.28.080 Divisions, services and staff of the civil defense and disaster organization.**
- 2.28.090 Violations—Penalties.**

2.28.010 Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the civil defense of persons and property within this city in the event of a disaster, and to provide for the coordination of the civil defense and disaster functions of this city with all other public agencies and affected private persons, corporations and organizations. Any expenditures made in connection with such civil defense and disaster activities, including mutual aid

activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city. (Prior code § 14-101)

2.28.020 Definitions.

Civil Defense. As used in this chapter, the term “civil defense” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters. It shall not include, nor does any provision of this chapter apply to any condition relating to a labor controversy.

Disasters. As used in this chapter, the term “disaster” means actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake or other similar public calamity. (Prior code § 14-102)

2.28.030 Civil defense and disaster council—Membership.

The Del Rey Oaks civil defense and disaster council is created and shall consist of the following:

- A. The mayor, who shall be chairman;
- B. The director of civil defense and disaster, who shall be vice chairman;
- C. The assistant director, appointed by the mayor with the advise and consent of the city council who, under the supervision of the director, shall develop civil defense and disaster plans and organize the civil defense and disaster program of this city, and shall have such other duties as may be assigned by the director;

D. Such deputy directors and chiefs of operating civil defense and disaster departments, services or division as are provided for by resolution pursuant to this chapter;

E. Such representatives of civic, business, labor, veterans, professional of other organizations have an official group or organization civil defense and disaster responsibility as may be appointed by the mayor with the advise and consent of the city council. (Prior code § 14-103)

2.28.040 Civil defense and disaster council—Powers and duties.

It is the duty of the Del Rey Oaks civil defense and disaster council, and it is empowered, to review and recommend for adoption by the city council, civil defense and disaster and mutual aid plans and agreements and such ordinances and rules and regulations as are necessary to implement such plans and agreements. The civil defense and disaster council shall meet upon call of the chairman or in his absence from the city or inability to call such meeting, upon the call of the vice chairman. (Prior code § 14-104)

2.28.050 Director of civil defense and disaster powers and duties.

There is created the office of director of civil defense and disaster. Such officer shall be appointed by the mayor with the advise and consent of the city council.

The director is empowered:

- A. To request the city council to proclaim the existence or threatened existence of a disaster and the termination thereof, if

the city council is in session, or to issue such proclamation if the city council is not in session, subject to confirmation by the city council at the earliest practicable time;

B. To request the Governor to proclaim a state of extreme emergency when in the opinion of the director the resources of the area are inadequate to cope with the disaster;

C. To control and direct the effort of the civil defense and disaster organization of this city for the accomplishment of the purposes of this chapter;

D. To direct coordination and cooperation between divisions, services, and staff of the civil defense and disaster organization of this city, and to resolve questions of authority and responsibility that may arise between them;

E. To represent the civil defense and disaster organization of this city in all dealings with public or private agencies pertaining to civil defense and disaster. (Prior code § 14-105)

**2.28.060 Disaster proclamation—
Director powers and
duties.**

In the event of the proclamation of a disaster as herein provided, or the proclamation of a state of extreme emergency by the Governor or the State Director of Civil Defense, the director is empowered:

A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations must be confirmed at the earliest practicable time by city council;

B. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people, and binds the city for the fair value thereof, and if required, immediately, to commandeer the same for public use;

C. To require emergency services of any city officer or employee and, in the event of the proclamation of a state of extreme emergency by the governor in the region in which this city is located, to command the aid of as many citizens of this community as he thinks necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered civil defense and disaster worker volunteers;

D. To requisition necessary personnel or material of any city department or agency;

E. To execute all of his ordinary powers as mayor, all of the special powers conferred upon him by this ordinance or by resolution adopted pursuant thereto, all powers conferred upon him by any statutes, agreement approved by the city council, or by any lawful authority, and in conformity with Section 38791 of the Government Code, to exercise all police power vested in the city by the Constitution and general laws. (Prior code § 14-106)

**2.28.070 Civil defense and disaster
organization.**

All officers and employees of this city, together with those volunteer forces enrolled to aid them during a disaster, and all groups, organizations and persons who may by agreement or operation of law, including

persons pressed into service under the provisions of Section 2.28.060(C), be charged with duties incident to the protection of life and property in this city during such disaster, shall constitute the civil defense and disaster organization of the city. (Prior code § 14-107)

2.28.080 Divisions, services and staff of the civil defense and disaster organization.

A. The functions and duties of the Del Rey Oaks civil defense and disaster organization shall be distributed among such division, services and special staff as the city council shall prescribe by resolution.

B. The city council shall concurrently with the adoption of the ordinance codified in this chapter, adopt a resolution setting forth the form of organization, establishment and designation of divisions and services, the assignment of functions, duties and powers, the designation of officers and employees. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the Federal Government and the Civil Defense agency of the State of California. (Prior code § 14-108)

2.28.090 Violations—Penalties.

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars (\$500.00), or by imprisonment for not to exceed six months, or both, for any person during a disaster:

A. Wilfully, to obstruct, hinder or delay any member of the civil defense and disaster organization in the enforcement of any

lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter; if such act is of such a nature as to give, or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this city, or to prevent, hinder or delay the defense or protection thereof;

C. To wear, carry or display, without authority, any means of identification specified by the civil defense and disaster agency of the state. (Prior code § 14-109)

Chapter 2.32**RETIREMENT SYSTEM****Sections:****2.32.010** Established.**2.32.010** Established.

There is established for the benefit of the full-time employees and department heads of the city a retirement system. Such retirement system shall be in the manner and form established by resolution of the city council by contract with a duly authorized insurance carrier. A copy of such agreement shall at all times be on file with the city clerk. The system shall provide for partial payment of premiums by the city and partial deductions from gross salary, as may be established by resolution, and payments to the carrier shall be made from the "Salary and Wage Fund." (Prior code § 1-504)

Title 3

REVENUE AND FINANCE

Chapters:

- 3.04 Fiscal Provisions Generally**
- 3.08 Admission Tax**
- 3.12 Real Property Transfer Tax**
- 3.16 Sales and Use Tax**
- 3.20 Uniform Transient Occupancy Tax**
- 3.24 Bing Crosby Youth Tennis Fund**
- 3.28 Salary and Wage Fund**

Chapter 3.04

FISCAL PROVISIONS GENERALLY

Sections:

- 3.04.010** County assessor and county tax collector duties.
- 3.04.020** City funds established.
- 3.04.030** Disposition of moneys into funds.

3.04.010 County assessor and county tax collector duties.

The city council of the city does allege that the duties of assessing property and collecting taxes provided by law to be performed by the assessor and tax collector of the city shall be performed by the county assessor and the county tax collector of the County of Monterey. (Prior code § 3-101)

3.04.020 City funds established.

There are established in the city the following funds:

- A. A general fund;
- B. A special gas tax street improvement fund, as provided in Section 2113 and 2114.5 of the Streets and Highways Code of the State of California;
- C. A motor vehicle license fee fund as provided in Section 11005 of the Revenue and Taxation Code of the State of California;
- D. A traffic safety fund, as provided in Section 1463.001 of the Penal Code of the State of California;
- E. An equipment rental fund;
- F. A capital outlay fund, as provided in Article 4, Chapter 4, Part 1, Division 2,

Title 5 of the Government Code of the State of California (Sections 53730.5 to 53737);

G. An employees and officers trust fund. (Ord. 233 § 4, 1995: prior code § 3-201)

3.04.030 Disposition of moneys into funds.

A. All moneys received by the city from the State of California pursuant to said sections of the Revenue Code and the Streets and Highways Code shall be paid respectively into said funds.

B. All moneys in said funds shall be expended exclusively for the purposes authorized by and subject to all of the provisions of the respective legislative acts providing therefor. (Prior code §§ 3-202, 3-203)

Chapter 3.08

ADMISSION TAX

Sections:

- 3.08.010** **Definitions.**
- 3.08.020** **Tax imposed.**
- 3.08.030** **Operator’s duties.**
- 3.08.040** **Exemption.**
- 3.08.050** **Reporting and
remitting.**
- 3.08.060** **Penalties and interest.**
- 3.08.070** **Failure to collect.**
- 3.08.080** **Deficiency
determination.**
- 3.08.090** **Offsetting of
overpayment.**
- 3.08.100** **Notice of determination.**
- 3.08.110** **Hearing.**
- 3.08.120** **Appeal.**
- 3.08.130** **Records.**
- 3.08.140** **Refunds.**
- 3.08.150** **Actions to collect.**
- 3.08.160** **Disposition of funds.**
- 3.08.170** **Violations—Penalties.**

3.08.010 **Definitions.**

For purposes of this chapter, certain words and phrases shall be construed as follows:

“Admission charge” means any charge, whether or not so designated, for the right or privilege to enter, occupy or use a seat or space in any facility as hereinafter defined as a spectator or otherwise, or to participate as a patron in any event. It shall also mean season passes or subscriptions but shall not include complimentary, promotional or otherwise free-of-charge tickets or

passes given by any operator or person. The term shall also include “donations” if such donation is required as a condition of admittance to any event.

“City” means the city of Del Rey Oaks.

“Director” means the city manager of city or his or her designee.

“Facility” means and includes any building, structure, place or location, whether indoors or out, wherein or at which any form of event is or can be held, carried on or conducted.

“Event” means any entertainment, amusement or recreational activity, for which an admission charge as defined herein is made, and shall include, but shall not be limited to: automobile or motorcycle races, dances, demonstrations, circuses, motion picture shows, shows of all kinds, all sporting contests and athletic events, health clubs, exhibitions of art or handicrafts or products, concerts, lectures, theatrical and musical performances, speeches, fairs, carnivals, amusement rides and devices and all forms of recreation in or at amusement parks, or any other form of entertainment, diversion, sport, pastime of recreation.

“Operator” means any person conducting, operating or maintaining in whole or in part as principal, agent, officer, employee or independent contract any event or facility taxable under this chapter. For purposes of collecting the tax provided for in this chapter, there are two classes of operators, as follows: (1) One who conducts, operates or maintains an established fixed facility, wherein events are held, carried on or conducted in the operator’s normal course of business, hereinafter referred to as a “fixed

operator;” and (2) Any other operator, hereinafter referred to as a “non-fixed operator.”

“Patron” means any person who pays, or on account of whom is paid, any admission charge or admission price for the right or privilege of being admitted to or to use any facility, or to participate in any event. The term “patron” shall not include: (1) a bona fide employee of the operator when admission to the facility is incidental to the employee’s duties; and (2) any employee or official of the State of California, or any agency, instrumentality or department thereof, the city, or United States Government whose official duty makes it necessary to gain admission to any event. (Ord. 230 § 1 (part), 1994)

3.08.020 Tax imposed.

There is imposed a tax on patrons of events in an amount equal to ten percent of the price of the admission charge, including any season ticket or subscription, for the privilege of admission to any event in or at a facility. Such tax is a debt owed by the patron to the city, which debt shall be extinguished only by payment to the operator or to the city. Such tax shall be in addition to all other taxes or fees imposed by law. (Ord. 230 § 1 (part), 1994)

3.08.030 Operator’s duties.

Each operator shall collect the tax imposed by Section 3.08.020 from any patron when he or she pays an admission charge or purchases an admission ticket or season ticket or subscription. Every operator shall hold the tax imposed by this chapter separately in trust until the same is paid to the

director as hereinafter provided and shall not use or convert these funds for the operator’s own use for any reason whatsoever. (Ord. 230 § 1 (part), 1994)

3.08.040 Exemption.

An application may be filed with the director for an exemption imposed by Section 3.08.020 for a one-day event which will have no adverse impact on the city. The director may require such information in the application for exemption, or in addition thereto, as will enable the director to determine whether the charge for which the exemption is sought is eligible therefor. (Ord. 230 § 1 (part), 1994)

3.08.050 Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of the prior month, or at the close of any shorter reporting period that may be established by the director make a return to the director, on forms provided by the director, of the total admissions charges collected and received and the amount of tax collected from patrons. At the time the return is filed, the full amount of any tax collected and due shall be remitted to the director. Those amounts not paid shall immediately become delinquent. The director may establish special reporting periods for any operator if deemed necessary to assure collection of the tax, and the director may require further information to be included in the return. Returns and payments are due and payable immediately upon cessation of business by the operator for any reason. (Ord. 230 § 1 (part), 1994)

3.08.060 Penalties and interest.**A. Tax Returns and Remittance of Deficiency Determinations.**

1. **Original Delinquency.** Any operator who fails to file a tax return, remit the collected tax, or pay a deficiency determination within the time required shall pay a penalty of ten percent of the total tax or deficiency in addition to the amount of the tax or deficiency.

2. **Continued Delinquency.** Any operator who fails to file a tax return or pay a deficiency determination on or before a period of thirty (30) days following the date on which it first became delinquent shall pay a second delinquency penalty of fifteen (15) percent of the amount of tax or delinquency in addition to the amount of tax or delinquency and the ten percent penalty first imposed.

B. Tax Returns and Deficiency Determinations.

1. **Negligent Failure to Pay.** If the director determines that any tax found to be due under this chapter or the delinquent filing of a tax return is due to negligence, a penalty of fifteen (15) percent of the amount of tax shall be added thereto in addition to any other penalties which may be imposed.

2. **Intentional Failure to Pay or Fraud.** If the director determines that any tax found to be due under this chapter or the delinquent filing of tax return is due to fraud or an intentional disregard or failure to comply with the provisions of this chapter or an intent to evade this part or authorized rules and regulations, a penalty of forty (40) percent of the tax shall be added thereto in addition to any other penalties which may be imposed.

C. **Interest.** In addition to the penalties imposed above, any operator who fails to remit any tax or delinquency imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of unpaid tax or delinquency, exclusive of penalties, from the last day of the month following the monthly period for which the amount or any portion thereof should have been paid until the date of payment.

D. **Relief from Penalties and Interest.** If the director finds that an operator's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the operator's control, and occurred, notwithstanding the exercise of ordinary care and the absence of willful neglect, the director may waive the penalty provided for in subsection (A) above. Any person seeking to be relieved of the penalty shall file with the director a statement under penalty of perjury setting forth the facts upon which the claim for relief is based. (Ord. 230 § 1 (part), 1994)

3.08.070 Failure to collect.

If any operator required to collect and remit the tax imposed by these sections fails to file and return a remittance, the director shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the director obtains such facts and information on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or

she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. (Ord. 230 § 1 (part), 1994)

3.08.080 Deficiency determination.

If the director has reasonable cause to believe the return or returns of the amount of tax required to be paid to the city by any operator are erroneous, he or she shall compute and determine the amount required to be paid upon the basis of (1) facts contained in the return or returns, (2) other substantial evidence, or (3) application of standard accounting techniques. A deficiency determination for one period shall not constitute a release or waiver for other deficiencies in the same or another period. (Ord. 230 § 1 (part), 1994)

3.08.090 Offsetting of overpayment.

In making a determination pursuant to Sections 3.08.060 and 3.08.070, the director may offset any overpayments for a period or periods, against penalties, and against interest on underpayments. Interest on overpayments (for purposes of offsetting as in this section provided) and underpayments shall be computed in the manner set forth in Section 3.08.060. (Ord. 230 § 1 (part), 1994)

3.08.100 Notice of determination.

The director shall give to the operator written notice of any determinations made pursuant to Sections 3.08.060 and 3.08.070. This notice may be served personally or by depositing in the United States postal service, postage prepaid, and addressed to the operator at his or her address as it appears

in the records of the director. In case of service made by mail of any notice required, the service is complete at the time of deposit of the notice. (Ord. 230 § 1 (part), 1994)

3.08.110 Hearing.

Any operator served pursuant to Section 3.08.100 may within fifteen (15) days after serving or mailing such notice, make application in writing to the director for a hearing by the director to review the amounts determined and assessed under Sections 3.08.060 and 3.08.070. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the director shall become final and conclusive and immediately due. Any operator against whom interest or penalties have been assessed pursuant to Section 3.08.060 may make an application in writing for a hearing with the director to review the amounts of tax owing and accrued penalties and interest thereon within thirty (30) days after notice of delinquency. If such application is made, the director shall give not less than five days written notice in the manner prescribed by Section 3.08.100 to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be assessed including such tax, interest and penalties, if any. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the director shall determine the proper tax together with interest and penalties thereon to be remitted and shall thereafter give written notice thereof to the

operator in the manner prescribed in Section 3.08.100. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.08.120. (Ord. 230 § 1 (part), 1994)

3.08.120 Appeal.

Any operator aggrieved by any decision of the director with respect to the amount of such tax or interest and penalties, if any, may appeal to the city council. The decision of the council shall be final and conclusive. Any amounts determined shall be due and payable on the service of notice of the decision, which shall be served in the manner set forth in Section 3.08.100. (Ord. 230 § 1 (part), 1994)

3.08.130 Records.

Every operator liable for the collection and payment to the city of any tax imposed by this chapter shall keep and preserve all records sufficient in nature to determine the amount of such tax as the operator may have been liable for the collection of payment to the city. Records which shall be kept shall include, but are not limited to, records of admission on a daily basis by number and price and all cash register tapes. The director may examine the books, papers, records and equipment of any operator liable for the tax imposed by Section 3.08.020 at any time. (Ord. 230 § 1 (part), 1994)

3.08.140 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or

illegally collected or received by the city under these sections, it may be refunded as provided herein; provided, that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the director within one year of the date of payment. The claim shall be on forms furnished by the director.

B. An operator may claim a refund or take as credit against taxes collected and remitted any amount overpaid, paid more than once or erroneously or illegally collected or received. Neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the patron or credited to an admission charge subsequently payable by the patron to the operator.

C. A patron may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (A), but only when a tax was paid by the patron directly to the director or when the patron, having paid the tax to the operator, establishes to the satisfaction of the director that the patron has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Ord. 230 § 1 (part), 1994)

3.08.150 Actions to collect.

Any tax required to be paid by any patron under the provisions of these sections shall be deemed a debt owed by the patron to the city. Any such tax collected by an

operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of these sections shall be liable to an action brought in the name of the city for the recovery of such amount. (Ord. 230 § 1 (part), 1994)

3.08.160 Disposition of funds.

All taxes and penalties received pursuant to this chapter shall constitute general tax revenues of the city and shall be deposited in the general fund. (Ord. 230 § 1 (part), 1994)

3.08.170 Violations—Penalties.

A. Criminal Penalties. Violations of this chapter shall be punished in accordance with the provisions of city of Del Rey Oaks Municipal Code Section 1.16.010.

B. Attorney's Fees. Any patron or operator against whom a civil action is filed for violation of any provision of this chapter shall be liable for the costs of that action, including reasonable attorney's fees and costs, as set forth in city of Del Rey Oaks Municipal Code Section 1.16.010. (Ord. 233 § 6, 1995; Ord. 230 § 1 (part), 1994)

Chapter 3.12

REAL PROPERTY TRANSFER TAX

Sections:

3.12.010	Short title.
3.12.020	Tax imposed.
3.12.030	Applicability.
3.12.040	Tax not applicable— Debt security instrument.
3.12.050	Tax exemption.
3.12.060	Tax not applicable— Bankruptcies.
3.12.070	Tax not applicable— SEC orders.
3.12.080	Tax not applicable— Partnership transfers.
3.12.090	Tax not applicable— Foreclosures.
3.12.100	Tax not applicable— Divorce or separation.
3.12.110	Tax not applicable— Immediate reconveyance to exempt agencies.
3.12.120	Tax not applicable— Conveyance to nonprofit organization.
3.12.130	Administration.
3.12.140	Refunds.

3.12.010 Short title.

The ordinance codified in this chapter shall be known as the "Real Property Transfer Tax Ordinance of the city of Del Rey Oaks." It is adopted pursuant to the authority contained in Part 6.7 (commencing with Section 11901) of Division 2 of the

Revenue and Taxation Code of the State of California. (Prior code § 3-701)

3.12.020 Tax imposed.

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), a tax at the rate of twenty-seven and one-half cents (\$0.275) for each five hundred dollars (\$500.00) or fractional part thereof. (Prior code § 3-702)

3.12.030 Applicability.

Any tax imposed pursuant to Section 3.12.020 hereof shall be paid by any person who makes, signs or issues any document of instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Prior code § 3-703)

3.12.040 Tax not applicable—Debt security instrument.

Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. (Prior code § 3-704)

3.12.050 Tax exemption.

The United States or any agency or instrumentality thereof, any state, territory or political subdivision thereof, shall be exempt from any tax imposed pursuant to this chapter with respect to any deed, instrument

or writing to which it is a party, when the exempt agency is acquiring title. (Ord. 233 § 5, 1995: prior code § 3-705)

3.12.060 Tax not applicable—Bankruptcies.

A. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended;

2. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title II of the United States Code, as amended;

3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

4. Whereby a mere change in identity, form or place of organization is effected.

Subsections (1) to (2), inclusive, of this section shall only apply if the making, delivery or filing of instruments of such confirmation, approval or change. (Prior code § 3-706)

3.12.070 Tax not applicable—SEC orders.

Any tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

A. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

B. Such order specifies the property which is ordered to be conveyed;

C. Such conveyance is made in obedience to such order. (Prior code § 3-707)

**3.12.080 Tax not applicable—
Partnership transfers.**

A. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this chapter by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

2. Such continuing partnership continues to hold the realty concerned.

B. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (B), and any transfer pursuant thereto with

respect to the realty held by such partnership at the time of such termination. (Prior code § 3-708)

**3.12.090 Tax not applicable—
Foreclosures.**

Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on said deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes. (Ord. 233 § 1(a), 1995)

**3.12.100 Tax not applicable—
Divorce or separation.**

A. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the

written agreement is incorporated as part of any of those judgements or orders.

B. In order to qualify for the exemption provided in subsection (A), the deed, instrument, or other writing shall include a written recital, signed by either spouse, stating the deed, instrument or other writing is entitled to the exemption. (Ord. 233 § 1(b), 1995)

**3.12.110 Tax not applicable—
Immediate reconveyance
to exempt agencies.**

Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or other writing by which realty is conveyed by the State of California, any political subdivision thereof, or agency or instrumentality of either thereof, pursuant to an agreement whereby the purchaser agrees to immediately reconvey the realty to the exempt agency. (Ord. 233 § 1(c), 1995)

**3.12.120 Tax not applicable—
Conveyance to nonprofit
organization.**

Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or other writing by which the State of California, any political subdivision thereof, or agency or instrumentality of either thereof, conveys to a nonprofit corporation realty the acquisition, construction or improvement of which was financed or refinanced by obligations issued by the nonprofit corporation on behalf of a governmental unit, within the meaning of Section 1.103-1(b) of Title 26 of the Code of Federal Regulations. (Ord. 233 § 1(d), 1995)

3.12.130 Administration.

The county recorder shall administer this chapter in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Prior code § 3-709)

3.12.140 Refunds.

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the State of California. (Prior code § 3-710)

Chapter 3.16

SALES AND USE TAX

Sections:

3.16.010	Short title.
3.16.020	Rate.
3.16.030	Operative date.
3.16.040	Purpose.
3.16.050	Contract with state.
3.16.060	Sales tax.
3.16.070	Place of sale.
3.16.080	Use tax.
3.16.090	Adoption of provisions of state law.
3.16.100	Limitations on adoption of state law.
3.16.110	Permit not required.
3.16.120	Exclusions and exemptions.
3.16.130	Amendments.
3.16.140	Enjoining collection forbidden.
3.16.150	Violation—Penalty.
3.16.160	Repeals.

3.16.010 Short title.

The ordinance codified in this chapter shall be known as the "Uniform Local Sales and Use Tax Ordinance." (Prior code § 3-801)

3.16.020 Rate.

The rate of sales tax and use tax imposed by this chapter shall be one percent. (Prior code § 3-802)

3.16.030 Operative date.

This chapter shall be operative on January 1, 1974. (Prior code § 3-803)

3.16.040 Purpose.

The city council declares that the ordinance codified in this chapter is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

B. To adopt a sales and use tax ordinance which incorporates identical provisions to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter. (Prior code § 3-804)

3.16.050 Contract with state.

Prior to the operative date, this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the sales and use tax ordinance; provided, that if this city shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter. (Prior code § 3-805)

3.16.060 Sales tax.

For the privilege of selling tangible personal property at retail a tax is imposed upon all retailers in the city at the rate stated in Section 3.16.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date. (Prior code § 3-806)

3.16.070 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of

business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization. (Prior code § 3-807)

3.16.080 Use tax.

An excise tax is imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this city at the rate stated in Section 3.16.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Prior code § 3-808)

3.16.090 Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein. (Prior code § 3-809)

3.16.100 Limitations on adoption of state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall

not be made when the word “State” is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 or in the definition of that phrase in Section 6203. (Prior code § 3-810)

3.16.110 Permit not required.

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller’s permit shall not be required by this chapter. (Prior code § 3-811)

3.16.120 Exclusions and exemptions.

A. The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.

B. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county or city, in this state shall be exempt from the tax due under this chapter.

C. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such

aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempted from the use tax. (Prior code § 3-812)

3.16.130 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter. (Prior code § 3-815)

3.16.140 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this city, or against any officer of the state or this city, to prevent or enjoin the collection under this chapter, or Part 1.5 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Prior code § 3-816)

3.16.150 Violation—Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or by both such fine and imprisonment. (Prior code § 3-817)

3.16.160 Repeals.

All ordinances inconsistent with this chapter are repealed; provided, however, that said ordinances, as amended, shall remain applicable for the purposes of the administration of said ordinance and the imposition of and the collection of tax with respect to the sales of, and the storage, use, or other consumption of tangible personal property prior to January 1, 1974, the making of refunds, effecting credits, the disposition of monies collected, and for the commencement or continuance of any action or proceeding under said ordinance. (Prior code § 3-819)

Chapter 3.20

UNIFORM TRANSIENT OCCUPANCY TAX

Sections:

3.20.010	Title.
3.20.020	Definitions.
3.20.030	Tax imposed.
3.20.040	Exemptions.
3.20.050	Operator's duties
3.20.060	Registration.
3.20.070	Reporting and remitting.
3.20.080	Penalties and interest.
3.20.090	Failure to collect and report tax— Determination of tax by tax collector.
3.20.100	Appeal.
3.20.110	Records.
3.20.120	Refunds.
3.20.130	Actions to collect.
3.20.140	Violations— Misdemeanor.

3.20.010 Title.

The ordinance codified in this chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the city of Del Rey Oaks." (Prior code § 3-601)

3.20.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by

transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure of a portion thereof.

"Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall, however, be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Tax collector" means the city clerk of the city.

"Transient" means any person who exercises occupancy or is entitled to occupancy

by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. (Prior code § 3-602)

3.20.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax collector may require that such tax shall be paid directly to the tax collector. (Prior code § 3-603)

3.20.040 Exemptions.

No tax shall be imposed upon:

A. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;

B. Any federal or State of California officer or employee when on official business;

C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty;

D. No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax collector. (Prior code § 3-604)

3.20.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent; or that, if added, any part will be refunded except in the manner hereinafter provided in this chapter. (Prior code § 3-605)

3.20.060 Registration.

Within thirty (30) days after the effective date of the ordinance codified in this chapter or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the tax collector and obtain from her a "transient occupancy registration certificate" to be at all times posted in a conspicuous

place on the premises. Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;

D. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Collector for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Collector. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department, or office of this City. This certificate does not constitute a permit." (Prior code § 3-606)

3.20.070 Reporting and remitting.

Each operator shall on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax collector, make a return to the tax collector, on forms provided by her, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax collector. The tax collector may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further

information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax collector. (Prior code § 3-607)

3.20.080 Penalties and interest.

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquent penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Fraud. If the tax collector determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (A) and (B) of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section

shall become a part of the tax herein required to be paid. (Prior code § 3-608)

3.20.090 Failure to collect and report tax—Determination of tax by tax collector.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax collector shall proceed in such manner as she may deem best to obtain facts and information on which to base the estimate of the tax due. As soon as the tax collector shall procure such facts and information as she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax collector for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax collector shall become final and conclusive and immediately due and payable. If such application is made, the tax

collector shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax collector shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.20.100. (Prior code § 3-609)

3.20.100 Appeal.

Any operator aggrieved by any decision of the tax collector with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice with the city clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal and the city clerk shall give notice in writing to such operator at his last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice and hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Prior code § 3-610)

3.20.110 Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the tax collector shall have the right to inspect at all reasonable times. (Prior code § 3-611)

3.20.120 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter it may be refunded as provided in subsections (B) and (C) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax collector within three years of the date of payment. The claim shall be on forms furnished by the tax collector.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax collector that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (A) of this section, but only when the tax was paid by the transient directly to the tax collector, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax collector that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Prior code § 3-612)

3.20.130 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. (Prior code § 3-613)

3.20.140 Violations—Misdemeanor.

Any operator or other person who fails to or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax collector, or who renders a false or fraudulent return or claim, is guilty of a

misdemeanor. Any person required to make, render, sign or verify any report or claim, who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor. (Prior code § 3-614)

Chapter 3.24

BING CROSBY YOUTH TENNIS FUND

Sections:

- 3.24.010** Created.
- 3.24.020** Use of funds.
- 3.24.030** Maintenance of fund.

3.24.010 Created.

There is created a special trust fund under the supervision of the members of the city council as trustees thereof to be known as the "Bing Crosby Youth Tennis Fund." (Prior code § 1-601)

3.24.020 Use of funds.

A. Pursuant to a gift from the Bing Crosby Foundation the funds shall be used solely and exclusively for the purposes of establishing, creating, constructing and erecting championship tennis facilities for the benefit of the youth of the city and of the entire Monterey Peninsula area.

B. Said funds shall be established and maintained solely for the purposes herein enumerated and said fund shall be used for no other purposes. (Prior code §§ 1-602, 1-603)

3.24.030 Maintenance of fund.

Recreational funds of the city out of its general fund may from time to time be transferred and deposited in said fund together with other gifts and charitable donations which may from time to time be made from citizens and said funds shall be constantly and continually maintained and

audited and kept as a separate fund of said city for the sole purposes of maintaining, erecting, constructing and operating championship tennis facilities for the youth of the Monterey Peninsula. (Prior code § 1-604)

Chapter 3.28

SALARY AND WAGE FUND

Sections:

- 3.28.010** Created.
- 3.28.020** Payroll preparation.
- 3.28.030** Issuance of payroll.

3.28.010 Created.

There is created a special fund under the supervision of the city clerk of the city to be known as the "Salary and Wage Fund." (Prior code § 1-501)

3.28.020 Payroll preparation.

Pursuant to Section 37208 of the Government Code of the State of California, the city clerk is authorized to prepare a payroll and issue checks for the payment of wages and salaries to the several officers and employees of the city as may be authorized by the law to be so paid. The payroll warrants need not be audited by this city council prior to such payment. The payroll shall be presented to the legislative body for ratification and approval at the first meeting after the delivery of the payroll checks. (Prior code § 1-502)

3.28.030 Issuance of payroll.

Department heads shall certify and approve the several departmental payrolls or attendance records for employees in their departments prior to the 12th and 28th days of each month; the department heads shall present to the city clerk their certified and approved departmental payrolls for employees in their department. The city clerk shall thereupon certify and approve said payrolls and issue the pay checks against the revolving fund herein set up. (Prior code § 1-503)

Title 4

RESERVED

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

- 5.04 Business Licenses Generally**
- 5.08 Cable Television Systems**
- 5.12 Peddlers and Solicitors**
- 5.16 Franchises**

Chapter 5.04

BUSINESS LICENSES GENERALLY**Sections:**

- 5.04.010 Definitions.
- 5.04.020 Revenue measure.
- 5.04.030 Substitute for other revenue ordinances.
- 5.04.040 Effect of ordinance on past actions and obligations previously accrued.
- 5.04.050 License required.
- 5.04.060 Branch establishments.
- 5.04.070 Exemptions.
- 5.04.080 Application.
- 5.04.090 Affidavit for first license.
- 5.04.100 Renewal license.
- 5.04.110 Statement not conclusive.
- 5.04.120 Failure to file statement.
- 5.04.130 Appeals.
- 5.04.140 Extension of time.
- 5.04.150 Transfers.
- 5.04.160 Unexpired licenses heretofore issued.
- 5.04.170 Duplicate licenses.
- 5.04.180 Posting and keeping license.
- 5.04.190 License tax—How and when payable.
- 5.04.200 Penalties for failure to pay license tax when due.
- 5.04.210 Rate of taxes.
- 5.04.220 License tax—Public utilities.

- 5.04.230 License tax—Specific business, occupations and professions.
- 5.04.240 License tax—Retail businesses.
- 5.04.250 License tax—Wholesale or jobbing business.
- 5.04.260 License tax—Contractors.
- 5.04.270 License tax—Manufacturing.
- 5.04.280 License tax—Flat amount.
- 5.04.290 Enforcement.
- 5.04.300 License tax deemed debt to city.

5.04.010 Definitions.

Business. As used in this chapter, “business” means profession, trade, and occupation and all and every kind of calling carried on for profit or livelihood.

Gross Receipts. As used in this chapter, “gross receipts” means the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service or employment or whatever nature it may be for which a charge is made or credit allowed, whether or not such act, service or employment is done as part of or in connection with the sale of materials, goods, wares or merchandise. Included in gross receipts shall be all receipts, cash, credits, and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable or losses or other expenses whatsoever. Excluded from

gross receipts shall be case discounts allowed and taken on sales; any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser; and such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit.

Person. As used in this chapter, "person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts Business or common law trusts, societies, and individuals transacting and carrying on any business in the city. (Prior code § 4-101)

5.04.020 Revenue measure.

This chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation; nor is the licensing of any business, trade or calling hereunder to be construed as authorizing or sanctioning any departure or failure to comply with licensing provisions of the State of California or the United States of America. (Prior code § 4-102)

5.04.030 Substitute for other revenue ordinances.

Any person required to pay a license tax for transacting and carrying on any business under this chapter shall be relieved from the payment of any license tax for the privilege of doing business which has been required under any other ordinance of the city, but shall remain subject to the regulatory provisions of such other ordinances. This section shall not apply to inspection fees. (Prior code § 4-103)

5.04.040 Effect of ordinance on past actions and obligations previously accrued.

Neither the adoption of this chapter or its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any ordinance committed prior to the effective date hereto, nor be construed as a waiver of any license or any penal provisions applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and any and all rights and obligations thereunto appertaining shall continue in full force and effect. (Prior code § 4-104)

5.04.050 License required.

There are imposed upon the businesses, trades, professions, callings and occupations in the city without first having procured a license from said city so to do or without complying with any and all applicable provisions of this chapter. (Prior code § 4-105)

5.04.060 Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to

be separate places of business or branch establishments. (Prior code § 4-106)

5.04.070 Exemptions.

A. Constitution or Statutes of the United States or the State of California. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable provisions or statutes of the United States or of the State of California from the payment to municipal corporations of such license taxes as are herein prescribed.

B. Produce of Farmers. No license tax shall be required of any person for the sale of fruits or vegetables raised by such person upon the lands located within the County of Monterey.

C. Claim for Exemption. Any person claiming an exemption pursuant to this section shall file a verified statement with the city clerk stating the facts upon which exemption is claimed. The city clerk shall, upon a proper showing contained in said verified statement, issue a license to such person claiming exemption without payment to the city of the license tax required by this chapter. (Prior code § 4-107)

5.04.080 Application.

Every person required to have a license under the provisions of this chapter shall make application for the same to the tax collector of the city, and upon the payment of the prescribed tax, the tax collector shall issue to such person a license which shall contain: (1) the name of the person to whom the license is issued, (2) the business carried on, (3) the date of the expiration of

said license, and (5) such other information as may be necessary for the enforcement of the provisions of this chapter. (Prior code § 4-108)

5.04.090 Affidavit for first license.

A. Upon a person making application for the first license to be issued hereunder or for a newly established business, in all cases where the amount of the license tax to be paid is based upon gross receipts, such person shall furnish to the tax collector for his guidance in ascertaining the amount of license tax to be paid by the applicant, a written statement, upon a form provided by the city clerk, a declaration under penalty of perjury, setting forth such information as may be therein required and as may be necessary properly to determine the amount of the license tax to be paid by the applicant.

B. If the amount of the license tax to be paid by the applicant is based upon the gross receipts, he shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the tax collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within thirty (30) days after the expiration of the period for which such license was issued, furnish the tax collector with declaration under penalty of perjury, upon a form furnished by the city clerk, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and

paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.

C. The tax collector shall not issue to any such person another license for the same or any other business, until such person shall have furnished him the written statement and paid the license tax as herein required. (Prior code § 4-109)

5.04.100 Renewal license.

In all cases, the applicant for the renewal shall submit to the tax collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement upon a form to be provided by the city clerk, a declaration under penalty of perjury, setting forth such information concerning the applicant's business during the preceding calendar year as may be required by the said tax collector to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this chapter. (Prior code § 4-110)

5.04.110 Statement not conclusive.

No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the tax collector, his deputies or authorized employees of the city, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be

necessary in their judgment to verify or ascertain the amount of license fee due. All licenses, applicants for license, and persons engaged in business in the city are required to permit an examination of such books and records for the purpose aforesaid. The information furnished or procured pursuant to this section or Sections 5.04.090 and 5.04.100 shall be confidential. Any unwarranted disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor and such officer or employee shall be subject to the penal provisions of this chapter. (Prior code § 4-111)

5.04.120 Failure to file statement.

If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the tax collector, he fails to file a correct statement, the tax collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain. In case such a determination is made, the tax collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Monterey, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within ten days of the mailing or service of such notice, make application in writing to the tax collector for a hearing on the amount of the license tax. If such application is not made within the time prescribed, the tax collector must cause the matter to be set for hearing within fifteen (15) days before the city council. The city clerk shall give at least ten days notice to

such person of the time and place of hearing in the manner prescribed above for the service of notice of assessment. The city council shall consider all evidence produced, and written notice of its findings thereon, which findings shall be final shall be served upon the applicant in the manner prescribed above for services of notice of assessment. (Prior code § 4-112)

5.04.130 Appeals.

Any person aggrieved by any decision of an administrative officer or agency in respect to the issuance or refusal to issue such license may appeal to the city council by filing a notice of appeal with the clerk of the council. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Monterey, California, postage prepaid, addressed to such person at his last known address. (Prior code § 4-113)

5.04.140 Extension on time.

In addition to all other powers conferred upon him, the tax collector shall have the power, for good cause shown, to extend the time required for any sworn statement for a period not exceeding thirty (30) days, and in such cases to waive the penalty that would otherwise have accrued; and shall have the further power, with the consent of the city council, to compromise any claim as to the amount of license tax due. (Prior code § 4-114)

5.04.150 Transfers.

No license tax issued pursuant to this chapter shall be transferrable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such license may upon application therefor and paying a fee of one dollar (\$1.00) have the license amended to authorize the transacting and carrying on of such business under said license at some other location to which the business is or is to be moved. (Prior code § 4-115)

5.04.160 Unexpired licenses heretofore issued.

Where a license for revenue purposes has been issued to any business by the city and tax paid therefore under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed by this chapter for said business shall not be payable until the expiration of the term of such unexpired license. (Prior code § 4-116)

5.04.170 Duplicate licenses.

A duplicate license may be issued by the tax collector to replace any license previously issued hereunder which has been lost or destroyed, upon the licensee filing an affidavit attesting to such fact, and at the time of filing such affidavit paying to the tax collector the sum of one dollar (\$1.00). (Prior code § 4-117)

5.04.180 Posting and keeping license.

All licensees must post and keep their licenses in the following manner:

A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on;

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business. (Prior code § 4-118)

5.04.190 License tax—How and when payable.

Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable in advance of the first day on July of each year; provided, that license taxes covering new operations, commenced after the first day of July, may be prorated for the balance of the license period; except as otherwise herein provided license taxes other than annual, required hereunder shall be due and payable as follows:

A. Semi-annual license taxes on the first day of January and the first day of July of each year;

B. Quarterly license taxes on the first day of January, April, July and October of each year;

C. Monthly license taxes on the first day of each and every month;

D. Weekly license taxes on Monday of each week in advance;

E. Daily license taxes on each day in advance. (Prior code § 4-119)

5.04.200 Penalties for failure to pay license tax when due.

For failure to pay license tax when due, the tax collector shall add a penalty of twenty-five (25) percent of said license tax on the last day of each month after the due date thereof; provided, that the amount of such penalty to be added shall in no event exceed fifty (50) percent of the amount of the license tax due. (Prior code § 4-120)

5.04.210 Rate of taxes.

Every person transacting or carrying on any business other than those businesses enumerated in Sections 5.04.230 through 5.04.280, inclusive, shall pay an annual license tax based upon the gross receipts resulting from the operation of such business in accordance with the following scale:

If the annual gross receipts are:

At Least:	But Less Than:	The License Tax Is:
\$ 1	\$ 10,000	\$ 20.00
10,000	15,000	30.00
15,000	25,000	50.00
25,000	45,000	70.00
45,000	65,000	110.00
65,000	85,000	150.00
85,000	105,000	190.00
105,000	125,000	230.00
125,000	150,000	275.00
150,000	175,000	325.00
175,000	200,000	375.00
200,000	230,000	430.00
230,000	260,000	490.00
260,000	300,000	560.00
300,000	350,000	650.00
350,000	400,000	750.00

At Least:	But Less Than:	The License Tax Is:
400,000	450,000	850.00
450,000	500,000	950.00
500,000	550,000	1,050.00
550,000	600,000	1,150.00
600,000	700,000	1,300.00
700,000	800,000	1,500.00
800,000	900,000	1,700.00
900,000	1,000,000	1,900.00
1,000,000 or over		2,000.00
		plus $\frac{1}{10}$ th of 2% of the excess over \$1,000,000

(Prior code § 4-121)

5.04.220 License tax—Public utilities.

A. Every person transacting or carrying on the business of supplying electric power, telephone service, water service, gas service or other public utilities that are not herein otherwise licensed, shall pay a license tax equal to .11 of one percent (.11%) of the gross receipts of such business, with a minimum annual license tax of fifteen dollars (\$15.00).

B. If any person transacting the business enumerated in this section shall carry on a retail, wholesale or jobbing business or any other business, he shall be required to obtain a license and pay the tax specified for such other business, in addition to the license specified herein. The receipts enumerated herein from services performed wholly outside the city shall not be included in their gross receipts for the purpose of

license tax. Every such person herein taxed who does not maintain a fixed place of business within the city shall be required to obtain a license and pay the tax specified herein with respect to any service performed by him within the city. Any franchise to use the streets of the city, heretofore or hereinafter granted to any public utility, shall not be deemed to waive or be in lieu of any of the licensing provisions of this chapter. (Prior code § 4-122)

5.04.230 License tax—Specific business, occupations and professions.

A. Every person transacting or carrying on any of the following businesses or occupations, to-wit:

- Abstractor;
- Accountant;
- Architect;
- Advertising agent;
- Appraiser;
- Assayer;
- Attorney;
- Auditor;
- Bacteriologist;
- Baths, public, steam;
- Brokers;
- Business school;
- Chemists;
- Chiropodists;
- Chiropractor;
- Civil engineer;
- Cleaning, buildings, windows;
- Collection agents;
- Credit bureau;
- Crematorium;
- Dancing school;

Designer;
 Dental laboratory;
 Dental technician;
 Dentist;
 Dermatologist;
 Detective;
 Doctór;
 Employment agent;
 Electrical engineer;
 Engineer;
 Finance company;
 Funeral director;
 Geologist;
 Gunsmith;
 Grinder;
 Income tax expert;
 Insurance adjuster;
 Interior decorator;
 Interpreter;
 Janitor;
 Laboratory technician;
 Landscape architect;
 Lapidary;
 Lawyer;
 Livery stable;
 Locksmith;
 Masseur;
 Mechanical engineer;
 Medical laboratory;
 Messenger service;
 Mineral baths;
 Music school;
 Music teacher;
 Natro practor;
 Oculist;
 Optician;
 Optometrist;
 Osteopath;
 Orthopedist;
 Parking lot;

Pathologist;
 Patrol service;
 Physician;
 Physiotherapist;
 Piano tuner;
 Plunge;
 Posture correction;
 Public stenographer;
 Radiographer;
 Sign painter;
 Storage warehouse;
 Structural engineer;
 Surgeon;
 Surveyor;
 Taxidermist;
 Title insurance;
 Turkish baths;
 Undertaker;
 Urologist;
 Veterinarian;
 Watch repairing;
 Weighing machines;
 X-Ray technician;

shall pay a license tax annually based upon gross receipts resulting from operations of such businesses, occupations or professions in accordance with the following scale:

If annual gross receipts are:

	The License		
	At Least:	But Less Than:	Tax Is:
	\$ 1	\$ 10,000	\$ 50.00
	10,000	20,000	75.00
	20,000	30,000	125.00
	30,000	40,000	175.00
	40,000	50,000	225.00
	50,000	70,000	300.00
	70,000	90,000	400.00

The License			The License		
At Least:	But Less Than:	Tax Is:	At Least:	But Less Than:	Tax Is:
90,000	110,000	500.00	65,000	85,000	150.00
110,000	140,000	625.00	85,000	105,000	190.00
140,000	170,000	775.00	105,000	125,000	230.00
170,000	200,000	925.00	125,000	150,000	275.00
200,000	300,000	1,250.00	150,000	175,000	325.00
300,000	400,000	1,750.00	175,000	200,000	375.00
400,000 or over		2,000.00	200,000	230,000	430.00
			230,000	260,000	490.00
			260,000	300,000	560.00
			300,000	350,000	650.00
			350,000	400,000	750.00
			400,000	450,000	850.00
			450,000	500,000	950.00
			500,000	550,000	1,050.00
			550,000	600,000	1,150.00
			600,000	700,000	1,300.00
			700,000	800,000	1,500.00
			800,000	900,000	1,700.00
			900,000	1,000,000	1,900.00
			1,000,000 or over		2,000.00
					plus 1/10th of
					2% of the
					excess over
					\$1,000,000.

B. Any person who may transact one or more of the businesses, occupations or professions hereinabove in this section enumerated, at one location shall be required to obtain only one license and shall pay the license tax specified herein, based upon the aggregate of his gross receipts realized from the operation of all of said businesses, professions or occupations. (Prior code § 4-123)

5.04.240 License tax—Retail businesses.

Every person transacting or carrying on a retail business unless otherwise specified in this chapter, shall pay an annual license tax based upon the gross receipts resulting from the operation of such business, in accordance with the following scale:

If annual gross receipts are:

The License		
At Least:	But Less Than:	Tax Is:
\$ 1	\$ 10,000	\$ 20.00
10,000	15,000	30.00
15,000	25,000	50.00
25,000	45,000	70.00
45,000	65,000	110.00

(Prior code § 4-124)

5.04.250 License tax—Wholesale or jobbing business.

Every person transacting and carrying on a wholesale or jobbing business shall pay an annual license tax equal to .11 of one percent (.11%) of the gross receipts of such business, with a minimum annual license tax of seventy-five dollars (\$75.00). (Prior code § 4-125)

5.04.260 License tax—Contractors.

A. Every person transacting or carrying on the business of general engineering or building contractor, or plumbing, or electrical, or roofing contractor, or other specialty contractor, shall pay a license tax equal to .11 of one percent (.11%) of the gross receipts of such business, with a minimum annual license tax of fifty dollars (\$50.00).

B. If any person transacting the business enumerated in this section shall carry on a retail, wholesale or jobbing business or any other business, he shall be required to obtain a license and pay the taxes specified for such other business, in addition to the license specified herein. The receipts of the contractors enumerated herein from contracts, performed wholly outside the city, shall not be included in their gross receipts for the purpose of computing the license tax. Any such contractor who does not maintain a fixed place of business within the city shall be required to obtain a license and pay the tax specified herein, with respect to any contract performed by him within the city. (Prior code § 4-126)

If annual gross receipts are:

At Least:	But Less Than:	The License Tax Is:
\$ 1	\$ 100,000	\$ 50.00
100,000	200,000	75.00
200,000	300,000	125.00
300,000	400,000	175.00
400,000	500,000	225.00
500,000	600,000	275.00
600,000	800,000	350.00
800,000	1,000,000	450.00
1,000,000 or over		500.00

B. If any person carrying on the business of manufacturing shall also engage in the retail business, whether selling products manufactured by him or not, he shall be required to obtain a license and pay the tax specified for such retail business in addition to the license specified herein; provided, that any person engaged in the business of manufacturing shall not be required to obtain a license in addition to his manufacturer's license to engage in the wholesale or jobbing business with respect to products manufactured by him. (Prior code § 4-127)

**5.04.270 License tax—
Manufacturing.**

A. Every person carrying on the business of manufacturing shall pay an annual license tax based upon the gross receipts resulting from the operation of such business, in accordance with the following scale:

5.04.280 License tax—Flat amount.

Every person transacting and carrying on the business herein enumerated shall pay a license tax as follows;

A. Circuses and Carnivals. Every person holding, promoting, managing or giving any concert, traveling show, or exhibition for commercial purposes, whether in a tent or otherwise, shall pay a license tax of one

hundred dollars (\$100.00) for the first five days or any part thereof, and twenty dollars (\$20.00) per day thereafter; provided, however, that no license shall be required for any exhibition, show or concert actually given and participated in by any local school, patriotic or civic organization.

B. Barber Shops and Beauty Shops. Every person engaged in the business of conducting, maintaining or carrying on a barber shop or beauty shop, shall pay a license of ten dollars (\$10.00) per quarter for the first chair contained therein and the sum of five dollars (\$5.00) for each subsequent working chair.

C. Billiard and Pool Tables. Every person engaged in the business of conducting any billiard or pool table shall pay a license tax of eight dollars (\$8.00) per quarter for each table located at said business establishment.

D. Bowling Alley. Every person engaged in the business of conducting, maintaining or carrying on any bowling alley in the city shall pay a license tax of eight dollars (\$8.00) per quarter for such alley.

E. Card Tables. Every person operating or maintaining any table, in the city, wherein cards or any legal game of chance is played, shall pay a license tax of twenty dollars (\$20.00) per quarter for each table.

F. Hotels and Rooming Houses. Every person carrying on the business of conducting, operating or managing a hotel or rooming house having four or more rooms, shall pay a quarterly license tax of fifty cents (50¢) per room for each room for which the maximum rental charge is less than one dollar and fifty cents (\$1.50) per day, and a quarterly license tax of eighty cents (80¢)

per room for which the maximum rental charge is one dollar and fifty cents (\$1.50) per day or more; provided, however, that where such person carries on some other business in addition to the renting of such rooms, whether or not such other business shall be carried on in the same premises, he shall be required to obtain a license and pay the tax specified herein.

G. Movie Theaters and Concert Halls. Every person carrying on the business of conducting a concert hall, or a theater containing a permanent stage upon which moveable scenery and theatrical appliances are used, where regular theatrical or vaudeville performances are given and to which an admission is charged, collected or received, or conducting a moving picture theater where moving or motion pictures are exhibited and an admission fee is charged, collected or received, shall pay a quarterly license tax equal to six dollars (\$6.00) per one hundred (100) seats or fraction thereof.

H. Dances. Every person carrying on the business of conducting public dances at which an admission fee is charged, collected or received, shall pay a license tax of ten dollars (\$10.00) for each dance with a maximum of fifty dollars (\$50.00) per quarter.

I. Pin Ball and Juke Boxes. Every person possessing or maintaining, on premises owned or leased by him, any mechanical game, pin ball machine, music box, juke box, or similar game or machine operating solely for amusement, shall pay a license tax of ten dollars (\$10.00) per quarter for each game or machine.

J. Taxi. Every person operating any taxi, bus, or engaged in the business of

carrying persons or baggage for compensation, in the city, shall pay a license tax of twenty dollars (\$20.00) per quarter for each vehicle used in such operation or business.

K. Brokers, Agents and Labor Contractors. Every person transacting or carrying on the business of broker or agent or labor contractor, who does not maintain a fixed place of business in the city, shall pay a license tax quarterly of fifteen dollars (\$15.00).

L. Peddlers and Itinerant Vendors. Every person carrying on the business of peddling or selling or soliciting orders for services, goods, and not having a regularly established place of business in the city, shall pay a license tax of six dollars (\$6.00) per day with a maximum of twenty-four dollars (\$24.00) per month. (Prior code § 4-128)

5.04.290 Enforcement.

It shall be the duty of the chief of police, and he is directed, to enforce each and all of the provisions of this chapter, and it shall be his duty to cause a complaint to be filed against any and all persons found to be violating any of the provisions of this chapter. (Prior code § 4-129)

5.04.300 License tax deemed debt to city.

The amount of any license tax imposed by the provisions of this chapter shall be deemed a debt to the city, and any person carrying on any business without first having procured a license from the city, so to do, shall be liable to an action in the name of the city brought in any court of competent jurisdiction, for the amount of the

license tax imposed upon such business. (Prior code § 4-130)

Chapter 5.08

CABLE TELEVISION SYSTEMS

Sections:

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5.08.030	Cable television service.
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5.08.300	Violations.
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5.08.010 Definitions.

For the purposes of this chapter, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number:

“Ancillary services” means those services provided to subscribers other than basic services and pay television (such as alarm, banking and other nonentertainment services).

“Basic service,” where referred to in this chapter, means a minimum of twelve (12) television channel retransmissions of grantee receivable by all television sets via the standard twelve (12) channel VHF tuner.

“Cable television system;” “CATV;” and “CTV;” “broad-band two-way communications system,” for the purpose of this chapter, are terms describing a system employing antennae, microwave, wires, waveguides, coaxial cables, or other conductors, equipment or facilities, designed, constructed or used for the purpose of:

1. Collecting and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
2. Transmitting original cablecast programming not received through television broadcast signals;
3. Transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers;
4. Transmitting or receiving two-way signals or transmissions;
5. Transmitting or receiving all other signals: digital, voice and audio-visual; provided, however, that any of the services permitted hereunder to be performed, as described above, shall be those performed by the grantee for subscribers, as herein defined, in the operation of a cable television to CATV system franchised by the city and not otherwise.

“City” means the city of Del Rey Oaks, a municipal corporation of the State of California, in its present form or in any later reorganized, consolidated, enlarged or modified form.

“City administrative officer” means the city clerk or other designation of the city’s chief executive officer, or any designee thereof.

“Council” means the governing body of the city or any future body constituting the legislative body of the city.

“Franchise” means and includes any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within all or a specified area in the city.

“Grantee” means the person, firm or corporation granted a franchise by the council under this chapter, and the lawful successor, transferee or assignee of said person, firm or corporation.

“Gross revenue” means any kind and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a grantee from: (1) subscribers or users in payment for video, audio, or other electrical signals, reception or service received within the city including installation; (2) from any other person or utilization of or connection to the property of grantee to the extent city may from time to time locally impose a franchise payment on account thereof. Notwithstanding the above, gross annual receipts shall not include line extension charges or any taxes on services furnished by any city, county, state or other governmental unit and collected by the grantee for such governmental unit; or copyright fees collected on behalf of and transmitted to the Federal Copyright Tribunal, fees paid to program suppliers, advertising revenues and charges made to subscribers for ancillary services; provided, however, that the city expressly reserves the right to review, consider and negotiate with grantee to impose payment to the city of up to three percent

of the revenues derived from ancillary services, as defined herein. Such payment requirement may be imposed no sooner than five years after the award or renewal of a franchise hereunder, and only after a public hearing, and only in the event that the grantee is already paying a similar fee to two or more of the other franchises served by it within Monterey County. Grantee shall not pay franchise fees on services unless similar services provided by other media are also taxed in an equivalent manner.

Line Extension Charge. A “line extension charge” means that additional capital improvement cost, passed on to the subscriber at the time of construction, for bringing service beyond one hundred fifty (150) feet from an existing main trunk line or cable.

“Person” means any natural person and all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, and societies.

“Property of grantee” means all property owned, installed, or used within the city by a grantee in the conduct of a cable television system business under the authority of a franchise granted pursuant to this chapter.

“Special service area” means an area(s) of the city designated by the council, if it so elects, in the franchise agreement, where the franchisee may charge different rates, or provide different service(s), than in the remainder of the city.

“Street” means the surface, the air space above the surface and the area below the surface of any public road, public street, other public right of way or public place, including public utility easements.

“Subscriber” or “user” means any person or entity receiving for any purpose any service of the grantee’s cable television system including, but not limited to, the conventional cable television system service of retransmission of television broadcast, radio signals, grantee’s original cable-casting, and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmissions, pay television, and police, fire and similar public service communication. (Prior code § 13-401)

5.08.020 Franchise to install and operate.

A. A nonexclusive franchise to install, construct, operate, and maintain a cable television system on roads or streets within all or a specific portion of the city may be granted by the council to any person, whether operating under an existing franchise, who or which offers to furnish and provide such system under and pursuant to the terms and provisions of this chapter. No provision of this chapter may be deemed or construed as to require the granting of a franchise when in the opinion of the council it is in the public interest to restrict the number of grantees to one or more.

B. When and in the event that the grantee of any franchise granted hereunder uses in his cable television system distribution channels furnished to the grantee by a telephone company pursuant to tariff or contract on file with a regulatory body having jurisdiction and said grantee makes no use of the streets independent of such telephone company furnished facilities,

said grantee shall be required to comply with all of the provisions hereof as a "licensee" and in such event whenever the term "grantee" is used herein it shall be deemed to mean and include "licensee." (Prior code § 13-402)

5.08.030 Cable television service.

A. Basic Service. The cable television system permitted to be installed and operated hereunder shall:

1. Be operationally capable of relaying to subscriber terminals those television and radio broadcast signals for the carriage of which the grantee is now hereafter authorized by the Federal Communications Commission;
2. Be constructed or reconstructed to be capable of becoming two-way operational;
3. Distribute color television signals which it receives in color;
4. Be constructed and maintained so as to consist of currently used technology which is economically and technically feasible.

B. Non-Basic Services. The cable television system permitted to be installed and operated hereunder, shall have the right to engage in the business of:

1. Transmitting original cablecast programming not received through television broadcast signals;
2. Transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers;
3. Transmitting and receiving all other signals: digital, voice and audio-visual.

C. Subscriber Complaints. In addition to other service regulations adopted by the council, and excepting circumstances beyond grantee's control such as acts of God, riots and civil disturbances, and in providing the foregoing services, the grantee shall:

1. Limit system failures to minimum time duration by locating and correcting malfunctioning promptly, but in no event longer than twenty-four (24) hours after occurrence, irrespective of holidays or other nonbusiness hours.

2. Upon substantial complaint by a subscriber, make a demonstration satisfactory to the city clerk that a signal is being delivered which is of sufficient strength and quality to meet the standards set forth in the regulations of the Federal Communications Commission;

3. Render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest time possible. Planned interruptions, insofar as possible, shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of system. Notice may be by newspaper advertisement or a reasonable number of notices over the cable system itself to subscribers;

4. Maintain an office in the city or within thirty (30) miles of the city boundary, which office shall be open during all the usual business hours, with its telephone number listed in directories of the telephone company serving the city. The phone system shall be so operated that complaints and requests for repairs or adjustment may be received at any time, day or night, seven days a week, or provide a local telephone

directory listing and “toll free” telephone service maintained on a seven-day, twenty-four (24) hours basis for the receipt of a consumer complaint;

5. Maintain a “log,” listing date of customer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by grantee in response thereto; said record shall be kept at grantee’s local office, for a period of one year from the date of complaint, and shall be available for inspection during regular business hours without further notice or demand, by the city clerk or his designated representative. Provided, however, the city clerk may require records be maintained an additional one year period in specific circumstances, including where complaints have been excessive.

D. Governmental Service. With respect to the basic television services, the grantee shall provide all subscriber services, and a tie-in connection, without cost, when the systems main trunk or feeder lines pass within one hundred fifty (150) feet, the following facilities when requested by grantor, subject to the requirements of federal law to:

1. Public schools and community colleges within the city; and
2. Buildings owned and/or controlled by the city, used for public purposes and not for residential use.

E. Uses Permitted. Any franchise granted pursuant to the provisions of this chapter shall authorize and permit the grantee to engage in the business of operating and providing a cable television system in the city, and for that purpose subject to the encroachment ordinance to erect, install,

construct, repair, replace, reconstruct, maintain, and retain in, or over, under, upon, across, and along any road, street, such poles, wires, cables, conductors, ducts, conduit, vaults, manholes, amplifiers, and appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; and, in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other grantee franchised or permitted to do business in the city.

F. Notwithstanding provision of this section, grantor may waive specific requirements in unusual circumstances, including small systems (under five hundred (500) subscribers) or low density (under twenty (20) homes per mile of cable). The adequacy of an application for such waiver shall be weighed against the public interest, by the grantor. (Prior code § 13-403)

5.08.040 Franchise payments.

A. In consideration of the granting and exercise of a franchise to use the roads, streets, as herein defined, for the operation of a cable television system, any grantee shall pay to the city, during the life of the franchise, five percent of the franchisee’s gross annual receipts, as defined in Section 5.08.010, per year from all cable services in the city.

B. The percentage payments shall be made quarterly to the city clerk, or in the manner and at the times directed in said franchise, or in a council resolution fixing franchise fees and adopting rules for service and rate regulation. All receivables shall be

maintained on an accrual basis for the purpose of determining the percentage of monies due to the city under this chapter, with an annual adjustment for bad debts.

C. No acceptance of any payment shall be construed as a release, or as an accord and satisfaction, of any claim the city may have for further or additional sums payable under this chapter or for the performance of any other obligation hereunder.

D. In the event that the above payment is not received by the city within the specified time in addition to the unpaid balance, grantee shall pay to the city as interest thereon the same percentage on the unpaid balance as the city earned on its invested funds during the same period. (Prior code § 13-404)

5.08.050 Franchise term—Duration and termination.

A. The franchise granted by the council under this chapter shall be for a maximum term of seventeen (17) years from the date of its acceptance by the grantee. Grantee may apply for renewal during the last five years of the franchise.

B. The city may terminate any franchise granted pursuant to the provisions of this chapter in the event of the failure, refusal or neglect by grantee to do or comply with any material requirement or limitation contained in this chapter, or any material rule or regulation of the council or city clerk validly adopted pursuant to this chapter.

C. The city clerk may make written demand that the grantee do or comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal or neglect of the grantee continues

for a period of thirty (30) days following such written demand, the city clerk shall cause to be served upon such grantee, at least ten days prior to the date of such council meeting, a written notice of his intent to request such termination, and the time and place of the meeting, notice of which shall be published by the city clerk at least once, ten days before such meeting in a newspaper of general circulation within the city.

D. The council shall consider the request of the city clerk and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause.

E. If such failure, refusal or neglect by the grantee was with just cause, the council shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable.

F. If the council shall determine such failure, refusal or neglect by the grantee was without just cause, then the council may, by resolution, declare that the franchise of such grantee shall be terminated and forfeited unless there be compliance by the grantee within such period as the council may reasonably fix, or reduce the length of the franchise by a period of time up to the duration of the failure and/or violation.

G. The termination and forfeiture of any franchise shall in no way affect any of the rights of the council under the franchise or any provision of law.

H. In the event of any holding over after expiration of any franchise granted hereunder, the grantee shall pay to the council reasonable compensation and damages, of

not less than one hundred (100) percent of its gross receipts in the city during said period. (Prior code § 13-405)

5.08.060 Application for franchise.

Each application for a new (as opposed to a renewal) franchise to construct, operate, or maintain any cable television systems in this city shall be filed with the city clerk and shall contain or be accompanied by the following:

A. The name, address and telephone number of applicant;

B. A detailed statement of the corporate or other business entity organization of applicant, including, but not limited to, the following and to whatever extent required by the city:

1. The names, residence and business addresses of all officers, directors and associates of applicant;

2. The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control of five percent or more of the ownership of applicant and the respective ownership share of each such person or entity;

3. The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its

parent and subsidiary and the areas served thereby;

4. A description of previous experience of applicant in providing cable television system service and in related or similar fields;

5. A detailed and complete financial statement of applicant, prepared by an independent certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both applicant and the council, setting forth the basis for a study performed by such lending institution or funding source, and clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by applicant to construct and operate the proposed system in the city, or a statement from a certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in this city;

6. A statement identifying, by place and date, any other cable television franchise(s) awarded to applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such systems(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;

C. A detailed description of the proposed plan of operation of applicant which shall include, but not be limited to, the following:

1. A detailed map indicating all areas served or proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served;

2. A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges;

3. A detailed, informative and referenced statement describing the actual equipment and operational standards proposed by applicant and that such standards of operations are in compliance with those contained in Title 47, Subpart K (76.601 et seq.), of the Rules and Regulations of the Federal Communications Commission;

4. A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm or corporation, which materially relate or pertain to or depend upon the application and the granting of the franchise;

D. A copy of any agreement covering the franchise area, if existing between the applicant and any public utility, subject to regulation by the California Public Utilities Commission providing for the use of any facilities of the public utility, including but not limited to, poles, lines, or conduits;

E. Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the council, or by

any provision of any other ordinance of the council;

F. 1. An application fee in the sum of five hundred dollars (\$500.00), which shall be in the form of cash, cashier's check, or money order, to pay the costs of studying, investigating, and otherwise processing such application, which shall be in consideration thereof;

2. The council may, by advertisement or any other means, solicit and call for applications for cable television system franchises, and may determine and fix any date upon or after which the same shall be received by the city, or the date before which the same must be received, or the date after which the same shall be received, and may make any other determinations and specify any other times, terms, conditions or limitations respecting the soliciting, calling for, making and receiving of such applications.

3. Upon receipt of any application for franchise, the council shall refer the same to the city clerk who shall prepare a report and make his recommendations respecting such application, and cause the same to be completed and filed with the council.

4. If the council shall determine to further consider the application, it shall pass a resolution setting a public hearing for the consideration of competing applications; fixing and setting forth a day, hour, and place certain when and where a person having any interest therein or objections thereto may file written protests and/or appear before the council and be heard, and directing the city clerk to publish said resolution at least once within ten days of the

passage thereof in a newspaper of general circulation within the city.

5. In making any determination hereunder as to any application for a new franchise, or renewal thereof, the council may give due consideration to the quality of the service proposed, income to the city, experience, character, background, and financial responsibility of any applicant, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy conditions, franchise limitations and requirements, and any other considerations deemed pertinent by the council for safeguarding the interests of the city and the public.

6. At the time set for the hearing, or at any adjournment thereof, the council shall proceed to hear all written protests. Thereafter, the council shall make one of the following determinations:

a. That such application(s) be denied, which determination shall be final and conclusive; or

b. That such franchise be granted and the terms and conditions thereof.

G. The council may reject any and all applications and may, if it so desires, request new and/or additional proposals.

H. The council may at any time demand, and applicant(s) shall provide, such supplementary, additional or other information as the council may deem reasonably necessary to determine whether the requested franchise should be granted.

I. Any grantee, upon the effective date of its franchise, shall be required to reimburse city for its estimated engineering, administrative, environmental, publication

and legal expenses incurred in connection with the processing, evaluation, and preparation of documents relating to such franchise, as such shall be established in the franchise agreement, in a total amount not to exceed fifteen thousand dollars (\$15,000.00), less the five hundred dollar (\$500.00) application fee. Actual costs shall be determined by the city clerk.

J. On any renewal application, the city may waive any of the requirements of this section. (Prior code § 13-406)

**5.08.070 Deposits—Bonds—
Indemnifications—
Insurance.**

A. Performance Deposit to City. The grantee shall concurrently with the filing of an acceptance of award of a new franchise as opposed to a renewal of an existing and built system granted under this chapter, deposit in a financial institution selected by the city the sum of not to exceed fifty thousand dollars (\$50,000.00) in a joint account with the grantee and the city as cosignators. The amount shall be determined by the council upon recommendation by the city clerk. This sum shall be maintained in an interest-bearing joint account during the period of construction of the cable television system within the city limits, but in no event in excess of three years. The return of the sum plus interest to the grantee shall be conditioned upon the faithful performance of the grantee, and upon the further condition that in the event grantee shall fail to comply with any one or more of the provisions of this chapter or of the franchise issued to the grantee hereunder, there shall be recoverable from this sum any damages

or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed herein which may be in default, plus a reasonable allowance for the attorney's fees and costs, up to the full account. In lieu of said deposit, grantee may file with the city a corporate surety bond or other adequate security in the same amount and condition as above.

B. Performance Bond for Subscribers.

1. Upon being granted a franchise, and upon filing of the acceptance required hereunder, the grantee shall file, annually, with the city clerk, and shall thereafter during the entire term of such franchise maintain in full force and effect a corporate surety bond, or other adequate surety agreement, in the amount of ten thousand dollars (\$10,000.00). The bond or agreement shall be so conditioned that in the event such grantee shall fail to comply with any one or more of the provisions of any agreement or undertaking made between grantee and any subscriber, then there shall be recoverable jointly and severally from the principal and surety any damages or costs suffered or incurred by a subscriber as a result thereof, including reasonable attorney's fees and costs of any action or proceeding. Said condition shall be a continuing obligation during the entire term of such franchise and thereafter until grantee shall have satisfied in full any and all obligations to any subscriber which arise out of or pertain to any such agreement or undertaking.

2. An additional performance bond may be required in appropriate amounts and conditions if grantee solicits prepayment

from potential subscribers prior to becoming operational.

C. Indemnification. Grantee, by accepting a franchise, and grantor by granting a franchise, shall be deemed to have agreed to indemnify and hold each other, its officers, boards, commissions, agents, consultants and/or employees, harmless against and from all claims, demands, causes of actions, suits, proceedings, damages, costs or liabilities of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, costs and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, and/or court costs, incurred as a result of such indemnifying party's negligence or willful misconduct.

D. Defense of Litigation.

1. Grantee shall, at the sole risk and expense of grantee, upon demand of the city, made by and through the city council, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or affecting the city, its officers, boards, commissions, agents, or employees, and arising out of or pertaining to the exercise of the enjoyment of such franchise.

2. Grantee shall pay and satisfy or shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against grantee, the city, its officers, boards, commissions, agents, or employees arising from grantee's enjoyment

of the franchise; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided that neither grantee nor city shall make or enter into any compromise or settlement of any claim, demand, cause of action, action suit, or other proceeding, without first obtaining the written consent of the other.

E. Insurance Required. Upon being granted a franchise and upon the filing of the acceptance required hereunder, the grantee shall file with the city clerk and shall thereafter during the entire term of such franchise, maintain in full force and effect, at its own cost and expense, each of the following policies of insurance:

1. General comprehensive liability insurance in the amount of one million dollars (\$1,000,000.00), together with bodily injury liability insurance in an amount of not less than five hundred thousand dollars (\$500,000.00) for injuries including accidental death to one person, and subject to the same limit for each person in an amount of not less than one million dollars (\$1,000,000.00) on account of any one occurrence, and property damage liability insurance in an amount not less than fifty thousand dollars (\$50,000.00) resulting from any one occurrence, and worker's compensation insurance as provided by statute; provided, however, as follows:

a. The city shall be named as an additional insured in any of said insurance policies; and said policies shall contain an endorsement that the insurance shall be

primary as to any insurance coverage which the city may have.

b. Where such insurance is provided by a policy which also covers grantee or any other entity or person, it shall contain the standard cross-liability endorsement. (Prior code § 13-407)

5.08.080 Acceptance of the franchise.

A. No franchise granted under this chapter shall become effective for any purpose unless and until written acceptance thereof shall have been filed with the city clerk. Written acceptance, which shall be in the form and substance approved by the city attorney, shall also be and operated as an acceptance of each and every term and condition and limitation contained in this chapter, or in such franchise, or otherwise specified as herein provided.

B. The written acceptance shall be filed by the grantee not later than 12:01 p.m. of the 40th day next following the effective date of the resolution granting such franchise.

C. In default of the filing of such written acceptance as herein required, the grantee shall be deemed to have rejected and repudiated the franchise. Thereafter, the acceptance of the grantee shall not be received nor filed by the city clerk. The grantee shall have no rights, remedies, or redress in the franchise, unless and until the council, by resolution, shall determine that such acceptance be received or filed, and then upon such terms and conditions as the council may impose.

D. In any case, and in any instance, all rights, remedies and redress which may or

shall be available to the city, shall be preserved and maintained and shall continuously exist in and to the city and shall not be in any manner or means modified, abridged, altered, restricted, or impaired by agreement or otherwise. (Prior code § 13-408)

5.08.090 Limitations of franchise.

A. Every franchise granted under this chapter shall be nonexclusive.

B. No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed herein.

C. Any privilege claimed under such franchise by the grantee in any road, street or other public property shall be subordinate to any prior lawful occupancy to the roads, streets or other public property.

D. 1. Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be sold, transferred, leased, assigned, or disposed of, in whole or in part, either by force or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without prior consent of the council expressed by resolution, and then only under such conditions as may be therein prescribed. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale, or similar document, a duly executed copy of which shall be filed in the office of the city clerk within thirty (30) days after any such transfer or assignment. The said consent of the council may not be unreasonably refused; provided, however, that proposed assignee must show responsibility as determined by the council utilizing the factors specified in

Section 5.08.060 and must agree to comply with all provisions of this chapter; and provided, further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation, in whole or in part, to secure an indebtedness, except that when such hypothecation shall exceed twenty-five (25) percent of the market value of the property used by the franchisee in the conduct of the cable television system, prior consent of the council shall be required for a transfer. Such consent shall not be withheld unreasonably.

2. In the event that grantee is a corporation, prior approval of the council, expressed by resolution, shall be required where there is an actual change in control or where ownership of more than twenty-five (25) percent of the voting stock of grantee is acquired by a person or group of persons acting in concert, none of whom already own fifty (50) percent or more of the voting stock, singly or collectively. Any such acquisition occurring without prior approval of the council shall constitute a failure to comply with a provision of this chapter within the meaning of Section 5.08.050 of this chapter.

E. Time shall be of the essence of any such franchise granted hereunder. The grantee shall not be relieved of the obligation to comply promptly with any of the provisions of this chapter by any failure of the city to enforce prompt compliance.

F. Any right or power in, or duty impressed upon, any officer, employee, department, or board of the city shall be subject to transfer by the city to any other officer, employee, department, or board of the city.

G. The grantee shall be subject to all requirements of city laws, rules, regulations, and specifications heretofore or hereafter enacted or established.

H. Any such franchise granted shall not relieve the grantee of any obligations involved in obtaining pole or conduit space from any department of the city utility company, or from other maintaining utilities in roads and streets.

I. Any such franchise granted shall not relieve the grantee of any obligations involved in obtaining encroachment permits or permits to excavate in any road or street from any department of the city.

J. Any franchise granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled or exercisable by grantee, or any successor to any interest of grantee, of or pertaining to the construction, operation or maintenance of any cable television system in the city; and the acceptance of any franchise hereunder shall operate, as between grantee and the city, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the city, to the effect that as between grantee and the city, and all construction, operation and maintenance by any grantee of any cable television system in the city shall be, and shall be deemed and construed in all instances and respects to be, under and pursuant to said franchise, and not hereunder pursuant to any other right, privilege, power, immunity or authority whatsoever, except as provided by preemptive law or statute, state or federal. (Prior code § 13-409)

5.08.100 Rights reserved to the city.

The city reserves the power to adopt and enforce requirements and regulations, if financially feasible, on any or all of the following matters, if an when deemed necessary and proper in the public interest by the council and are consistent with Rules and Regulations of the Federal Communications Commission, and applicable state and federal law:

A. Requirements and regulations pertaining to minimum service requirements included in this chapter and fair business practices by the grantee;

B. Public safety requirements pertaining to the installation and use of all CATV equipment;

C. Procedures for the investigation and resolution of all complaints by subscribers regarding grantee's CATV operations, including implementation thereof by designated city officers, employees or agents;

D. There is reserved to the city every right and power which is required to be herein reserved or provided by any law and the grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the city in its exercise of such rights or powers, heretofore or hereafter enacted or established;

E. Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the city to acquire the property of the grantee, either by purchase or through the exercise of the rights of eminent domain, at a fair market value as a going concern, which shall not include any amount for the franchise itself or for

any of the rights or privileges granted, and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the city's right of eminent domain;

F. Neither the granting of any franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the city;

G. The council may do all things which are necessary and convenient in the exercise of its jurisdiction under this chapter and may determine any question of fact which may arise during the existence of any franchise granted hereunder. The city clerk, with the approval of the city attorney, is authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of any grantee under this chapter, either on behalf of the city, the grantee, or any subscriber, in the best interest of the public. Either the grantee or any member of the public, who may be dissatisfied with the decision of the city clerk, may appeal the matter to the council for hearing and determination. The council may accept, reject or modify the decision of the city clerk, and the council may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the grantee or from any provisions of this chapter;

H. In the event that the Federal Communications Commission elects to deregulate any area of cable communication over which it currently exercises jurisdiction, or grant authority to municipalities to regulate in these areas, any franchise issued pursuant to this chapter shall be automatically amended, without any additional act by any

party to it, to reflect these new municipalities regulatory powers, and the city may, if it so elects, reasonably adopt rules and regulations in these areas, after a public hearing and negotiation with the grantee. (Prior code § 13-410)

5.08.110 Council may adopt rules and regulations.

A. Standards of Operation.

1. Prior to granting such franchises, the council may adopt further rules, regulations and standards governing the operation of cable television systems in the city. Such rules, regulations and standards shall apply to and shall govern the operation of the grantee of any franchise hereunder, and are expressly declared a part of any franchise hereunder.

2. The standards adopted pursuant to these procedures shall be exclusively in those areas not either expressly or impliedly preempted by the Federal Communications Commission at the time of adoption.

B. Rates.

1. Grantee shall have the right, after thirty (30) days advance notice to its subscribers and to the city council, to increase the rates charged for basic cable television installation, subscriber rates, and service; provided, however, that the rates charged to subscribers within the city following such a proposed increase shall not exceed the average of all other similar rates charged by the grantee within its service area in Monterey County. Said resulting increase shall be rounded to the nearest five cents (\$.05). At least twelve (12) calendar months shall elapse between each rate increase as defined herein. In the event the grantee

wishes to increase the basic rates in excess of said amount, it may submit a request to the city council, together with supporting documentation. The city council shall refer the matter to the city administrative officer for review and recommendation back to the city council for consideration at a regular meeting. Said meeting shall be within one hundred twenty (120) days of the date of rate increase application by the grantee unless extenuating circumstances exist. Notice of said meeting shall be published at least ten days prior to said meeting in a newspaper of general circulation in the city. The council may approve, disapprove, or modify the amount of the requested increase which is in excess of the amount based on the service area average as provided herein.

2. No charge shall be imposed upon any subscriber for termination of CATV service or removal of CATV apparatus upon termination of such service. No rate or charge of any type shall be imposed on a subscriber after receipt of notice of termination from subscriber, unless such subscriber withdraws such notice prior to actual termination of service.

3. No charge shall be made to any subscriber by reason of the maintenance, repair, removal or replacement of any CATV apparatus, or property of grantee, unless the same was caused by the deliberate or negligent act of such subscriber.

4. Except as otherwise provided by subsection (B)(1) of this section, grantee shall not charge different rates to subscribers receiving the same services, nor shall there be any difference in the services or facilities or in any other respect between

subscribers, except as authorized in special services area and, except that installation charges may vary according to the costs of installation. No grantee shall make or grant any preference to any corporation or person as to rates, charges, services, facilities, or rebates, or in any other respect, nor subject any corporation or person to any prejudice or disadvantage. These subsections, (B)(1) through (B)(4), shall not apply if the cable system is deregulated pursuant to state of federal law.

C. In addition to any other rate for services, the grantee may make an additional charge representing the actual cost of the federal copyright fee imposed pursuant to the Federal Copyright Act of 1976. Said fee shall be separately identified on any billing as the "Federal Copyright Fee" or other similar wording. On or before July 1st and January 1st of each year, the grantee shall submit to the city proof of the amount actually paid to the federal government, the amount collected from customers for the previous six months, and the amount to be billed customers for the next six-month period. The amount billed customers shall be adjusted each six months to the nearest one cent (\$.01) so that the gross fee collected from customers is as nearly equal as possible to the amount of fee paid by the grantee.

D. The grantee may make an additional charge to each subscriber representing the actual franchise fee paid to the city. The amount billed customer shall be adjusted to the nearest one cent (\$.01) so that the gross fee collected from customer is as nearly equal as possible to the amount of fee paid to the city. (Prior code § 13-411)

5.08.120 Permits and construction.

A. 1. Within thirty (30) days after acceptance of any new franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business including, but not limited to, any utility joint use attachment, agreements, microwave carrier licenses and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of the cable television systems, or associated microwave transmission facilities.

2. In connection therewith, copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting grantee's cable television operations, shall, upon request, also be submitted simultaneously to the city administrative officer.

B. Within ninety (90) days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, encroachment permits in roads and streets, grantee shall commence construction and installation of the cable television system.

C. Within one hundred eighty (180) days after the commencement of construction and installation of the system, grantee shall proceed to render service to subscribers, and the completion of the installation and construction shall be pursued with reasonable diligence thereafter, so that service to all of the areas designated and

schedules on the map and plan of construction made part of the franchise shall be provided as set forth therein. Grantee is required to complete said construction in a maximum of three years, although a shorter time may be specified in the franchise.

D. 1. Grantee shall utilize existing poles, conduits, and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property unless and until first securing the written approval of the city administrative officer.

2. Whenever grantee does not utilize existing poles conduits and other facilities, or whenever existing conduits and other facilities are to be located beneath the surface of the roads, or whenever the city shall undertake a program designed to cause all conduits and other facilities to be located beneath the surface of the streets in any area within the city, the city, in the exercise of its police power or pursuant to the terms hereof upon reasonable notice to grantee, may require such conduits or other facilities of grantee shall be constructed, installed, placed, or replaced beneath the surface of the streets. Any construction, installation, placement, replacement, or changes which may be required shall be made at the expense of grantee, whose costs shall be determined as in the case of public utilities. Grantee shall be entitled to a proportionate share of any Rule 20 monies.

E. The city shall have the right, free of charge, to make additional use, for any public or municipal purpose, whether governmental or proprietary, of any poles, conduits, or other similar facilities erected,

controlled, or maintained exclusively by or for grantee in any street, provided such use by city does not interfere with the use by the grantee.

F. In those areas of the city where the transmission or distribution facilities of the respective public utilities providing telephone, communication and electric services are underground or hereafter are placed underground, the grantee likewise shall construct, operate and maintain all of his transmission and distribution facilities underground. The term "underground" shall include a partial underground system; provided, that upon obtaining the written approval of the city administrative officer, which consent shall not be unreasonably withheld, amplifiers in the grantee's transmission and distribution lines may be placed above ground where similar telephone, electrical distribution, and gas distribution facilities are located above ground.

G. The grantee, at his expense, shall protect, support, temporarily disconnect, relocate, or remove any property of grantee when, in the opinion of the city administrative officer the same is required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of road or street grade, installation of sewers, drains, waterpipes, power line, signal line, transportation facilities, tracks, or any other types of structure or improvement or governmental agencies, whether acting in a governmental or a proprietary capacity, or any other structure or public improvement, including, but not limited to, movement of buildings, urban renewal and redevelopment, and any general program under which the city shall

undertake to cause all such properties to be located beneath the surface of the ground. The grantee shall in all cases have the privilege, subject to the corresponding obligations, to abandon any property of grantee in place, as herein provided. Nothing hereunder shall be deemed a taking of the property of grantee, and grantee shall be entitled to no surcharge by reason of anything hereunder.

H. Upon the failure, refusal, or neglect of grantee to commence and diligently pursue any work or other act required by law or hereunder to be properly completed in, on, over or under any street within any time prescribed therefor, or upon notice given, where no time is prescribed, the city administrative officer may cause such work or other act to be completed in whole or in part, and upon so doing shall submit to grantee an itemized statement of the costs thereof. The grantee shall, within thirty (30) days after receipt of such statement, pay to the city the entire amount thereof.

I. In the event that,

1. The use of any part of the system of grantee is discontinued for any reason for a continuous period of thirty (30) days, without prior written notice to and approval by the city; or

2. Any part of such system has been installed in any street or other area without complying with the requirements hereof; or

3. Any franchise shall be terminated, cancelled or shall expire;

then the grantee shall, at the option of the city, and upon demand of the city, promptly remove from any roads or streets or other area all property of grantee, and grantee shall promptly restore the road or street or other area from which such property has

been removed to such condition as the city administrative officer shall approve.

J. The council may, upon written application therefor by the grantee, approve the abandonment of any of such property in place by grantee and under such terms and conditions as the council may prescribe. Upon abandonment of any such property in place, grantee shall cause to be executed, acknowledged, and delivered to the city such instruments as the city council shall prescribe and approve, transferring and conveying the ownership of such property to the city. (Prior code § 13-412)

5.08.130 Technical standards.

In the event of nonpreemption by federal law:

A. The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire license period. Signals provided at each customer termination shall be low noise, high quality, with a minimum strength of 0 dBmV.

B. The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of industry to the effect that subscribers shall receive a high quality signal. In determining the satisfactory extent of such standards following, among others, shall be considered.

C. The system be installed using all band equipment capable of passing the entire VHF and FM spectrum.

D. The system, as installed, be capable of passing standard color TV signals without the introduction of material degradation on color fidelity and integrity.

E. The system and all equipment be designed and rated for twenty-four (24) hour per day continuous operation.

F. The system provides a nominal signal level of 1000 microvolts (0 dBmV) at the input of each TV receiver.

G. The system signal-to-noise ratio is not less than forty (40) decibels.

H. The hum modulation of the picture signal is less than five percent.

I. The system use components having a VSWR of 1.4 or less.

J. Within thirty (30) days after completion of the annual performance test required by the Federal Communications Commission, a copy of the results thereof shall be filed with the county clerk.

K. Upon reasonable request for service by any person located within the license area, the grantee shall within one hundred twenty (120) days, furnish the requested service to such person within the term of the line extension policy. A request shall be unreasonable for the purpose of this subsection if no trunk line installation capable of servicing that person's block has as yet been installed. The city administrative officer may grant the grantee relief from the one-hundred-twenty-day requirement upon the grantee's presentation of evidence of good faith effort and its inability to meet the one-hundred-twenty-day time limit.

L. Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents within the confines of the city.

M. Grantee shall be responsible for eliminating all interference to land mobile communications systems, aeronautical or navigational radio receivers or systems and/or television receivers or systems, caused by radiation from grantee's receivers, amplifiers, transmitters or distribution system.

N. The grantee shall continue, through the term of the license, to maintain the technical standards and quality of service set forth in the grantee's license award agreement. Should the council find, by resolution, that the grantee has failed to maintain these technical standards and quality of service, and should it, by resolution, specifically enumerate improvements to be made, the grantee shall make such improvements. Failure to make such improvements within sixty (60) days of such resolution will constitute a breach of franchise conditions. (Prior code § 13-413)

5.08.140 Inspection of property and records.

A. Examination of Property. At all reasonable times, during normal business hours, the grantee shall permit any duly authorized representative of the city to examine all property of the grantee, together with any appurtenant property of the grantee, used for providing cable service to and/or, within the city, whether situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the grantee or under its control which deal with the technical operation and performance of the system serving the city, and/or those records of the grantee showing gross revenues from

service within the city. If any such maps or records are not kept in the city, or upon reasonable request made available in the city, and if the council shall determine that an examination thereof is necessary or appropriate, then travel and maintenance expense necessarily incurred in making such examination shall be paid by the grantee.

B. The grantee shall prepare and furnish to the city administrative officer at the times and in the form prescribed by said officer, such reports as may be reasonably necessary or appropriate to the performance of any of the rights, functions or duties of the city or any of its officers in connection with the franchise.

C. The grantee shall at all times make and keep available to the city full and complete plans and records showing the exact location of all CATV trunk and distribution equipment installed or in use in streets and other public places in the city.

D. The grantee shall file with the city surveyor, upon request, a current map or set of maps drawn on scale, showing all CATV distribution equipment installed and in place in streets and other public places of the city. Once the first set of maps is filed, revisions may be filed upon request each year in lieu of a full new set of maps. (Prior code § 13-414)

5.08.150 Right to purchase system.

Upon the revocation of the franchise, or the expiration of the terms thereof, and upon payment for the grantee's CATV system, to the extent authorized by law, the grantor may purchase, acquire, takeover, or hold said system. For purposes of this section, "fair market value" shall be

determined by valuing the grantee's system as a going concern. No value shall be assigned to the franchise granted hereunder. Immediately upon a determination of revocation or expiration of the franchise, the grantor and grantee shall attempt to mutually agree upon the fair market value of the system. However, if within a reasonable period of time they cannot agree upon the fair market valuation, then said valuation shall be determined by a three-member board of appraisers, one selected by the grantor, one selected by the grantee, and one selected by the appraisers themselves. The cost of said appraisal shall be borne equally by the grantor and the grantee. (Prior code § 13-415)

5.08.160 Right of intervention.

The city may intervene at its expense in any suit or proceeding in which the grantee is a party; provided, that the city's interests are not adequately represented by the existing parties, and provided further, that the disposition of each suit or proceeding without the city's participation may, as a practical matter, impair or impede the city's ability to protect those interests. (Prior code § 13-416)

5.08.170 Disconnection, relocation or removal may be required.

The licensee shall, at its expense, protect, support, temporarily disconnect, relocate the same street, or remove from any street any of its CATV systems when required by the road commissioner by reason of traffic conditions, public safety, street vacation, county freeway construction, change or

establishment of street grade, installation of sewers, drains or any other type of structures by the city, or other governmental agencies or any other street or public improvements; provided, however, that the licensee shall, in all such cases, have the privileges and be under the obligations to abandon any portion of the CATV system in places which are provided in Section 5.08.120. (Prior code § 13-417)

5.08.180 Safety requirements.

A. The grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Electrical Code, as it now exists or hereafter may be amended, and in such manner that they will not interfere with any installations of the city or a public utility serving the city.

C. All structures and all lines, equipment and connections in, over, under and upon the roads, streets, sidewalks, alleys, and public ways or places of the city, wherever situated or located, shall at all times be kept and maintained in a safe, suitable substantial condition, and in good order and repair.

D. The grantee shall strictly adhere to all building and zoning codes currently or hereafter in force. The grantee shall arrange its lines, cables, and other appurtenances on both public and private property, in such a

manner as to cause no unreasonable interference with the use of said public or private property by any person. (Prior code § 13-418)

5.08.190 Removal of facilities upon request.

Upon termination of service to any subscriber, the grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request. (Prior code § 13-419)

5.08.200 Repair of streets and public ways.

Any and all roads, streets and public ways which are disturbed or damaged during the construction, operation, maintenance, or reconstruction of the cable television system, shall be promptly repaired by the grantee, at its expense, to the satisfaction of the grantor. This shall be done under authority of encroachment permit. Upon any failure of the licensee to commence, upon ten days' written notice, pursue or complete any work required of it by law, ordinance, or by the provisions of this chapter to be done in any street, the road commissioner, at his option and according to law, may cause such work to be done and the licensee shall pay to the city the cost thereof in the itemized amounts reported by the road commissioner to the licensee, within thirty (30) days after receipt of such itemized report. (Prior code § 13-420)

5.08.210 Erection of poles.

The grantee is expected to make use of existing aerial poles. However, the grantee shall have the right to erect poles if written

permission is obtained from the grantor. Except as may be permitted, the grantee shall lease pole space from existing owners for all construction. The grantor shall utilize its best efforts to assist in arriving at equitable rental agreement. (Prior code § 13-421)

5.08.220 Services.

Services shall be offered to all city residents served by the franchise in accordance with the provisions of the franchise agreement. (Prior code § 13-422)

5.08.230 Special service area.

As defined in the franchise agreement, the grantee shall be permitted to charge higher installation fees for areas of low housing density, commercial areas and/or underground utility areas that require exceptionally high construction costs. Upon petition by the grantee, the council may defer or indefinitely suspend any expansion into such a special service area after a showing by grantee that such expansion would cause unreasonable financial hardship to grantee. The adequacy of such a showing shall be determined and weighed against the public interest in system expansion by the council after a public hearing. (Prior code § 13-423)

5.08.240 Receivership.

Upon the foreclosure or other judicial sale of all or a substantial part of the CATV System, or upon the termination of any lease covering all or a substantial part of the CATV System, the grantee shall notify the city clerk of such fact, and such notification shall be treated as a notification that a change of control of the grantee has taken place and the provisions of this chapter

governing the consent of the council to such change in control of the grantee shall apply. The grantor shall have the right to revoke the franchise one hundred twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

A. Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of the franchise and remedied all defaults thereunder; and

B. Such receiver or trustee, within said one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of the franchise. (Prior code § 13-424)

5.08.250 Authority of city to terminate in the event of condemnation.

In order to preserve the right of the city under the franchise provided for, and its right to acquire the property of the grantee by purchase or by eminent domain proceedings at its then fair market value, at any time during the existence of the franchise, it is especially provided that at any time the franchise or the property of the grantee under the franchise shall become the subject of eminent domain proceedings by the city, the city reserves and shall have the right at the time such proceedings are commenced,

or at any time thereafter, to terminate said franchise by resolution. (Prior code § 13-425)

5.08.260 Continuity of service mandatory.

It shall be the right of all subscribers to receive all contracted for available services insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to overbuild, rebuild, modify, or sell the system, or the grantor revokes or fails to renew the franchise, the grantee shall do everything in its power to insure that all subscribers receive continuous, uninterrupted service regardless of the circumstances during the lifetime of the franchise. In the event of purchase by the grantor, or a change of grantee, the current grantee shall cooperate with the grantor to operate the system for a temporary period, as agreed upon between grantor and grantee, in maintaining continuity of service to all subscribers. In such case the city shall waive the provisions of Section 5.08.050(H). (Prior code § 13-426)

5.08.270 Financial disclosure of independent consultant.

A. Any individual, partnership or corporation employed by the city for the purposes of advertising, the city, its council, commissions, city administrative officer, or staff, on matters relating to cable television, or reviewing and evaluating, or assisting the city in reviewing and evaluating, proposals for the construction and operation of a cable television system(s), or regulating, or assisting the city in regulating, a cable television system, shall, as a term condition of their employment, file within ten days of the date

of employment with the city clerk a statement containing:

1. A listing and description of any financial and/or ownership held by the consultant in any cable television company, any subsidiary or affiliate of any cable television company which is a supplier or customer of any cable television company, or in any other company which owns stock or has any interest in any of those types of companies which are described in this section. If the consultant is a partnership, the financial and/or ownership interests in cable television companies, affiliates, subsidiaries, suppliers and customers of any partner must be disclosed. If the consultant is a corporation, the financial and/or ownership interests in cable television companies, affiliates, subsidiaries, suppliers and customers of any shareholder, officer or director must be disclosed.

2. A listing and description of any cable television company, affiliate, subsidiary, supplier or customer which the consultant has represented, on a compensated or non-compensated basis, within the last fifteen (15) years.

B. The statement filed pursuant to this section shall be a public document open to inspection by any person. Failure to file this statement, or the inclusion of a material misrepresentation or omission within the statement, shall constitute grounds for the city's termination of the employment contract. The provision shall not apply to individuals who are subject to the reporting requirements of the "Political Reform Act of 1974" (California Government Code Sections 81000 et seq.) under the local Conflict of Interest Code if the disclosures required

by the code are substantially similar to those of this section. (Prior code § 13-427)

5.08.280 Miscellaneous provisions.

A. A franchise granted to provide service within the city shall authorize and permit the grantee to solicit, sell, distribute and make a charge to subscribers within the city for connection to the cable television system of grantee, and may also authorize and permit the grantee to traverse any portion of the city in order to provide service outside the franchise area.

B. Arrangements for response to security alarms must be made with appropriate response agency and must be in conformance to their regulations and those of Monterey County Communications Department.

C. No franchise granted under this chapter shall ever be given any value by any court or other authority, public or private, in any proceeding of any nature or character, wherein or whereby the city shall be a party or affected therein or thereby.

D. 1. Grantee shall be subject to all provisions of the other ordinances, rules, regulations and specifications of the city heretofore or hereafter adopting, including, but not limited to, those pertaining to works and activities in, on, over, under and about roads or streets.

2. Any privilege claimed under any franchise granted pursuant to this chapter in any road or street or other public property shall be subordinate to any prior lawful occupancy of the roads, street, or other public property.

3. Grantee also shall be subject to the provisions of general laws of the State of California, or as hereafter amended, when

applicable to the exercise of any privilege contained in any franchise granted under this chapter, including, but not limited to, those pertaining to works and activities in and about state highways.

E. Grantee shall be prohibited from directly or indirectly providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose. Grantee shall not directly or indirectly provide any information contained in two-way communications to any unauthorized recipient.

F. If the Federal Communications Commission or the Public Utilities Commission of the State of California or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of any franchise granted under this chapter, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the city, the jurisdiction of the city shall cease and no longer exist.

G. When not otherwise prescribed herein, all matters herein required to be filed with the city shall be filed with the city clerk.

H. No person, firm or corporation within the service area of the grantee, and where trunk lines are in place, shall be refused service; provided, however, that the grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charge.

I. When economically and technically feasible, grantee shall enter into an agreement with a subdivider or developer to provide cable service when the development

is within the grantee's service area and when such service is required as a condition of a tentative subdivision map, use permit or other special permit. All trenching costs shall be borne by the developer and all wiring and trenching must conform to grantee's technical specifications. (Prior code § 13-428)

5.08.290 Equal opportunity employment and affirmative action plan.

A. In the carrying out of construction, maintenance and operation of the cable television system, the grantee shall not discriminate against any employee or application for employment because of race, creed, color, sex or national origin.

B. The grantee shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including, apprenticeship.

C. The grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

D. The grantee shall, in all solicitations, or advertisements for employees placed by or on behalf of the grantee, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, sex or national origin. (Prior code § 13-429)

5.08.300 Violations.

A. From and after the effective date of this chapter, it is unlawful for any person to construct, install or maintain within any public street in the city, or within any other public property of the city, or within any privately owned area within the city which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the city, any equipment or facilities for distributing any television signals or radio signals through a cable television system, unless a franchise authorizing such use of such road or street or property has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.

B. It is unlawful for any person, firm or corporation to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable television system within this city for the purpose of enabling himself or others to receive or use any television signal, radio signal, picture, program or sound, without payment to the owner of said system.

C. It is unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Prior code § 13-430)

5.08.310 System outage and complaint service.

The grantee shall maintain a subscriber complaint service for routine handling of

customer service requests, as part of the requirements of the local staff as follows:

A. All calls involving loss of reception on all channels will normally be dispatched to the field immediately. If the loss of reception on all channels affects five or more customers, at any time of day or night, repairs will be dispatched to the field immediately and repairs will be made as soon as possible. Total loss of reception involving fewer than five customers will normally be corrected on the same day received except if reported after 2:00 p.m.; in which case, correction may be postponed to the following day. The majority of all outages (total loss of reception on all channels) will be corrected within twelve (12) hours or less.

B. Requests for repairs made after hours or on weekends should be answered by an answering service or staff. Outage calls will be referred immediately to the standby technician for resolution in accordance with the procedure outlined hereinabove. Calls involving degraded service will be reported by the answering service not later than the beginning of the next business day. The staff will then call the customer to schedule a service call.

C. If, in response to a complaint, the service technician finds no one home, a call to the dispatch operator shall be made; who, in turn, shall try to contact the subscriber by phone.

D. If the subscriber is still not contacted, the service technician shall check and correct any problems found outside the subscriber's residence and leave a door hanger informing the subscriber what was found and corrected, and requesting the

subscriber to make a service appointment if the problem still exists.

E. If the subscriber is home, the service technician shall introduce himself/herself, talk with the subscriber, determine the cause of the problem and correct it if the problem lies in the cable system. The technician should carry a test television set to compare pictures with the subscriber's set.

F. Calls or letters involving complaints about billing will be processed immediately whenever possible.

G. Service installations shall be accomplished on a timely basis.

H. The grantee shall have a follow-up policy to ensure customer satisfaction.

I. Grantee will maintain a data base, or "log," listing date of all consumer complaints, identifying the subscriber and describing the nature of the complaint, and when and what action was taken by the grantee in response thereto. The data base shall be maintained from the date of first subscriber service or franchise award, whichever is sooner. Such record, including letter complaints, shall be kept accessible at grantee's local office for a period of three years, and shall be available for inspection upon reasonable (normally twenty-four (24) hours) notice during regular business hours by any duly authorized representative of the city. (Prior code § 13-431)

Chapter 5.12

PEDDLERS AND SOLICITORS

Sections:

5.12.010	Definitions.
5.12.020	Permit required.
5.12.030	Nuisance.

5.12.010 Definitions.

"Private residential premises" for the purpose of this chapter is defined as follows:

Any premises in the city whereupon any person, or persons are residing or living, including private residences, hotels, boarding houses, rooming houses, apartments, flats, bungalows, or motor courts, or multiple residential dwellings.

"Solicitors, peddlers, hawkers, itinerant merchants, and itinerant vendors of merchandise" and each of such terms are defined for the purpose of this chapter as follows:

Solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise not having a fixed place of business within the city limits of the city. (Prior code §§ 4-203, 4-204)

5.12.020 Permit required.

It is unlawful for any person, firm or corporation, directly or indirectly, to enter upon any private residential premises in the city for any of the purposes set forth in Section 5.12.030 without first obtaining from the police department of the city, a permit in writing so to do, and the police department may deem necessary or desirable in the public interest, and the police

department may require any such applicant to submit fingerprints of the applicant or of any person, desiring to solicit, peddle, hawk, deliver, sell or buy goods, wares and merchandise in or upon any such private residential premises in the city. (Prior code § 4-202)

5.12.030 Nuisance.

The entry in or upon private residential property or premises in the city by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise without invitation or authorization of the occupant, or the occupants of such residential premises so to do for the purpose of soliciting order for goods, wares and merchandise or disposing of or peddling or hawking the same is declared to be and constitutes a public nuisance and a misdemeanor, punishable as hereinafter set forth. (Prior code § 4-201)

Chapter 5.16

FRANCHISES

Sections:

5.16.010	Definitions.
5.16.020	Franchise granted.
5.16.030	Relocation of equipment.
5.16.040	Term of franchise.
5.16.050	Grantee payments to city.
5.16.060	Gross receipts report required.
5.16.070	Granting authority.
5.16.080	Effective date.
5.16.090	Publication expense reimbursement to city.
5.16.100	Written acceptance required.

5.16.010 Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

The word "grantee" shall mean Pacific Gas and Electric Company and its lawful successors or assigns;

The word "city" shall mean the city of Del Rey Oaks, a municipal corporation of the state of California in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form;

The word "streets" shall mean the public streets, ways, alleys and places as the same now are or may hereafter established within the city;

The phrase “poles, wires, conduits and appurtenances” shall mean poles, wires, towers, supports, conductors, cables, guys, stubs, platforms, crossarms, braces, transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances and without limitation to the foregoing, any other property located or to be located in, upon, along, across, under or over the streets of the city and used or useful in transmitting and/or distributing electricity;

The phrase “construct, maintain and use” shall mean to construct, erect, install, lay, operate, maintain, use, repair, or replace. (Prior code § 13-101)

5.16.020 Franchise granted.

The franchise to construct, maintain and use poles, wires, conduits and appurtenances necessary or proper for transmitting and distributing electricity to the public for any and all purposes, in, along, across, upon, under and over the streets within the city is granted to the Pacific Gas and Electric Company, its successors and assigns. (Prior code § 13-102)

5.16.030 Relocation of equipment.

Grantee of this franchise shall relocate, without expense to the city, any poles, wires, conduits and appurtenances theretofore installed and then maintained or used under this franchise, if and when made necessary by any lawful change of grade, alignment or width of any street by the city, including the construction of any subway or viaduct shall remain under the jurisdiction of the city as a city street, but shall cease to

be applicable to any such street if and when the same shall become a freeway, nor shall it constitute a contractual obligation in respect to such freeway within the purview of Section 703 of the Street and Highways Code of the State of California, or any corresponding provisions of law. (Prior code § 13-103)

5.16.040 Term of franchise.

Said franchise shall be indeterminate, that is to say, said franchise shall endure in full force and effect until the same shall, with the consent of the Public Utilities Commission of the State of California, be voluntarily surrendered or abandoned by grantee, or until the state of some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said franchise and situated in the territorial limits of the state, municipal or public corporation purchasing or condemning such property, or until said franchise shall be forfeited for noncompliance with its terms by grantee. (Prior code § 13-104)

5.16.050 Grantee payments to city.

Grantee of said franchise shall during the term hereof pay to the city two percent of the gross annual receipts of grantee arising from the use, operation or possession of said franchise; provided, however, that such payment shall in no event be less than one percent of the gross annual receipts of grantee derived from the same of electricity within the limits of the city. (Prior code § 13-105)

5.16.060 Gross receipts report required.

Grantee shall file with the clerk of the city, within three months after the expiration of the calendar year, or fractional calendar year, following the date of the granting hereon, and within three months after the expiration of each and every calendar year thereafter, a duly certified statement showing in detail the total gross receipts of grantee during the preceding calendar year or such fractional calendar year, from the sale of electricity within the city. Grantee shall pay to the city within fifteen (15) days after the time for filing such statement, in lawful money of the United States, the aforesaid percentage of its gross receipts for such calendar year, or such fractional calendar year, covered by such statement. Any neglect, omission or refusal by grantee to file such verified statement, or to pay said percentage at the time and in the manner specified, shall be grounds for the declaration of a forfeiture of this franchise and of all rights of grantee hereunder. (Prior code § 13-106)

5.16.070 Granting authority.

Said franchise is granted under the Franchise Act of 1937. (Prior code § 13-107)

5.16.080 Effective date.

This chapter shall become effective thirty (30) days after its final passage unless suspended by a referendum petition filed as provided by law. (Prior code § 13-108)

5.16.090 Publication expense reimbursement to city.

Grantee of said franchise shall pay to the city a sum of money sufficient to reimburse it for all publications expense incurred by it in connection with the granting thereof; such payment to be made within thirty (30) days after the city shall have furnished grantee with a written statement of such expenses. (Prior code § 13-109)

5.16.100 Written acceptance required.

The franchise granted shall not become effective until written acceptance thereof shall have been filed by grantee with the city clerk. (Prior code § 13-110)

Title 6

ANIMALS

Chapters:

6.04 Animal Control Regulations Generally

6.08 Dogs

6.12 Bees

Chapter 6.04

ANIMAL CONTROL REGULATIONS
GENERALLY

Sections:

- 6.04.010** Animals creating disturbing noises or unsanitary conditions.
- 6.04.020** Running at large unlawful.
- 6.04.030** Removal of excreta.
- 6.04.040** Number of animals restricted.
- 6.04.050** Impounding of animals.
- 6.04.060** Redemption—
Destruction of impounded animals.
- 6.04.070** Fees.
- 6.04.080** Rabies.
- 6.04.090** Violation—Penalty.
- 6.04.010** Animals creating disturbing noises or unsanitary conditions.

It is unlawful to keep or harbor any dog, cat or other animal which, by reason of its barking, howling, yelping or other noise, or which by reason of unsanitary conditions in connection with its keeping, habitually disturbs the peace of any person, and same is declared to be contrary to the public health, safety and welfare and to be a public nuisance. The nuisance may be abated by appropriate proceedings in any court of competent jurisdiction in the manner provided by law. (Prior code § 8-318)

6.04.020 Running at large
unlawful.

It is unlawful for any person owning or having charge, care or control of any dog, whether licensed or vaccinated or not, to suffer, allow or permit any such dog to run at large on any public street, road, alley, school yard, park, square, or place, or on any vacant or unenclosed, or on any occupied or improved, lots or land within the incorporated territory of the city. A dog shall be deemed running at large within the meaning of this section unless it is led or restrained by a chain, strap or cord not greater than eight feet in length attached to its collar and which is actually held by some person or made fast to some stationary object. Provided further, that all dogs, with the exception of a seeing eye dog when accompanied by the handicapped owner, shall be prohibited at all times, whether running at large or not, from the city park except for the access road thereof. (Ord. 226 § 1, 1993: prior code § 8-302)

6.04.030 Removal of excreta.

The owner or any person having care, control or custody of any animal shall be responsible for the removal of, and shall remove, any excreta deposited by his or her animal(s) on public walks, recreation or park areas, or private property. (Prior code § 8-308)

6.04.040 Number of animals
restricted.

It is unlawful for any person to own, keep, maintain, or possess more than three dogs or three cats or three dogs and cats,

over the age of four months upon any premises located within an R-1 district and R-2 district or a D district in the city. (Prior code § 8-316)

6.04.050 Impounding of animals.

It shall be the duty of the chief animal control officer and such assistants and deputies as he shall appoint and any peace officer to seize and impound any dog found running at large within the area described in Section 6.04.020, and to seize and impound all unlicensed dogs and other animals found running at large on any public highway, street, alley, park, school yard, square or place or on any vacant or unenclosed lots or land within the incorporated areas of the city. (Prior code § 8-309)

6.04.060 Redemption—Destruction of impounded animals.

All dogs or other animals not reclaimed or redeemed within seventy-two (72) hours may be destroyed in some humane manner by the agency designated in said joint powers agreement, or said agency may, after said dog or other animal is impounded for seventy-two (72) hours, place the same with some responsible person and convey valid title thereto. Said seventy-two-hour period shall start to run on a currently licensed dog having thereon a license tag only after a postcard shall have been mailed by the said agency to the owner at the address given on his application for said license, provided however, that if said dog or other animal is seriously injured or ill, the agency may, with the consent of the public health veterinarian of the County of Monterey, and to

prevent further suffering, destroy said dog or other animal prior to the expiration of said seventy-two-hour period. (Prior code § 8-310)

6.04.070 Fees.

Fees for the impound guarantee, adoption, feeding and keeping of dogs and other domestic animals, and other related charges, shall be as established from time to time by resolution of the city council. (Prior code § 8-312)

6.04.080 Rabies.

Whenever it is shown that any dog or other animal has bitten any person, or whenever any dog or other animal has shown symptoms of rabies, or acts in such manner as to lead the Monterey County Director of Public Health and ex-officio health officer to believe that such might have rabies the owner or person having possession of such dog or other animal shall, upon order of the director of public health, quarantine it and keep it tied up or confined for a period of ten days, and shall allow the director of public health, or his representative, to make an inspection or examination thereof at any time during such period, or in lieu of said confinement the owner or person having possession of such dog or other animal may have the same confined in an establishment controlled and supervised by a licensed veterinarian for a period of not less than five days, after which said dog or other animal may be released from said veterinary establishment upon the certification of the veterinary controlling or supervising the establishment that said dog or other animal displays no symptoms

whatsoever, and upon vaccination and licensing if subject to vaccination and licensing under the provisions of this title. (Prior code § 8-317)

6.04.090 Violation—Penalty.

Any person who violated any provision of this chapter or who shall in any manner interfere or attempt to interfere with any duly authorized enforcement officer in the performance of any duty imposed by the provisions hereof, and every person who shall unlawfully take or attempt to take any dog or other animal seized pursuant to the provisions hereof from the custody of the duly authorized enforcement officer; and any person who shall remove or attempt to remove from the public pound any dog or other animal impounded therein without having first redeemed the same as herein provided, or obtained the permission of an authorized enforcement officer to do so, shall be guilty of a misdemeanor. (Prior code § 8-313)

Chapter 6.08

DOGS

Sections:

- 6.08.010 License—Vaccination—Confinement required.**
- 6.08.020 License due dates.**
- 6.08.030 Licensing procedure.**
- 6.08.040 Lost tags.**
- 6.08.050 License—Notification to county animal shelter.**
- 6.08.060 License—Register required.**
- 6.08.070 Provisions not applicable when.**
- 6.08.080 Violation—Penalty.**

6.08.010 License—Vaccination—Confinement required.

A. Every person owning or having charge, care or control over any dog shall, after his dog attains the age of four months, annually secure from the city clerk of the city, a license and tag for said dog. Said tag shall be attached to a collar or harness upon such dog and during the term of said license shall remain so attached.

B. Every person owning or having charge, care or control over any dog shall, immediately after his dog attains the age of four months and at intervals of not more than twenty-four (24) months thereafter secure the vaccination of said dog by a licensed veterinarian with a canine anti-rabies vaccine of a type approved by the State Department of Public Health.

C. All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the person

owning or having charge, care or control of said dog; provided, however, that this subsection shall not be construed to prevent the sale or transportation of a puppy four months old or younger. (Prior code § 8-301)

6.08.020 License due dates.

All licenses shall be due on the first day of May of each year and delinquent on the first day of June of each year, except as hereinafter provided. Each application shall state the age, sex, color and breed of the dog for which the license is desired and the name and address of the owner. (Prior code § 8-303)

6.08.030 Licensing procedure.

A. Any person owning, keeping, harboring or having custody of any dog four months of age or over within the city shall obtain a license as provided in this section and after paying such fees as the city council may establish by resolution.

B. Written application for licenses, which shall include the name and address of applicant, description of the animal, sex, color and breed of the animal, the appropriate fee and a current valid rabies vaccination certified issued by a licensed veterinarian, shall be made to animal control or designee. The vaccination certificate must not expire before the period for which the license is issued. The licensing authority shall not issue for a spayed female or neutered male without written evidence of the fact of spaying or neutering.

C. The person to whom the license is to be issued may choose a license period ranging from one to twenty-four (24) months. The license period shall not extend beyond

the remaining period of validity for the current rabies vaccination.

D. Application for a license must be made by the owner within thirty (30) days after a dog reaches four months of age or within thirty (30) days of obtaining a dog which is four months of age or over.

E. The maximum license period shall be determined by the date the current rabies vaccination expires. A license application may be made thirty (30) days prior to the expiration of a current license or a current rabies vaccination period, whichever comes first. A dog owner may license such animal for up to thirty-six (36) months provided the rabies vaccination will be current for the entire period. Persons applying for a license shall pay the fee established by resolution. This license fee shall not be refundable or transferable. The license fee for spayed female animals and neutered male animals shall not exceed fifty (50) percent of the license fee otherwise imposed.

F. Owners who fail to obtain a license within time periods set forth herein or who fail to renew a license within thirty (30) days after the expiration of a prior license shall pay a late fee in an amount set forth by resolution. (Ord. 233 § 7, 1995; Ord. 229 § 1, 1994; prior code § 8-304)

6.08.040 Lost tags.

In the event any tag issued hereunder is lost, destroyed or mutilated, the owner of the dog for whom it was issued may obtain a duplicate thereof upon the payment of the fee set by the city council by resolution. (Ord. 229 § 2, 1994; prior code § 8-305)

Chapter 6.12**BEES****Sections:**

- 6.12.010** Keeping of bees prohibited.
6.12.020 Violation—Penalty.

6.12.010 Keeping of bees prohibited.

It is unlawful for any person to keep or harbor any bees within the city; and any beehive used or occupied by bees is declared a nuisance and it is unlawful to keep or maintain any such hive within the city. (Prior code § 8-950)

6.12.020 Violation—Penalty.

A. A violation of Section 6.12.010 is an infraction, and each infraction is punishable by: (1) a fine not exceed fifty dollars (\$50.00) for the first violation, (2) a fine not exceeding one hundred dollars (\$100.00) for the second violation within one year, or (3) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation within one year.

B. Termination of Uses in Nonconformance. Any and all presently existing uses in nonconformance with the foregoing Municipal Code section shall be required to be terminated and removed within six months of the effective date of this chapter. (Prior code § 8-951)

6.08.050 License—Notification to county animal shelter.

The city clerk shall notify the animal shelter of the County of Monterey of the issuance of each license issued pursuant to this chapter. (Prior code § 8-306)

6.08.060 License—Register required.

The city clerk shall keep a register wherein shall be kept the name with the address of the owner to whom the tag is issued, a description of the dog, the number of the tag given and the date thereof. (Prior code § 8-307)

6.08.070 Provisions not applicable when.

The provisions of this chapter requiring dog licenses shall not apply to:

A. Any dog owned by or in charge or care of a nonresident of the city, traveling through the city, or temporarily sojourning therein for a period not exceeding thirty (30) days, nor to any dog brought to the city exclusively for the purpose of entering the same in a dog show or dog exhibition, and entered for, and kept at any dog show or dog exhibition provided said dogs are not permitted to run at large.

B. Any dog owned by a person moving into the city which has been currently licensed by any of the cities of Pacific Grove, Carmel-by-the-Sea, Del Rey Oaks, Seaside, Soledad, Monterey, Greenfield, Gonzales, or the County of Monterey during such time said person was a resident of said city or county and shall have attached to its collar or harness a tag evidencing the existing unexpired license for such dog issued

by said city or county, provided such dog has been vaccinated with a canine anti-rabies vaccine of a type approved by the State Department of Public Health within the previous twenty-four (24) months. (Prior code § 8-311)

6.08.080 Violation—Penalty.

Any person who violated any provision of this chapter or who shall in any manner interfere or attempt to interfere with any duly authorized enforcement officer in the performance of any duty imposed by the provisions hereof, and every person who shall unlawfully take or attempt to take any dog or other animal seized pursuant to the provisions hereof from the custody of the duly authorized enforcement officer; and any person who shall remove or attempt to remove from the public pound any dog or other animal impounded therein without having first redeemed the same as herein provided, or obtained the permission of an authorized enforcement officer to do so, shall be guilty of a misdemeanor. (Prior code § 8-313)

Title 7

RESERVED

Title 8

HEALTH AND SAFETY

Chapters:

- 8.04 Fire Code**
- 8.08 Garbage Collection and Disposal**
- 8.12 Hazardous Materials**
- 8.16 Litter**
- 8.20 Noise Control**
- 8.24 Weeds and Rubbish**
- 8.28 Property Maintenance**

Chapter 8.04**FIRE CODE****Sections:**

- 8.04.010** Uniform Fire Code adopted.
- 8.04.020** Uniform Fire Code— Amendments, additions and deletions.
- 8.04.030** Appeals.

8.04.010 Uniform Fire Code adopted.

The latest version of the Uniform Fire Code, published by the Western Fire Chiefs Association and the International Conference of Building Officials, including the appendices thereto, copies of which are on file as required by law, is adopted and incorporated into this chapter by reference, with the changes, additions and deletions as set forth in Section 8.04.020. (Prior code § 8-801)

8.04.020 Uniform Fire Code— Amendments, additions and deletions.

The Uniform Fire Code, as adopted by Section 8.04.010, is amended to read as follows:

1. Section 2.302 is deleted in its entirety.
2. Section 2.303 is amended to read as follows:

Section 2.303(c). In the event that any of the publications listed in Section(s) 2.303(a) and/or 2.303(b) are replaced, amended or modified, the latest current publication shall apply.

3. Section 9.106 is amended by adding the following definition between “D.I.S.S. DIAMETER INDEX SAFETY SYSTEM,” and “DRY CLEANING” as follows:

DRUM shall mean a container as defined in the Uniform Fire Code.

4. Section 10.203 is amended to read as follows:

Sec. 10.203. No person shall use or operate any hydrant or other valve installed on any water system intended for use by the Chief for fire suppression purposes and which is accessible to any public highway, alley, or private way open to, or generally used by the public, unless such person first secures a written permit for such use from the Chief and water company. This section does not apply to the use of a hydrant or other valve by a person employed by the water company which supplies water to such hydrant or other valves, in which case the water company shall notify the Fire Department by telephone.

5. Section 10-301(d) is amended by adding a second paragraph to read as follows:

The City may require the owner of the premises to dedicate an easement for emergency access over said premises to insure continued compliance with this section. Said easement shall not confer any rights to the public for access but shall be limited to use by emergency vehicles. Said easements shall require the

owner to maintain the access with minimum vertical and horizontal clearances. Said easement shall also confer upon the City such police power jurisdiction as is necessary to keep the access clear, including the right to establish parking restrictions on said easement, post and maintain signs giving notice thereof, to prosecute violators and to tow away vehicles blocking the access.

6. Sections 10.309(b) and 10.313 are amended by deleting the existing language contained therein and substituting therefor the language contained in Sections 3801 and 3802 of the Uniform Building Code, 1976 Edition, Vol. 1, relating to fire-extinguishing systems as subsequently amended by city ordinance.

7. Section 11.101(a) is amended to read:

(a) No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained without a permit or other written authorization from the Monterey Fire Department. All except one and two family residential dwelling unit owners shall secure a permit and/or clearance from the Monterey Bay Unified Air Pollution Control District prior to maintaining or authorizing such fires as set forth in (a) above.

8. Section 11.101(b) is amended to read:

(b) No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or

maintained on any private land unless (1) the location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, (2) the fire is contained in an approved waste burner located safely not less than 15 feet from any structure, or (3) the fire is confined to an approved type incinerator as defined in the Uniform Mechanical Code adopted by this City.

9. Section 11-101(d) is amended by adding a second paragraph read as follows:

The Chief shall prohibit burning on any lot or area designated as "Commercial" by the City Zoning Ordinance or Map, except that burning may be allowed in an incinerator of a type that meets the requirements and approval of the Monterey Bay Unified Air Pollution Control District for commercial establishments.

10. Section 11.101(e) is added to read as follows:

(e) The Chief shall prohibit all outdoor rubbish fires and bonfires within the City, unless (1) the fire is confined to an approved incinerator as defined in the Uniform Mechanical Code, adopted by this City, (2) the open fire is for the explicit purpose of preparation of food, such as in the case of a Luau, Barbecue, and the like, or (3) a special condition or circumstance exists and written authorization is granted by the Chief.

11. Section 11.106(a) is amended to read as follows:

(a) Any residential incinerator used in connection with a single or two family dwelling shall be located not less than 10 feet from any wood frame structure, or other combustible material or not less than 7 feet from a masonry, stucco, or similar fire resistive building or structure with no openings within 10 feet. Any residential incinerator used in connection with any occupancy other than a single or two family dwelling shall be located not less than 10 feet from any building or property line; provided further, that the stack of any such incinerator shall be constructed in accordance with the Uniform Mechanical Code, and shall terminate not less than 5 feet from combustible roofing, overhang, or eave construction.

12. Section 11.112(a) is amended to read as follows:

(a) All burning shall take place between 8:30 a.m. and 3:00 p.m. of each permitted day.

13. Section 11.112(a) is added to read as follows:

(c) Burning permits needing clearance through the Monterey Bay Unified Air Pollution Control District shall have specific hours of operation noted on the appropriate permit or authorization.

14. Section 11.114 is amended to read as follows:

Sec. 11.114. No person shall discharge, from any source whatsoever, air contaminants or other materials of such quantity or quality as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health, or safety of any such persons or to the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

15. Section 25.108 is amended by adding a second paragraph to read as follows:

It shall be unlawful for any person, except peace officers and firemen or any employee of said establishment, to remain standing or sitting in any aisle, passageway, or stairway of any theater, or similar place of public assembly while such establishment is open to the public.

16. Section 29.106 is added to read as follows:

Sec. 29.106. Repair of Gasoline Tanks. No repair of gasoline tanks requiring the application of heat or flame is permitted unless the tank has been made vapor-free. No draining of flammable liquids from storage tanks of vehicles or equipment is permitted within a garage, repair shop or building.

17. Section 78.105 is amended to read as follows:

Sec. 78.105. Nothing in this chapter shall be construed to prohibit the use of fireworks by railroads or other transportation agencies for signal purposes of illumination, or the sale or use of blank cartridges for theatrical presentations, or for signal or ceremonial purposes in athletics or sports or for use by military organizations, or the sale or use of those items designated as "Safe and Sane" and "APPROVED" fireworks by the State Fire Marshal of California.

18. Section 79.215 is amended to read as follows:

Sec. 79.215. Testing. (a) Before being covered or placed in use, tanks and piping connected to underground tanks shall be tested for tightness. No portion of the system shall be covered until it has been approved.

(b) New underground tanks shall be tested hydrostatically, or pneumatically at not less than 3-pounds per square inch and not more than 5-pounds per square inch. This test shall be held for not less than 30 minutes. Pneumatic testing shall not be used on a tank containing flammable or combustible liquid or vapor.

(c) Unless tested in accordance with the applicable sections of ANSI B-31, American National Standard Code for Pressure Piping, the piping system between the pump and the dispenser, but not including the pump, tank, dispenser or shear valve assembly, shall be tested

hydrostatically for not less than 30-minutes to 150 percent of the maximum anticipated pressure of the system, or pneumatically tested to 110 percent of the maximum anticipated pressure of the system, but not less than 75-pounds per square inch gauge, to insure tightness.

(d) Existing underground storage tanks and piping shall be tested for leakage at the owner's or operator's expense, when the Chief has reasonable cause to believe a leak exists in the location in question. Test method used shall be a standpipe test per NFPA-329, Underground Leakage of Flammable and Combustible Liquids, or other suitable test methods acceptable to the Chief. Pneumatic pressure testing shall not be used on tanks containing flammable or combustible liquid or vapor.

19. Section 79.702(f) is amended to read as follows:

(f) 1. All leak-detecting devices shall be tested annually by the owner or operator of the property on which they are located. All test results shall be maintained on the premises and available to the Chief upon request. A consistent or accidental loss of Class I, II, or III-A liquids shall be immediately reported to the Chief.

2. Accurate daily inventory records shall be maintained and reconciled on all Class I, II and III-A liquid storage tanks for indication of possible leakage from tanks and piping. The records shall be kept at the premises and available to the Chief upon request, and shall include, as

a minimum, records showing by product, daily reconciliation between sales, use, receipts and inventory on hand. If there is more than one system consisting of a tank serving a separate pump or dispenser for any product, the reconciliation shall be maintained separately for each tank system.

20. Section 79.110(n) is added to read as follows:

(n) No cargo vehicle shall be positioned in such a manner as to allow the vehicle and/or trailer to extend onto any public sidewalk, street, highway, avenue, alley or other public way, during the loading or unloading of products.

21. Penalty for violation. Section 1.212(a) of the Uniform Fire Code, 1973 Edition, is amended to read as follows:

Any person operating or maintaining any occupancy, premises of vehicle subject to this ordinance of the uniform code adopted hereby is guilty of misdemeanor, and upon conviction thereof is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding \$500.00 or by both. Each separate day, or portion thereof, during which any such violation continues shall be deemed a separate offense.

(Prior code §§ 8-802, 8-804)

8.04.030 Appeals.

A. Appeals. Any person, firm or corporation aggrieved by any decision, determination or interpretation of the Uniform Fire

Code, or the provision of this chapter, made by the chief or his authorized representative, may appeal same by notice in writing to the planning commission within thirty (30) days after said aggrieved party is informed of the decision, determination or interpretation. The secretary of the planning commission shall then set the matter for a public hearing at a regular or adjourned regular meeting of the planning commission, and shall notify the aggrieved party and the chief of the time and date of said hearing in writing; provided, however, that such hearing shall be set not less than ten nor more than forty-five (45) days from the filing of such appeal.

B. Any party not satisfied with the determination of the planning commission may appeal said decision to the city council by filing a written notice stating the grounds to his appeal with the city clerk. Said appeal must be filed within thirty (30) days from the date of the decision by the planning commission; provided, however, that an extension of the time of filing may be granted by the city council. Upon receipt of an appeal, the city clerk shall set the matter for a public hearing before the city council at a regular or adjourned regular meeting, and shall notify the aggrieved party and the chief of the time and date of said hearing in writing; provided, however, that such hearing shall not be set less than ten nor more than forty-five (45) days from the filing of such appeal. At the hearing, the council shall hear evidence for and against the appeal and determine the matter, provided they may, for reasonable cause, continue the hearing. The determination of the city council shall be final. (Prior code § 8-803)

Chapter 8.08

GARBAGE COLLECTION AND DISPOSAL

Sections:

- 8.08.010** Definitions.
- 8.08.020** Keeping of garbage and swill.
- 8.08.030** Unlawful to allow accumulation of refuse.
- 8.04.040** Placing, depositing, scattering refuse unlawful—Exception when.
- 8.08.050** Unlawful to collect, transport, haul or dispose of refuse.
- 8.08.060** Duty to provide metal receptacles for garbage and rubbish.
- 8.08.070** Duty to provide metal receptacles for swill.
- 8.08.080** Collection, removal, disposal services required.
- 8.08.090** Inspection of premises—Collection requirements set by city clerk.
- 8.08.100** Unlawful activities.
- 8.08.110** Marking of receptacles.
- 8.08.120** Number and hours of collection.
- 8.08.130** Collection vehicle requirements.
- 8.08.140** Garbage collector—Requirements.
- 8.08.150** Collection rates.
- 8.08.160** Exemptions—Permit.

- 8.08.170** Exempt premises—Inspections.
- 8.08.180** Excess quantities—Removal.
- 8.08.190** Placement of receptacles.

8.08.010 Definitions.

For the purpose of this chapter and whenever the same are used herein, the following words, terms and phrases shall have the meaning ascribed to them as hereinafter set forth, except where the context clearly indicates a different meaning, to-wit:

The term “garbage” means all putrefactive or easily decomposable animal or vegetable matter which is likely to attract flies or rodents and which has no property value, including dead animals of less than ten pounds in weight; the term “garbage” shall likewise include all useless material normally produced in the preparation, cooking and consumption of food, as well as tin cans and other food containers used in conjunction with such preparation.

The term “garbage collector” means an agent or an employee of the city or any person with whom the city shall have duly contracted under the terms hereinafter set out in this chapter to collect and transport garbage and rubbish through, in and from the city.

The term “person” means every natural person, firm, copartnership, association or corporation.

The term “premises” means any dwelling place or residence, rooming house, hotel, club, restaurant, boarding house, eating place, shop and place of business, or any other building, grounds or location, where

garbage or rubbish is or may be produced or accumulated, including all sidewalk, curb, gutter and street and alley areas adjacent thereto.

The term “refuse” means and includes all types of waste material such as hereinbefore in this section defined under the heading “garbage,” “swill” and “rubbish.”

The term “rubbish” means and includes all matters and materials not defined as garbage or swill but which are rejected by the owner or producer thereof as useless, where such matters and materials do not affect the health, comfort, or safety of the community, and shall include, among other matters, all lawn, garden, and tree trimmings and leaves, and similar vegetable matter, and all ashes, house sweepings and similar matter.

The term “swill” means all putrifactive or easily decomposable animal or vegetable matter which is likely to attract flies or rodents and which has a property value.

The term “swill collector” means an agent or an employee of the city or any person with whom the city shall have contracted under the terms hereinafter set out in this chapter to collect and transport swill through, in and from the city. (Prior code § 8-101)

8.08.020 Keeping of garbage and swill.

It is unlawful for any person to place, deposit, keep or bury garbage or swill on, in or under any premises, except in containers as hereinafter provided. It is unlawful for any person to deposit any garbage or swill in any sewer or plumbing fixtures or

pipe connected thereto, except through an approved mechanical device which shreds and grinds garbage and swill. (Prior code § 8-102)

8.08.030 Unlawful to allow accumulation of refuse.

A. It is unlawful for the owner, occupant, or person in charge of any premises to allow the accumulation of any refuse in, on or under any premises, at any time, which is or may become a menace to health and sanitation or a fire hazard.

B. It is unlawful for the owner, occupant, or person in charge of any premises to ever at any time suffer, permit or allow any refuse of any kind to remain in, on or under such premises for a period in excess of seven days. All refuse accumulating from or upon any premises shall be kept in covered galvanized iron or other metal receptacles, as hereinafter provided, except that brush and garden trimmings may be kept in small neat piles as hereinafter provided. (Prior code § 8-103)

8.08.040 Placing, depositing, scattering refuse unlawful—Exception when.

A. It is unlawful for any person to throw, place, scatter, or deposit, or cause to be thrown, placed, scattered or deposited, upon any street, sidewalk, alley, or public place in the city, any handbills, posters, dodgers, advertising paper, papers, sweepings, feathers, hay, straw, grass, weeds, tree and shrub trimmings, glass, crockery, tin, fruit, vegetables, manure, offal, dead animals, debris, swill or any garbage, rubbish

or refuse as the term “garbage,” “rubbish” and “refuse” are herein defined.

A. This section shall not apply to grass, weeds, leaves, tree and shrub trimmings not over six feet long and six inches in diameter and yard sweepings when placed in suitable receptacles in front of any residence or dwelling by the owner or occupant thereof.

B. Provided further, that it is unlawful for any person to ever at any time place or deposit more than such aforementioned receptacles of rubbish in front of any premises without having first procured prior written approval from the city council. That whenever such approval is given, the person placing or depositing such rubbish upon said city streets shall strictly comply with all requirements of the city clerk in reference thereto. (Prior code § 8-104)

8.08.050 Unlawful to collect, transport, haul or dispose of refuse.

The city, in order to effectually promote and protect the public health and safety and reduce the danger and hazards of fire and conflagrations, reserves unto itself the exclusive right to collect, transport, haul, and dispose of, or cause to be collected, transported, hauled, and disposed of, all refuse produced or found within the corporate limits of the said city. It is declared to be unlawful for any person, firm or corporation to collect, transport, haul, or dispose of any refuse within or from the city, except as in this chapter expressly provided. (Prior code § 8-105)

8.08.060 Duty to provide metal receptacles for garbage and rubbish.

It shall be the duty of every owner, tenant, lessee, or occupant of any private dwelling house, or the proprietor, manager, owner or lessee of any hotel, restaurant, cafe, boarding house, eating place, rooming house, or other place of business in the city, to provide a galvanized iron or other metal garbage and rubbish receptacle with cover for the same, for receiving and holding all the garbage and rubbish produced, created and accumulated upon the premises between the time for the collection of garbage and rubbish, as hereinafter provided, and shall deposit all such garbage and rubbish therein, except that certain rubbish of the kind hereinbefore specified may be placed at the street curb in the manner hereinbefore provided. All such receptacles shall be at all times kept in a sanitary condition and shall be located in such place on the premises as to be readily accessible for removing and emptying the same, but shall not be placed within the limits of any street, or other public place, in the city or in such a place or manner as to constitute a nuisance. (Prior code § 8-106)

8.08.070 Duty to provide metal receptacles for swill.

It shall be the duty of every proprietor, manager, owner or lessee of any hotel, restaurant, cafe, boarding house, eating place, rooming house, or other place of business or establishment, in the city, where swill is produced or accumulated, to provide a galvanized iron or other metal swill receptacle, with cover of the same, for receiving

and holding all the swill produced or accumulated upon the premises between the times for the collection of swill as herein provided, and shall deposit all such swill therein. It is unlawful for any person to place or deposit any glass, metal, or any matter or material not suitable for hog feed in any such receptacle provided for swill. (Prior code § 8-107)

8.08.080 Collection, removal, disposal services required.

A. All occupied premises within the city shall have refuse service as herein provided.

B. The collection, removal and disposal of garbage, rubbish and swill may be performed by the city under the direction of the city council, or by any person or persons with whom the city has entered, or may enter into a contract or contracts with, for the collection, removal and disposal thereof. It is declared unlawful for any other person than those above stated to remove, convey or cause to be removed or conveyed, any refuse as hereinabove defined upon or along any street or alley or any other public place in the city without a special written permit as herein provided, except as otherwise in this chapter expressly provided. (Prior code §§ 8-108, 8-109)

8.08.090 Inspection of premises—Collection requirements set by city clerk.

A. The city clerk or other duly authorized representative of the city council designated by the city council, shall visit all premises within the corporate limits of the city from time to time and examine the sanitary condition of said premises to

determine whether the provisions of this chapter are complied with. Upon notification by the city, all persons, including the garbage collector and the swill collector, shall comply with all the provisions of this chapter or be deemed guilty of a misdemeanor.

B. In all cases of disputes or complaints arising from or concerning the place where receptacles for any kind of refuse shall be placed awaiting removal of their contents, the quantities to be removed, the number of times of removal, and the rates charged, the city clerk shall designate the place, the estimated quantities, the times and manner of removal, and the rates, and his decision shall be final. (Prior code § 8-110)

8.08.100 Unlawful activities.

A. It is unlawful for any person, in any manner to interfere with the collection, removal or disposal of refuse by the authorized garbage and swill collectors.

B. It is unlawful for any person to burn any refuse of any kind on any street, alley, park, or public place within the corporate limits of the city.

C. It is unlawful for any person to burn any refuse of any kind on any premises within the corporate limits of the city, except as hereinafter in this section provided. Rubbish may be burned on any premises between the hours of seven a.m. and seven p.m. of the same day, and no open fire may be rekindled or started after one p.m. A permit from the fire department must be obtained each time of burning for an open fire, and an annual permit must be obtained for an incinerator. (Prior code §§ 8-111, 8-112, 8-113)

8.08.110 Marking of receptacles.

All persons occupying multiple dwellings must mark their receptacles so that the ownership thereof will be known. (Prior code § 8-115)

8.08.120 Number and hours of collection.

The city clerk may make a regulation concerning the number and manner of collections of refuse as he may deem necessary to carry out the provisions of this chapter, but in no case shall collection service less often than once a week be permitted. The time for collection shall be between the hours of seven a.m. and six p.m. in the residential district and before ten a.m. in the business district. (Prior code § 8-116)

8.08.130 Collection vehicle requirements.

A. All garbage collected in the city shall be hauled in garbage collecting equipment approved by the city council. Open-bodied trucks may be used for the collection of rubbish; provided, that all garbage or mixed garbage and rubbish shall be hauled only in covered trucks.

B. It is unlawful for any garbage or swill collector to ever at any time suffer, permit, or allow any garbage, rubbish, swill, to be spilled or scattered at any point between the place of collection and the dump to which the same is hauled.

C. All trucks used for the hauling of garbage, rubbish or swill, shall be washed at least once a week and painted once each year and otherwise appear as neat as possible under the circumstances. Each such truck shall be equipped with a tarpaulin or

other suitable covering which shall be drawn over the load when completed to full depth. All refuse in the truck shall be completely covered between points of collection and disposal. The name of the garbage collector shall appear on the side of the trucks in letters not small than six inches high, and there shall also be an identifying number on each truck. (Prior code §§ 8-117, 8-118, 8-119)

8.08.140 Garbage collector—Requirements.

A. The garbage collector shall dispose of all garbage and rubbish outside of the city at dumps to be designated by the city.

B. The city council may let contracts or enter into agreements with any person, for the removal of garbage, rubbish or swill. Such contracts or agreements entered into may be revoked at any time by the city council for noncompliance with the terms of this chapter or for the violation of such contract. The garbage collector shall charge for the collection of garbage and rubbish at the rates specified in said contract and as provided to make any charge for the collection of garbage or rubbish in excess of the charges provided by this chapter.

C. Any person with whom the city contracts for the collection and disposal of garbage, rubbish or swill shall collect, haul and dispose of all such garbage, rubbish and swill in strict compliance with all federal, state, county and district, and city health laws, ordinances, rules and regulations and under the supervision and to the satisfaction of the city council of the city.

D. The garbage collector shall collect all garbage and rubbish from all of the homes,

business establishments and premises in the city. All garbage shall be hauled by the garbage collector to the garbage dump or to such other location within fifteen (15) miles from the city which may hereinafter be designated. (Prior code §§ 8-120—8-123)

8.08.150 Collection rates.

A. A charge shall be collected, as provided by the provisions of this chapter, from the occupants of all occupied premises within the corporate limits of the city for services rendered for the collection of garbage and rubbish.

B. The city, or any garbage collector entering into a contract with the city for the collection and disposal of garbage and rubbish, shall charge for the collection of garbage and rubbish at the following rate or scale, to-wit:

For fixed rubbish and garbage or garbage only. Twenty (20) gallons or less:

Individual pickup	\$1.50 per can
One collection	1.25 per month
Each additional can	.65 per month

Twenty-one (21) to thirty (30) gallons:

Individual pickup	\$1.50 per can
One collection weekly	1.75 per month
Each additional can	.90 per month

For rubbish only:

Special pickup	\$6.50 per hour
	\$1.50 minimum charge.

(Prior code §§ 8-114, 8-124)

8.08.160 Exemptions—Permit.

In the event any person may elect to dispose of such refuse as may accumulate on any specific property or location, the same may be done; providing, that such disposal complies with the sanitary provisions of this chapter and is approved in writing by the city council. In such event a written application shall be made to the city council and a proper permit issued in writing in which case the premises affected may be exempted from the ordinary charges otherwise specified in this chapter. The right shall be reserved to every citizen and resident of the city, without any permit being required therefor, to dump garbage and rubbish at the aforesaid dumps. (Prior code § 8-125)

8.08.170 Exempt premises—Inspections.

It shall be the duty of the city clerk to inspect, or cause to be inspected, from time to time such premises as may be exempted under the abovementioned provisions and revoke forthwith any permits that may have been issued in the event said disposal is found to be in violation of this chapter, in which case upon written notice the occupant of said premises shall be required to accept service at the rates and under the terms provided herein. (Prior code § 8-126)

8.08.180 Excess quantities—Removal.

In the event the removal of rubbish is required in quantities in excess of the facilities provided by the garbage collector or in the event the city may elect to utilize the same for filling or other purposes, the right

is reserved to make use of city equipment for this purpose and the same will be provided at a reasonable cost to those who for the lack of facilities at hand or otherwise are unable to secure the services of the garbage collector and are unable to comply with the terms of this chapter. (Prior code § 8-127)

8.08.190 Placement of receptacles.

A. It is unlawful for any person to allow any garbage or refuse container to remain at the curb for a longer period of time that twenty-four (24) hours prior to the date of collection, or for a longer period of time than twenty-four (24) hours after collection. This section shall not apply to any refuse placed at the curb during any clean up week proclaimed by the city council.

B. All receptacles for garbage or rubbish provided by Section 8.08.060, shall at all times, except when placed at the curb for collection as provided in subsection (A) of this section, be kept screened from the view from street by suitable screening or maintaining within the back yard, garage or other place in said premises, so that except for the time herein specified for the collection of said garbage and rubbish in subsection (A) of this section, the receptacles for the accumulation upon the premises shall not be in any manner visible from the street. (Prior code §§ 8-128, 8-129)

Chapter 8.12

HAZARDOUS MATERIALS

Sections:

8.12.010	Findings and purpose.
8.12.020	Definitions.
8.12.030	Underground storage tanks.
8.12.040	Underground storage tank permit.
8.12.050	Hazardous material registration form.
8.12.060	Contents of registration form.
8.12.070	Exemptions to disclosure.
8.12.080	Trade secrets.
8.12.090	Enforcement.
8.12.100	Maintenance of files.
8.12.110	Fees.
8.12.120	Civil and criminal penalties.

8.12.010 Findings and purpose.

The city council finds and declares:

A. Purpose.

1. The purpose of this chapter is to provide a continuing source of current information concerning hazardous substances and chemicals being utilized in the city to protect the general health and safety of the public and to enable emergency personnel to respond safely and speedily to emergency situations which may arise.

2. The city council declares that it is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground.

It is the intent of the council in enacting this chapter, to establish orderly procedures that will insure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, and tested so that the health, property, and resources of the people of the city will be protected.

B. Findings.

1. Essential information of the location, type, quantity and the health risks of hazardous materials used, stored or disposed of in the city is not now available to fire fighters, health officials, health care providers, law enforcement agencies and emergency communications officers.

2. Hazardous substance and chemical information disclosure is necessary so that the city and other affected public agencies may respond effectively to fire or other emergency involving materials that exhibit hazardous characteristics and may pose hazards to the community.

3. Substances hazardous to the public health and safety, and to the environment, are stored prior to use or disposal in thousands of underground locations in the state.

4. Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

5. It is not the intent of this chapter to regulate the handling, storage, use, processing or disposal of hazardous substances and chemicals.

6. It is the intent of the city council that this chapter establish an orderly system by which establishments that contain materials

which may be hazardous are identified, and information regarding these materials is made available to fire fighters, health officials, health care providers, law enforcement agencies and emergency communications officers in such a way that the statutory privilege of trade secrecy is not abridged. (Prior code § 8-940.1)

8.12.020 Definitions.

For purposes of this chapter, the following definitions apply:

“Abandoned tank” means a tank that is not in use and not monitored and/or safeguarded in compliance with regulations promulgated by the department of health pursuant to this chapter.

“Business” means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, association, city, county, district, and the state, or any department or agency thereof. For purposes of this chapter, a business shall include both profit and nonprofit business.

“CAS number” means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances.

“Chemical name” means the scientific designation of a substance in accordance with the system developed by the Chemical Abstracts Service.

“Common name” means any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

“Establishment” means the physical premises of a business.

“Handle” or “handling” means to use, store, treat or generate a hazardous material in any fashion.

“Hazardous material” means any material or substance in “The Director’s List of Hazardous Substance” developed by the Director of the Department of Industrial Relations pursuant to the provisions of the Hazardous Substances Information and Training Act (SB 1874) or cited in Article 9, Division 4, Title 22 of the California Administrative Code or is classified by the National Fire Protection Association as either a flammable liquid, a Class II combustible liquid or a Class III-A combustible liquid.

“Hazardous materials registration form” means the form required to be filed with the county health department by every person who owns or operates an establishment which uses hazardous materials.

“Hazardous substance,” see hazardous material.

“Hazardous waste,” see hazardous material.

“Health officer” means the health officer of Monterey County or his authorized representative, acting on behalf of the city.

“Laboratory” means a place equipped for testing, analyses or experimental study in a science utilizing hazardous materials as defined in this section in any amount.

“Person” means an individual, trust, firm, joint stock company, corporation, partnership, association, city, county, state or district.

“Primary containment” means the first level of containment, such as the portion of a tank which comes into immediate contact

on its inner surface with the hazardous substance being contained.

“Product-tight” means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance which it contains over the useful life of the tank.

“Secondary containment” means the level of containment external to, and separate from, the primary containment.

“SIC code” means the identification code to specific types of businesses.

“Single-walled” means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials shall be considered single-walled.

“Storage” or “store” means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. “Storage” or “store” does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the California Department of Health Service.

“Substantial modification” means any changes to an underground storage tank facility which include but are not limited to, one or more of the following: replacement of a tank, repairing a tank, installation of new pipeline, and installation or replacement of monitoring devices.

“Unauthorized release” means any release or emission of any hazardous substance which does not conform to the provisions of this ordinance, unless such release is authorized by the State Water Resources Control Board pursuant to Division 7 of the California Water Code.

“Underground storage tank” means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. “Underground storage tank” does not include any of the following:

1. Tanks which are located on a farm and store motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes;

2. Tanks used for aviation or motor vehicle fuel located within one (1) mile of a farm and the tank is used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

“Use” includes the handling, processing, or storage of hazardous materials.

“User” means any person who uses or handles a hazardous material. (Prior code § 8-940.2)

8.12.030 Underground storage tanks.

A. Every underground storage tank installed after January 1, 1984 shall meet the following requirements and no person, firm or corporation shall construct or install any new underground storage tank or facility until a permit has been issued pursuant to this chapter.

1. Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:

a. Primary containment shall be product-tight;

b. Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also be capable of storing for the maximum anticipated period of time necessary for the recovery of any released hazardous substance;

c. In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least one hundred (100) percent of the volume of the primary tank;

d. In the case of multiple primary tanks, the secondary container shall be large enough to contain one hundred fifty (150) percent of the volume of the largest primary tank placed in it, or ten percent of the aggregate internal volume of all primary tanks, whichever is greater;

e. If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a twenty-four (24) hour rainfall as determined by a one hundred (100) year storm history;

f. Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment;

g. The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of subsections (A)(1)(a) to (A)(1)(f) of this section, inclusive, if the primary containment construction is of glass fibre, reinforced plastic, cathodically protected steel, or steel-clad with glass-fibre reinforced plastic, any such alternative primary

containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank and which is designed to provide early leak detection, response, and to protect groundwater from releases, and if the monitoring is in accordance with the alternative method identified in Section 8.12.030(C)(3). Pressurized piping systems connection to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with Section 8.12.030(C)(3) shall also be deemed to meet the requirements of this subdivision;

2. Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous material stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided;

3. When required by the county department of health, a means of overflow protection for any primary tank, including an overflow prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subsection;

4. Different substances that in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary and secondary container, shall be separated

in both the primary and secondary containment, so as to avoid potential intermixing;

5. If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

B. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances the following actions shall be taken:

1. On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed;

2. Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subsection (C) of this section, alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the department of health.

C. The alternative monitoring methods include, but are not limited to, the following methods:

1. Pressure testing, vacuum testing or hydrostatic testing of the piping systems or underground storage tanks;

2. A groundwater monitoring well or wells which are down gradient and adjacent

to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well. The department of health shall develop regulations specifying monitoring alternatives. Further, the department of health shall approve the location and number of wells, the depth of wells and the sampling frequency, pursuant to these regulations;

3. For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if inventory records are kept on file for one year and are reviewed quarterly, the tank is tested for tightness hydrostatically or, when appropriate with pressure between three and five pounds, inclusive, per square inch at time intervals specified by the department of health and whenever any pressurized system has a leak detection device to monitor for leaks in the piping. The tank shall also be tested for tightness hydrostatically or where appropriate, with pressure between three and five pounds, inclusive, per square inch whenever there is a shortage greater than the amount which the department of health shall specify by regulation.

D. Abandonment, Closure or Temporary Closure of Underground Storage Tanks.

1. No tank shall be abandoned unless properly monitored and safeguarded in accordance with regulations promulgated by the department of health.

2. Tanks which are temporarily out of service and are intended to be returned to use must continue to be monitored and inspected.

3. Any tank which is not being monitored and inspected in accordance with this

section must be closed or removed in accordance with regulations promulgated by the department of health.

4. Whenever an abandoned tank is located, a plan for the closing or removing or the upgrading and permitting of such tank and permit application therefor shall be filed within ninety (90) days of its discovery.

E. Maintenance, Repair or Replacement.

1. Permittee will carry out regular maintenance, and upkeep, in a careful and safe manner.

2. Any substantial modification or repair of a facility other than minor maintenance, or emergency repairs shall be in accordance with plans to be submitted to the department of health and a permit to repair shall first be obtained prior to commencement of any such substantial modification or repair.

3. Permittee may make emergency repairs to a facility in advance of seeking an additional permit approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. However, within five working days after such emergency repairs have been started, permittee shall seek approval pursuant to this chapter by submitting drawings or other information adequate to describe the repairs to the department of health.

F. Unauthorized Discharge of Hazardous Materials.

1. Any unauthorized release from the primary containment which the operator is able to clean up within eight hours and which does not escape from the secondary containment, nor cause any deterioration of the secondary containment of the underground storage tank, shall be recorded on the operator's monitoring reports.

2. Any unauthorized release which escapes from the secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank shall be reported by the operator to the department of health within twenty-four (24) hours after the release has been detected or should have been detected. A full written report shall be transmitted by the owner or operator of the underground storage tanks within five working days of the occurrence of the release. (Prior code § 8-940.3)

8.12.040 Underground storage tank permit.

Any person, firm, or corporation which stores any hazardous material in an underground storage tank shall obtain and keep current, an underground storage tank permit issued pursuant to this chapter. One such permit shall be issued for a single facility. Additional approvals shall be obtained for any underground storage tank thereafter connected, installed, constructed, substantially modified, replaced, closed or removed.

A. No person, firm or corporation shall cause, suffer or permit the storage of hazardous materials in underground tanks:

1. In a manner which violates a provision of this division or any other local, federal, or state statute, code or regulation relating to hazardous materials; or

2. In a manner which causes an unauthorized discharge of hazardous materials or poses a significant risk of such unauthorized discharge.

B. Application for Permit. Application for a new, amended or renewed permit or any additional approval shall be made to the

health department on the form provided by the county.

C. Approval of Permit. A permit shall not be approved until the department of health is satisfied that the storage approved adequately conforms to the provisions of this chapter.

D. Provisional Permit. If the department of health finds that the proposal does not completely conform to the provisions of this chapter, it may approve a provisional permit, subject to conditions to be imposed by the department when such a provisional permit is feasible and does not appear to be detrimental to the public interest. The applicant must be informed in writing of the reasons why a full-term permit was not issued.

E. Temporary Permit. A temporary permit for storage may be issued where storage does not exceed thirty (30) days and occurs no more frequently than every six months.

F. Issuance of Permits.

1. Upon the approval of a provisional, a full term permit by the department of health and upon the payment of any applicable fee, the department shall issue and deliver the permit to the applicant. Such permit shall contain the following information:

a. The name and address of the permittee for purposes of notice and service of process;

b. The address of the facility for which the permit is issued;

c. Authorization of the storage facility(s) approved under the permit, the permit quantity limit(s) and the approved hazard class or classes for the storage facility(s);

d. The date the permit was effective;

e. The date of expiration;

f. When applicable, a designation that the permit is provisional;

g. Any special conditions of the permit.

G. Terms. A permit may be issued for a term of three years, excepting provisional permits and construction and abandonment permit which may be issued for any period of time up to six months and temporary permits which may be issued for no longer than thirty (30) days.

H. Fees.

1. Operating permits:

- a. Base fee per facility \$125.00/year (1-5 tank)
- b. Fee for each additional \$40.00/year tank over 5

This fee covers the permit to operate the tank and the registration of the hazardous materials in the tank.

2. Permit to construct or modify:

- a. Base plan check fee \$125.00 (includes 1 tank)
- b. Fee for each additional \$40.00 tank

3. Permit to abandon:

- a. Base fee for 1 tank \$100.00
- b. Each additional tank \$30.00

(Prior code § 8-940.4 (part))

8.12.050 Hazardous material registration form.

Any person who owns or operates an establishment that contains at any one time during the year, hazardous materials as defined in Section 8.12.020 shall file a completed hazardous material registration form with the health department within ninety (90) days of the effective date of this chapter. (Prior code § 8-940.5)

8.12.060 Contents of registration form.

A. Hazardous material registration forms shall be prepared by the health department and made available to persons who use hazardous materials.

B. The hazardous material registration form shall include requests for the following information:

1. Identification information including but not limited to name, address, phone number and assessor's parcel number;
2. The names and phone numbers of at least two people representing the business able to assist agency personnel in the event of an emergency during nonbusiness hours;
3. The SIC code of the business if applicable;
4. A list of the hazardous materials at the establishment designated by CAS number, chemical name and common name as well as the form in which the material is stored and the maximum amount present during a thirty day period;
5. Each business shall designate in the appropriate box if there is a laboratory at its establishment;
6. A sketch showing the location of any laboratory at the establishment;
7. For businesses consisting of more than one building, a sketch showing where the hazardous material is stored. (Prior code § 8-940.6)

8.12.070 Exemptions to disclosure.

The following shall be exempt from the disclosure requirements of this chapter:

A. Any person who handles radioactive materials that are exempt under Sections 30180 and 30345 of Title 17 of the California Administrative Code or licensed with the department of health services;

B. Hazardous substances contained only in consumer products packaged for distribution to, and use by, the general public;

C. Any person using, handling, or storing less than five hundred (500) pounds or fifty-five (55) gallons a month, whichever is less, of a hazardous material. The exemption of this subsection (C) shall not apply to the use, handling, or storage of known carcinogens except to the extent that such carcinogens are used or intended to be used for medical or therapeutic purposes;

D. Any person, while engaged in the transportation of hazardous materials, including storage directly incident to transportation, provided that such materials are accompanied by shipping papers prepared in accordance with the provisions of the Federal Hazardous Materials Regulations (40 C.F.R., Subchapter C). (Prior code § 8-940.7)

8.12.080 Trade secrets.

A. If a person believes that a request for information made by the disclosure form involves the release of a trade secret or proprietary information, the person shall submit to the health officer, adequate information and substantiation of the claim of trade secrecy.

B. The health officer and the proper public agencies shall protect from disclosure any and all trade secrets and proprietary information coming into his or her possession, as defined in subsection (d) of Section 6254.7 of the California Government Code and Section 1060 of the California Evidence Code, when requested in writing by the user.

C. Any trade secret or proprietary information reported to or otherwise obtained by the health officer shall not be disclosed to

anyone except an officer or employee of the city, the county, the state or the federal government who demonstrates a need to know the information in connection with their official duties.

D. For the purposes of this section, fire and emergency response personnel and health personnel operating within the jurisdiction of the city shall be considered employees of the city.

E. The health officer, with the city attorney, upon receipt of a request for his designation of information submitted as a trade secret by a user, shall determine whether any or all of the information so submitted is properly designated as a trade secret or proprietary information. No information will be disclosed until a final determination of trade secret is made.

F. If the health officer and city attorney determine that the submitted information should be designated as trade secret or proprietary information, then the materials involved will be identified only by the properties and returned to the appropriate agencies.

G. If the health officer and city attorney determine that the information is not a trade secret:

1. The city attorney shall notify the person by certified mail;

2. The person shall have thirty (30) days after receipt of notification to request reconsideration of the city attorney's determination and to provide the city attorney with any further data supporting the claim of trade secrecy privilege;

3. The city attorney shall determine whether such information is protected as a trade secret or proprietary information within fifteen (15) days after receipt of the additional data supporting the claim of trade

secrecy or, if no additional data is submitted, within thirty (30) days of the original notice. The city attorney shall notify the person and any party who has requested the information that it is not protected as a trade secret. The final notice shall also specify a date, not sooner than fifteen (15) days after the date of mailing of the final notice, when the information may be made available to the appropriate public agencies;

4. Prior to the date specified in the final notice, the person may institute an action in the superior court for a declaratory judgment as to whether such information is subject to protection under subdivision (A) of this section.

H. The provisions of this section shall not permit a person to refuse to file a disclosure information form with the city attorney except under the conditions set forth in subsection (E) of this section. (Prior code § 8-940.8)

8.12.090 Enforcement.

A. The health officer is authorized and empowered to enforce the provisions of this chapter. The enforcement shall include the inspection of facilities and other activities directly related to the enforcement of this chapter. No person shall obstruct or interfere with the health officer in the performance of these duties.

B. Any person who violates any provision of this chapter shall be deemed guilty of an infraction. (Prior code § 8-940.9)

8.12.100 Maintenance of files.

A. The health officer shall maintain active files of all registration forms received for a period of three years. Registration forms which are more than three years old

shall be placed in inactive files and retained for a period of thirty (30) years.

B. The health officer shall index registration forms by street addresses and parcel numbers, and shall cross reference them by business name, and by the SIC code numbers and the CAS numbers listed on the registration forms. (Prior code § 8-940.10)

8.12.110 Fees.

Each initial registration of a hazardous material disclosure form shall be accompanied by a filing fee of seventy-five dollars (\$75.00) and thereafter an annual renewal filing fee of thirty-five dollars (\$35.00) per year. (Prior code § 8-940.11)

8.12.120 Civil and criminal penalties.

A. Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500.00) or more than five thousand dollars (\$5,000.00) per day for any of the following:

1. Operates an underground storage tank which has not been issued a permit;
2. Fails to monitor the underground storage tank, as required by the permit;
3. Fails to maintain records;
4. Fails to report an unauthorized release;
5. Fails to abandon an underground storage tank in accordance with this chapter.

B. Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500.00) or more than five thousand dollars (\$5,000.00) per day for any of the following:

1. Failure to obtain a permit as specified by this chapter;

2. Failure to repair an underground tank in accordance with the provisions of this chapter;

3. Failure to construct an underground storage tank in accordance with the provisions of this chapter;

4. Abandonment or improper closure of any underground tank subject to the provisions of this chapter;

5. Failure to outfit a facility with a monitoring system capable of detecting an unauthorized release of any hazardous substance stored in the facility as required by the department of health;

6. Knowingly fail to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.

C. Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000.00) or more than ten thousand dollars (\$10,000.00), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

D. In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

E. Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws. (Prior code § 8-940.4 (part))

Chapter 8.16

LITTER

Sections:

8.16.010	Short title.
8.16.020	Definitions.
8.16.030	Litter in public places.
8.16.040	Placement of litter in receptacles so as to prevent scattering.
8.16.050	Sweeping litter into gutters prohibited.
8.16.060	Litter thrown by person in vehicles.
8.16.070	Truck loads causing litter.
8.16.080	Litter in parks.
8.16.090	Throwing or distributing commercial handbills in public places.
8.16.100	Placing commercial and noncommercial handbills on vehicles.
8.16.110	Depositing commercial and noncommercial handbills on uninhabited or vacant premises.
8.16.120	Prohibiting distribution of handbills where property posted.
8.16.130	Distributing commercial and noncommercial handbills at inhabited private premises.
8.16.140	Posting notices prohibited.

- 8.16.150** Litter on occupied private property.
- 8.16.160** Owner to maintain premises free of litter.
- 8.16.170** Litter on vacant lots.
- 8.16.180** Clearing of litter from open private property by city.

8.16.010 Short title.

This chapter shall be known and may be cited as the “City of Del Rey Oaks Anti-Litter Ordinance.” (Prior code § 8-501)

8.16.020 Definitions.

For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number, include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

“Commercial handbill” means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

1. Which advertises for sale any merchandise, product, commodity, or thing; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit, but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or

4. Which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

“Garbage” means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

“Litter” means “garbage,” “refuse,” and “rubbish,” as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

“Newspaper” means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper established as a newspaper as provided by general law; and in addition thereto, shall mean and include any periodical, or current magazine regularly published with not less than four issues per year, and sold to the public.

“Noncommercial handbill” means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

“Park” means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

“Person” means any person, firm, partnership, association, corporation, company or organization of any kind.

“Private premises” means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

“Public place” means any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

“Refuse” means all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

“Rubbish” means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Prior code § 8-502)

8.16.030 Litter in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city dumps. (Prior code § 8-503)

8.16.040 Placement of litter in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (Prior code § 8-504)

8.16.050 Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Prior code § 8-505)

8.16.060 Litter thrown by person in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (Prior code § 8-506)

8.16.070 Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (Prior code § 8-507)

8.16.080 Litter in parks.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part

of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (Prior code § 8-508)

8.16.090 Throwing or distributing commercial handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Prior code § 8-509)

8.16.100 Placing commercial and noncommercial handbills on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Prior code § 8-510)

8.16.110 Depositing commercial and noncommercial handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Prior code § 8-511)

8.16.120 Prohibiting distribution of handbills where property posted.

No person shall throw, deposit, or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddler or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Prior code § 8-512)

8.16.130 Distributing commercial and noncommercial handbills at inhabited private premises.

A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited

private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be used when so prohibited by federal postal law or regulations.

B. Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Prior code § 8-513)

8.16.140 Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law. (Prior code § 8-514)

8.16.150 Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from

being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. (Prior code § 8-515)

8.16.160 Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (Prior code § 8-516)

8.16.170 Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not. (Prior code § 8-517)

8.16.180 Clearing of litter from open private property by city.

A. Notice to Remove. The street superintendent is authorized and empowered to notify the owner of any open or vacant private property within the city, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to said owner at his last known address.

B. Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within thirty (30) days after receipt of written notice provided for in

subsection (A) of this section, or within thirty (30) days after the date of such notice in the event the same is returned to the city post office department because of its inability to make delivery thereof; provided, the same was properly addressed to the last known address of such owner, or agent; the street superintendent is authorized and empowered to pay for the disposing of such litter or to order its disposal by the city. (Prior code § 8-518)

Chapter 8.20

NOISE CONTROL

Sections:

8.20.010 Loud noises.

8.20.010 Loud noises.

A. General. It is unlawful for any person to knowingly make, continue or cause to be made or continued, any excessive, unnecessary or unusually loud noise. The term 'excessive, unnecessary or unusually loud noise' means a noise disturbance which, because of its volume level, duration or character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any individual within the limits of the city.

B. Public Nuisance Declared. The following specific acts are declared to be public nuisances:

1. Using or operating out of doors, for any purpose, any loudspeaker system, amplification device including a boom box, radio, amplifier, phonograph, stereo, compact disc or tape player, musical instrument or other device for the producing or reproducing of sound, between the hours of 10:00 p.m. and 7:00 a.m.; or at any time when such loudspeaker or amplification or similar device described herein is operated in such a manner, whether indoors or outdoors, that it can be heard at a place two hundred (200) feet distant, or such that the sound therefrom creates a noise disturbance across a residential or commercial property;

2. Excessive, unnecessary or unusually loud yelling, shouting, talking, whistling or

singing out of doors between the hours of 10:00 p.m. and 7:00 a.m. on any day;

3. Excessive, unnecessary or unusually loud operation or use of hammers, hand powered saws, or similar implements; impact wrenches or similar equipment powered by compressed air; tools or pieces of equipment powered by an internal combustion engine such as, but not limited to, chain saws, blowers and lawn mowers; electrically powered tools or equipment such as, but not limited to, saws, drills, latches or routers before 7:00 a.m. or after 7:00 p.m. daily.

C. Exemptions. Excessive, unnecessary or unusually loud noise as used in this chapter does not include noise or sound generated by the following:

1. Cries for emergency assistance and warning calls;

2. Radios, sirens, horns and bells on police, fire and other emergency response vehicles;

3. Special events for which a permit has been obtained from the city are exempted; provided, there is compliance with all conditions which have been noted in writing on the permit. Excessive, unnecessary or unusually loud noise produced as a result of noncompliance with any condition specified on the permit is not exempt from the requirements of this chapter;

4. Activities on or in publicly owned property and facilities, or by public employees or their franchisees, while in the authorized discharge of their responsibilities, are exempt; provided, that such activities have been authorized by the owner of such property or facilities or its agent or by the employing authority;

5. Religious worship activities, including but not limited to, bells, organs, singing and preaching. (Ord. 227 § 1, 1993: prior code § 7-103)

Chapter 8.24

WEEDS AND RUBBISH

Sections:

- 8.24.010 Removal of weeds and debris.
- 8.24.020 Keeping real property clear.
- 8.24.030 Waste materials not permitted.
- 8.24.040 Notice to remove rubbish.
- 8.24.050 Exceptions.
- 8.24.060 Agreements between city and property owner.

8.24.010 Removal of weeds and debris.

It is the duty of every person owning or occupying any land or lots of land within the corporate limits of the city fronting on any graded street, to cut down and destroy all weeds, grass, vegetation and all other noxious growths in front of the premises from the property line thereof, to and including the curbs of said street, and also to keep the space clear of debris. (Prior code § 8-401)

8.24.020 Keeping real property clear.

Every owner of real property in the city shall keep the real property free and clear of all rubbish or other obstructions or materials which from any cause whatever shall have accumulated upon the property, as well as all puncture vines of whatever height, and all grass, weeds and other

vegetation over two inches tall. (Prior code § 8-402)

8.24.030 Waste materials not permitted.

No waste materials as herein mentioned shall be deposited, placed or dumped upon the public streets, between property lines, in any alley, park or public way in the city. (Prior code § 8-403)

8.24.040 Notice to remove rubbish.

A. Upon the failure of the owner of any such real property in the city to remove or clear away such grass, weeds, puncture vine or vines, rubbish, obstructions or materials from such real property shall be notified by the street superintendent of the city to remove the same within a period of seven days. Such notice shall be in writing or printed and shall be posted in a conspicuous place upon the property for a period of seven days. If at the end of such period mentioned in the notice, such owner has failed to comply with the notice, then the street superintendent shall cause such grass, weeds, puncture vine or vines, rubbish, obstructions or materials to be removed from the property and shall charge the expense of such work of removing the same to the owner of the property.

B. Upon completion of the work of removal of the grass, weeds, puncture vine or vines, rubbish, obstructions or materials, the street superintendent shall notify the owner of such real property in writing of the expense of such work. If the owner fails or refuses to pay the amount of such expense within a period of thirty (30) days from the date of such notice, payment to be

made to the city, the amount shall be certified to the city clerk of the city, who shall record in a book to be kept for that purpose the name of the owner of the property so cleared, a description of the property sufficient for identification, and the amount charged against the property for doing the work of clearing and removing the grass, weeds, puncture vine or vines, rubbish, obstructions or materials from the same. From and after the date that the entry is so made, the amount charged against the owner of the property shall be a lien thereon and shall be collected by an action brought on behalf of the city to foreclose the lien against the property upon which the lien has been so imposed. (Prior code § 8-404)

8.24.050 Exceptions.

Nothing in this chapter contained shall be construed to require the removal from the real property of any ornamental trees, plants, lawns or shrubs of a reasonable growth; provided, the same are not in any manner obstructions to the free use of the sidewalk in front of or along such property by pedestrians or encroaching upon the curbs in front or along such property. (Prior code § 8-405)

8.24.060 Agreements between city and property owner.

Nothing contained in this chapter shall prevent owners of property in the city from making agreements or contracts with the city through the city's superintendent of streets, for the elimination or eradication of the grass, weeds, puncture vine or vines, rubbish obstructions or materials, should the property owners so desire. The city in the

contract may provide for a reasonable amount to be paid by the owners of the property for the eradication or removal of the grass, weeds, puncture vine or vines, rubbish, obstructions, or materials. In the event that the property owners after entering into the agreements and after performance of the terms thereof by the city, refuse to pay for the work as provided for in the contract, then the work performed by the city and materials used for the removal or eradication of grass, weeds, puncture vine or vines, rubbish, obstructions or materials, shall become a lien upon the property in the same manner as heretofore provided for in cases where the owner of the property fails or refuses to remove the grass, weeds, puncture vine or vines, rubbish, obstructions or materials. (Prior code § 8-406)

Chapter 8.28

PROPERTY MAINTENANCE

Sections:

8.28.010	Title.
8.28.020	Findings and determination.
8.28.030	Purpose and intent.
8.28.040	Property maintenance—Prohibited conditions.
8.28.050	Declaration of public nuisance.
8.28.060	Owner defined.
8.28.070	Notification of nuisance by city manager.
8.28.080	Referral to city attorney.
8.28.090	Referral to city council.
8.28.100	Service of notice.
8.28.110	Form of notice.
8.28.120	Hearing by the city council.
8.28.130	Service of order to abate.
8.28.140	City abatement.
8.28.150	Cost accounting—Notification—Hearing to confirm.
8.28.160	Assessment lien.
8.28.170	Summary abatement of immediate dangers.
8.28.180	Alternative actions available.
8.28.190	Duty of owner to abate public nuisance.
8.28.200	Violations.

8.28.010 Title.

Sections 8.28.010 through 8.28.200 of the Municipal Code shall hereafter be

referred to and cited as the "Property Maintenance Ordinance" of the city. (Ord. 232 § 1 (part), 1995)

8.28.020 Findings and determination.

The city council finds and determines as follows:

A. This chapter was developed based upon the firm belief that the current and future values and the general health, safety and welfare of the community are affected significantly by the appearance and maintenance of real property and property values, and that implementation of this chapter will avoid further deterioration of neighborhoods and will be of benefit to the community as a whole.

B. There are currently existing within the city real properties that are in a state of deterioration or disrepair as to cause a depreciation of the value of surrounding property or to be materially detrimental to nearby properties and improvements.

C. The uses and abuses of real properties, whether improved or unimproved, as described in Section 8.28.040, reasonably relate to the proper exercise of the police power of the city to protect the health, safety and general welfare of its residents. The provisions of this chapter, enforced in the manner described herein, are intended to enhance the appearance and value of such properties rather than place an undue burden on the owners thereof. (Ord. 232 § 1 (part), 1995)

8.28.030 Purpose and intent.

The purpose and intent of the regulations contained herein are as follows:

A. To define as public nuisances and violations of this code those conditions which constitute visual blight and which could result in conditions which are harmful or deleterious to the public health, safety and welfare;

B. To develop regulations that will promote the sound maintenance of property and the enhancement of the livability, community appearance, and the social, economic and environmental conditions of the community; and

C. To establish guidelines for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners. (Ord. 232 § 1 (part), 1995)

8.28.040 Property maintenance—Prohibited conditions.

It is unlawful for any person owning, leasing, occupying or having charge or possession of any property in the city to maintain such property in such manner that any of the following conditions are found to exist thereon, except as may be allowed by the city code:

A. Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction. "An unreasonable state of partial construction" is defined as any unfinished building or structure which has been in the course of construction two years or more, and where the appearance or other conditions of the unfinished building or structure substantially detracts from the appearance of the immediate neighborhood or reduces the property value in the immediate neighborhood;

B. Buildings which are not painted or in which the condition of the paint, or the condition of the building, has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping, or termite infestation as to render the building unsightly and in a state of disrepair;

C. Building exteriors, walls, fences, driveways, sidewalks, walkways and parking areas which are maintained in such condition as to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes depreciation of the values of surrounding property or is materially detrimental to nearby properties and improvements;

D. The accumulation or storage of junk including tires, lumber, household appliances or parts thereof, inoperable vehicles or parts thereof, furniture, sinks, toilets, cabinets or other household fixtures, equipment or parts thereof, rubbish, garbage, debris or salvage materials, which constitute a fire hazard and/or are stored or accumulated in such a manner as to be visible from a public street, alley or adjoining property;

E. Any front yard areas which lack appropriate turf or plant material so as to cause excessive dust, the accumulation of debris, or depreciated values of adjacent properties and neighborhood;

F. Maintenance of property so out of harmony or conformity with the maintenance standard of adjacent properties as to cause substantial diminution of the enjoyment, use or property values of such adjacent properties; and

G. Maintenance of property in such condition as to be detrimental to the public

health, safety or general welfare, or in such manner as to constitute a public nuisance as defined by Civil Code § 3480. (Ord. 232 § 1 (part), 1995)

8.28.050 Declaration of public nuisance.

All property found to be in violation of Section 8.28.040 is declared to be a public nuisance and shall be abated by rehabilitation, demolition or repair pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner provided by law. (Ord. 232 § 1 (part), 1995)

8.28.060 Owner defined.

The terms "owner" and "property owner," as used in this chapter, and unless otherwise required by the context, shall mean the owner or owners of record of real property as shown on the latest equalized assessment roll of Monterey County, or as otherwise known to a city official by virtue of more recent or reliable information. (Ord. 232 § 1 (part), 1995)

8.28.070 Notification of nuisance by city manager.

Whenever the city manager or such other city official as may be designated by the city manager determines that any property within the city is being maintained contrary to one or more of the provisions of Section 8.28.040, he/she shall give ten days' written notice to the owner of the property stating the sections being violated. Such notice

shall set forth a ten-day time period for correcting the violation(s) and may also set forth reasonable methods of correcting the same. Such notice shall be served upon the owner in accordance with provisions of Section 8.28.100. (Ord. 232 § 1 (part), 1995)

8.28.080 Referral to city attorney.

In the event an owner shall fail, neglect or refuse to comply with the notice to correct a violation, the city manager may refer the violation to the city attorney for legal action, including the institution of a civil or criminal proceeding to achieve compliance. The city attorney may, if deemed appropriate, seek compliance through referral to the city council pursuant to Section 8.28.090. (Ord. 232 § 1 (part), 1995)

8.28.090 Referral to city council.

A. In the event an owner shall fail, neglect or refuse to comply with the notice to correct a violation, the city manager may seek compliance through an administrative process, in addition to, or as an alternative to any other remedy allowed by law.

B. Upon any such referral, a hearing shall be set to conduct an administrative review to ascertain whether the violation constitutes a public nuisance, the abatement of which is appropriate under the police power of the city.

C. Notice of said hearing shall be served upon the owner in accordance with the provisions of Section 8.28.100 and shall be served upon the said property owner not less than fourteen (14) days before the time fixed for said hearing. (Ord. 232 § 1 (part), 1995)

8.28.100 Service of notice.

A. Notice shall be given by delivering a written notice personally to the owner(s) of the property upon which the nuisance is located, or by depositing such notice in the United States mail, postage prepaid and addressed to the owner(s) thereof at his/her last known address as the same appears on the last equalized assessment roll of the county. In the event a notice to remove is also given to the person(s) in possession or control of the property, such notice shall be given in either manner specified in this chapter and may be addressed to "occupant" or "to whom it may concern," if the name of such person(s) is not known.

B. The person giving such notice shall file a copy thereof in the office of the city manager, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this chapter. (Ord. 232 § 1 (part), 1995)

8.28.110 Form of notice.

Notice of hearing before the city council shall be substantially in the format set forth below:

**NOTICE OF HEARING ON
ABATEMENT OF NUISANCE**

This is a notice of hearing before the City Council of the City of Del Rey Oaks to ascertain whether certain property situated in the City of Del Rey Oaks, State of California, known and designated as (address) in said City and more

particularly described as (legal description) constitutes a public nuisance subject to abatement by the rehabilitation of such property or by the repair or demolition of buildings or structures situated thereon. If such property, in whole or in part, is found to constitute a public nuisance as defined in this ordinance and if the same is not properly abated by the owner, such nuisances may be abated by municipal authorities, in which the cost of such rehabilitation, repair or demolition will be assessed upon such property and such costs will constitute a lien upon such property until paid.

Said alleged conditions constituting a public nuisance consist of the following: (description of conditions).

The methods of abatement available are: (description of methods).

All persons having an interest in said matters may attend said hearing when their testimony and evidence will be heard and given due consideration.

DATED this ____ day of _____, 19__.

City Manager

(Ord. 232 § 1 (part), 1995)

8.28.120 Hearing by the city council.

A. At the time stated in the notice, the city council shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from owners,

witnesses, city personnel and interested persons relative to such alleged public nuisance and to proposed rehabilitation, repair or demolition of such property. Said hearing may be continued from time-to-time.

B. If the council finds that such public nuisances do exist and that there is sufficient cause to rehabilitate, demolish or repair the same, it shall prepare a resolution of findings and order of abatement, which shall include reference to the right of appeal. (Ord. 232 § 1 (part), 1995)

8.28.130 Service of order to abate.

A copy of the resolution of findings and order of abatement of the city council shall be served upon the owners and other individuals entitled to notice in accordance with the provisions of Section 8.28.100, and shall contain a detailed list of needed corrections and abatement methods. Any property owner shall have the right to have any such property rehabilitated or to have such buildings or structures demolished or repaired in accordance with the resolution and at the owner's own expense; provided, the same is commenced prior to the expiration of a thirty-day abatement period and thereafter diligently and continuously prosecuted to completion. Upon abatement in full by the owner, the proceedings hereunder shall terminate. (Ord. 232 § 1 (part), 1995)

8.28.140 City abatement.

A. If the nuisance is not abated as ordered within the abatement period, the city manager may cause the same to be abated by city employees or private contract. The city manager and the city manager's agents

and representatives are expressly authorized to enter upon the property for such purposes. The costs, including incidental expenses, or abating the nuisance shall be billed to the owner and shall become due and payable thirty (30) days thereafter.

B. The term "incidental expenses" shall include, but not be limited to:

1. An administrative charge established by resolution of the city council;
2. The costs of the hearing by the city council;
3. Personnel costs, both direct and indirect, including attorney's fees;
4. Costs incurred in documenting the nuisance, including the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work; and
5. The costs of printing and mailing required notices and documents hereunder. (Ord. 232 § 1 (part), 1995)

**8.28.150 Cost accounting—
Notification—Hearing
to confirm.**

The city manager, or the designated representative, shall keep an accounting of the cost, including incidental expenses, of abating such nuisance on each separate lot or parcel of land where the work is done by the city and shall render an itemized report in writing to the city council showing the cost of abatement, including the rehabilitation, demolition or repair of the property, including any salvage value relating thereto; provided, that before the report is submitted to the city council, a copy of the same, together with a notice of the time when the report shall be heard by the city council for

confirmation, shall be served upon the owner(s) of the property in accordance with the provisions of Section 8.28.100 at least ten days prior to submitting the same to the city council. At the time fixed for hearing, the city council shall consider the accounting and such objections as may be offered against it, whereupon it shall modify, amend or confirm the same as submitted; provided, it may continue such hearing from time-to-time. (Ord. 232 § 1 (part), 1995)

8.28.160 Assessment lien.

A. Pursuant to Government Code §§ 38773 and 38773.5, unless paid in full within fifteen (15) days following the date of adoption of the council resolution confirming the assessment, the total cost for abating such nuisance, as so confirmed by the city council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment.

B. After such confirmation and recordation, a copy shall be forwarded to the tax collector for the county whereupon it shall be the duty of said tax collection to add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land and thereafter the amounts shall be collected at the same time and in the same manner as other property taxes are collected, and shall be subject to the same penalties and the same procedures under foreclosure and sale in case of delinquency as provided for ordinary property taxes; or after such

recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law. Such notice of lien for recordation shall be in the form substantially as follows:

NOTICE OF LIEN

(Claim of the City of Del Rey Oaks)

Pursuant to the authority vested by the provisions of § 8-973 of the Del Rey Oaks Municipal Code, the City Manager of the City of Del Rey Oaks did on or about the _____ day of _____, 19__, cause the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described to be repaired or demolished in order to abate a public nuisance on said real property; and the City Council of the City of Del Rey Oaks did on the _____ day of _____, 19__, assess the cost of such rehabilitation, repair, or demolition in the amount of said assessment, to wit: the sum of \$ _____: and the same shall be a lien upon said real property until the same has been paid in full and discharged or record.

The real property hereinabove mentioned, and upon which a lien is claimed is that certain parcel of land lying and being in the City of Del Rey Oaks, County of Monterey, State of California, and particularly described as follows: (legal description).

Dated this _____ day of _____, 19__.

 City Manager
 City of Del Rey Oaks
 (Ord. 232 § 1 (part), 1995)

8.28.170 Summary abatement of immediate dangers.

Whenever any condition on or use of property causes or constitutes, or reasonably appears to cause or constitute, an imminent immediate danger to the health and safety of the public, or a significant portion thereof, the city manager shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall become a lien on the property and be collectible as provided in this chapter. (Ord. 232 § 1 (part), 1995)

8.28.180 Alternative actions available.

Nothing in this chapter shall be deemed to prevent the city from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means available to it under provisions of applicable ordinances or state law to correct hazards or deficiencies in real property in addition to or as alternatives to the proceedings set forth in this chapter. (Ord. 232 § 1 (part), 1995)

8.28.190 Duty of owner to abate public nuisance.

Nothing contained herein shall be deemed to impose any duty or liability upon the city, its officers or employees for failure to abate a public nuisance, nor to relieve the

owner of any private property of the duty to keep his property free from those conditions constituting a public nuisance or to abate said conditions upon notice by the city. (Ord. 232 § 1 (part), 1995)

8.28.200 Violations.

No person shall remove any notice or order posted as required in this chapter. No person shall obstruct, impede or interfere with any representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered to be vacated, repaired, rehabilitated or demolished and removed or with any person to whom such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the city, purchaser or person having any interest or estate in such building is engaged in vacating, repairing, rehabilitating or demolishing and removing any such building pursuant to the provisions of this chapter or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant hereto. (Ord. 232 § 1 (part), 1995)

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.04 Offenses Against Public Peace and Decency

9.08 Curfew

Chapter 9.04**OFFENSES AGAINST PUBLIC
PEACE AND DECENCY****Sections:**

9.04.010 Drinking alcoholic beverages prohibited in designated public places.

9.04.020 Discharge of weapons prohibited in city.

9.04.010 Drinking alcoholic beverages prohibited in designated public places.

No person shall drink any beer, wine or other alcoholic or intoxicating beverage on any public street, highway, alley, sidewalk or parking lot within the city. This section is not intended to make punishable any act or acts which are prohibited by any law of the State of California. (Ord. 233 § 2, 1995)

9.04.020 Discharge of weapons prohibited in city.

It is unlawful for any person to fire or discharge any pistol, gun, rifle, fire-arm, bow, airgun, or other device whereby shot, bullet, or other dangerous missile is discharged or projected within the corporate limits of the city. (Prior code § 7-102)

Chapter 9.08**CURFEW****Sections:**

9.08.010 Loitering of minors prohibited.

9.08.020 Responsibility of parents.

9.08.030 Violations—Penalties.

9.08.010 Loitering of minors prohibited.

It is unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 8:00 p.m. and 5:00 a.m. of the following day, Pacific Standard Time, or between the hours of 9:00 p.m. and 5:00 a.m. of the following day, Pacific Daylight Time, upon Sunday, Monday, Tuesday, Wednesday and Thursday nights and between the hours of 10:00 p.m. and 5:00 a.m. of the following day, Pacific Standard Time and 11:00 p.m. and 5:00 a.m. of the following day, Pacific Daylight Time, when the city is upon Daylight Time, upon Friday and Saturday nights; provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency

errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor. (Prior code § 7-401)

9.08.020 Responsibility of parents.

A. It is unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such minor to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public places and public buildings, places of amusement and entertainment, vacant lots and other unsupervised places, between the hours of 8:00 p.m. and 5:00 a.m. of the following day, Pacific Standard Time, or between the hours of 9:00 p.m. and 5:00 a.m. of the following day, Pacific Daylight Time, upon Sunday, Monday, Tuesday, Wednesday and Thursday nights, and between the hours of 10:00 p.m. and 5:00 a.m. of the following day, Pacific Standard Time, and 11:00 p.m. and 5:00 a.m. of the following day, Pacific Daylight Time, when the city is upon Daylight Time, upon Friday and Saturday nights; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult having the care and custody of the minor.

B. Each violation of the provisions of this section shall constitute a separate offense. (Prior code § 7-402)

9.08.030 Violations—Penalties.

Any minor violating the provisions of Section 9.08.010 shall be dealt with in accordance with the juvenile court law of the State of California. Any parent, guardian, or other adult person having the care and custody of a minor violating Section 9.08.020 shall be fined not less than five dollars (\$5.00) nor more than three hundred dollars (\$300.00), or confined in jail not more than thirty (30) days, or punished by both said fine and imprisonment for each offense. (Prior code § 7-403)

Title 10

VEHICLES AND TRAFFIC

Chapters:

- 10.04 Vehicles and Traffic Generally**
- 10.08 Parking**
- 10.12 Commercial Vehicles**
- 10.16 Abandoned Vehicles**
- 10.20 Motor Vehicle Storage in Residential Zones**
- 10.24 Trip Reduction Program**
- 10.28 Mobilehomes, Campers, Boats and Boat Trailers**
- 10.32 Bicycles**

Chapter 10.04

VEHICLES AND TRAFFIC GENERALLY

Sections:

- 10.04.010** Definitions.
- 10.04.020** Obedience to traffic regulations.
- 10.04.030** Certain matters described by resolution.
- 10.04.040** Powers and duties of chief of police.
- 10.04.050** Obedience to traffic signs.
- 10.04.060** Display of unauthorized signs prohibited.
- 10.04.070** Pedestrian use of roadway.
- 10.04.080** Vehicles not to obstruct streets.
- 10.04.090** Through-highway and intersection stops.
- 10.04.100** Following fire apparatus prohibited.
- 10.04.110** Driving vehicles on sidewalks.
- 10.04.120** Police and fire vehicles exempt from certain rules.
- 10.04.130** Repairing or rebuilding vehicles on streets.

10.04.010 Definitions.

Except as otherwise defined herein, the definition of any term used in this chapter is the definition of such term as it is defined and described in the Vehicle Code of the State of California and amendments thereto. (Prior code § 9-101)

10.04.020 Obedience to traffic regulations.

Officers of the police department or persons deputized by the chief of police, shall have the power of enforcing the provisions of this chapter and said officers are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that, in the event of fire or other emergency, police officers may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws. No person shall willfully fail or refuse to comply with any lawful order, direction or signal of a police officer, and it is unlawful for any other persons than an officer of the police department or persons deputized to direct or attempt to direct traffic by voice, hand or other signal. (Prior code § 9-102)

10.04.030 Certain matters described by resolution.

The city council may by resolution determine and designate the location of through highway and intersection stops and parking time limit within any designated area within the city; and it is authorized and directed to place, paint, maintain and cause to be placed, painted, and maintained the necessary signals, markings, or painted curbing in accordance with the Vehicle Code of California and amendments thereto. (Prior code § 9-103)

10.04.040 Powers and duties of chief of police.

The chief of police is authorized, and he shall determine and designate the location of loading zones, bus loading zones and safety zones and/or the method of turning

at intersections, and/or the location of mechanical signals; and he is authorized and directed to place, paint and maintain, or cause to be placed, painted or maintained, the necessary signs, markers or painted curbing in accordance with the Vehicle Code of California and amendments thereto. (Prior code § 9-104)

10.04.050 Obedience to traffic signs.

A. It is unlawful for the driver of any vehicle or any pedestrian to disobey the instructions of any signal, traffic sign or mark upon any street, placed in accordance with the provisions of this chapter.

B. It is unlawful for the driver or operator of any vehicle to park said vehicle in disregard of any traffic sign or mark upon the street or curb. No public utility or department in this city shall erect or place any barrier or sign unless of a type first approved by the chief of police.

C. It is unlawful for any operator or pedestrian to disobey the instructions of any barrier or sign approved, as above provided, erected or placed by a public utility or by any department of this city. (Prior code § 9-105)

10.04.060 Display of unauthorized signs prohibited.

A. It is unlawful for any person to place or maintain or to display any device, other than an official warning or direction sign or signal erected under competent authority, upon or in view of a street, which purports to be, or is an imitation of, or resembles, an official warning or direction sign or signal, or which attempts to direct the movement of traffic or the action of operators, and any such prohibited device shall be a public

nuisance, and the chief of police may remove it, or cause it to be removed, without notice.

B. It is unlawful for any person willfully to deface, injure, move or interfere with any official warning or directions sign or signal. (Prior code § 9-106)

10.04.070 Pedestrian use of roadway.

A. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection. Every pedestrian crossing a roadway at a point other than an intersection or within a marked crosswalk shall yield the right-of-way to all vehicles moving upon the roadway.

B. It is unlawful for any person to stand in a roadway for the purpose of or while soliciting a ride from the operator of any private vehicle. (Prior code § 9-107)

10.04.080 Vehicles not to obstruct streets.

It is unlawful for any person to operate or stand or park any vehicle on any street in such manner as to obstruct the free use of such street. (Prior code § 9-108)

10.04.090 Through-highway and intersection stops.

Every driver of a vehicle shall stop such vehicle before entering or crossing any through-highway and before entering or crossing any intersection designated as a stop intersection at any entrance thereto designated as a stop entrance. All such stops shall be made at a prolongation of the property line of such through-highway or intersection or at such other place properly

marked and designated as a stop location; provided, however, that no such stops need be made when traffic is signaled to proceed by any stop and go signal, or by a police officer. (Prior code § 9-109)

10.04.100 Following fire apparatus prohibited.

It is unlawful for the driver of any vehicle, other than one on official business, to follow any fire apparatus travelling in response to a fire alarm, closer than three hundred feet, or to park, stop or stand any vehicle within the block where the fire apparatus has stopped in answer to a fire alarm. No vehicle shall be driven over unprotected hose of the fire department when laid down on any street, private driveway or other place, without the consent of the chief of the fire department, or assistant in command. (Ord. 233 § 8, 1995: prior code § 9-110)

10.04.110 Driving vehicles on sidewalks.

A. The operator of a vehicle shall not drive the same upon any sidewalk area, except at a regularly established driveway.

B. It is unlawful for the operator of any bicycle or motorcycle when upon a street to carry any other person upon the bar, handle or tank of any such vehicle or for any person so to ride upon any such vehicle.

C. It is unlawful for any person traveling upon any bicycle, motorcycle or any toy vehicle to cling to or attach himself or his vehicle to any other moving vehicle upon any roadway. (Prior code § 9-111)

10.04.120 Police and fire vehicles exempt from certain rules.

The provisions of the ordinance regulating the movement, parking and standing of vehicles shall not apply to emergency vehicles of any political subdivision of the State of California or of a public utility, while the driver of any such vehicle is engaged in the necessary performance of public emergency duties. (Prior code § 9-113)

10.04.130 Repairing or rebuilding vehicles on streets.

Repairing, rebuilding or constructing any vehicle on any public street, highway or alley within the city, except to the extent that may be reasonably necessary temporarily to repair such vehicle in order to remove it from such street, highway or alley, is prohibited. Open flares shall be used for the purpose of attracting attention to barriers or obstructions within the roadway. (Prior code § 9-114)

Chapter 10.08

PARKING

Sections:

- 10.08.010** **Parking regulations.**
- 10.08.020** **Restricted parking zones.**
- 10.08.030** **Use of streets for vehicle storage.**
- 10.08.040** **Private parking lots—Unauthorized parking unlawful.**
- 10.08.050** **Private parking lots—Placement of signs by owners.**
- 10.08.060** **Habitation of vehicles between 10:00 p.m. and 6:00 a.m.**

10.08.010 Parking regulations.

It is unlawful for the operator of a vehicle to stop, park or leave standing such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a traffic officer or of an official direction sign or marking, to wit:

- A. In a roadway other than parallel with the curb and with the two righthand wheels of the vehicle within eighteen (18) inches of the regularly established curb line, except upon those streets which have been marked for angle parking as determined by resolution, duly passed and adopted by said city council;
- B. In any loading zone for a period of time longer than is necessary for the loading or unloading of passengers or material;
- C. Upon the paved or main traveled portion of any roadway when it is practicable to stop, park or so leave such vehicle off such part or portion of the roadway;

D. Upon any roadway unless not less than fourteen feet of the width of the paved or improved or main traveled portion of the roadway opposite the stopped, parked or standing vehicle is left clear and unobstructed for the free passage of other vehicles. (Prior code § 9-112)

10.08.020 Restricted parking zones.

When authorized curb markings or signs, as hereinafter set forth and defined, have been determined by the chief of police to be necessary and are in place giving notice thereof, no operator of any vehicle shall stop, park or leave standing such vehicle adjacent to any such legible curb marking or signs and in violation of such curb markings or signs, as follows:

- A. Red curb markings shall mean no stopping, standing or parking at any time, except that a bus operated by a public agency may stop in a red zone designated by a curb marking or sign as a bus zone, and except in the vicinity of a fire hydrant when permitted by the Vehicle Code of the State of California.
- B. Yellow curb markings shall mean no stopping, standing or parking for a period of time longer than one hour at any time between the hours of 7:00 a.m. and 10:00 p.m. of any day for any purpose other than the loading or unloading of passengers or freight.
- C. White curb markings shall mean no stopping, standing or parking for a period of time longer than ten minutes at any time between the hours of 7:00 a.m. and 7:00 p.m. of any day for any purpose other than the loading or unloading of passengers or for the purpose of depositing mail in an adjacent mail box.
- D. Green curb markings shall mean no stopping, standing or parking for a period of time longer than twenty minutes at any time

between the hours of 7:00 a.m. and 6:00 p.m. of any day, except Sundays and holidays. (Prior code § 9-112A)

10.08.030 Use of streets for vehicle storage.

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of seventy-two (72) hours. Any vehicle so parked is declared to be a public nuisance and the chief of police may remove it, or cause it to be removed pursuant to Vehicle Code § 22651(k). (Prior code § 9-115)

**10.08.040 Private parking lots—
Unauthorized parking
unlawful.**

Whenever a private parking lot or area is posted and signed in accordance with Section 10.08.050 it is unlawful for any person to stop, stand or park any motor vehicle in such parking lot without permission or authorization from the owner of such lot or area. For the purposes of this section, the term "owner" includes tenant, lessee, agent or other person having lawful control or possession of the premises. Violation of this section shall be an infraction. (Ord. 237 § 1 (part), 1996)

**10.08.050 Private parking lots—
Placement of signs by
owners.**

In order for the provisions of Section 10.08.040 to apply, the owner of the property must place signs, approved by the police department, on such property giving notice that only certain persons or class of persons may park on that property. Such signs shall also clearly state that violators may be subject to

the provisions of Section 10.08.040. (Ord. 237 § 1 (part), 1996)

**10.08.060 Habitation of vehicles
between 10:00 p.m. and 6:00
a.m.**

No person shall use or occupy or permit the use or occupancy of any motor vehicle, house car, camper or trailer coach for human habitation, including but not limited to sleeping, eating, or resting, either singly or in groups, on any street, avenue, alley, park, beach, plaza, square, public way or private or public parking lot within the city between the hours of 10:00 p.m. and 6:00 a.m., except in designated camping areas. (Ord. 239 § 1, 1997)

Chapter 10.12**COMMERCIAL VEHICLES****Sections:**

- 10.12.010** **Definitions.**
- 10.12.020** **Exemptions from
restrictions.**
- 10.12.030** **Use of certain streets
prohibited.**
- 10.12.040** **Parking on residential
streets.**
- 10.12.050** **Parking on private
property.**
- 10.12.060** **Notice of restrictions.**

10.12.010 **Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Commercial vehicle” means a vehicle which is registered as a commercial vehicle or the equivalent with the department of motor vehicles of any state.

“Residential district” means all districts as defined in accordance with the city’s zoning ordinance which include residential uses as permitted uses, but specifically excluding all portions of State Highways 218 or 68. (Prior code § 9-500)

10.12.020 **Exemptions from
restrictions.**

Any restrictions placed on commercial vehicles by these sections shall not apply to the following:

A. Vehicles making pick-ups or deliveries of goods, wares and merchandise from or to any building or structure located in the

restricted areas or for the purpose of delivering materials to be used in the actual bona fide repair, alteration, remodeling or construction of any building or structure upon the restricted streets for which a building permit has previously been obtained;

B. Passenger buses under the jurisdiction of the Public Utility Commission;

C. Any vehicle owned by a public utility or a licensed contractor while necessarily in use in the construction, installation or repair of any public utility within the restricted area;

D. Vehicles owned by any governmental agency. (Prior code § 9-501)

10.12.030 Use of certain streets prohibited.

Commercial vehicles, having a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or more, are prohibited from using all streets within the residential district of the city. (Prior code § 9-502)

10.12.040 Parking on residential streets.

Commercial vehicles, having a manufacturer's gross vehicle rating of ten thousand (10,000) pounds or more, are prohibited from parking or standing on any street, or portion thereof, in a residential district. (Prior code § 9-503)

10.12.050 Parking on private property.

Commercial vehicles, having a manufacturer's gross vehicle rating of ten thousand (10,000) pounds or more, are prohibited from being parked, stored or

maintained upon any lot or parcel of land within the residential district. (Prior code § 9-504)

10.12.060 Notice of restrictions.

The city council shall erect and maintain appropriate signs giving notice of the restrictions described by this chapter. (Prior code § 9-505)

Chapter 10.16

ABANDONED VEHICLES

Sections:

- 10.16.010** Findings of fact—
Nuisance declared.
- 10.16.020** Definitions.
- 10.16.030** Regulations not
exclusive.
- 10.16.040** Authority of chief of
police to abate and
remove.
- 10.16.050** Exemptions.
- 10.16.060** Abandonment of
vehicle.
- 10.16.070** Notice of intention to
abate and remove.
- 10.16.080** Public hearing upon
request of owner of
land or vehicle—
Notice.
- 10.16.090** Conduct of hearing.
- 10.16.100** Appeals to council.
- 10.16.110** Abatement—
Authorized.
- 10.16.120** Abatement—Notice to
department of motor
vehicles.
- 10.16.130** Abatement—Penalty for
refusal.
- 10.16.140** Assessment of costs.
- 10.16.150** Council to fix
administrative costs.
- 10.16.160** Disposal of personal
property found in
vehicle.
- 10.16.170** Enforcement—Right of
entry of enforcing
officer.

10.16.180 Authority of franchise
to remove abandoned
vehicles.

10.16.190 Authority to
immediately remove
from highway vehicles
which lack necessary
equipment.

10.16.200 Removal—Notice to
department of justice.

10.16.210 Costs of removal and
disposition.

10.16.010 Findings of fact—Nuisance
declared.

A. In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the city council makes the following findings and declarations.

B. The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof, on private or public property, including highways, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private or public property, including highways, except as expressly permitted in this chapter, is

declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Prior code § 9-201)

10.16.020 Definitions.

As used in this chapter:

“Chief of police” includes any officer or employee of the city designated by the chief to enforce this chapter, including the execution of notices, holding of hearings and making of findings.

“Highway” means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

“Owner of land” means the owner of the land on which the vehicle, parts thereof, is located, as shown on the last equalized assessment roll.

“Owner of the vehicle” means the last registered owner and legal owner of record.

“Public property” does not include highways.

“Vehicle” means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. (Prior code § 9-202)

10.16.030 Regulations not exclusive.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the city, the state, or any other legal entity or agency having jurisdiction. (Prior code § 9-203)

10.16.040 Authority of chief of police to abate and remove.

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the chief of police shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. (Prior code § 9-204)

10.16.050 Exemptions.

A. This chapter shall not apply to:

1. A vehicle or part thereof in an enclosed building or outside an enclosed building in an area of private property not visible from the street or other public or private property; provided, however, that this exclusion shall not apply to abandoned, wrecked, dismantled or inoperative vehicles on private property without the permission of the person having lawful custody or control of such property;

2. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

B. Nothing in this chapter shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10, commencing with Section 22650, of Division II of the Vehicle Code and this chapter. (Prior code § 9-205)

10.16.060 Abandonment of vehicle.

It is unlawful and an offense under Section 1.16.020 for any person to abandon, park, store, or leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle or part thereof which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property, not including highways within the city for a period in excess of ten days unless such vehicle or part thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk yard. (Prior code § 9-206)

10.16.070 Notice of intention to abate and remove.

A ten-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

**NOTICE OF INTENTION
TO ABATE AND REMOVE
AN ABANDONED, WRECKED,
DISMANTLED, OR INOPERATIVE
VEHICLE OR PARTS THEREOF
AS A PUBLIC NUISANCE**

(Name and address of owner
of the land)

As owner shown on the last equalized assessment roll of the land located at _____,

you are hereby notified that the undersigned, pursuant to Del Rey Oaks Municipal Code Section 10.16.040, has determined that there exists upon said land an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of Chapter 10.16 of the Del Rey Oaks Municipal Code.

You are hereby notified to abate said nuisance by removal of said vehicle, or said parts of a vehicle within ten (10) days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the city and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle, or said parts thereof, is located.

As owner of the land on which said vehicle, or said parts thereof, is located, you are hereby notified that you may,

within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Chief of Police within such ten (10) day period, the Chief of Police shall have the authority to abate and remove said vehicle, or said parts thereof, as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of such vehicle, or said parts thereof, on said land, with your reasons for denial, and such statement shall be construed as a request for hearing, which does not require the presence of the owner submitting such request. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice mailed: _____ (date)

**NOTICE OF INTENTION TO
 ABATE AND REMOVE AN
 ABANDONED, WRECKED,
 DISMANTLED OR INOPERATIVE
 VEHICLE OR PARTS THEREOF
 AS A PUBLIC NUISANCE**

(Name and address of last registered and/or legal owner of record of vehicle-notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle-

make, model, license, etc.), you are hereby notified that the undersigned, pursuant to Del Rey Oaks Municipal Code Section 10.16.040, has determined that said vehicle, or said parts thereof, exists as an abandoned, wrecked, dismantled, or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 10.16 of the Del Rey Oaks Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle, or said parts thereof, within ten (10) days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle, or said parts thereof, you are hereby notified that you may within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Chief of Police within such ten (10) day period, the Chief of Police shall have the authority to abate and remove said vehicle, or said parts thereof, without a hearing.

Notice mailed: _____ (date)

(Prior code § 9-207)

10.16.080 Public hearing upon request of owner of land or vehicle—Notice.

A. Upon request by the owner of the vehicle or owner of the land, received by the chief of police within ten days after the mailing of the notices of intention to abate

and remove, a public hearing shall be held by the chief of police on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle, or parts thereof, against the property on which it is located.

B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such ten-day period, such statement shall be construed as a request for a hearing which does not require the presence of the owner submitting the request. Notice of the hearing shall be mailed by certified mail at least ten days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within such ten days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing. (Prior code § 9-208)

10.16.090 Conduct of hearing.

A. All hearings under this chapter shall be held before the chief of police who shall hear all facts and testimony he deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on the private property or public property. The chief of police shall not be limited by the technical rules of

evidence. The owner of the land on which the vehicle is located may appear in person at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

B. The chief of police may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purposes of this chapter. He may delay the time for removal of the vehicle, or part thereof, if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the chief of police may find that a vehicle, or part thereof, has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance disposed of as provided in this chapter and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle, or part thereof, is located. The order requiring removal shall include a description of the vehicle, or part thereof, and the correct identification number and license number of the vehicle, if available at the site.

C. If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the chief of police shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

D. If the land owner submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party

makes a written presentation to the chief of police but does not appear, he shall be notified in writing of the decision. (Prior code § 9-209)

10.16.100 Appeals to council.

A. Any interested party may appeal the decision of the chief of police by filing a written notice of appeal with the city clerk within five days after his decision.

B. Such appeal shall be heard by the city council, which may affirm, amend or reverse the order to take other action deemed appropriate.

C. The city clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 10.16.090.

D. In conducting the hearing, the city council shall not be limited by the rules of evidence. (Prior code § 9-210)

10.16.110 Abatement—Authorized.

Five days after adoption of the order declaring the vehicle, or parts thereof, to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 10.16.090, or fifteen (15) days after such action of the governing body authorizing removal following appeal, the vehicle, or parts thereof, may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates pursuant to Section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable. (Prior code § 9-211)

10.16.120 Abatement—Notice to department of motor vehicles.

Within five days after the date of removal of the vehicle, or parts thereof, notice shall be given to the department of motor vehicles identifying the vehicle, or parts thereof, removed. At the same time, there shall be transmitted to the department of motor vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Prior code § 9-212)

10.16.130 Abatement—Penalty for refusal.

It is unlawful and an offense under Section 1.16.020 for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where such state law is applicable. (Prior code § 9-213)

10.16.140 Assessment of costs.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 10.16.090 are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Such assessment shall have the same priority as other city taxes. (Prior code § 9-214)

10.16.150 Council to fix administrative costs.

The city council shall from time to time determine and fix by resolution an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle, or parts thereof, under this chapter. (Prior code § 9-215)

10.16.160 Disposal of personal property found in vehicle.

A. Personal property, including boats, found within or upon an abandoned vehicle may be disposed of as part of the proceedings for abatement and removal of the vehicle in which the personal property is found.

B. Notices to property owners and vehicle owners required in this chapter shall contain a description of such property. In the case of a boat bearing California registration numbers, the department of harbors and watercraft shall be notified in the same manner as notice to the department of motor vehicles.

C. At the time of the hearing, the chief of police shall order any personal property found in or upon an abandoned vehicle, destroyed, junked, sold or other property disposition considering its nature and value. (Prior code § 9-216)

10.16.170 Enforcement—Right of entry of enforcing officer.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the chief of police. In the enforcement of this chapter, such officer and his deputies may enter upon private or public property to examine a vehicle, or parts thereof, or obtain

information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this chapter. (Prior code § 9-217)

10.16.180 Authority of franchisee to remove abandoned vehicles.

When the city council has contracted with or granted a franchise to any person or persons pursuant to subdivision (a) of Vehicle Code § 22710, such person or persons may remove a vehicle or parts thereof from a highway or may enter upon private property or public property to remove or cause the removal of a vehicle or part thereof, after a determination and authorization by a peace officer or vehicle abatement officer that the vehicle is abandoned. (Ord. 222 § 1 (part), 1993)

10.16.190 Authority to immediately remove from highway vehicles which lack necessary equipment.

Motor vehicles which are abandoned, parked, resting or otherwise immobilized on any highway or public right-of-way and which lack an engine, or transmission, or wheels, or tires, or doors, or windshield, or any part or equipment necessary to operate safely on the highways of this state are a public nuisance and may be removed immediately upon discovery by a peace officer or employee. (Ord. 222 § 1 (part), 1993)

10.16.200 Removal—Notice to department of justice.

A. Whenever an officer or an employee removing a California registered vehicle

from a highway or from public property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give notice to the owner as required by Vehicle Code § 22852, the officer or employee shall immediately notify, or cause to be notified, the department of justice, stolen vehicle system, of its removal. The officer or employee shall file a notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time and place from which removed, the amount of mileage on the vehicle at the time of removal, and the name of the garage or place where the vehicle is stored.

B. Whenever an officer or an employee removing a vehicle is not registered in California from a highway or from public property for storage under this chapter does not know and is not able to ascertain the owner or for any other reason is unable to give the notice to the owner as required by Vehicle Code § 22852, the officer or employee shall immediately send, or cause to be sent, a written report of the removal by mail to the department of justice in Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of the mileage on the vehicle at the time of removal, the grounds for removal and the name of the garage or place where the vehicle is stored.

C. Whenever an officer or employee or private party removing a vehicle from private property for storage under this chapter does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as required by Vehicle Code § 22852 and if the vehicle is not returned to the owner within a period of one hundred twenty (120) hours, the officer or employee or private party shall immediately send, or cause to be sent, a written report of the removal by mail to the department of justice in Sacramento and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The report shall be made on a form furnished by that department and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored. (Ord. 222 § 1 (part), 1993)

10.16.210 Costs of removal and disposition.

The costs required to be paid for the removal and disposition of any vehicle determined to be abandoned pursuant to this chapter shall not exceed those for towing and seven days of storage. This section shall not apply if the registered owner or legal owner has completed and returned to the lienholder a "Declaration of Opposition" form within the time specified in Vehicle Code § 22851.8. (Ord. 222 § 1 (part), 1993)

Chapter 10.20

MOTOR VEHICLE STORAGE IN RESIDENTIAL ZONES

Sections:

- 10.20.010** Prohibited parking of motor vehicles.
- 10.20.020** Prohibited storage of parts.
- 10.20.030** Exceptions.
- 10.20.040** Abatement of public nuisance.

10.20.010 Prohibited parking of motor vehicles.

No motor vehicle shall be parked or stored in a residential area on the improved or unimproved portion of a front, rear or side yard, including the lawn area, except on an improved driveway or in an approved garage. For the purposes of this chapter, the phrase "motor vehicle" shall be as defined in the California Vehicle Code, and "driveway" means a paved or surfaced way designed for vehicular ingress and egress and which is not in excess of twenty-four (24) feet in width or thirty-six (36) feet for properties which front on the bulb area of a cul-de-sac street. (Prior code § 9-510)

10.20.020 Prohibited storage of parts.

No motor vehicle parts shall be stored in a residential area except in an approved garage or a backyard area not visible from a public street or neighboring private property. (Prior code § 9-520)

10.20.030 Exceptions.

The prohibitions imposed in this chapter shall not be deemed to apply to:

A. The occasional and incidental repair of motor vehicles owned by the person in possession of the premises in a residential zone if the time to accomplish the same does not exceed a period of forty-eight (48) hours, and

B. Paved or surfaced parking areas or driveways in excess of the width specified in Section 10.20.010 and which were in existence on the date the ordinance codified in this chapter was first introduced by council reading of the ordinance. (Prior code § 9-530)

10.20.040 Abatement of public nuisance.

The violation of the provisions of this chapter is declared to be a public nuisance, and in addition to any other remedy available, including criminal prosecution as an infraction, may be abated as such in accordance with the provisions of Sections 10.16.010 through 10.16.210 relating to abandoned vehicles, with the administrative costs and the costs of removal charged against the person in control of the premises and/or the owner of the land in the same manner as specified in Sections 9.16.130 through 10.16.150. (Ord. 233, § 10, 1995: prior code § 9-540)

Chapter 10.24

TRIP REDUCTION PROGRAM

Sections:

- 10.24.010** Definitions.
- 10.24.020** Voluntary trip reduction program.
- 10.24.030** Facilities component—Purpose.
- 10.24.040** Applicability.
- 10.24.050** Compliance.
- 10.24.060** Responsibilities of residential developer and developments.
- 10.24.070** Responsibilities of tourist-oriented developers and developments.
- 10.24.080** Provisions for commercial developers and developments.
- 10.24.090** Implementation schedule.
- 10.24.100** Reporting requirements.
- 10.24.110** Enforcement.
- 10.24.120** Fines.
- 10.24.130** Violations.
- 10.24.140** Administrative appeals.
- Appendix 1** TDM Techniques
- Appendix 2** Average Vehicle Ridership Methodology

10.24.010 Definitions.

For the purpose of this chapter, the following words and phrases are defined and explained:

“Alternative transportation modes” means any mode of travel that serves as an alternative to the single occupant vehicle. This

can include all forms of ridesharing such as carpooling or vanpooling, public transit, bicycling, walking or alternative methods such as telecommuting.

“Applicable development” means any new development that is determined to meet or exceed the fifty (50) employee threshold or any existing development that applies to increase its floor areas by twenty-five thousand (25,000) gross square feet. Applicable developments include complexes exceeding the fifty (50) employee threshold and residential developments with twenty-five (25) or more units. To determine the number of employees, the chart below is used.

1. For purposes of determining whether a new or expanding employer is subject to this chapter, the total employment figure will be determined by the jurisdiction as follows:

- a. Employment projections developed by the project applicant, subject to approval by the TRO Program Manager; or
- b. Employment projections provided to sewer and water agencies in connection with the new or expanded use; or
- c. The following employee generation factors by type of use:

Land Use Category	Number of Employees
Commercial (Regional, Community or Neighborhood Office/Professional	1500 gross square feet
Industrial	1/250 gross square feet
Hotel/Motel	.8 per room
Mixed use	Sum of individual figures for each use

Land Use Category	Number of Employees
Restaurant	1 per 10 seats
Hospital/Other Medical	1 per 4 beds

(Locally generated using springtime (May-Sept.) figures may be substituted once collected and approved by TAMC).

“Average vehicle ridership (AVR)” means the figure derived by dividing the number of employees (including those telecommuting) at a regulated work site who commute to and from work between 6:00 a.m. to 10.00 a.m. Monday through Friday, by the number of vehicles driven by these employees between home and the work site over that five-day period. The methodology for calculating AVR is contained in Appendix 2.

“Buspool” means a heavy duty vehicle occupied by at least sixteen (16) passengers and the routing/scheduling for which is arranged between employer(s) and transit operators.

“Carpool” means a light duty motor vehicle occupied by at least two but not more than six employees traveling together.

“Commercial developer” means a developer of a commercial project that falls under the definition of “applicable development” above.

“Complex” means any business park, shopping center, or mixed use development in separate or common ownership, which can be identified by two or more of the following characteristics:

1. It is known by a common name given to the project by its developer;
2. It is governed by a common set of covenants, conditions, and restrictions;
3. It was approved, or is to be approved as an entity by the city;
4. It is covered by a single tentative or final subdivision map or has been represented to the city as a single site and development;
5. It is located on a single assessor’s parcel.

At the discretion of the jurisdiction, a complex may also include the central business district and/or strip commercial areas.

“Congestion management program” (CMP)” means the countywide program developed in accordance with California Government Code Sections 65088 et seq., requiring local jurisdictions and congestion management agencies to adopt and implement a trip reduction and travel demand element. The CMP law also requires designation of a CMP principal arterial network, a transit network, a land use impact analysis program, a deficiency plan and level of service monitoring system, and a seven-year capital improvement program.

“Developer” means the individual or company who is responsible for the planning, design, and/or construction of an applicable development project. The developer is the individual who signs all permit applications on behalf of the property owner.

“Facility(ies)” means the total of all buildings, structures and grounds that encompass a development site, at either single or multiple locations, that comprise or are

associated with an applicable development project.

“Indirect source review program” means the program included in the 1991 Air Quality Management Plan for North Central Coast Air Basin to reduce emissions from indirect sources (land uses which generate vehicle trips).

“Mixed-use development” means any development projects that combine any one of these land uses with another: residential, day care, office, commercial, light industrial, retail, and business park.

“Monterey Bay Unified Air Pollution Control District (MBUAPCD)” is the regional governmental body responsible for the development and enforcement of regulations for control of air pollution within the counties of Monterey, Santa Cruz and San Benito.

“Park-and-ride lot” means a parking lot located near residential communities or along highways which is served by a transit route or can be used by commuters as a staging area for carpool formation or for catching a bus. (A park-and-ride lot may also be used for visitors as a staging area for tourist shuttle buses). Parking is free for commuters or visitors using a park-and-ride lot.

“Parking cash out program” means an employer funded, tax deductible program where employers provide a cash allowance to an employee equivalent to the parking subsidy the employer would otherwise provide. Cities and counties are required to grant appropriate parking reductions for developments that implement parking cash out programs.

“Parking management” means comprehensive management of the location, cost and availability of parking to effect changes in travel behavior, trips generated, and mode used. Parking management can involve:

1. Charging for employee parking;
2. Providing an employee transportation monetary allowance for use in paying for a bus pass or other alternative commute mode;
3. Or charging for a parking space.

Parking management can also mean:

1. Offering preferential, priority or reserved free parking for those employees who use alternative modes; or
2. Changing time limits for parking lot or street parking to reduce employee parkers.

“Residential developer” means an individual, group or designee responsible for the development of single-family or multiple family housing units in which twenty-five (25) or more housing units will be constructed as a part of a single application.

“Site development plan/permit” means a precise plan of development that may be subject to public hearing before the planning commission, or that may or may not be subject to a discretionary permit.

“Special event” means a seasonal, recurring activity or a singular event which attracts both residents and nonresidents to a facility for recreational or other activities.

“Telecommuting” means a method of conducting work without leaving one’s residence and thereby eliminating the commute round trip.

“Tourist oriented development” means a development that will attract visitors or

nonresidents to the jurisdictions within Monterey County.

“Transportation demand management (TDM)” means the implementation of programs, plans, pricing, or policies designed to encourage changes in individual travel behavior. TDM can include pricing to effect travel mode change; an emphasis on alternative travel modes to the single occupant vehicle (SOV) such as carpools, vanpools and transit; reduction or elimination of vehicle trips, or shifts in the time of vehicle commutes to other than the peak period. A listing of TDM techniques is included as the Appendix 1.

“Transportation management association” means a group of employers or other users joining together in a formal association with the intent to reduce trips.

“Trip reduction” means reducing the number of vehicle trips made in single occupant vehicles.

“Trip reduction checklist” is the reporting mechanism to be used by employers to outline TDM measures they will implement to reduce trips.

“Vanpool” means seven or more persons traveling to work in one vehicle.

“Vehicle trip” means a point to point journey or trip in one direction utilizing a motorized vehicle. For example, an employed mother driving a car and dropping off two children at two daycare facilities and then going to an instant cash facility on the way to her job, makes a total of four vehicle trips. (Ord. 228 § 1 (part), 1993)

10.24.020 Voluntary trip reduction program.

The transportation agency, local jurisdictions, AMBAG, MST and the private sector will implement a two-year voluntary “Trip Reduction Demonstration Program” focused

on areas experiencing traffic congestion, LOS deficiencies, and/or parking congestion. The trip reduction demonstration program began on July 1, 1993. Preparatory work to begin the trip reduction demonstration program will begin upon TAMC approval of this section and will utilize AB 2766 funds. The effectiveness of the demonstration program will be evaluated by TAMC and summarized at the end of the two-year program. Program evaluations will also be performed by TAMC as specific programs are implemented so that programs can be fine-tuned as needed. (Ord. 236 § 1, 1996; Ord. 228 § 1 (part), 1993)

10.24.030 Facilities component— Purpose.

A. The purpose of this section is to outline the requirements for the facilities trip reduction chapter. It includes one set of definitions and residential and tourist/commercial land use considerations for assisting in achieving the overall goals of 1.6 percent per year trip reduction, 1.35 Average Vehicle Ridership, or sixty (60) percent drive alone rate.

B. The intent is to insure that new development, redevelopment, and expansion of existing development contains the needed infrastructure and programs to both reduce

the need to travel in the first place, and encourage alternative mode usage in the second place. "Trip" as used herein refers to all trip purposes. (Ord. 228 § 1 (part), 1993)

10.24.040 Applicability.

This chapter shall apply to all residential developers, commercial developers, or tourist-oriented facility developers proposing and all applicable developments. (Ord. 228 § 1 (part), 1993)

10.24.050 Compliance.

The city shall determine compliance of applicable developments as part of the development review process. The city shall take those actions deemed necessary to achieve compliance with conditions of approval of applicable developments. (Ord. 228 § 1 (part), 1993)

10.24.060 Responsibilities of residential developer and developments.

A. All developers of applicable new residential developments with twenty-five (25) or more units must submit a trip reduction checklist as part of the plan check process prior to the issuance of a building permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation usage by residents of the development.

B. The city shall take into consideration the nature and size of the project when reviewing the trip reduction checklist. The city will determine the necessary programs as part of the permit approval process. After

review of the trip reduction checklist prepared by the developer, the city may require, but not be limited to, one or all of the following:

1. Provide ridesharing, public transportation and nearby licensed child care facility information to tenants/buyers as part of move-in materials;

2. Print transit scheduling information on all promotional materials;

3. Install bicycle amenities, such as bicycle racks and bicycle lanes (where appropriate);

4. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the site plan, as described in the MST development review guidebook or subsequent publications;

5. Provide locked and secure transportation information centers or kiosks with bus route/schedule information, as part of common areas;

6. Provide pedestrian facilities linking transit stops and common areas;

7. Provide resources for site amenities that reduce vehicular tripmaking;

8. Provide park-and-ride facilities;

9. Provide on-site child care facilities;

10. Provide local TSM improvements defined as shuttle bus services/bus pools or improved transit service as part of the development;

11. Provide facilities to encourage telecommuting;

12. Assess trip generation fees with proceeds to go toward provision of transit service, transportation management associations, ridesharing services and other alternative transportation services;

13. Encourage mixed land uses designed to reduce the length and number of vehicle trips;

14. Improve pedestrian and bicycle system;

15. Encourage transit and/or pedestrian oriented design;

16. The city may require other measures to be added to or substituted for any or all of the above. Additional techniques for reducing trips are acceptable. (Ord. 228 § 1 (part), 1993)

10.24.070 Responsibilities of tourist-oriented developers and developments.

A. All developers of applicable new tourist-oriented developments must submit a trip reduction checklist as part of the plan check process prior to the issuance of a building permit or a special event permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation usage by visitors to the development.

B. The city shall take into consideration the nature and size of the project when reviewing the trip reduction checklist. The city will determine the necessary programs as part of the permit approval process and in consultation with the transit operator. After review of the trip reduction checklist prepared by the tourist-oriented developer or special event promoter, the city may require, but not be limited to, one or all of the following:

1. Provide park-and-ride, public transportation shuttles, and associated marketing to special event ticket purchasers as part of

the special event promotion or site/business promotion;

2. Print transit scheduling information on all promotional materials;

3. Install bicycle amenities, such as bicycle racks and bicycle lanes (where appropriate), paths or routes, and at intermodal connection points;

4. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the site plan, as described in the MST development review guidebook or subsequent documents;

5. Provide locked and secure transportation information centers or kiosks with bus route/schedule information, as part of common areas and at intermodal connection points;

6. Provide pedestrian facilities linking transit stops and common areas and at intermodal connection points;

7. Provide resources for site amenities that reduce vehicular tripmaking;

8. Provide park-and-ride facilities;

9. Implement local TSM improvements defined as shuttle bus service/bus pools or improved transit service as part of the development;

10. Assess trip generation fees with proceeds to go toward provision of transit service, transportation management associations, ridesharing services and other alternative transportation services;

11. Encourage mixed land uses designed to reduce the length and number of vehicle trips;

12. Provide pedestrian and bicycle system improvements;

13. Provide alternative transportation from the airport, provide airport information

displays, contribute to the marketing or fare promotions of transit service and transit passes, provide concierges as sources of tourist transit promotion, rent bicycles to visitors, provide contributions of funds for implementing rail service to the area, provide transit information displays;

14. Implement educational and marketing strategies designed to induce tourists to reduce their vehicular trips;

15. Programs and projects to provide alternatives to automobile transportation into Monterey County;

16. The city may require other measures to be added to or substituted for any or all of the above. Additional measures which reduce trips are acceptable. (Ord. 228 § 1 (part), 1993)

10.24.080 Provisions for commercial developers and developments.

A. All developers of applicable new commercial developments must submit a trip reduction checklist as part of the plan check process prior to the issuance of a building permit. The checklist shall identify proposed design elements and facilities that encourage alternative transportation usage.

B. The city shall take into consideration the nature and size of the project when reviewing the trip reduction checklist and the city will determine the necessary programs as part of the permit approval process. After review of the trip reduction checklist prepared by the developer, the city may impose trip reduction requirements to mitigate the impacts of the proposed development, except that any employee trip reduction program to be implemented by an employer shall be voluntary, not mandatory. Available trip reduction pro-

grams include, but are not limited to, the following:

1. Provide ridesharing, public transportation and nearby child care facility information to employees as part of orientation materials;

2. Provide on-site daycare for customers and employees;

3. Provide on-site banking ATMs, restaurants, dry cleaners, grocery, and other typically needed services to reduce the need to travel. Link these uses with convenient and pedestrian oriented paths. Provide transit access that allows bus passengers convenient access to uses with a minimum of walking distance;

4. Locate building entrances close to bus stops with access interrupted by parking lots, parking aisles, and interior roadways. Place parking at the rear of the development and the transit stop as the front of the development near the main entrance;

5. Print transit information in employee paychecks occasionally. Provide on-site transit information displays;

6. Install bicycle racks and lanes, paths or routes;

7. Provide bus pull-outs, pedestrian access, transit stops, shelters and amenities as part of the development as described in the MST development review guidebook or subsequent documents;

8. Provide locked and secure alternative mode information kiosks;

9. Offer a parking cash out program for employees;

10. Provide park-and-ride facilities within the development which are not limited to the sites customers or employees;

11. Provide preferential parking for employees who rideshare;

12. Provide local TSM improvements defined as shuttle bus services/bus pools or improved transit service as part of the development;

13. Provide facilities and policies to encourage telecommuting;

14. Provide pedestrian, bicycle, and transit system improvements;

15. The city may require other measures to be added to or substituted for any or all of the above. Additional measures which reduce trips may be acceptable. (Ord. 236 § 2 (part), 1996; Ord. 228 § 1 (part), 1993)

10.24.090 Implementation schedule.

A. Appropriate development-related ordinances will be reviewed and considered for measures and amenities in support of this chapter.

B. This chapter will be implemented through application of the city's zoning ordinances and development standards whenever a developer is seeking a specific permit including but not limited to use permits, zoning permits, and tentative and final subdivision maps. (Ord. 228 § 1 (part), 1993)

10.24.100 Reporting requirements.

A. As part of the annual conformance process of the congestion management program, the city shall provide the TAMC with material and documentation as needed. Compliance shall be ascertained by also reviewing tourist shuttle implementation, special event transportation shuttles and parking programs, park-and-ride lot development, provisions for bicyclists and pedestrians, and other parking, pricing, marketing efforts, and educational strategies to induce reduced trips.

B. The TAMC staff will from time to time audit the implementation of the trip reduction program in order to assure that it is being im-

plemented. In addition, feedback from the transit operator(s) will be obtained to ascertain whether the operators needs are being met by the development standards in place. The TAMC will from time to time monitor the effectiveness of various TRO implementation programs and provide reports and information on effectiveness to the jurisdictions and other interested parties.

C. As part of the conformance process of the indirect source review rule, the city shall provide the MBUAPCD with all the material and documentation required. (Ord. 228 § 1 (part), 1993)

10.24.110 Enforcement.

For purposes of ensuring that the provisions of this chapter are fully adhered to, the city shall, following written notice, initiate enforcement action(s) against such party(ies) or designee(s) which may include, but not be limited to, the following:

A. Withhold issuance or renewal of business license;

B. Withhold approval of development permits;

C. Issue stop work order

D. Initiate proceedings to revoke the site development permit or other discretionary action;

E. Withhold issuance of a certificate of occupancy;

F. Withhold final building permit sign-off;

G. Withhold consideration of other applications pending from the same developer. (Ord. 228 § 1 (part), 1993)

10.24.120 Fines.

Violation(s) of this chapter shall be prosecuted as infractions. Revenues received from fines shall be used to support alternative transportation programs. Each and every day that a provision(s) of this chapter or the terms and conditions or any approved worksite trip reduction plan is violated, shall constitute a separate offense. (Ord. 228 § 1 (part), 1993)

10.24.130 Violations.

A. A violation of any of the provisions of this chapter shall be an infraction.

B. Failure to respond to the needs of a transit operator and to incorporate trip reduction techniques into new or expanded development is a violation of this chapter.

C. Failure to submit the trip reduction checklist is a violation of this chapter.

D. Each day that a provision of this chapter, or the terms and conditions of any approved trip reduction checklist are violated shall constitute a separate violation.

E. Falsifying information is a violation of this chapter.

F. Failure to withhold building permits until trip reduction techniques are shown on plans is a violation of this chapter.

G. Failure to withhold certificates of occupancy until trip reduction amenities are in place is a violation of this chapter.

H. Failure to insure that required amenities are available for alternative modes for

the life of the development or until the development permit conditions are otherwise amended is a violation of this chapter. (Ord. 228 § 1 (part), 1993)

10.24.140 Administrative appeals.

Any decision regarding the application of this chapter to a site may be appealed to the city council who may affirm, reverse or modify the decision. A developer or property owner required to revise a submittal pursuant to this chapter may, within thirty (30) days and upon notice to the city, appeal such action to the city council. The hearing shall be held before the city council within sixty days (60) days of receipt of the notice of appeal. (Ord. 228 § 1 (part), 1993)

APPENDIX 1

TDM TECHNIQUES

TDM techniques may include the following:

1. Ridesharing:
 - a. Carpool/vanpool matching;
 - b. Preferential parking for carpools and vanpools;
 - c. Carpool/vanpool financial subsidies or rewards;
 - d. Employer-provided vehicles for carpools/vanpools;
 - e. Employer-sponsored vanpools;
 - f. Rideshare marketing campaigns;
 - g. Financial subsidy of vanpool liability insurance.
2. Transit:
 - a. Work site transit ticket sales;
 - b. Transit ticket financial subsidies;
 - c. Transit route maps and schedules distributed and displayed on-site at the workplace;
 - d. Shuttle to transit lines.
3. Trip Elimination:
 - a. Compressed work weeks;
 - b. Work-at-home programs;
 - c. Telecommuting.
4. Parking Pricing:
 - a. Establishing fees for employee parking at least as expensive as a monthly bus pass;
 - b. Elimination of any employer parking financial subsidy;
 - c. Transition from employer parking financial subsidy to general transportation monetary allowance for all employees;
 - d. Reduced parking rates for carpools and vanpools.
5. Bicycle and Pedestrian:
 - a. Bicycling financial subsidies or rewards;
 - b. Financial subsidy to employees for the purchase of bicycles for commute trip use;
 - c. Bicycle lockers or other secure, weather-protected bicycle parking facilities;
 - d. Bicycle access to building interior;
 - e. Bicycle and/or walking route information;
 - f. On-site bicycle registration.
6. On-Site Facilities/Services:
 - a. Employee shower facilities and clothes lockers;
 - b. Site modifications that would encourage walking, transit, carpool, vanpool, and bicycle use;
 - c. On-site services to reduce mid-day vehicle trips, e.g., direct deposit of payroll, cafeteria, automatic teller machines, apparel cleaning, etc.;
 - d. On-site transportation fair to promote commute alternatives.
7. Other:
 - a. Membership in a transportation management association that provides services and incentives;
 - b. Establishment of employee committee to help design, develop, and monitor the trip reduction program;
 - c. Guaranteed ride home program;
 - d. Financial subsidies or rewards for using walking and other nonmotorized transportation modes, transit or carpools;
 - e. Shuttles between multiple work sites;
 - f. Providing child day care at/near work site;
 - g. Enhanced trip reduction efforts.

8. Any additional techniques not listed here which bring about the desired reductions in vehicle trips. (Ord. 228 § 1 (App. 1), 1993)

APPENDIX 2

**AVERAGE VEHICLE RIDERSHIP
METHODOLOGY**

A. The averaging period cannot contain a holiday and shall be for a normal, representative week. AVR for the work site is calculated by dividing the total “employee days” by the total “vehicle trip days” for the survey week. The survey will be done at least annually for the same sample week.

B. “Employee-Days” are the total number of employees reporting or assigned to a work site during the peak period each work day of the survey week. The following procedures are used in totaling employee-days:

1. Employees who telecommute or are off due to a compressed work week schedule are counted as reporting to the work site in calculating the total employee days.
2. The following employees are not included in the employee-days total:
 - a. Employees not working because of vacation, sickness or other time off;
 - b. Employees who report to a different work site or an off-site work-related activity;
 - c. Disabled employees.

C. “Vehicle Trip-Days.” The total number of vehicles used by employees in reporting to the work site each work day of the survey week. A vehicle trip-day is based on the means of transportation used for the

greatest distance of an employee’s home-to-work commute trip. The following numerical values are used in calculating vehicle trip-days:

1. Single occupant vehicle (drive alone) = 1.
2. Employee dropped-off vehicle by another person = 1.
3. Carpool = 1 divided by the number of employees in the carpool, regardless of whether the other employees in the carpool work for the employer or at the worksite.
4. Vanpool = 1 divided by the number of employees in the vanpool, regardless of whether the other employees in the vanpool work for the employer or at the work site.
5. Motorcycle, moped, scooter, or motor bike = 1.
6. The following = 0 vehicle trip-days:
 - a. Public transit;
 - b. Private buspool;
 - c. Bicycle;
 - d. Walking and other nonmotorized transportation modes;
 - e. Employees who telecommute (only on the days those employees work at home for the entire day);
 - f. Employees who work a compressed work week schedule (only on their compressed day(s) off);
 - g. Disabled employee vehicles at all times.

Example of AVR Calculation

One hundred (100) employees all commuting to and from work.

Employees reporting to work:

Monday	100
Tuesday	100
Wednesday	100
Thursday	100
Friday	<u>100</u>
Total	500

Number of vehicles driven to work site by these employees:

Monday	77
Tuesday	79
Wednesday	72
Thursday	68
Friday	<u>74</u>
Total	370

AVR is calculated by dividing the number of employees reporting to work during by the number of vehicles driven to work:

$$\frac{500 \text{ employees}}{370 \text{ vehicles}} = 1.35 \text{ Average Vehicle Ridership}$$

(Ord. 228 § 1 (Appx. 2), 1993)

Chapter 10.28

MOBILEHOMES, CAMPER, BOATS AND BOAT TRAILERS

Sections:

- 10.28.010 Definitions.
- 10.28.020 Residential zones—
Prohibitions—
Exceptions.
- 10.28.030 Nonresidential zones—
Prohibitions.
- 10.28.040 Boats or boat trailers—
Residential zones—
Prohibitions—
Exceptions.

10.28.010 Definitions.

The following definitions are adopted for the purpose of this chapter:

“Camp car” means a vehicle with or without motive power, which is designed for human habitation and which contains plumbing, heating, or electrical equipment.

“Camper” means a structure having no wheels or foundation used as temporary housing and which may contain cooking facilities and which is designed for transport by a pickup truck.

“Mobile home” means a vehicle, other than a motor vehicle designed or used as semi-permanent housing, designed for human habitation, for carrying persons and property on its own structure, and for being drawn by a motor vehicle and shall include a trailer coach.

“Travel trailer” means a vehicle designed to be used on the highway, capable of human habitation for camping or recreational purposes. (Ord. 233 § 9, 1995; prior code § 9-401)

**10.28.020 Residential zones—
Prohibitions—Exceptions.**

A. It is unlawful for any person to place, keep or maintain, or permit to be placed, kept, or maintained, any mobile home, upon any lot, piece or parcel of land within the residential zones of the city.

B. It is unlawful for any person to place, keep or maintain, or permit to be placed, kept or maintained, a travel trailer, camp car, or camper upon any lot, piece or parcel of land within the residential zones of the city, with the following exceptions:

1. One such facility may be placed, kept or maintained wholly within a structure lawfully existing on the premises; or

2. One such facility may be placed, kept or maintained upon any lot, piece or parcel of land within the residential zones of the city; provided, that it shall be located no closer than twenty (20) feet to any street line, and provided further, that no part of any travel trailer, camp car, or camper shall be maintained or kept closer than three feet to any building used for human habitation;

3. Provided further, that a use permit for the location of said trailer upon said premises has been previously applied for and granted by the planning commission of the city; and provided further, that the said structure shall be screened so as not to be plainly visible from any public street in the city.

4. Notwithstanding any provisions contained herein, such travel trailer, camp car, or camper, may be located anywhere on a lot for a temporary period not to exceed forty-eight (48) hours for the loading and unloading purposes, or for the temporary storage not to exceed seven days of such facility owned by a bona fide guest of the

occupants of the premises. (Prior code § 9-402)

**10.28.030 Nonresidential zones—
Prohibitions.**

It is unlawful for any person to place, keep or maintain or permit to be placed, kept or maintained any mobile home, travel trailer, camp car, or camper upon any lot, piece or parcel of land within the nonresidential zones of the city except where storage, sale or business use, are permitted in such zone. (Prior code § 9-403)

**10.28.040 Boats or boat trailers—
Residential zones—
Prohibitions—Exceptions.**

It is unlawful for any person to place, keep or maintain, or permit to be placed, kept or maintained, any boat or boat trailer, upon any lot, piece or parcel of land within the residential zones of the city with the following exceptions:

A. Boats or boat trailers may be placed, kept or maintained wholly within a structure lawfully existing on the premises; or

B. Boats or boat trailers may be placed, kept or maintained upon any lot, piece or parcel of land within the residential zones of the city; provided, that a use permit has been first obtained from the planning commission of the city; and provided further, that no part of the boat or boat trailer shall be located closer than twenty (20) feet to any street line; and provided further, that said boat or boat trailer shall be screened from plain view from any public street in said city.

C. Notwithstanding any provisions contained herein, such boat or trailer may be

located anywhere on a lot for a temporary period not to exceed forty-eight (48) hours for the loading and unloading purposes, or for the temporary storage not to exceed seven days of such facility owned by a bona fide guest of the occupants of the premises. (Prior code § 9-404)

Chapter 10.32

BICYCLES

Sections:

10.32.010 Parking.

10.32.020 Riding on sidewalks.

10.32.010 Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against the building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic. (Prior code § 9-316)

10.32.020 Riding on sidewalks.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. The chief of police is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person shall disobey the same.

C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. (Prior code § 9-317)

Title 11

RESERVED

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

12.04 Street and Sidewalk Construction and Repair

12.08 Excavations and Encroachments

**12.12 Permits for Long-Term Use of City Real
Property**

12.16 Street Trees and Shrubs

12.20 Public Parks

Chapter 12.04

STREET AND SIDEWALK CONSTRUCTION AND REPAIR

Sections:

- 12.04.010** Permit required.
- 12.04.020** Permit application—
Contents.
- 12.04.030** Permit issuance.
- 12.04.040** Supervision of
operations.
- 12.04.050** Curb-cut alterations.
- 12.04.060** Construction
requirements.
- 12.04.070** Permit posting
required.
- 12.04.080** Driveways and sidewalk
requirements.
- 12.04.090** Streets and Highways
Code provisions
adopted.

12.04.010 Permit required.

No person shall begin to construct, reconstruct, repair, alter or grade any sidewalk, curb, curb-cut, driveway, or street in the public streets in the city without first obtaining a permit from the building inspector or the superintendent of streets in the manner provided in this section and in the manner provided in Sections 12.04.020 through 12.04.030. (Prior code § 10-401)

12.04.020 Permit application— Contents.

An applicant for a permit hereunder shall file with the building inspector or superintendent of streets an application showing:

A. The name and address of the owner, or agent in charge of the property abutting the proposed work area;

B. Name and address of the party doing the work;

C. The location of the work area;

D. Attached plans showing details of the proposed alteration;

E. Estimated cost of the alteration;

F. Such other information as the superintendent of streets shall find reasonably necessary to the determination of whether a permit should issue hereunder. (Prior code § 10-402)

12.04.030 Permit issuance.

The superintendent of streets or building inspector shall issue a permit hereunder when he finds:

A. That the plans for the proposed operation have been approved by the city engineer, to whom they shall be forwarded by the superintendent of streets or building inspector, within a reasonable time after receipt thereof;

B. That the work shall be done according to the standard specifications of the city for public work of like character; and are constructed in accordance with the standard specifications and plans for concrete sidewalk, driveways, driveway approaches, curbs, or curbs and gutters, on file in the office of the city clerk, reference to which is hereby made for further particulars;

C. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties, and the reasonable flow of water in the curbs and gutters;

D. That the health, welfare and safety of the public will not be unreasonably impaired. (Prior code § 10-403)

12.04.040 Supervision of operations.

All operations for which a permit is granted hereunder shall be under the direction and supervision of the superintendent of streets. (Prior code § 10-404)

12.04.050 Curb-cut alterations.

A. Where the use, convenience and necessity of the public require, or the reasonable flow of water is interfered with, the superintendent of streets shall have the authority to order the owners, or agents in charge of property adjacent to which curb-cuts are maintained, to alter the curb-cut in such manner as he shall find reasonably necessary under the circumstances.

B. The notice required by this section shall: (1) require compliance by permittee within thirty (30) days of said notice; (2) be in writing; and (3) be served upon permittee as required by law. (Prior code § 10-405)

12.04.060 Construction requirements.

No permit issued under this chapter shall be in conflict with the following regulations:

A. All sidewalk, driveway, driveway approach, curb and curb and gutter work shall be done under the direction, supervision and to the satisfaction of the superintendent of streets, and must be constructed in accordance with the standard plans specifications for concrete sidewalks, driveways, driveway approaches, curbs, or curbs and gutters on file in the office of the city clerk, reference

to which is hereby made for further particulars.

B. All prepared subgrades and surfaces shall be inspected and approved by the city before any concrete is poured. All completed work shall be subject to approval by the city. At least twenty-four (24) hours advance notice shall be given to the city by the applicant so that the city may schedule such inspection.

C. No sidewalk, driveway, driveway approach, curb or curb or gutter shall be constructed other than of concrete unless special permission therefore has first been obtained from the public works department.

D. No driveway or driveway approach shall be constructed at a grade in excess of ten percent from gutter or edge of curb to property line, and not in excess of five percent from property line to termination of driveway; except in such portions of the city as have been declared to be in a hill-side subdivision by the city council in which event said grades shall not exceed thirteen and two-thirds ($13\frac{2}{3}\%$) percent; and any deviation from either situation shall be subject to a specific variance to be granted by the planning commission of the city and subject to such conditions as the planning commission may require.

E. All debris and surplus materials shall be removed promptly upon completion of the work.

F. Applicant shall maintain the premises in a safe manner, and shall provide adequate barricades at his own expense to protect the safety of the public using the adjacent streets or sidewalks and shall hold the city free from any damages incurred by his operations. (Prior code § 10-210)

12.04.070 Permit posting required.

All permits for the construction or repair of sidewalks, driveways, driveway approaches, curbs or curbs and gutters shall be posted conspicuously near the work by the person to whom the permit is granted. (Prior code § 10-211)

12.04.080 Driveways and sidewalk requirements.

A. It is unlawful for any person owning any building, lot or premises in the city, fronting on any portion of an improved street or way, where a sidewalk or driveway is laid, to allow any portion of such sidewalk in front of such building, lot or premises to be out of repair, or to become, be or remain defective or to become, be or remain dangerous to the users thereof for any reason. Such person must at all times keep each such sidewalk or driveway in such condition that it will not endanger persons or property passing thereon, and will not interfere with public convenience in the use thereof, or be or remain an obstruction or impediment to normal, customary and usual pedestrian or vehicular traffic, or the normal and usual flow of water in curbs fronting said way.

B. In the event the driveway slopes downward in the section from curb to property line, there shall be a section for at least one foot behind the curb that will slope upward in order to form a gutter and prevent the normal flow of water from entering and flowing over city property.

C. Types of driveway structures permitted are on file in the office of the city clerk. (Prior code § 10-212)

12.04.090 Streets and Highways**Code provisions adopted.**

The provisions of Sections 5600 through 5629, inclusive, of the Streets and Highways Code of the State of California, as they now exist or may hereafter be amended, are adopted as the procedure governing the maintenance and repair of sidewalks, driveways, driveway approaches in the city. For the purpose of this chapter, "sidewalks" as defined in Section 5600 of said Streets and Highways Code, shall also include a "driveway" and a "driveway approach." (Prior code § 10-213)

Chapter 12.08

EXCAVATIONS AND ENCROACHMENTS

Sections:

- 12.08.010** Permit required.
- 12.08.020** Permit—Contents—
Issuance.
- 12.08.030** Fees.
- 12.08.040** Permit reporting duties.
- 12.08.050** Supervision by city
engineer.
- 12.08.060** Excavation safety
requirements.
- 12.08.070** Encroachments.

12.08.010 Permit required.

It is unlawful for any person, firm or corporation, to make any excavation in or under the surface of any street, alley, sidewalk, public way, or public place in the city without first obtaining a permit so to do from the building inspector of the city, and depositing with the building inspector upon receipt of such permit, a cash deposit to defray the cost of restoring the surface of the street, alley, sidewalk, public way or public place, as the case may be, to its former condition as nearly as practicable; provided, however, that any public utility company need not make such deposit but shall be billed monthly for the cost of any such restoration. (Prior code § 10-201)

12.08.020 Permit—Contents— Issuance.

A. The application for the permit herein required shall be in writing, and addressed to and filed with the building inspector. It

shall state clearly the nature, extent and location of the excavation proposed to be made, and the purpose for which the same is to be made. When the applicant has complied with this chapter, the building inspector shall issue the permit applied for, and deliver the same to the applicant therefor, or his duly authorized agent. Such permit shall set forth the time for the completion of the work of refilling the same and/or the restoring of the surface of the excavation to its former condition. The time for such commencement and such completion may be extended by the city council only upon good cause shown for such extension.

B. The applicant for such excavation shall forfeit to the city as liquidated damages the sum of ten dollars (\$10.00) per day for each day such work of refilling remains uncompleted beyond the period for such completion fixed by the building inspector, or as extended by the city council, and the city attorney of the city shall institute the necessary legal proceedings in a court of competent jurisdiction for the collection of such damages, and prosecute the same to completion. (Prior code § 10-202)

12.08.030 Fees.

All applicants for a street opening permit shall pay to the city as provided in Section 12.08.010, sufficient moneys to defray the cost of resurfacing such excavations as determined by resolution of the city council. (Ord. 233 § 11, 1995: prior code § 10-204)

12.08.040 Permit reporting duties.

It shall be the duty of the building inspector to report all street opening permits to

the city clerk and the city council monthly, and to deposit with the city council all cash deposits made under this chapter. (Prior code § 10-205)

12.08.050 Supervision by city engineer.

A. All excavations, refillings and resurfacing shall be made under the supervision and to the satisfaction of the city engineer of the city, and shall be conducted in such manner as to do the least possible damage to contiguous lands and improvements.

B. All such excavations shall be refilled by the applicant under the direction of the city engineer and resurfaced by the city; provided, however, that the applicant may, upon the written approval of the city engineer and the city council, resurface such excavations, said work to be done to the satisfaction of the city engineer. (Prior code §§ 10-203, 10-206)

12.08.060 Excavation safety requirements.

It shall be the duty of the applicant for an excavation permit in receipt of the same to make such excavation in such manner as to provide free access to all fire hydrants and to provide safe and adequate crossings over such excavations for vehicular traffic and for pedestrians, should such crossings, in the judgment of the city engineer be necessary. Suitable barriers shall be constructed about the excavation for the prevention of accidents, and adequate lights shall be continuously maintained thereon, from the period of sunset to sunrise. (Prior code § 10-207)

12.08.070 Encroachments.

The encroachment upon or obstruction in or to the sidewalk, street, alley, lane, court, park, curb, gutter, or other public place in the city is prohibited and declared to be a nuisance and the superintendent of streets is authorized, in the event of the failure to remove said obstruction within a period of thirty (30) days from written notice of such obstruction, to summarily abate the same and the expense of such abatement shall constitute a lien against the property upon which it is maintained and a personal obligation of the property owner. (Prior code § 10-406)

Chapter 12.12

PERMITS FOR LONG-TERM USE OF CITY REAL PROPERTY

Sections:

- 12.12.010** Definitions.
- 12.12.020** Purpose of chapter.
- 12.12.030** Permits.
- 12.12.040** Delegation of authority.
- 12.12.050** Referral for recommendation.
- 12.12.060** Form of application and permit.
- 12.12.070** Referral to council.
- 12.12.080** Appeals.
- 12.12.090** Terms and conditions.
- 12.12.100** Abatement of unauthorized uses.
- 12.12.110** Violation and penalties—Removal by city.

12.12.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Long term use of city real property” means use of any city-owned real property in such a manner which would appear to a casual observer that the user had title to the property, including but not limited to, placing a fence or retaining wall on it. (Prior code § 10-701)

12.12.020 Purpose of chapter.

It is recognized that various property owners have erected structures on city-owned property, unused portions of streets, lanes and other places or are otherwise

making use of city land in a manner which would seem to indicate that such owner has title to that land. It is recognized that most of these uses do not constitute any danger to persons or property and are beneficial to both the property owner and the city and therefore should be allowed, subject to conditions appropriate to each situation. The purpose of this chapter is to provide a procedure for the authorization of such uses by the issuance of permits where such uses are beneficial and do not constitute a danger to the public and to abate and cause to be removed other uses that may now or in the future exist or be discovered to exist. (Prior code § 10-702)

12.12.030 Permits.

The city council may grant a permit for the long term use of any city-owned real property, street, lane or public place or any other property over which the city council has jurisdiction. It is unlawful for any person to make long term use of any city-owned property without a valid permit from the city council. (Prior code § 10-703)

12.12.040 Delegation of authority.

The authority of the city council to grant permits under this chapter is delegated to the city engineer who shall exercise the authority of the city council as set forth in Section 12.12.090. (Prior code § 10-704)

12.12.050 Referral for recommendation.

The city engineer may, at his discretion, refer the application for a permit under this chapter to the planning commission for a recommendation. (Prior code § 10-705)

12.12.060 Form of application and permit.

All applications for a permit shall be submitted on a form supplied by the city and signed by the applicant property owner. The original of all permits shall be filed with the city clerk and shall contain the signature of the applicant property owner indicating acceptance of the terms and conditions of the permit. (Prior code § 10-706)

12.12.070 Referral to council.

The city engineer may, with a recommendation, refer any application to the city council for determination. The city council's determination shall be final. (Prior code § 10-707)

12.12.080 Appeals.

A. The denial, issuance or conditions of a permit under this chapter by the city engineer may be appealed by the applicant or by any person adversely affected by its issuance. The appeal must be filed in writing with the city clerk not later than the fifteenth (15th) day after the date notice of the city engineer's decision is mailed to the applicant. On receipt of an appeal, the city clerk shall set the matter for hearing occurring at least fifteen (15) days after receipt of the appeal. Notice of the hearing shall be mailed to the applicant and any party who has submitted written comments at least ten days before the hearing.

B. On appeal, the city council may hear and determine the matter as if it were an original application. The city council's determination of the matter shall be final. (Prior code § 10-708)

12.12.090 Terms and conditions.

The conditions set out in this section shall apply to all permits issued by the city under this chapter and are incorporated therein and made a part thereof by reference. All such permits are subject to the following conditions whether stated therein or not.

A. Permits are revocable on motion of the city council and no notice is required unless specifically so stated in the permit. The revocation of any permit shall be effective immediately upon the passage of the motion, or if notice is required by the terms of the permit, on the date of mailing notice of revocation.

B. Where notice in writing is required by the terms of the permit, such notice shall be mailed to the applicant at the address appearing on the application, unless the city clerk has been notified in writing of a change of address.

C. Any required notice shall conclusively be presumed to have been received when placed in the United States mail, with proper postage affixed, addressed to the applicant at the address appearing on the application, or to any change of address of which the city clerk has been notified, in writing.

D. Permits shall be considered appurtenant to the property that they benefit, and if the city's consent in writing is first had and obtained, shall be transferable in the sale or transfer of such property, unless otherwise stated in the permit. The original permittee shall remain responsible for compliance with all general and special conditions of approval of the permit until such time as the transferee executes a permit application.

E. Unless otherwise specifically stated, all uses permitted under this chapter shall be removed at the expense of the applicant or transferee within thirty (30) days of the effective date of revocation or termination. After such time such use shall be in violation of this chapter and subject to the provisions of Section 12.12.100.

F. The city council may impose any conditions appropriate to the particular application under consideration. All permits may be limited in time, transferable, or nontransferable, require or not require notice in writing, be subject to site or architectural control and provide conditions and time limits for removal of the use upon revocation or termination of the permit. The city council may also require a bond, payable to the city, for failure to remove the permitted use and property damage and public liability insurance. (Prior code § 10-709)

12.12.100 Abatement of unauthorized uses.

A. Whenever a long term use of city-owned real property exists without a permit, or the permit for such use expires, terminates or is revoked, it shall be the duty of the city engineer to require the abatement of such use and to serve such notices and take such action as is required by this section.

B. The city engineer shall require the city clerk to serve a "Notice of Removal of Unauthorized Use" upon either the owner or occupant of the property to which the use is appurtenant, or the person causing, owning or controlling the use, by one of the following methods:

1. Where the person is a resident of the city, by personally serving notice on him/her;

2. Where the person is a nonresident of the city, or absent from the city, by mail, first-class, certified, return receipt requested, deliver to addressee only;

3. Where the person is unknown or the address is unknown, by posting the notice in a conspicuous place upon the property;

4. The effective date of service shall be the date on which notice is personally served, or the date placed in the United States mail, properly addressed with sufficient postage thereon, or the date posted on the property, whichever is appropriate.

C. The notice of removal shall contain the following information deemed appropriate by the city engineer:

1. The street address or legal description of the property;

2. A description of the unauthorized use to be abated;

3. A description of the area from which the use is to be abated and the corrective measures to be taken;

4. The date by which the use is to be abated which shall be thirty (30) days from the date of service and a statement that after such date the owner becomes subject to the penalty provisions of this chapter.

D. All uses required to be abated shall be abated within thirty (30) days of the date of service of the notice. On application of the owner or person upon whom notice is served, the city engineer may extend the time of abatement for one period not to exceed thirty (30) days. On written application of the owner or person served with the

notice, the city council may extend the time of abatement for any period it deems appropriate.

E. Within fifteen (15) days after receipt of notice, the owner or person served may make application for a permit to authorize the use under the terms and procedures of this chapter. If such application is made, all proceedings under this section shall be suspended until final action of the city council. If the permit is denied, the use shall be abated within thirty (30) days after denial by the city council, unless the city council sets a different time for removal. (Prior code § 10-710)

proceed under any available remedy including civil action for abatement and/or prosecution pursuant to Section 1.16.010. (Prior code § 10-711)

**12.12.110 Violation and penalties—
Removal by city.**

A. No person shall fail to remove an unauthorized long term use of city-owned real property after the time specified in Section 12.12.100.

B. If the use is not abated within the time specified in Section 12.12.100, the city engineer may cause the use to be abated at the expense of the owner or occupant of the property, or the person causing, controlling or owning the unauthorized use. After abatement of such use, the city engineer shall prepare a bill of actual costs and serve the same in the same manner as provided for in the service of the notice of removal. If the costs are not paid within thirty (30) days of service, the charge shall become a lien against the property unless the city council, in its discretion, requires the city attorney to bring an action for its collection.

C. The remedies described in this section are nonexclusive and the city may

Chapter 12.16

STREET TREES AND SHRUBS

Sections:

- 12.16.010** Purpose and intent.
- 12.16.020** Scope.
- 12.16.030** Definitions.
- 12.16.040** Permission required to cut, destroy or remove.
- 12.16.050** Permits.
- 12.16.060** Standards for granting permits.
- 12.16.070** Planting deposit required.
- 12.16.080** Removal of dead trees at city expense.
- 12.16.090** Trimming.
- 12.16.100** Appeals.
- 12.16.110** Violations—Penalties.

12.16.010 Purpose and intent.

The purpose and intent of this chapter is to recognize oak and other significant trees as significant historical, aesthetic and ecological resources and to create favorable conditions for the preservation and propagation of this unique irreplaceable plant heritage for the benefit of the current and future residents of the city. It is also the intent of this chapter to preserve and enhance property values through conserving and enhancing the distinctive and unique aesthetic character of this city, which refers to the oak tree in its name. (Prior code § 10-601)

12.16.020 Scope.

The provisions of this chapter shall apply to all oak and other significant trees on all public and private property within the city. (Prior code § 10-602)

12.16.030 Definitions.

As used in this chapter:

“Alteration” means any action which would significantly damage the health or appearance of any tree specified herein, whether: (1) by cutting of its trunk or branches, (2) by filling or surfacing or changing the drainage of the soil around the tree, or (3) by other damaging acts. This definition excludes routine pruning and shaping, removal of dead wood, or other maintenance of a tree to improve its health, facilitate its growth, or maintain its configuration to protect an existing view.

“Director” means the city manager or his or her designee.

“Oak tree” means any tree of the quercus genus more than thirty (30) inches in circumference as measured two feet about the root crown or, in the case of an oak with more than one trunk, any such tree with a circumference of any two trunks of at least forty (40) inches as measured two feet above the root crown. “Oak tree” shall not apply to any tree grown or held for sale in a licensed nursery, nor to the first removal or transplanting of a tree pursuant to the operation of a licensed nursery business.

“Person” means any individual, firm, partnership, corporation or other legal entity.

“Pruning and/or trimming” means the cutting of any limb or branch.

“Root crown” means that portion of a tree trunk from which roots extend laterally into the ground.

“Significant tree” means a woody perennial plant which usually, but not necessarily, has a single trunk, and which has a height of thirty (30) feet or more, or has a circumference of thirty-six (36) inches or more at

twenty-four (24) inches above the ground. (Ord. 231 § 1, 1994; prior code § 10-603)

12.16.040 Permission required to cut, destroy or remove.

From and after the first day of January, 1954, no tree, bush or shrub growing in or upon any public street, way, park, or place, including park strips, within the city, shall be cut, destroyed or removed unless and until permission so to do has been first obtained from the city council of the city, and then only under the supervision of the superintendent of streets. (Prior code § 10-301)

12.16.050 Permits.

A. Requirements. Any person desiring to remove, cut down, destroy, alter, relocate, prune and/or trim, or otherwise undertake activities which could inflict damage to an oak or other significant tree, shall first obtain a tree permit from the city. The pruning and/or trimming of limbs or branches less than twenty (20) inches in circumference shall be exempt from the requirements of this subsection. If the director shall deem it necessary for the protection of the property owner or any other person from any possible damage as a result of such work, he may require the permit applicant to furnish such bond or insurance as he deems appropriate.

B. Applications. Prior to the granting of a tree permit, an application for a tree permit shall be submitted to the director. The basic form, content, instructions, procedures, and requirements of the application package deemed necessary and appropriate for the proper enforcement of this chapter shall be

established by action of the planning commission.

C. Granting or Denial. Upon the review of an application for a tree permit duly filed in accordance with approved procedures and requirements (and after an on-site inspection by the director or his designated representative), the director shall grant or deny a tree permit on the basis of the standards set forth in this chapter; provided, however, where more than five oak or other significant trees are to be cut down, removed, or moved upon a single parcel of real property, the application shall be referred to the planning commission for recommendation to the director. Unusual cases where less than five trees are involved may be referred to the planning commission by the director. The director shall deny, without further action, an application which does not contain the required information.

D. Conditions. Such conditions as deemed necessary and appropriate to insure the proper enforcement of this chapter may be made a part of the tree permit. Such conditions may involve, but shall not be limited to, the following:

1. The replacement of the trees proposed for removal with trees of a suitable type, size, number, location, and date of planting;
2. A plan for protecting trees on the project site during and after development, such as, but not limited to, the installation of fencing around drip lines and other such means to protect the root system;
3. Restrictions upon cuts, fills, and/or grading within the drip line area; and

4. The removal of the complete tree to ground level including stump by grinding or other appropriate means.

E. Concurrent Reviews. When an application is filed for a conditional use permit, variance, zone change, tentative tract map, or minor land division concurrently with an application for a tree permit as provided by this chapter, the planning commission may consider and approve such application for a tree permit concurrently with such other approvals. Where a tentative map and/or conditional use permit must be filed in addition to a request for a change of zone, the application may elect to file a tree permit concurrently with, and at the time of, the filing of a tentative tract map and/or a conditional use permit. In either case, the planning commission, in making its findings, shall consider each case individually as if separately filed.

F. Expiration. An approved tree permit which is not used within the time specified in the approval or, if no time is specified, within one year after the granting of such approval, shall become null and void and of no effect, except, where an application requesting an extension is filed prior to such expiration date, the director may extend such time for a period not to exceed one year.

G. Exemptions. The provisions of this section shall not apply to the following:

1. Cases of emergency caused by a tree being in a hazardous or dangerous condition as determined by the director or any member of the police or fire department, or an affected utility company; and

2. The necessary cutting and trimming of trees when done for the purpose of

protecting or maintaining overhead public utility lines pursuant to Rule No. 35 of General Order No. 95 of the Public Utilities Commission of the State.

H. Fees. Applications for tree permits shall be accompanied by appropriate fees as established by a resolution of the city council, which fees shall be commensurate with the cost of processing and reviewing applications for permits and administering this chapter. (Ord. 231 § 2, 1994; prior code § 10-604)

12.16.060 Standards for granting permits.

The granting of a tree permit pursuant to this chapter shall be based on certain criteria, including, but not limited to, the following:

A. The condition of the tree with respect to disease, danger of falling, and the proximity to existing or proposed structures;

B. The necessity to remove a tree in order to construct proposed improvements to prevent economic hardships to the owner of the property. The burden of proof shall be the responsibility of the applicant at the time of the application to remove the tree;

C. The topography of the land, the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface water;

D. The number of trees existing in the neighborhood. Decisions shall be guided by the standards established in the neighborhood and the effect of the tree removal upon property values in the area; and

E. Good forestry practices, such as the number of healthy trees which a given parcel of land or area can support. (Prior code § 10-605)

12.16.070 Planting deposit required.

No such permit shall be issued unless and until an application therefore shall have been filed and a sum of money as determined by resolution of the city council shall have been deposited with the city clerk of the city, to be used for the planting of trees, bushes and shrubs in the public streets, ways, parks or park strips of the city. In the event any person, firm or corporation obtaining such a permit shall, at his own expense replace any tree, bush, or shrub removed in compliance with this chapter, with a tree, bush or shrub recommended by the city council, the deposit herein required shall be refunded six months after such replacement upon inspection and approval by the superintendent of streets. (Ord. 233 § 12, 1955: prior code § 10-302)

12.16.080 Removal of dead trees at city expense.

All dead trees upon any public street, way, park, place or park strip shall be removed at the expense of the city. (Prior code § 10-303)

12.16.090 Trimming.

Trees, bushes or shrubs may be trimmed by employees of the street department or by a qualified tree specialist when a permit shall have been obtained from the superintendent of streets. (Prior code § 10-304)

12.16.100 Appeals.

Any decision made by an individual or body pursuant to the provisions of this chapter may be appealed to the city council. Such appeal must be submitted in writing to the city clerk within twenty (20) days of the

decision being appealed, briefly stating the facts and the grounds of appeal, and signed by the appellant. Upon receipt of said appeal, the city clerk shall set the matter as a public hearing on the council agenda at the earliest convenience, but in all events not less than forty-five (45) days from the date of filing said appeal and shall notify the appellant of such setting. (Prior code § 10-606)

12.16.110 Violations—Penalties.

A. Any person violating or causing or permitting the violation of any of the provisions of Sections 12.16.010 through 12.16.100 including the removal of a tree without a valid tree removal permit shall be guilty of a violation of the Municipal Code and shall be punished as provided in Section 1.16.030. Each tree removed, destroyed or disfigured shall constitute a separate violation.

B. In addition to any other penalty imposed, any person found guilty of violation of any of the provisions of Sections 12.16.010 through 12.16.100 shall be required to either provide and plant mature replacement trees or to reimburse the owner of the damaged trees for the value thereof, as may be deemed appropriate.

C. A violation may also be grounds for the city to commence proceedings which could lead to the revocation or suspension of any permit for development which the city determines is associated with the violation. The city manager or his designee may issue a stop work order, if within the city manager's reasonable judgment, such action is necessary to prohibit the probable or further violation of the provisions of these

sections. Such a stop work order shall set forth the reasons for the stop work order and direct the recipient to the initial party with whom possible remedies for the violations must be explored. The stop work order may be withdrawn by the city manager or his designee upon finding that the circumstances giving rise to the order no longer exist. Any decision to issue a stop work order may be appealed to the city council under the provisions of Section 12.16.100. (Ord. 231 § 3, 1994)

Chapter 12.20

PUBLIC PARKS

Sections:

12.20.010	Short title.
12.20.020	Definitions.
12.20.030	Park property.
12.20.040	Sanitation.
12.20.050	Traffic.
12.20.060	Recreational activities.
12.20.070	Behavior.
12.20.080	Merchandising, advertising and signs.
12.20.090	Park operating policy.
12.20.100	Enforcement.

12.20.010 Short title.

This chapter shall be known and may be cited as the "Del Rey Oaks Ordinance Regulating Conduct in Public Parks." (Prior code § 10-501)

12.20.020 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"City" means the city of Del Rey Oaks.

"Director" means a person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible.

“Park” means a park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

“Person” means any person, firm, partnership, association, corporation, company, or organization of any kind.

“Vehicle” means any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks. (Prior code § 10-502)

12.20.030 Park property.

No person in a park shall:

A. Buildings and Other Property.

1. **Disfiguration and Removal.** Wilfully mark, deface, injure, tamper with, or displace or remove, any building, bridges, tables, benches, railings, paving or paving material, water lines, or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

2. **Restrooms and Washrooms.** Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of five years shall use the restrooms and washrooms for the opposite sex.

3. **Removal of Natural Resources.** Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones,

trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

4. **Erection of Structures.** Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

B. Trees, Shrubbery, Lawns.

1. **Injury and Removal.** Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

2. **Climbing Trees, Etc.** Climb any tree or walk, stand or sit upon any monuments, vases, fountains, railings, fences or gun-carriages or upon any other property not designated or customarily used for such purposes.

3. **Hitching of Animals.** Tie or hitch a horse or other animal to any tree or plant.

C. Wild Animals, Birds, Etc.

1. **Hunting.** Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead of any of the group

of tree snails. Exception to the foregoing is made in that snakes known to be deadly poisonous, such as rattle snakes, moccasins, coral snakes, or other deadly reptiles, may be killed on sight.

2. Feeding. Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances. (Prior code § 10-503)

12.20.040 Sanitation.

No person in a park shall:

A. Pollution of Waters. Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substances, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

B. Refuse and Trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, papers, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere. (Prior code § 10-504)

12.20.050 Traffic.

No person in a park shall:

A. State Motor Vehicle Laws Apply. Fail to comply with all applicable provisions of the state motor vehicles traffic laws

in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

B. Enforcement of Traffic Regulations. Fail to obey all traffic officers and park employees, such persons being authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the director.

C. Obey Traffic Signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

D. Speed of Vehicles. Ride or drive a vehicle at a rate of speed exceeding fifteen (15) miles an hour, except upon such roads as the director may designate, by posted signs, for speedier travel.

E. Operation Confined to Roads. Drive any vehicle on any area except the paved park roads or parking areas, or such other area as may on occasion be specifically designated as temporary parking areas by the director.

F. Parking.

1. Designated Areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.

2. Full-Parking. Full-park on the road or driveway at any time. In order to enjoy some special natural scenic feature, vehicles

may be parked with the two left wheels near the right edge of the paving for not more than fifteen (15) minutes. No stopping or parking is permitted even briefly on the left hand side of any road or driveway.

3. **Immovable Vehicles.** Leave any vehicle anywhere in the park with one or more wheels chained, or with motor set in gear and doors locked, or in any manner fixed or arranged so that such vehicle cannot readily be moved by hand.

4. **Night Parking.** Leave a vehicle standing or parked at night without lights clearly visible for at least one hundred (100) feet from both front and rear on any driveway or road area except legally established parking areas.

5. **Emergency Procedure.** Fail to immediately notify an attendant of an emergency in the nature of a breakdown requiring the assistance of a tow-truck, mechanic or other person.

6. **Double-Parking.** Double-park any vehicle on any road or parkway unless directed by a park official.

7. **Muffler Required.** Fail to use a muffler adequate to deaden the sound of the engine in a motor vehicle.

G. Bicycles.

1. **Confined to Roads.** Ride a bicycle on other than a paved road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.

2. **Operation.** Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists

shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting.

3. **Rider Prohibited.** Ride any other person on a bicycle.

4. **Designated Racks.** Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.

5. **Immobile.** Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

6. **Night Operation.** Ride a bicycle on any road between thirty (30) minutes after sunset or before thirty (30) minutes before sunrise without an attached headlight plainly visible at least two hundred (200) feet in front of, and without a red tail-light or red reflector plainly visible from at least one hundred (100) feet from the rear of, such bicycle. (Prior code § 10-505)

12.20.060 Recreational activities.

No person in a park shall:

A. **Hunting and Firearms.** Hunt, trap or pursue wild life at any time. No person shall use, carry, or possess firearms of any description, or air-rifles, spring-guns, bow-and-arrows, slings, or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

B. Picnic Areas and Use.

1. **Regulated.** Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

2. **Availability.** Violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served".

3. **Nonexclusive.** Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

4. **Duty of Picnicker.** Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

C. Camping. Camp overnight in other than permanent cabins for organized camping, provided by the director and used by groups of persons under adequate supervision. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any moveable structure or special vehicle to be used or that could be used for such

purpose, such as house-trailer, camp-trailer, camp-wagon, or the like.

D. Games.

1. Take part in or abet the playing of any games involving throwing or otherwise propelled objects such as balls (for example baseball, volleyball or soccer), staves, arrows, javelins, model airplanes or golf except in areas set apart and designated for such forms of recreation.

2. Wear cleated or spiked shoes, except baseball shoes which may be worn in designated baseball areas only.

3. Drive or otherwise imbed any stake or pole into the ground for the purpose of designating an area for or playing any sport, game or recreational activity.

4. Roller skate except in areas specifically designated for such activity.

E. Horseback Riding. Ride a horse except on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

F. Hours. Use or be present during the period of time between one hour after sunset and sunrise (current local time) except with an express permit of the director herein specified. The director shall post or cause to be posted signs in conspicuous places in the park giving notice of this provision. (Ord. 225 § 1, 1993; prior code § 10-506)

12.20.070 Behavior.

No person in a park shall:

A. Intoxicating beverages.

1. **Prohibition.** Have brought alcoholic beverage, nor shall any person drink alcoholic beverages at any time in the park.

2. Exceptions. At a designated area for which a park use permit has been issued, beer and/or wine will be allowed if so indicated on the permit. The city council may, by resolution, set an additional fee for any permit issued which allows beer and/or wine.

B. Fireworks and Explosions. Bring, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.

C. Dogs and Other Animals. Have been responsible for the entry of a dog, except for a seeing eye dog when accompanied by the handicapped owner, or other animal into the park other than the access road of the park. Any dog in an area in which such an animal is permitted shall be restrained at all times on an adequate leash not greater than eight feet in length.

D. Reservation of Facilities. Occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the board for the use of the opposite sex. Exception is made for children under five years of age.

E. Dress. Appear at any place in other than proper clothing. With the exception of the restricted bathing areas, "properly clothed" shall be construed to prohibit the wearing of trunks or clothing that does not cover the upper portion of the body.

F. Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

G. Closed Areas. Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.

H. Games of Chance. Gamble, or participant in or abet any game of chance.

I. Loitering and Boisterousness. Sleep or protractedly lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

J. Exhibit Permits. Fail to produce and exhibit any permit from the director he claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

K. Interference with Permittees. Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit. (Ord. 233 §§ 31, 32, 1995; Ord. 225 §§ 2, 3, 1993; prior code § 10-507)

12.20.080 Merchandising, advertising and signs.

No person in a park shall:

A. Vending and Peddling. Expose or offer for sale any article or thing, nor shall

he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the director.

B. Advertising. Announce, advertise, or call the public attention in any way to any article or service for sale or hire.

C. Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park. (Prior code § 10-508)

12.20.090 Park operating policy.

A. Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information.

B. Closed Areas. Any section or part of any park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary.

C. Lost and Found Articles. The finding of lost articles by park attendants shall be reported to the director who shall make every reasonable effort to locate the owners. The director shall make every reasonable effort to find articles reported as lost.

D. Permit. A permit and a reservation shall be obtained from the appropriate director before participating in any of the activi-

ties as identifiable by resolution of the city council.

1. Application. A person seeking issuance of a permit hereunder shall file an application with the appropriate director. The application shall state:

a. The name and address of the applicant;

b. The name and address of the person, persons, corporation or association sponsoring the activity, if any;

c. The day and hours for which the permit is desired;

d. The park or portion thereof for which such permit is desired;

e. An estimate of the anticipated attendance;

f. Any other information which the director shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.

2. Standards for Issuance. The director shall issue a permit hereunder when he finds:

a. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

b. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

c. That the proposed activity or use is not reasonably anticipated to incite violence, crime, or disorderly conduct;

d. That the proposed activity will not entail unusual extraordinary or burdensome expense or police operation by the city;

e. That the facilities desired have not been reserved for other use at the day and hour required in the application.

3. **Appeal.** Within ten days after receipt of an application, the director shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within thirty (30) days to the city council, which shall consider the application under the standards set forth in subsection (2) of this section and sustain or overrule the director's decision within thirty (30) days. The decision of the city council shall be final.

4. **Effect of Permit.** A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.

5. **Liability of Permittee.** The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

6. **Revocation.** The director shall have the authority to revoke a permit upon finding a violation of any rule or ordinance, or upon good cause shown. (Ord. 233 § 13, 1995; prior code § 10-509)

12.20.100 Enforcement.

A. **Officials.** The director and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

B. **Ejectment.** The director and any park attendant shall have the authority to eject from the park any person acting in violation of this chapter.

C. **Seizure of Property.** The director and any park attendant shall have the authority to seize and confiscate any property, thing or devise in the park, or used, in violation of this chapter. (Prior code § 10-510)

Title 13

PUBLIC SERVICES

Chapters:

13.04 Underground Utility Districts

Chapter 13.04

UNDERGROUND UTILITY DISTRICTS

Sections:

- 13.04.010** Definitions.
- 13.04.020** Public hearing by council.
- 13.04.030** Council may designate underground utility districts by resolution.
- 13.04.040** Unlawful acts.
- 13.04.050** Exception, emergency or unusual circumstances.
- 13.04.060** Other exceptions.
- 13.04.070** Notice to property owners and utility companies.
- 13.04.080** Responsibility of utility companies.
- 13.04.090** Responsibility of property owners.
- 13.04.100** Responsibility of city.
- 13.04.110** Extension of time.
- 13.04.120** Violation—Penalty.

13.04.010 Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

“Commission” means the Public Utilities Commission of the State of California.

“Person” means and includes individuals, firms, corporations, partnerships, and their agents and employees.

“Poles, overhead wires and associated overhead structures” mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located aboveground within a district and used or useful in supplying electric, communication or similar or associated service.

“Underground utility district” or “district” means that area in the city within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 13.04.030 of this chapter.

“Utility” includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Prior code § 13-501)

13.04.020 Public hearing by council.

The council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The city clerk shall notify all affected utilities concerned by mail, of the time and place of such hearings at least fifteen (15) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the

council shall be final and conclusive. (Ord. 233 § 14, 1995: prior code § 13-502)

13.04.030 Council may designate underground utility districts by resolution.

If, after any such public hearing the council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby. (Prior code § 13-503)

13.04.040 Unlawful acts.

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 13.04.030, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when said overhead facilities are

required to be removed by such resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 13.04.090, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter. (Prior code § 13-504)

13.04.050 Exception, emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten days, without authority of the council in order to provide emergency service. The council may grant special permission, on such terms as the council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Prior code § 13-503)

13.04.060 Other exceptions.

In any resolution adopted pursuant to Section 13.04.030, the city may authorize any or all of the following exceptions:

A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;

B. Poles, or electroliers used exclusively for street lighting;

C. Overhead wires, exclusive of supporting structures crossing any portions of

a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;

D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltage in excess of thirty-four thousand five hundred (34,500) volts;

E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

F. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;

G. Equipment appurtenant to underground facilities, such as surfaced mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;

H. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Prior code § 13-506)

13.04.070 Notice to property owners and utility companies.

A. Within ten days after the effective date of a resolution adopted pursuant to Section 13.04.030, the city clerk shall notify all affected utilities and all persons owning real property within the district created by said resolution of the adoption thereof. The city clerk shall further notify such affected

property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location.

B. Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 13.04.030, together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities. (Prior code § 13-507)

13.04.080 Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 13.04.030, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission. (Prior code § 13-508)

13.04.090 Responsibility of property owners.

A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 13.04.080 and the termination facility on or within the building or structure being served. If the above is not accomplished by any person within

the time provided for in the resolution enacted pursuant to Section 13.04.020, the city engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten days after receipt of such notice.

B. The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, city of Del Rey Oaks. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the city engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place on the premises.

C. The notice given by the city engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty

(30) days after receipt of such notice, the city engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

D. If upon the expiration of the thirty-day period, the required underground facilities have not been provided, the city engineer shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the city engineer shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the city engineer, he shall file a written report with the city council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than ten days thereafter.

E. The city engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the council will

pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

F. Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

G. If any assessment is not paid within five days after its confirmation by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the city engineer, and the city engineer is directed to turn over to the assessor and tax collector a notice of lien on each of the properties on which the assessment has not been paid, and the assessor and tax collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per annum. (Prior code § 13-509)

13.04.100 Responsibility of city.

A. City shall remove at its own expense all city-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 13.04.030.

B. City may by ordinance establish a special fund in its treasury and pledge thereto all receipts received by it under any

payments made to the city as utility franchise payments; the special fund to be used as a contribution by the city to the expenses contemplated under Section 13.04.090. (Prior code § 13-510)

13.04.110 Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 13.04.030 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Prior code § 13-511)

13.04.120 Violation—Penalty.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, and shall be punishable therefor as provided for in this chapter. (Prior code § 13-512)

Title 14

RESERVED

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

- 15.04 Uniform Building Code and Uniform Building Code Standards**
- 15.08 Uniform Mechanical Code**
- 15.12 Uniform Housing Code**
- 15.16 Uniform Code for the Abatement of Dangerous Buildings**
- 15.20 Uniform Plumbing Code**
- 15.24 Uniform Electrical Code**
- 15.28 Uniform Administrative Code**
- 15.32 Grading**
- 15.36 Smoke Detectors**
- 15.40 Residential Property Inspection Program**
- 15.44 Flood Damage Prevention**

Chapter 15.04

**UNIFORM BUILDING CODE AND
UNIFORM BUILDING CODE
STANDARDS**

Sections:

- 15.04.010** Uniform Building Code adopted.
- 15.04.020** Effective date.
- 15.04.030** Uniform Building Code Standards adopted.
- 15.04.040** Same—Effective date.
- 15.04.050** Uniform Building Code—Amendments and additions.

15.04.010 Uniform Building Code adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Building Code, published by the International Conference of Building Officials, including the Appendix thereto, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments as follows in this chapter. (Ord. 157 (part), 1982)

15.04.020 Effective date.

The effective date for the operation of the latest version of the Uniform Building Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

15.04.030 Uniform Building Code Standards adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Building Code Standards, published by the International Conference of Building Officials, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments as follows in this chapter. (Ord. 157 (part), 1982)

15.04.040 Same—Effective date.

The effective date for the operation of the latest version of the Uniform Building Code Standards within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

15.04.050 Uniform Building Code—Amendments and additions.

The Uniform Building Code, as adopted by Section 15.04.010, is hereby amended to read as follows:

(a) General. All fire-extinguishing systems required in this code shall be installed in accordance with the requirements of this Section. Fire hose threads used in connection with fire-extinguishing systems shall be National Standard hose threads or as approved by the Fire Department. In buildings used for high-pile combustible storage, fire protection shall be in accordance with City of Monterey Fire Department findings.

(b) Approvals. All fire-extinguishing systems including automatic sprinklers, Classes I, II and III and combined standpipes, special automatic extinguishing systems and basement inlet pipes shall be approved and shall be subject to such periodic tests as may be required. The location of all Fire Department hose connections shall be approved by the City of Monterey Fire Department.

All automatic sprinkler systems other than those installed in detached single and two-family dwellings defined as R-3 occupancies and Group M occupancies in this code, shall be provided with supervision of all control valves, and with flow alarm signal devices. Valve supervision and flow alarm signals shall be transmitted to an approved U.L. (listed) central station.

Installation, inspection and maintenance of the fire alarm system required by this Section shall be in conformance with Underwriters Laboratory and the National Fire Protection Association Standards established in pamphlets 71, 72A, 72B, 72C, and 72E including amendments thereto as the same may be made from time to time.

(c) Definitions. For the purpose of this Section, certain terms are defined as follows:

Standpipe System is an arrangement of piping, valves, hose outlets and allied equipment installed in a building or structure with outlets located in such a manner that water can be discharged through hose and nozzles and is classified as follows:

Class I. For use by the Fire Department and those trained in handling heavy fire streams (2½-inch hose).

Class II. For use by the building occupant until the arrival of the Fire Department (1½-inch hose).

Class III. For use by either the Fire Department and those trained in handling heavy hose streams or by the building occupants.

Combined System. A combined system is one where the water piping services both 2½-inch outlets for Fire Department use and outlets for automatic sprinklers.

Fire Department Hose Connection is a connection through which the Fire Department can pump water.

Automatic Fire-Extinguishing System is an approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire.

Total Floor Area is the sum of all stories, irrespective of area separation walls as specified in Section 505.

Exceptions:

Each portion of a building separated by one or more area separation walls may be considered a separate building provided the area separation walls meet the following requirements:

(1) Area separation walls shall be without openings and shall be no less than four-hour fire-resistive construction in Types I, II-F.R, III and IV buildings and two-hour fire-resistive construction in Type II, one-hour, II-N or V building.

(2) Area separation walls need not extend to the outer edges of horizontal projecting elements, such as balconies, roof overhangs, canopies, marquees or architectural projections, provided the exterior wall at the termination of the area separation wall and the projecting elements above are not less than one-hour fire-resistive construction for a width equal to the depth of the projecting elements. Wall opening within such widths shall be protected by assemblies having a three-fourths-hour fire-protection rating.

(3) Area separation walls shall extend from the foundation to a point at least thirty (30) inches above the roof.

Exceptions:

(a) Area separation walls may terminate at roof soffits, provided the roof is of at least two-hour fire-resistive construction.

(b) Two-hour area separation walls may terminate at the underside of the roof sheathing, provided

I) Where the roof sheathing framing elements are parallel to the walls, such framing and elements supporting such framing shall be of not less than one-hour fire-resistive construction for a width of not less than five (5) feet on each side of the wall.

II) Where the roof-ceiling framing elements are perpendicular to the wall, the entire span of such framing and elements supporting such framing shall be not less than one-hour fire-resistive construction.

III) Openings in the roof shall not be located within five (5) feet of the area separation wall.

(4) Where an area separation wall separates portions of a building having different heights, such wall may terminate at a point thirty (30) inches above the lower roof level, provided the exterior wall for a height of ten (10) feet above the lower roof is of one-hour fire-resistive construction with openings protected by assemblies having a three-fourths-hour fire-protection rating.

Exception:

The area separation wall may terminate at the sheathing of the lower roof, provided the roof is of at least one-hour fire-resistive construction for a width of ten (10) feet without openings measured from the wall.

(d) Standards. Fire-extinguishing systems shall comply with Uniform Building Code Standards Numbers 38-1, 38-2 and applicable National Fire Code standards for type of system being installed.

Exceptions:

Automatic sprinkler systems may be connected to the domestic water supply main when approved by the Fire Chief, provided the domestic water supply is of adequate pressure, capacity and sizing for the combined domestic and sprinkler requirements. In such case, the sprinkler system connection shall be made between the public water main or meter and the building shutoff valve, and there shall not be intervening valves or connections. The Fire Department connection may be omitted when approved by the Fire Chief.

Section 3802 of the Uniform Building Code shall read as follows:

(a) General. Automatic fire-extinguishing systems installed in A, B, E, H, I and R occupancies shall comply with the provisions of this Section.

(b) Where Required. Automatic sprinkler systems shall be installed and maintained in operable condition as specified in this Section in the following locations:

1. In All Group A, B, E, H, I, and R Occupancies.

a. In every story of all buildings when the floor area exceeds 1,500 square feet and there is not provided at least twenty (20) square feet of opening entirely above the adjoining ground level in each fifty (50) lineal feet or fraction thereof or exterior wall in the story or basement on at least one (1) side of the building.

Openings shall be accessible to the Fire Department from the exterior and shall not be obstructed in a manner that firefighting or rescue cannot be accomplished from the exterior.

When openings in a story are provided on only one (1) side and the opposite wall of such story is more than seventy five (75) feet from such openings, the story shall be provided with an approved automatic sprinkler system, or openings as specified above shall be provided on at least two (2) sides of an exterior wall of the story.

If any portion of a basement is located more than seventy five (75) feet from openings required in this Section, the basement shall be provided with an approved automatic sprinkler system.

b. At the top of rubbish and linen chutes and in their terminal rooms. Chutes extending through three (3) or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Sprinkler heads shall be accessible for servicing. In all rooms or above outside areas, adjacent to building or underneath roof overhangs or when located nearer than ten (10) feet to adjacent property line, used for storage of combustible waste materials in other than Group R, Division 3 occupancies. Such sprinklers may be connected to the domestic water supply, provided sufficient coverage of the area is provided and an approved accessible shutoff valve is provided for each room or area.

c. In rooms where nitrate film is stored or handled.

d. In protected combustible fiber storage vaults as defined in the Fire Code.

2. Group A Occupancies

a. In Group A occupancies where the total floor area exceeds 5,000 square feet, or which are forty (40) feet or more in height, or which are three (3) or more stories irrespective of height; however, respective increases for area and height specified in Sections 506 and 507 shall be permitted.

b. In basements larger than 1,500 square feet in floor area.

c. In any enclosed usable space below or over a stairway in Group A, Divisions 2, 2.1, 3, and 4 occupancies. See Section 3308(f).

d. Under the roof and gridiron, in the tie and fly galleries and in all places

behind the proscenium wall of stages, over enclosed platforms in excess of 500 square feet in area, and in dressing rooms, workshops and store rooms accessory to such stages on enclosed platforms.

Exceptions:

1) Stages or enclosed platforms open on three (3) or more sides.

2) Altars, pulpits or similar platforms and their accessory rooms.

3. Group E Occupancies

a. In basements larger than 1,500 square feet in floor area.

b. In any enclosed usable space below or over a stairway. See Section 3309(f).

4. In All Group I Occupancies.

Exceptions:

1. In hospitals of Type I, II fire-resistant and II one-hour construction, the automatic sprinkler system may be omitted from operating, delivery, cardiac, x-ray, intensive care rooms and patient sleeping rooms not exceeding 450 square feet in area when each such room is provided with smoke detectors connected to a continuously attended station or location within the building. Increases for area and height specified in Section 506(c) and 507 shall not apply when this exception is used.

2. In jails, prisons and reformatories, the piping system may be dry, provided a manually operated valve is installed at a continuously monitored location. Opening of the valve will cause the piping system to be charged. Sprinkler heads in such systems shall be equipped with fusible elements or the system shall be designed as required for deluge systems

in Uniform Building Code Standard Number 38-1.

5. Group H Occupancies.

a. In Group H, Divisions 1 and 2 occupancies larger than 1,500 square feet in floor area.

b. In Group H, Division 3 occupancies larger than 3,000 square feet in floor area.

c. In Group H, Division 4 occupancies larger than 3,000 square feet in floor area or more than one (1) story in height.

d. In rooms where flammable or combustible liquids are stored or handled in excess of the quantities set forth in Table Number 9-A, or any combination of flammable liquids totaling 240 gallons, as defined in the Fire Code.

e. For paint spray booths or rooms and for special provisions on hazardous chemicals and magnesium, and calcium carbide, see the Fire Code.

6. Group B Occupancies.

In Group B occupancies where the total floor area exceeds 5,000 square feet, or which are forty (40) feet or more in height, or which are three (3) or more stories irrespective of height; however, respective increases for area and height specified in Sections 506 and 507 shall be permitted.

7. Hazardous Fire Area.

In all occupancies irrespective of floor area, when constructed in an area designated as a "Hazardous Fire Area," by resolution of the City Council.

8. Repairs, Alterations and Additions.

In all buildings, except where otherwise provided herein in this Section, where the total floor area exceeds 5,000

square feet, or which are forty (40) feet or more in height, or which are three (3) or more stories irrespective of height occur, they shall be made to comply with the provisions of this Section.

In all buildings, where the total floor area exceeds 5,000 square feet, or which is forty (40) feet or more in height, or which are three (3) or more stories irrespective of height, if repairs or alterations are made exceeding twenty-five percent (25%) of the current market value of the building and property as shown in records of the County Assessor, within any 360 day period, such buildings shall be made to comply with the provisions of this Section.

In buildings, where the total floor area exceeds those specified in subsections (b)2-b, (b) 3-a and (b)5-a, b and c which are added to, altered or repaired in excess of twenty-five percent (25%) of the current market value of the building and property as shown in records of the County Assessor, within any 360 day period, such buildings shall be made to comply with the provisions of this Section.

For the purpose of clarification, repairs, alterations and additions, where a change of use and/or occupancy classification is taking place, the entire building shall be made to comply with the provisions of this Section when the figure of twenty-five percent (25%) or more of the current market value is exceeded.

Definitions.

REPAIR is the reconstruction or renewal of any part of an existing building or structure for the purpose of its maintenance.

ALTERATION is any change, addition or modification in construction or occupancy.

9. Commercial Cooking Equipment and Fire Extinguishing.

All occupancies containing cooking equipment is commercial, industrial, institutional, and similar cooking applications shall have installed and maintained an automatic fire-extinguishing system approved by the Chief of the Fire Department.

a. GENERAL.

(1) The system shall be designed and installed in accordance with the instructions of the manufacturer as approved by the testing agency and in accordance with reference to current NFPA Standards Numbers 10, 11, 12, 13, 16, 17 and 96. The Monterey Fire Department may approve modifications.

(2) Extinguishing systems shall be serviced at least every six (6) months or after activation of the system. Hoods, ducts, filters and fan housing shall be cleaned at sufficient intervals to prevent the accumulation of grease therein.

b. WHERE REQUIRED

(1) The occupant load exceeds fifty (50) persons.

(2) The hood or plenum area exceeds ten (10) square feet.

(3) A deep fat fryer exceeds 144 square inches.

(4) A grill or broiler exceeds 248 square inches.

c. NON-CONFORMING RESTAURANT COOKING APPLIANCES AND FIRE EXTINGUISHING SYSTEMS.

All non-conforming restaurant cooking appliances and fire extinguishing

systems found to exist as of the effective date of this Section shall be made to conform to the requirements of this Section within ninety (90) days of being notified. It shall thereafter be unlawful for any person to maintain or suffer to be maintained any non-conforming restaurant cooking appliance on any property owned or controlled by him, within the city.

10. Group R, Division 1 Occupancies.

In Group R, Division 1 occupancies where the total floor area exceeds 10,000 square feet; or which are three (3) or more stories irrespective of height; however, respective increases for area and height specified in Section 506 and 507 shall be permitted.

Exception

In Group R, Division 1 occupancies where the design of the building creates an interior corridor, or the occupancy is mixed with a Group A, B, E, H, I, or M occupancy, the total floor area shall be reduced to 5,000 square feet.

Automatic sprinkler systems in Group R, Division 1 occupancies shall meet the requirements of NFPA 13, NFPA 13D or a modification thereof, as established by the Fire Chief.

11. Group R, Division 3 Occupancies.

In Group R, Division 3 occupancies where the floor area exceeds 5,000 square feet; or which are three (3) or more stories, irrespective of height; however, respective increases for area and height specified in Section 506 and 507 shall be permitted.

Automatic sprinkler systems in Group R, Division 3 occupancies shall meet the requirements of NFPA 13, NFPA 13D or a modification thereof, as established by the Fire Code.

12. Use of Plastic Piping Material.

The use of plastic piping materials shall be authorized only when installed in accordance with Monterey Fire Department "Policies Related to Plastic Piping Materials to be Utilized in Automatic Fire Sprinkler Systems."

(Prior code § 12-203)

Chapter 15.08**UNIFORM MECHANICAL CODE****Sections:**

- 15.08.010** Uniform Mechanical Code adopted.
- 15.08.020** Effective date.

15.08.010 Uniform Mechanical Code adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Mechanical Code, published by the International Association of Plumbing and Mechanical Officials including the Appendices thereto, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.08.020 Effective date.

The effective date for the operation of the latest version of the Uniform Mechanical Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.12**UNIFORM HOUSING CODE****Sections:**

- 15.12.010** Uniform Housing Code adopted.
- 15.12.020** Effective date.

15.12.010 Uniform Housing Code adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Housing Code, published by the International Conference of Building Officials, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.12.020 Effective date.

The effective date for the operation of the latest version of the Uniform Housing Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.16**UNIFORM CODE FOR THE
ABATEMENT OF DANGEROUS
BUILDINGS****Sections:**

- 15.16.010** Uniform Abatement of
Dangerous Buildings
Code adopted.
- 15.16.020** Effective date.

15.16.010 Uniform Abatement of
Dangerous Buildings Code
adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Abatement of Dangerous Buildings Code, published by the International Conference of Building Officials, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.16.020 Effective date.

The effective date for the operation of the latest version of the Uniform Abatement of Dangerous Buildings Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period said city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.20**UNIFORM PLUMBING CODE****Sections:**

- 15.20.010** Uniform Plumbing
Code adopted.
- 15.20.020** Effective date.

15.20.010 Uniform Plumbing Code
adopted.

Effective on the date hereinafter stated, the latest version of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, including the Appendices thereto, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.20.020 Effective date.

The effective date for the operation of the latest version of the Uniform Plumbing Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.24**UNIFORM ELECTRICAL CODE****Sections:**

- 15.24.010** **Uniform Electrical Code adopted.**
- 15.24.020** **Effective date.**

15.24.010 **Uniform Electrical Code adopted.**

Effective on the date hereinafter stated, the latest version of the Uniform Electrical Code, published by the National Fire Protection Association, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.24.020 **Effective date.**

The effective date for the operation of the latest version of the Uniform Electrical Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.28**UNIFORM ADMINISTRATIVE CODE****Sections:**

- 15.28.010** **Uniform Administrative Code adopted.**
- 15.28.020** **Effective date.**

15.28.010 **Uniform Administrative Code adopted.**

Effective on the date hereinafter stated, the latest version of the Uniform Administrative Code, published by the International Conference of Building Officials, including the Appendix thereto, copies of which are on file as required by law, is adopted and incorporated into this code by reference, with amendments, as follows in this chapter. (Ord. 157 (part), 1982)

15.28.020 **Effective date.**

The effective date for the operation of the latest version of the Uniform Administrative Code within the city shall be two years from the date of its first publication by the organization publishing same, unless by ordinance enacted within said period the city council provides otherwise. (Ord. 157 (part), 1982)

Chapter 15.32

GRADING

Sections:

- 15.32.010 Definitions.
- 15.32.020 Permit—When required.
- 15.32.030 Permit—When not required.
- 15.32.040 Permit—Issuance by building inspector in connection with building permits.
- 15.32.050 Permit—Application—Generally.
- 15.32.060 Permit—Application—Requirements for scale plans and drawings.
- 15.32.070 Permit—Application—When referral to planning officer required.
- 15.32.080 Permit fees.
- 15.32.090 Permit—Issuance or denial—Conditions upon issuance.
- 15.32.100 Designation of routes.
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- 15.32.300 Certificate of completion.
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15.32.010 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Excavation” means any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

“Fill” means any act by which earth, sand, gravel, rock or any other similar materials is deposited, placed, pushed, pulled or transported, and shall include the conditions resulting therefrom.

“Grading” means excavation or fill or any combination thereof and shall include

the conditions resulting from any excavation or fill.

“Percent compaction” means the dry density of the material at present in the fill divided by the maximum dry density as determined in accordance with A.A.S.H.O. with A.S.T.M. designation D-1557-58T with a ten pound hammer falling free from an eighteen (18) inch height above the soil at least fifteen (15) blows per layer.

“Quarry” means any site or parcel of land used for obtaining, extracting or producing rock, crushed stone, building stone, slate, limestone, soil, top soil, sand, dirt, or similar material products on either a commercial bases or for private use.

“Site” means a lot or parcel of land or a series of lots or parcels of land joined together under one ownership where grading is to be performed and is being performed.

“Soils engineer” means a civil engineer licensed by the State and experienced in soil mechanics and slope stabilities whose qualifications shall be acceptable to the city engineer.

“Supervised grading” means grading done under the supervision of a soils engineer. (Prior code § 11-401)

15.32.020 Permit—When required.

A. No person shall do any grading without a permit therefor from the city engineer or building inspector if such grading will result in any of the following:

1. An excavation or fill in excess of one hundred (100) cubic yards;
2. An excavation three feet or more below a two (horizontal) to one (vertical) descending slope from any property line, or a fill three feet or more above a two (horizontal) to one (vertical) ascending slope from any property line;

3. An excavation or fill within a public sewer, water main, storm drain, or power line easement;

4. An excavation or fill which will encroach on or alter a natural drainage channel or water course;

B. No person shall construct, reconstruct, alter, repair or install any structure in any natural water course without a permit therefor from the city engineer.

C. A separate permit shall be required for each separate noncontiguous site. (Prior code § 11-402)

15.32.030 Permit—When not required.

No permit shall be required by virtue of this chapter for any of the following:

A. Grading pursuant to a permit for excavation in public streets;

B. Grading in connection with a public improvement or public work for which inspection is provided by the city;

C. Any reclamation or rubbish disposal site operated by the city;

D. Grading by a public utility or a mutual water company in private easements;

E. An excavation below finished grade for basements and footings of a building, swimming pool or underground structure authorized by a valid building permit where the cost of such excavation is included in the building permit valuation. This exception shall not affect the applicability of this chapter to, nor the requirement of a grading permit for, any fill made with the material from such excavation. (Prior code § 11-403)

15.32.040 Permit—Issuance by building inspector in connection with building permits.

Whenever grading is performed on a lot or parcel of land in connection with the construction of a building or structure on such lot or parcel of land for which a permit has been issued by the building inspector, the building inspector shall perform all of the duties specified by this chapter to be performed by the city engineer, except supervision and inspection of work performed on public property or work on drains, dams or revetments which shall be performed by the city engineer. All walls or other similar structures on private property required by the city engineer in connection with permits issued by him shall be construed under a permit from and inspected by the building inspector. (Prior code § 11-404)

15.32.050 Permit—Application—Generally.

A. To obtain a permit required by this chapter, the applicant shall first file an application therefor in writing, in triplicate, and upon forms furnished by the city. The application shall be signed by the owner of the property where the work is to be performed, or by his duly authorized agent. An agent's authority must be shown in writing.

B. Every such application shall contain the following information:

1. The purpose of the work, and a statement as to whether the purpose of the excavation is to prepare the site for subdivision under the State Subdivision Map Act;

2. The amount of material proposed to be excavated and the amount of fill in cubic yards;

3. The legal description of the property on which the work is to be performed;

4. The street address at the point of access to the property where the work is to be performed;

5. The name and address of the owner of the property on which the work is to be performed;

6. A description of the equipment and methods to be used in performing the work;

7. The name of any person who will haul excavated material to or from the property where the work is to be performed;

8. The name, address and phone number of the person to have effective control of the work;

9. The name, address and phone number of all persons, if any, who will receive excavated materials or have any interest in the proceeds from the sale or disposal of such materials;

10. The route or routes proposed to be followed within the city in coming to and going from the site by the equipment used to haul the excavation or fill equipment;

11. The estimated dates for starting and completing the work to be done;

12. Report of a soils engineer if required by the city engineer;

13. Such further applicable information as the city may require in order to carry out the purposes of this chapter. (Prior code § 11-405)

15.32.060 Permit—Application—Requirements for scale plans and drawings.

A. The application required by the preceding section shall be accompanied by scale plans or drawings, in triplicate prepared and signed by a registered civil engineer, or architect, showing the following:

- 1. Property lines of the property on which the work is to be performed;
- 2. Location of any buildings or structures on the property where the work is to be performed, and the location of any building or structure on land of adjacent property owners on which the work is to be performed;
- 3. Elevations, dimensions, location, extent and the slopes of all work proposed to be done, shown on a contour map; and a certification of the quantity of excavation and fill involved. Such contour map shall show the existing contours of the land and the proposed contours of the land after completion of the proposed work;
- 4. Detailed plans of all walls, cribs, drains, dams, erosion control planting or other protective devices to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area and estimated cubic feet per second runoff of the area served by any drain;
- 5. Such further applicable plans or drawings as the city may require in order to carry out the purposes of this chapter.

B. The city may waive the requirement for scale plans or drawings if they find that the information on the application is sufficient to show that the work will conform to the requirements of this chapter. (Prior code § 11-406)

15.32.070 Permit—Application—When referral to planning officer required.

When the grading is to be done on a site or on two adjacent sites which are intended to be subdivided into two or more parcels or which involves more than twenty thousand (20,000) cubic yards of excavation or fill, the application shall be referred to the city planning commission for study. The city planning commission shall report on any aspect of the proposed grading, excavation or fill that relates to or affects the master plan or any other zoning plan or zoning regulation of the city. The city planning officer upon completion of investigation shall transmit their report and findings and recommendations to the city council and no permit shall be issued until such report has been received. (Prior code § 11-407)

15.32.080 Permit fees.

A. Each application for a grading permit filed with the city shall be accompanied by a fee, the amount of which shall be as shown in the following table:

500 cubic yards or less	\$ 8.00
500 to 1,000 cubic yards	10.00
More than 1,000 cubic yards	10.00 plus
For each additional 1,000 cubic yards or major portion thereof	3.00

B. Each application for a grading permit which involves construction, reconstruction, altering, repairing or installing any structure

in any natural watercourse shall be accompanied by an additional fee of one dollar (\$1.00) for each one hundred dollars (\$100.00) or fraction thereof of estimated value up to one thousand dollars (\$1,000.00). If the estimated value of the work exceeds one thousand dollars (\$1,000.00), there shall be an additional fee of fifty cents (\$0.50) for each one hundred dollars (\$100.00) or fraction thereof of estimated value in excess of one thousand dollars (\$1,000.00).

C. The fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

D. For excavation and fill on the same site, the fee shall be based upon the volume of the excavation or the fill, whichever is greater.

E. Any plan checking fee shall be borne by applicant. (Prior code § 11-408)

15.32.090 Permit—Issuance or denial—Conditions upon issuance.

A. Grounds for Denial. Whenever in the judgment of the building inspector the proposed work would directly or indirectly create a hazard to human life or endanger adjoining property or property at a higher or lower level, or any public sewer, storm drain, watercourse, street, street improvement or any other public property, the application shall be denied. If, in the opinion of the building inspector, the danger of hazard can be eliminated by the erection or installation of walls, cribs or other devices, or by a specified method of performing the work, the building inspector may grant the

permit upon condition that the specified protection and precautionary work shall be done to his satisfaction, or upon condition that a specified method of performing the work shall be used.

B. Conditions Upon Issuance. In granting any permit under this chapter, the building inspector may attach such condition thereto as may be reasonably necessary to prevent danger to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. No person shall violate any conditions so imposed by the city. Such conditions may include, but shall not be limited to:

1. Limitations on the hours of operation or the period of the year in which the work may be performed;
2. Restrictions as to the size and type of equipment;
3. Designation of routes upon which materials may be transported;
4. The place and manner of disposal of excavated materials;
5. Requirements as to the laying of dust and tracking of dirt, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion thereof;
6. Designation of maximum or minimum slopes to be used if they vary from those prescribed in this chapter;
7. Regulations as to the use of public streets and places in the course of the work;
8. Regulations as to the degree of compaction of fill material;

9. Requirements as to paving private driveways and roads constructed under the permit;

10. Requirements for safe and adequate drainage of the site;

11. A requirement that approval of the building inspector be secured before any work which has been commenced may be discontinued;

12. A requirement that men and equipment be provided at the site during storms to prevent incomplete work from endangering life or property;

13. Requirements for fencing of excavation or fills which would be hazardous without such fencings. (Prior code § 11-409)

15.32.100 Designation of routes.

A. The city shall attach as a condition to any permit issued under Section 15.32.090 a requirement that all equipment used to haul excavation or fill material from or to the site shall follow, a designated route or routes within the city in going from and coming to the site.

B. The route or routes to be followed shall be designated by the city.

C. An applicant shall be entitled to the designation of a route providing access to a specified place other than the site, when he has shown to the satisfaction of the building inspector that such specified place is a place where excavation material may be reasonably deposited or fill material may be obtained, as the case may be.

D. Any determination under this section may be appealed to the city council as hereinafter provided. (Prior code § 11-410)

15.32.110 Performance bonds.

A. When Bond Required. If, in the opinion of the building inspector, the nature of the work regulated by this chapter is such that if left incomplete it will create a hazard to human life or endanger adjoining property or property at a higher or lower level, or any street or street improvement, or any other public property, the city council may, before issuing the permit, require a cash bond or surety bond in a form satisfactory to them and approved by the city attorney, in the sum of one hundred (100) percent of the estimated cost of the work conditioned upon the faithful performance of the work specified in the permit within the time specified by the city council or within any extension thereof granted by the city council. Such bond shall obligate the principal, his executors, administrators, successors and assigns, jointly and severally, with the surety, and shall inure to the benefit of the city, its officers, employees, and to any person aggrieved by the principal's failure to comply with the conditions thereof. Such bond shall further provide that it will not be cancelled or terminated until at least ten days' notice thereof has been filed with the city clerk.

B. Notice of Default. Whenever the building inspector shall find that a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the principal and to the surety of the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the building inspector to be reasonably necessary for the completion of such work.

C. **Duty of Surety.** After receipt of such notice the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, pay over to the city the estimated cost of doing the work as set forth in the notice, plus an additional sum equal to ten percent of the estimated cost, but not to exceed the principal sum of the bond. Upon the receipt of such monies, the city shall proceed by such mode as it deems convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of the sum in hand therefor. The balance, if any, of such bond funds shall, upon completion of the work, be returned to the surety, after deducting the cost of the work plus ten percent thereof.

D. **Disposition of Cash Bond.** If a cash bond has been posted, notice of default as provided by the preceding subsection shall be given to the principal, and if compliance is not had within the time specified, the city shall proceed without delay and without further notice or proceedings whatsoever to use the cash deposited, or any portion of such deposit, to cause the required work to be done by contract or otherwise in the discretion of the city engineer. The balance, if any, of such cash deposit shall, upon completion of the work, be returned to the depositor, or to his successors or assigns, after deducting the cost of the work plus ten percent thereof.

E. **Right of Entry.** In the event of any default in the performance of any term or condition of the permit for the work, the surety or any person employed or engaged on his behalf, shall have the right to go

upon the premises to complete the required work or make it safe.

F. **Interference Prohibited.** No person shall interfere with or obstruct the ingress to or from any such premises by an authorized representative or agent of any surety or of the city engaged in completing the work required to be performed under the permit or in complying with the terms or conditions thereof.

G. **Term of Bond—Completion.** The term of each bond posted shall begin upon the date of the posting thereof and shall end upon the completion to the satisfaction of the building inspector of all of the terms and conditions of the permit for the work. Such completion shall be evidenced by a statement thereof signed by the building inspector, a copy of which will be sent to any surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor or to his successors or assigns upon the termination of the bond, except any portion thereof that may have been used. (Prior code § 11-411)

15.32.120 Liability insurance.

If, in the opinion of the building inspector, the nature of the work regulated by this chapter is such that it might create a hazard to human life or endanger adjoining property or property at a higher or lower level, or any street or street improvement, or any other public property, then the city council may, before issuing the permit require that the applicant for a permit file a certificate showing that he is insured against claims for damages for personal injury as well as claims for property damage, including damage to the city by deposit or washing of

material onto city streets or other public improvements, which may arise from or out of the performance of the work, whether such performance be by himself, his sub-contractor or any person directly or indirectly employed by him, and the amount of such insurance shall be prescribed by the city council in accordance with the nature of the risks involved. Any such insurance shall include protection against liability arising from completed operations. Any such insurance shall be written by a company which meets with the approval of the city and shall insure the city, its officers, agents and employees against loss or liability which may arise during the performance of, or which may result from, any work herein required to be done. (Prior code § 11-412)

15.32.130 Transferability.

No permit required by Section 15.32.020 shall be transferable without the written consent of the city council. (Prior code § 11-413)

15.32.140 Revocation or suspension of permit.

A. Revocation. Any permit, issued under this chapter may be revoked by the city council after notice and hearing for:

1. Violation of any condition of the permit;
2. Violation of any provision of this chapter or any other applicable ordinance or law relating to the work;
3. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

4. Written notice of the time and place of such hearing shall be served upon the person to whom the permit was granted, or his agent or employee engaged in the work, at least three days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope with postage prepaid, addressed to such person to be notified at the address appearing in his application. In the event any appeal is taken from the decision of the city council in the manner prescribed by the following section, all work shall be stopped while the appeal is pending.

B. Suspension. Any permit issued under this chapter may be suspended by the building inspector without hearing and for a period not exceeding ten days, whenever the city council has issued a notice of hearing for revocation of permit. Any such suspension shall terminate upon its expiration date or upon the rendering of a decision on the question of revocation, whichever shall first occur. No work shall be authorized or performed under any permit during such time as it may be suspended. (Prior code § 11-414)

15.32.150 Appeals from denial or revocation.

Any applicant for a permit or permittee aggrieved by any action of the building inspector may appeal to the council by filing with the city clerk a written notice thereof within five days from the date of mailing or receipt of notice of such action

by the building inspector, whichever first occurs. The aggrieved person shall be given a hearing before the council, after which the council shall have discretion to grant or deny the appeal or modify the decision of the building inspector, and its decision shall be final. (Prior code § 11-415)

15.32.160 Expiration—Renewal.

Every permit issued under the provisions of this chapter shall expire at the end of the period of time set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the building inspector a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the building inspector, such an extension is necessary, he may grant additional time for the completion of the work. (Prior code § 11-416)

15.32.170 Inspection by city.

A. The holder of any permit issued hereunder shall notify the building inspector as follows:

1. **Initial Inspection.** Whenever work on the grading, excavation, or fill is ready to be commenced, notification shall be given twenty-four (24) hours before any work is done;
2. **Rough Grading.** When all rough grading has been completed;
3. **Final.** When all work including installation of all drainage structures and other protective devices has been completed.

B. Upon receiving such notice, the building inspector shall promptly inspect the work and shall either approve the same or

notify the permittee in what respects there has been failure to comply with the requirements of this chapter. Any portion of the work which does not comply shall be promptly corrected by the permittee. (Prior code § 11-417)

15.32.180 Certificates of approved soil testing.

In addition to the inspection of any fills made by the city engineer, the city engineer may require a certificate by a soils engineer stating that the site was prepared and the fill placed as specified. (Prior code § 11-418)

15.32.190 Excavations generally.

A. **Slope Standards Generally.** No permanent excavation shall be made with a cut face steeper in slope than three horizontal to two vertical, unless a retaining wall or other approved support is provided to support the face of the excavation.

B. **Deviation from Slope Standard.** The city engineer may upon request permit deviations from the above standard; provided, that the owner shall first furnish the city engineer with a written opinion of a soils engineer, certifying that he has investigated the site and that the proposed deviations will not endanger any property.

C. **Toe of Fill.** The toe of filled slopes shall be located five feet or one-half of the vertical height of the fill from any adjoining property line, whichever is greater, but such distance need not exceed ten feet.

D. **Applicability of Section.** This section applies to all fills in the city regardless of whether a permit is required by this chapter for such fills, except that the tests and reports specified by this section shall not be

necessary in connection with fills for which no permit is required. (Prior code § 11-419)

15.32.200 Fills generally.

A. Slope Standards. No fill shall be made which creates any exposed surface steeper in slope than three and one-half horizontal to two vertical. The city engineer may, upon request, permit deviations from the above standard; provided, that the owner furnish him with the written opinion of a soils engineer certifying that he has investigated the site and that the proposed deviations will not endanger any property.

B. When Fill Surface to be Flatter. The city engineer may require that the owner furnish a written opinion of a soils engineer certifying that he has investigated the site and recommending maximum allowable fill slope and type of slope treatment for stability.

C. Toe of Fill. The toe of filled slopes shall be located five feet or one-half of the vertical height of the fill from any adjoining property line, whichever is greater, but such distance need not exceed ten feet.

D. Applicability of Section. This section applies to all fills in the city regardless of whether a permit is required by this chapter for such fills, except that the tests and reports specified by this section shall not be necessary in connection with fills for which no permit is required. (Prior code § 11-420)

15.32.210 Compaction of fills.

A. To Be Compacted. All fills shall be compacted unless the city engineer finds that such compaction is not required as a safety measure to aid in preventing the saturation, adverse settlement, slipping or

erosion of the fill. Where compaction is required it shall be made to a minimum of ninety (90) percent compaction, as defined in Section 15.32.010, and made under supervised grading. The city engineer may specify the maximum thickness of the layers of fill to be compacted.

B. General Requirements. Fills shall be compacted, inspected and tested in accordance with the following provisions:

1. The space over which fills are to be made shall first be cleared of all trash, brush, trees, stumps, timber or debris and shall be scarified.

2. All filling shall be done with good sound earth, gravel or materials approved by the city engineer.

3. When an existing fill is to be widened or a new fill is to be made on a hillside, the new material shall be bonded to the old by plowing deep longitudinal furrows, or by removing top soil and vegetation and by compacting the fill upon a series of terraces.

4. All exposed fill slopes shall be protected immediately upon completion with landscaping, an approved sprinkler system or other erosion-control devices approved and deemed necessary by the city engineer.

5. In addition to the inspection of any fills by the city engineer, the city engineer may require that a written report in duplicate be submitted by a soils engineer certifying results of tests of the fill at selected stages. If favorable conditions exist the city engineer may by prior approval waive requirements for supervision or soil testing.

6. If the fill is to support buildings, structures or roadways, the city engineer may require the report to include recommendations on bearing capacities. (Prior code § 11-421)

15.32.220 Maintenance of protective devices.

The owner of any property on which an excavation or fill has been made pursuant to a permit granted under this chapter, or any other person or agent in control of such property, shall maintain in good condition and repair all retaining walls, cribbing, drainage structures, planted slopes and other protective devices shown in the approved plans or drawings submitted with the application for the grading permit. (Prior code § 11-422)

15.32.230 Repair, etc., of existing fills, etc., which constitute menace.

Whenever the city determines by inspection that any existing excavation or fill from any cause has become a menace to life or limb, or endangers property, or affects the safety, usability or stability of any public property, the owner of the property upon which such excavation or fill is located, or other person or agent in control of the property upon receipt of notice in writing from the building inspector so to do, shall, within one hundred eighty (180) days from the date of such written notice, repair or reconstruct such excavation or fill so that it will conform to the requirements of this chapter or otherwise repair, reconstruct, strengthen or eliminate such excavation or fill in a manner satisfactory to the building inspector so that it will no longer constitute a menace or danger as aforesaid. A shorter period of time may be specified by the city if an imminent and immediate hazard is found to exist. Any person receiving notice as set out in this section may appeal from the notice of the city council in the manner provided in Section 15.23.150. (Prior code § 11-423)

15.32.240 Drainage requirements.

A. Drainage Generally. All graded sites shall be developed so as to provide control of storm and surface waters. Adequate provision shall be made to prevent any storm or surface waters from damaging the cut face of an excavation or the sloping face of a fill. All drainage provisions shall be subject to the approval of the building inspector or the city engineer, and shall be of such design as to carry storm and surface waters to the nearest practical street, storm drain, or natural water course, approved by the city engineer as a safe place to deposit and receive such waters.

B. Eave Gutters. All buildings on graded sites shall be equipped with eave gutters or ground gutters so that all storm waters falling upon the roof will be collected and conducted to an approved location in a nonerosive device.

C. Building Pads. Building pads on graded sites shall be sloped at a minimum of two percent to the street or an approved drainage device.

D. Footing Excavations. Footings on graded sites shall extend above the elevation of the whole point of the street curb a minimum of six inches plus two percent of the distance from the footing to the curb. Where the site drains to an approved drainage device the footing shall extend above the elevation of the low point of the device a minimum of six inches plus two percent of the distance from the footing of the device.

E. Subdrainage. Where deemed necessary by the building inspector or city engineer adequate subdrainage shall be provided in connection with fills. (Prior code § 11-424)

15.32.250 Additional safety precautions.

If at any stage of work on an excavation or fill the building inspector determines by inspection that the nature of the formation is such that further work as authorized by an existing permit is likely to endanger any property or public way, the building inspector may require as a condition to allowing further work to be done that such reasonable safety precautions be taken as the building inspector considers advisable to avoid such likelihood of danger. Such safety precautions may include, but shall not be limited to, specifying a flatter exposed slope, construction of additional drainage facilities, berms, terracing, compaction or cribbing. (Prior code § 11-425)

15.32.260 Protection to adjacent property during excavations—Fences and guard rails.

No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public property without supporting and protecting such public street, sidewalk, alley or other public property from settling, cracking, or other damage which might result from such excavation. Should the nature of the excavation in the opinion of the building inspector create a hazard to life unless adequately fenced, the applicant shall construct such fences or guard rails to safeguard persons using the public street, sidewalk, alley or other public property as the building inspector may require. (Prior code § 11-426)

15.32.270 Where deposits of earth, rock, etc., are prohibited.

A. No person shall dump, move or place any earth, sand, gravel, rock, stone or other excavated material so as to cause the same to be deposited upon or to roll, flow or wash upon or over the premises so affected or upon or over any public place or way.

B. No person shall, when hauling any earth, sand, gravel, rock, stone or other excavated material over any public street, alley or other public place, allow such materials to blow or spill over and upon such street, alley or place or adjacent private property.

C. If due to a violation of subsection (A) or (B) of this section, any earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any public place or way, the person responsible therefor shall cause the same to be removed from such public place or way within twenty-four (24) hours. In the event it is not so removed, the city shall cause such removal and the cost of such removal by the city shall be paid to the city by the person who failed to so remove the material. (Prior code § 11-427)

15.32.280 Destruction of natural ground cover.

No person, except pursuant to a written order of the building inspector, shall denude and destroy the natural cover of any watershed, except for the immediate use and occupation of the property so denuded in accordance with and subject to all applicable provisions of the zoning ordinance and the building code. (Prior code § 11-428)

15.32.290 Building restrictions.

A. Building shall not be constructed upon cut or fill slopes steeper than a slope of two horizontal to one vertical unless otherwise authorized by the building inspector. Buildings shall be located clear of the toe of cut or fill slopes which are steeper than a slope of two horizontal to one vertical the following distances unless otherwise authorized by the city engineer:

1. Three feet provided the slope does not extend more than six feet in height;
2. One-half the vertical height of the slope for slopes between six feet and twenty feet in height;
3. Ten feet for slopes extending more than twenty (20) feet in height;
4. Exception: Garages, attached or detached, may be constructed three feet clear of the toe of conforming cut or fill slopes.

B. Conforming cut or fill slopes twenty (20) feet or more in vertical height shall be provided with a four foot high engineered retaining wall at their toe for that portion of the slope paralleling any buildings and distant therefrom less than ten feet. (Prior code § 11-429)

15.32.300 Certificate of completion.

A. Upon completion of the project the permittee or a civil engineer in charge of the project in his behalf shall certify in writing to the building inspector that the project was done in conformity with the provisions of this chapter, the permit and plans and specifications submitted to the building inspector and shall furnish a final contour map and shall certify to the soil bearing capacity of the fill.

B. If upon final inspection of any excavation or fill, it is found that the work authorized by the permit has been satisfactorily completed in accordance with the requirements of this chapter, the permit and the plans and specifications, a completion certificate covering such work be issued for each lot. (Prior code § 11-430)

15.32.310 Accelerated erosion prohibited.

No person shall cause or allow persistence of a condition on any site that would cause accelerated erosion. Accelerated erosion is defined as rapid erosion caused by human induced alteration of the vegetation, land surface topography or run-off patterns. (Prior code § 11-431)

Chapter 15.36**SMOKE DETECTORS****Sections:**

- 15.36.010** Smoke detectors
required prior to sale.
- 15.36.020** Penalty for violation.

15.36.010 Smoke detectors required
prior to sale.

No residential dwelling unit within the city, including single-family residences, condominiums, apartment buildings, mobile homes, motels or hotels shall be sold or released from escrow until a smoke detector or detectors have been installed therein in conformance with the requirements of § 1210(a) of the Uniform Building Code. It shall be the responsibility of the seller of such residential property to comply, at his or her own expense, with the requirements of this section prior to such sale. (Ord. 164 § 1 (part), 1983)

15.36.020 Penalty for violation.

Violation of Section 15.36.010 shall be punishable as an infraction and shall, in addition, be subject to a civil action by the city to force compliance. Failure to comply with Section 15.36.010 shall not be grounds between buyer and seller to avoid or set aside the real property sales transaction. (Ord. 164 § 1 (part), 1983)

Chapter 15.40**RESIDENTIAL PROPERTY
INSPECTION PROGRAM****Sections:**

- 15.40.010** Definitions.
- 15.40.020** Residential property
inspection report
required.
- 15.40.030** Contents of report.
- 15.40.040** Exceptions.
- 15.40.050** Presentation of report
to buyer.
- 15.40.060** Penalties.
- 15.40.070** Sale or exchange of
residential property.

15.40.010 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Agreement of sale” means any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner, including a lease with option to buy.

“Buyer” means any person, copartnership, association, corporation, fiduciary or other legal or business entity which intends to sign an agreement or instrument which on its face appears to be legally binding or is intended to be legally binding, subject to specified conditions. Such agreement or instrument shall include, but is not necessarily limited to, a deposit receipt, seller’s instructions, contract of sale, exercise of option to buy or executed deed when there is no prior written agreement.

“Owner” means any person, copartnership, association, corporation, fiduciary or other legal or business entity having legal or equitable title or any interest in any residential property; or any realtor, real estate broker or agent representing such owner.

“Residential property” means all improved real property which is, or by virtue of the zoning thereon, may be used for residential purposes. (Prior code § 11-460.1)

15.40.020 Residential property inspection report required.

Prior to the close of escrow or transfer of title for such property shall obtain from the city a residential property inspection report. An inspection of any other type of real property may be requested by the owner thereof, and if so requested, such report shall be subject to the terms and conditions as a residential property inspection report required hereunder. A fee of twenty-five dollars (\$25.00) shall be charged for any single-family residence inspected. A fee of ten dollars (\$10.00) shall be charged for any individual condominium unit inspected. All other residential or other property inspections shall be made at the rate of fifteen dollars (\$15.00) per hour, including travel time. (Prior code § 11-460.2)

15.40.030 Contents of report.

A. Upon application by the owner or his authorized agent and subject to payment of

the fee required, the city shall review pertinent city records, conduct an exterior inspection of the subject property and deliver to the applicant within four working days a residential property inspection report which shall contain the following information, insofar as same is of record or is revealed in the course of an exterior inspection by the city:

1. Street location, address and parcel number of the subject property;
2. Zone classification and authorized use;
3. Occupancy as indicated and established by permits or record;
4. Variances, conditional use permits, exceptions and other pertinent legislative acts of record;
5. Any special restrictions in use or development which may apply to subject property;
6. Violations of the codes, ordinances and regulations of the city existing upon the subject property and its improvements which are of record or are revealed in the course of an exterior inspection by the city.

B. Errors or omissions in such report shall not bind or estop the city from abating any dangerous defects on the property by legal action against the seller, buyer or any subsequent owner. Such report does not address guarantees of the structural stability of any existing building nor does it relieve the owner, his agent, architect or builder from designing and building a structurally stable building which meets the requirements of adopted codes and ordinances. Such report shall be valid only as to the specific transaction for which the inspection and review of record was made by the city; provided, however, that in the event such

transaction is not consummated, the report shall be valid for a period of one hundred eighty (180) days on the condition that if a subsequent transaction is arranged during that period the property shall again be inspected by the city and a supplemental report issued, if necessary, without charge to the owner. (Prior code § 11-460.3)

any provision of this chapter unless such failure is an act or omission which would be a valid ground for rescission of such sale or exchange in the absence of this section. (Prior code § 11-460.7)

15.40.040 Exceptions.

This chapter shall not apply to first sale of a newly constructed residential property and within six months after final inspection by the city. (Prior code § 11-460.4)

15.40.050 Presentation of report to buyer.

Upon receipt of the residential property inspection report, the seller or his authorized agent shall present such report, or an exact copy of such, to the buyer prior to transfer of title of such property to such buyer. Buyer shall, upon receipt of such report, execute a receipt for such report upon a form provided by the city, and such receipt shall be returned either by hand delivery or first class mail to the building department of the city. (Prior code § 11-460.5)

15.40.060 Penalties.

Violations of this chapter shall be an infraction. (Prior code § 11-460.6)

15.40.070 Sale or exchange of residential property.

No sale or exchange of residential property shall be invalidated solely because of the failure of any person to comply with

Chapter 15.44

FLOOD DAMAGE PREVENTION

Sections:

- 15.44.010 Findings of fact.**
- 15.44.020 Statement of purpose.**
- 15.44.030 Methods of reducing flood losses.**
- 15.44.040 Definitions.**
- 15.44.050 Lands to which this chapter applies.**
- 15.44.060 Basis for establishing the areas of special flood hazard.**
- 15.44.070 Compliance.**
- 15.44.080 Abrogation and greater restrictions.**
- 15.44.090 Interpretation.**
- 15.44.100 Warning and disclaimer of liability.**
- 15.44.110 Establishment of development permit.**
- 15.44.120 Building inspector as administrator.**
- 15.44.130 Duties and responsibilities.**
- 15.44.140 Standards of construction.**
- 15.44.150 Standards for utilities.**
- 15.44.160 Standards for subdivisions.**
- 15.44.170 Standards for manufactured homes.**
- 15.44.180 Floodways.**
- 15.44.190 Variance procedure.**

15.44.010 Findings of fact.

A. The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and

safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Prior code § 11-600.1)

15.44.020 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To insure that potential buyers are notified that the property is in an area of special flood hazard; and,

H. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Prior code § 11-600.2)

15.44.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Prior code § 11-600.3)

15.44.040 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning

they have in common usage and to give this chapter its most reasonable application.

“Appeal” means a request for a review of the building inspector’s interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

“Base flood” means the flood having a one percent chance of being equalled or exceeded in any given year (also called the “100-year flood”).

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load of less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of flood waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

“Flood boundary and floodway map” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

“Flood insurance rate map (FIRM)” means the official map on which the

Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway”.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this ordinance.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other

similar vehicles placed on a site for greater than one hundred and eighty (180) days.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

“New construction” means, for floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by this community.

“One-hundred-year flood” or “100-year flood” means a flood which has a one percent annual probability of being equalled or exceeded. It is identical to the “base flood”, which will be the term used throughout this chapter.

“Person” means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

“Remedy a violation” means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal

financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Special flood hazard area (SFHA)” means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99 or AH.

“Start of construction” includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial improvement” means any repair, reconstruction, or improvement of a

structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided. (Prior code § 11-601)

15.44.050 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. (Prior code § 11-602.1)

15.44.060 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Del Rey Oaks," dated October 1979, with an accompanying flood insurance rate map, are adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the Del Rey Oaks City Hall, 650 Canyon Del Rey Road, Del Rey Oaks, California. This flood insurance study is the minimum area of applicability of this chapter and may be supplemented by studies of other areas which allow implementation of this chapter, and which are recommended to the city council by the building inspector. (Prior code § 11-602.2)

15.44.070 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation. (Prior code § 11-602.3)

15.44.080 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code § 11-602.4)

15.44.090 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Prior code § 11-602.5)

15.44.100 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Prior code § 11-602.6)

15.44.110 Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazards established in Section 15.44.060. Application for a development permit shall be made on forms furnished by the building inspector and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

A. Proposed elevation in relation to mean sea level, of lowest habitable flood (including basement) of all structures; in Zone AO elevation of highest adjacent grade and proposed elevation of lowest habitable floor of all structures;

B. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;

C. All appropriate certifications listed in Section 15.44.130(D); and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Prior code § 11-603.1)

15.44.120 Building inspector as administrator.

The building inspector is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Prior code § 11-603.2)

15.44.130 Duties and responsibilities.

Duties of the building inspector, as administrator, shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. All other required state and federal permits have been obtained;

3. The site is reasonably safe from flooding.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.44.060, the building inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.44.140 through 15.44.180. Any such information shall be submitted to the city council for adoption.

C. Whenever a water course is to be altered or relocated:

1. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and

2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

D. Obtain and maintain for public inspection and make available as needed:

1. The certification required in Section 15.44.140(C)(1) (floor elevations);

2. The certification required in Section 15.44.140(C)(2) (elevations in areas of shallow flooding);

3. The certification required in Section 15.44.140(C)(3) (elevation or floodproofing of nonresidential structures);

4. The certification required in Section 15.44.140(D)(4) (wet floodproofing standard);

5. The certified elevation required in Section 15.44.160 (subdivision standards); and

6. The certification required in Section 15.44.180 (floodway encroachments).

E. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards, (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.44.190.

F. Take action to remedy violations of this chapter as specified in Section 15.44.070. (Prior code § 11-603.3)

15.44.140 Standards of construction.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

2. All manufactured homes shall meet the anchoring standards of Section 15.44.180.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with

materials and utility equipment resistant to flood damage;

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

4. Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. New construction and substantial improvement of any structure shall have the lowest habitable floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in subsection (3) hereinbelow. Upon completion of the structure the elevation of the lowest habitable floor including basement shall be certified by a registered professional engineer or surveyor and provided to the official set forth in Section 15.44.120;

2. New construction and substantial improvement of any structure in Zone A shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the standards in subsection (3) below. Upon the completion

of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the building inspector.

3. Nonresidential construction shall either be elevated in conformance with Section 15.44.040(A) or (B), or together with attendant utility and sanitary facilities:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 15.44.120.

4. All new construction and substantial improvements, that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. Either a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade.

Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or

b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.

5. Manufactured homes shall also meet the standards in Section 15.44.180. (Prior code § 11-604.1)

15.44.150 Standards for utilities.

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Prior code § 11-604.2)

15.44.160 Standards for subdivisions.

A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the officials as set forth in Section 15.44.120.

C. All subdivision proposals shall be consistent with the need to minimize flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Prior code § 11-604.3)

15.44.170 Standards for manufactured homes.

All new and replacement manufactured homes and additions to manufactured homes shall:

A. Be elevated so that the lowest floor is at or above the base flood elevation; and

B. Be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement. (Prior code § 11-604.4)

15.44.180 Floodways.

Located within areas of special flood hazard established in Section 15.44.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Encroachment shall be prohibited, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If Section 15.44.180(A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 15.44.140 through 15.44.180. (Prior code § 11-604.5)

15.44.190 Variance procedure.

A. Appeal Board.

1. The planning commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building inspector in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the planning commission, or any taxpayer, may appeal such decision to the city council, as provided in the Municipal Code.

4. In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures and constructed below the base flood level, providing the items in Section 15.44.190(A)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

6. Upon consideration of the factors of Section 15.44.190(A)(4) and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

7. The building inspector shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances.

1. Variances may be issued for the reconstruction, rehabilitation or restoration

of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.

5. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 15.44.190(B)(1) through 15.44.190(B)(4) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain board in the office of the Monterey County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Prior code § 11-605)

Title 16

SUBDIVISIONS

(Reserved)

*see
zoning
binder*

Title 17

ZONING*

Chapters:

- 17.04 General Provisions, Administration and Enforcement**
- 17.08 R-1 Districts**
- 17.12 R-2 Districts**
- 17.16 D Districts**
- 17.20 C Districts**
- 17.24 C-1 Districts**
- 17.28 ST Districts**
- 17.32 Visitor Commercial Overlay Zone**
- 17.36 General Use Regulations**
- 17.40 Nonconforming Uses**
- 17.44 Variances**
- 17.48 Home Occupation Use Permits**
- 17.52 Satellite Dish Antennae**
- 17.56 Design Review**

* **Editor's Note:** Ordinance #46, entitled GENERAL PLAN—1959—FOR THE CITY OF DEL REY OAKS, was adopted June 22, 1959. The City of Del Rey Oaks 1995 GENERAL PLAN was submitted to the City from K.J. Gregory, Assoc. AIP, on August 12, 1975. RESOLUTION NO. 88-8 General Plan Update passed and adopted on February 23, 1988, "The City of Del Rey Oaks General Plan" to the year 2007.

Chapter 17.04

GENERAL PROVISIONS, ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.04.010** Adoption of zoning plan.
- 17.04.020** Establishment of districts.
- 17.04.030** Districting or zoning map established.
- 17.04.040** District boundaries.
- 17.04.050** General prohibitions.
- 17.04.060** Zoning permits.
- 17.04.070** Use permits—Purpose.
- 17.04.080** Use permits—Fees—Procedure.
- 17.04.090** Variance provisions applicable.
- 17.04.100** Revocation.
- 17.04.110** Term—Expiration.
- 17.04.120** Amendments.
- 17.04.130** Enforcement—Legal procedure—Penalties.
- 17.04.140** Reference.
- 17.04.150** Definitions.
- 17.04.160** Interpretation.
- 17.04.170** Rezoning of unincorporated territory.
- 17.04.010** Adoption of zoning plan.
- There is adopted a zoning or districting plan for the city of Del Rey Oaks, California; the plan is adopted to promote and protect the public health, safety, peace, morals, comfort and general welfare. It consists of the establishment of various

districts, including therein all the territory within the boundaries of the city within various of which districts it shall be lawful and within various of which districts it shall be unlawful to erect, construct, alter, or maintain certain trades or occupations or to make certain uses of land. (Prior code § 11-201)

17.04.020 Establishment of districts.

The several districts into which the city is divided are designated as follows: Single-family residential districts, hereinafter referred to as “R-1” districts; multiple family residential districts, hereinafter referred to as “R-2” districts; garden type apartment districts, hereinafter referred to as “D” districts; general commercial districts, hereinafter referred to as “C” districts. The use herein of any letter designation of a district without an accompanying numeral designation shall include all districts of the class indicated by the letter designation. (Prior code § 11-202.1)

17.04.030 Districting or zoning map established.

The districts indicated in Section 17.04.020 are established and the designation, locations and boundaries thereof are set forth and indicated in Section 17.04.040 which consists of a districting or zoning map. Said map and all notations, references, data and other information shown thereon are made a part of this chapter. (Prior code § 11-202.2)

17.04.040 District boundaries.

If uncertainty should exist as to the boundary of any district, the following rules shall apply:

A. Where such boundary is indicated as approximately following a street or alley line, such street or alley line shall be deemed to be such boundary.

B. Where such boundary is indicated as approximately follow-a lot line, such lot line shall be deemed to be such boundary.

C. In unsubdivided property and where a district boundary divides property, the location of any such boundary, unless the same is indicated by dimensions shown on the aforesaid map, shall be determined by the use of the scale appearing on the map. (Prior code § 11-202.3)

17.04.050 General prohibitions.

Except as hereinafter otherwise provided:

A. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be used, or be designed to be used for any purpose in any manner, nor shall any yard or other open space surrounding any building be encroached upon or reduced except as permitted by and in conformity to the regulations specified for the district in which such building or yard or other open space is located.

B. No building shall be erected, reconstructed, or structurally altered to exceed the height limit designed for the district in which such building is located.

C. No yard or open space provided about any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building or any other lot. (Prior code § 11-202.4)

17.04.060 Zoning permits.

A. Zoning permits shall be required for all buildings and structures erected, constructed, altered, repaired or moved within or into any district established by this title.

B. Each permit shall be issued by the city building inspector or any employee of the city designated by the city council. Application for such permit shall be on a form prescribed by the planning commission and shall include a plat showing all essential data necessary to check compliance with this title. A copy of such application and plat shall be kept in the office of the building inspector or other designated official. (Prior code §§ 11-210.1, 11-210.2)

17.04.070 Use permits—Purpose.

Use permits, revocable, conditional or valid for a term period, may be issued for any of the following:

A. Any of the uses or purposes for which said permits are required or permitted by the provisions of this title;

B. Public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare;

C. Removal of minerals and natural materials, including building and construction materials, in any district;

D. To classify as a conforming use any institutional use existing in any district at the time of the establishment of such district. (Prior code § 11-212.1)

17.04.080 Use permits—Fees—Procedure.

The fee for application for such use permits shall be as established by resolution

of the city council, and such use permits shall be issued under the same procedure as that specified in Chapter 17.44 for the granting of variances, except that:

A. No public hearing need be held thereon, provided that the planning commission may hold such hearings thereon as it may deem necessary;

B. The findings of the planning commission, except as otherwise provided in this section, need include only that the establishment, maintenance and/or conducting of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Prior code § 11-212.2)

17.04.090 Variance provisions applicable.

All other provisions of Chapter 17.44, including the designation by the planning commission of any conditions upon which the permit may be issued and guarantees that such conditions will be complied with, shall apply to the granting of a use permit. (Prior code § 11-212.3)

17.04.100 Revocation.

Where one or more of the conditions of the granting of a use permit have not been, or are not being, complied with, or when a use permit was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the

planning commission may revoke or modify such use permit following a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to the hearing. Notice of such hearing shall also be given as described in Section 17.44.020. Following the hearing, the planning commission may revoke or modify the use permit. An appeal may be taken from such revocation or modification in the same manner as described in Section 17.44.050. (Prior code § 11-212.4)

17.04.110 Term—Expiration.

All use permits issued by the planning commission shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the planning commission, all such permits shall expire one year from the date of granting the permit unless construction on, or use of, the subject property pursuant to the permit has started within this period. (Prior code § 11-212.5)

17.04.120 Amendments.

A. This title may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare requires such amendment by the following procedure of this section. Said amendment may be initiated by:

1. The verified petition of one or more owners of property affected by the proposed amendment, which petition shall be filed with the planning commission and shall be accompanied by a fee of twenty-five dollars (\$25.00) no part of which shall be returnable to the petitioner; or by

2. Resolution of intention of the city council; or by

3. Resolution of intention of the planning commission.

B. The planning commission, not later than at its next succeeding meeting following the filing of such verified petition or following the adopting of such resolution of intention, shall set the times and places for such public hearings thereon as may be required by law, and shall give such notice of such hearings as may be required by law. Such notice shall include notice of the proposed amendment. In case the proposed amendment consists of a change of the boundaries of any district so as to reclassify property from any district to any other district, the planning commission shall give additional notice of the time and place of such hearings and of the purpose thereof by:

1. Posting public notice thereof not less than ten days prior to the date of the first of such hearings along each and every street upon which the property proposed to be reclassified abuts. Each such notice shall consist of the words, "Notice of Proposed Zoning Change," in letters not less than one inch in height, and in addition thereto a statement in small letters setting forth a general description of the property involved in the proposed change of district, the time and place at which the public hearings on the proposed change will be held and any other information which the planning commission may deem to be necessary.

C. Any failure to post public notice as aforesaid shall not invalidate any proceedings for amendment of this zoning title.

D. Following the hearings, the planning commission shall make a report of its

findings and recommendations with respect to the proposed amendment and shall file with the city council an attested copy of such report within ninety (90) days after the notice of the first of said hearings; provided, that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the planning commission so to report within ninety (90) days without the agreement, shall be deemed to be approval of the proposed amendment by the planning commission.

E. Upon receipt of such report from the planning commission, or upon the expiration of such ninety (90) days, the city council shall set the matter for public hearing after notice thereof and of the proposed amendment, given as provided by law. After the conclusion of the hearing, the city council may adopt the amendment or any part thereof set forth in the petition in such form as the council may deem to be advisable.

F. The decision of the city council shall be rendered within sixty (60) days after the receipt of a report and recommendations from the planning commission or after the expiration of such ninety (90) days, as aforesaid. (Prior code §§ 11-213—11-213.5)

17.04.130 Enforcement—Legal procedure—Penalties.

A. All departments, officials and public employees of the city vested with the duty of authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for uses, buildings, or purposes in conflict with the provisions of this title; and any such

permit or license issued in conflict with provisions of this title shall be null and void. It shall be the duty of the building inspector or any employee of the city designated by the city council of the city to enforce the provisions of this title pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure.

B. Any person, firm or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this title shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail of the County of Monterey for a term not exceeding one hundred eighty (180) days, or by both fine and imprisonment. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this title is committed or continued by such person, firm or corporation, and shall be punishable as herein provided.

C. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this title shall be and the same is declared to unlawful and a public nuisance; and the city attorney of the city shall, upon order of the city council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove

such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining, or using any such building or structure or using any property contrary to the provisions of this title. The remedies provided for herein shall be cumulative and not exclusive. (Prior code §§ 11-214—11-214.3)

17.04.140 Reference.

This title shall be known and cited as the "Zoning Ordinance of the City of Del Rey Oaks." Reference to section numbers herein are to the sections of the ordinance codified in this title. (Prior code § 11-216)

17.04.150 Definitions.

For the purpose of this title certain terms used herein are defined as follows:

The word "lot" includes the word "plot."

The word "building" includes the word "structure."

The word "shall" is mandatory and not directory.

The words "city council" as used herein, mean the city council of the city.

"Alley" means any public thoroughfare which affords only a secondary access to abutting property.

Apartment House. See "Dwelling, multiple."

"Automobile camp" means land or premises which is used or intended to be used, let or rented for occupancy by campers traveling by automobile or otherwise or for occupancy by or for trailers or movable dwellings, rooms or sleeping quarters of any kind.

"Automobile court" means a group of two or more detached or semi-detached

buildings containing guest rooms or apartments provided in connection therewith; which group is designated and used primarily for the accommodation of automobile travelers.

Automobile Wrecking. See "Junk yard."

"Auxiliary housing unit" means a studio or one-bedroom residential dwelling unit, having independent living facilities including kitchen and bathroom, not exceeding four hundred fifty (450) square feet in size, which is within, attached to, or detached from an existing single-family dwelling within the R-1 district.

"Block" means that property so designated on an official map of the city or part of the city, or bounded by streets or by a street or streets and railroad right-of-way, canal right-of-way or unsubdivided acreage.

"Building, accessory" means a subordinate building the use of which is incidental to that of the main building on the same lot.

"Building, main" means a building in which is conducted the principal use of the lot on which it is situated.

Bungalow Court. See "House court"; also "Dwelling group."

"Business" or "commerce" means the purchase sale or handling (other than manufacture, reduction, or destruction) of any article or commodity for profit, but not including junk yards, as the rendering of any service for compensation including, in addition, offices and office buildings, amusement enterprises and outdoor advertising signs and structure.

"Court" means an open unoccupied space, other than a yard, on the same lot with a building or buildings and which is

bounded on two or more sides by such building or buildings, including the open space in a house court apartment providing access to the units thereof.

"District" means a portion of the city within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this title.

"Dwelling, multiple" means a building or portion thereof used and designated as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartment houses, apartment hotels and flats, but not including automobile camps.

"Dwelling, two-family" (i.e., a "duplex") means a detached building, designated for an occupied exclusively by two families living independently of each other.

"Dwelling groups" means a group of two or more detached or semi-detached one-family, two-family or multiple dwellings, occupying a parcel of land in one ownership and having any yard or court in a common, including house courts and apartment courts, but not including automobile courts.

"Family" means a person or persons, related by blood, marriage or adoption, or a group of not more than four persons, excluding necessary employed servants, not related by blood, marriage or adoption, living together as a single housekeeping unit.

"Front wall" means the wall of a building nearest the street upon which the building

faces, but excluding certain architectural features as specified in Chapter 17.36.

“Garage, private” means an accessory building for the storage of self-propelled private passenger vehicles.

“Garage, public” means any premises, except those herein defined as a private or storage garage, used for the storage or care of self-propelled vehicles, or where any such vehicles are equipped for operation or repair, or kept for remuneration, hire, or sale.

“Garage, storage” means any premises, except those herein defined as a private or storage garage, used exclusively for the storage of self-propelled vehicles.

“Guest room” means a room which is intended, arranged, or designed to be occupied or which is occupied by guests, but in which no provision is made for cooking and not including dormitories for sleeping purposes.

“Height of building” means the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the ceiling of the topmost story.

“Home occupation” means any business or use customarily conducted within a dwelling and carried on by the occupant thereof, which use is clearly incidental and secondary to the use of the premises for dwelling purposes and which does not change the residential character thereof.

“Hotel” means any building or portion thereof containing six or more guest rooms used, designed, or intended to be used, let or hired out to be occupied, or which are occupied, by six or more individuals for

compensation, whether the compensation for hire be paid directly or indirectly.

“House, rooming” or “boarding house” means a dwelling other than a hotel where lodging and/or meals for three or more persons are provided for compensation.

“Junk yard” means the use of more than two hundred (200) square feet of the area of any lot or the use of any portion of that half of any lot, but not exceeding a depth or width, as the case may be, of one hundred (100) feet, which half adjoins any street for the storage of junk, including scrap metals or other scrap materials, or for the dismantling or “wrecking” of automobiles or other vehicles or machinery.

“Lot” means land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this title and having its principal frontage on a street.

“Lot, area” means the total horizontal area included within lot lines.

“Lot, corner” means a lot bounded on two or more adjacent sides by street lines, provided that the angle of intersection does not exceed one hundred thirty-five (135) degrees, and having a width of not greater than seventy-five (75) feet.

“Lot, depth” means the average distance from the street line of the lot to its rear line measured in the general direction of the side lines.

“Lot, frontage” means that dimension of a lot or portion of a lot abutting on a street, except the side of a corner lot.

“Lot, inside” means a lot other than a corner lot.

“Lot, key” means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot and fronting on the street which intersects the street upon which the corner lot fronts.

“Lot, lines” means lines bounding a lot as defined herein.

“Manufacture” means the preparation, making, treatment or pressing of articles as merchandise.

“Nonconforming use” means a use that does not conform to the regulations for the district in which it is situated.

“One ownership” means ownership of property (or possession thereof under a contract to purchase or under a lease the term of which is not less than ten years) by a person or persons, firm, corporation or partnership, individually, jointly, in common, or in any other manner whereby such property is under single or unified control. The term “owner” shall be deemed to mean the person, firm, corporation, or partnership exercising one ownership as herein defined.

“Outdoor advertising sign” means any sign of any kind or character whatsoever placed for outdoor advertising purposes.

“Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

“Story, half” means a story with at least two opposite exterior sides meeting a sloping roof not more than five feet above the floor of such story.

“Street” means a public or private thoroughfare which affords principal means of

access onto abutting property including avenue, place, way, drive, land, boulevard, highway, road, and any other thoroughfare except an alley as defined herein.

“Street line” means the boundary between a street and abutting property.

“Structure” means anything constructed or erected, the use of which required location on the ground or attachment to something having location on the ground.

“Use” means the purpose for which land or premises of a building thereon is designed, arranged, or intended or for which it is or may be occupied or maintained.

“Use, accessory” means a use incidental and accessory to a principal use of a lot or building located on the same lot.

“Yard” means an open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise permitted in Chapter 17.36. In measuring a yard, as hereinafter provided the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building exclusive of the respective architectural features enumerated in Chapter 17.36 as not to be considered in measuring yard dimensions or as being permitted to extend into any front or rear yard.

“Yard, front” means a yard extending across the front of the lot between the inner side yard lines and measured from the front line of the lot to the nearest line of the building; provided, that if any official plan line has been established from the street upon which the lot faces, then such measurement shall be taken from such official plan line to the nearest line of the building.

“Yard, rear” means a yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line of the main building.

“Yard, side” means a yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard. (Prior code § 11-217)

17.04.160 Interpretation.

In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except as specifically herein provided, it is not intended by this title to impair or interfere with any permits previously adopted or issued relating to the erection, construction, establishment, moving, alteration, or enlargement of buildings or improvements; nor is it intended by this title to interfere with, abrogate or annul any easement, covenant, or other agreement between parties; provided, that in cases in which this title imposes a greater restriction, or enlargement of buildings or the use of any such building or premises in said several districts or any of them, than is imposed or required by existing provision of law or ordinance or by such rules, regulations or permits, or by such easements, covenants, or agreements, then in such case the provisions of this title shall control. In case the provisions of this title conflict with any provisions of the Uniform Building Code the most restrictive of such provisions shall apply. (Prior code § 11-218)

17.04.170 Prezoning of unincorporated territory.

The city may prezone unincorporated territory adjoining the city for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the city. The method of accomplishing such prezoning shall be as provided by Section 17.04.120 of this Municipal Code, and by the State Planning and Zoning Law (see Government Code Sections 65853 et seq.). Such zoning shall become effective at the same time that the annexation becomes effective. If the city has not prezoned territory which is annexed, the city council may adopt an urgency measure interim ordinance relating to the zoning of such territory, pursuant to the provisions of Government Code Section 65858. (Prior code § 11-221)

Chapter 17.08

R-1 DISTRICTS

Sections:

- 17.08.010** Regulations for R-1 districts.
- 17.08.020** Permitted uses.
- 17.08.030** Building height limits.
- 17.08.040** Building site area requirement.
- 17.08.050** Front yard requirements.
- 17.08.060** Side yard requirements.
- 17.08.070** Rear yard requirements.
- 17.08.080** Building area requirements.
- 17.08.090** Garage requirements.
- 17.08.100** Auxiliary housing.

17.08.010 Regulations for R-1 districts.

The following regulations shall apply in all R-1 districts and shall be subject to the provisions of Chapter 17.36. (Prior code § 11-204.1 (part))

17.08.020 Permitted uses.

In the R-1 districts, the following uses are permitted:

1. One-family dwellings; public parks and playgrounds; and home occupations, subject to the prior obtaining of a use permit under the procedures set forth in Section 17.04.080;
2. Two-family dwellings, schools, churches, libraries, institutions, clinics for treatment of human ailments, nurseries and

greenhouses when such uses will not be detrimental to the neighborhood in which they are to be located and subject to securing a use permit in each case;

3. Accessory buildings and uses on the same lot with any of the above uses; provided, however, that no accessory building shall be constructed on a vacant lot unless concurrently with the construction of the main building. (Prior code § 11-204.1(a))

17.08.030 Building height limits.

In the R-1 districts, building height is limited to one and one-half stories, but not exceeding twenty-five (25) feet in height. (Prior code § 11-204.1(b))

17.08.040 Building site area requirement.

In the R-1 districts, each dwelling, together with its accessory buildings, shall be located on a building site in one ownership having an area of not less than six thousand (6,000) square feet; provided, that any parcel of land of a small area under one ownership at the time of the adoption of the ordinance codified in this chapter, shown as a lot on any subdivision map filed in the office of the county recorder of the County of Monterey, prior to the adoption of the ordinance codified in this chapter, when the owner thereof owns no adjoining land, may be used as a building site for one dwelling by the owner of such parcel of land or by his successor in interest, when all other regulations for the district are complied with. In no case shall, there be more than one dwelling on any one lot except as otherwise provided in Section 17.04.060. (Prior code § 11-204.1(c))

17.08.050 Front yard requirements.

In the R-1 districts, each lot shall have a front yard not less than twenty (20) feet in depth; provided, that in case a building line for the street upon which the lot faces is established by the street and highway plan of the master plan of the city, then the front yard shall have a depth of not less than that specified thereby. (Prior code § 11-204.1(d))

17.08.060 Side yard requirements.

In the R-1 districts, each lot shall have side yards each having a width of not less than ten percent of the lot width but not less than six feet, except as follows:

A. On any parcel of land of an average width of less than sixty (60) feet, which parcel was under one ownership at the time of, or is shown as a lot on any subdivision map filed in the office of the county recorder of the County of Monterey prior to the adoption of the ordinance codified in this chapter, when the owner thereof owns no adjoining land, the width of each side yard may be reduced to ten percent of the width of each parcel, but in no case to be less than five feet;

B. On a corner lot adjacent to a key lot the side yard on the street side of such lot shall have a width of not less than fifty (50) percent of the front yard depth required for the lots to the rear of such corner lot, to a maximum of ten feet for such side yard, but this regulation shall not be so applied as to reduce the buildable width, after providing the required interior side yard, of any such corner lot to less than fifteen (15) feet;

C. In case a dwelling is so located on a lot that the front or rear thereof faces any side lot line, such dwelling shall not be less

than fifteen (15) feet from such lot line. (Prior code § 11-204.1(e))

17.08.070 Rear yard requirements.

In the R-1 districts, each lot shall have a rear yard of a depth of not less than twenty (20) percent of the depth of the lot, to a maximum required depth of twenty (20) feet. (Prior code § 11-204.1(f))

17.08.080 Building area requirements.

In the R-1 districts, each building erected as a dwelling house shall have not less than nine hundred (900) square feet of floor area excluding garages and porches. (Prior code § 11-204.1(g))

17.08.090 Garage requirements.

In the R-1 districts:

A. Each building constructed as a dwelling house shall have not less than two hundred eighty-eight (88) square feet of floor area for garage purposes, either as an accessory building or as a part of the main structure on said lot and no carports shall be permitted in any R-1 district in the city.

B. No carport or structure intended for the storage of motor vehicles other than attached or detached enclosed garages shall be allowed in the city. (Prior code § 11-204.1(h))

17.08.100 Auxiliary housing.

In the R-1 districts, one auxiliary housing unit, as defined in Section 17.04.160 within, attached to or detached from an existing single-family dwelling, subject to first obtaining a use permit and provided that all of the following requirements or conditions are met:

A. **Lot Size.** The existing single-family lot size in question shall be at least eight thousand (8,000) square feet;

B. **Unit Size.** The auxiliary housing unit shall not exceed four hundred fifty (450) square feet in floor area;

C. **Parking.** One additional on-site parking space shall be provided for the auxiliary unit;

D. **Occupancy.** The owner(s) of the property shall reside within either the principal single-family dwelling unit or the auxiliary housing unit and the other unit shall be for rental purposes only; provided, however, should this condition fail at some time following the issuance of the use for some reason beyond the control of the owner(s), i.e., death, incompetency, foreclosure, etc., there shall be allowed a one-year period of time thereafter to correct said failure and restore said condition;

E. **Design Review.** All exterior alterations, including but not limited to parking, driveway location, landscaping, fencing, garbage storage areas, etc., shall be approved by the architectural review board;

F. **Driveway.** There shall be only one driveway to serve both units (i.e., only one driveway entrance from the street) unless otherwise specifically permitted in the use permit;

G. **Zoning Regulations.** All applicable zoning regulations, including but not limited to building height, setbacks, minimum lot size, width and depth, lot coverage, and regulations for attached accessory structures, etc., shall apply to the addition or construction of an auxiliary housing unit;

H. **Detached Setback.** Any detached auxiliary housing unit shall be separated

from the principal dwelling by a minimum setback of at least six feet;

I. **Building Code.** Any existing single-family dwelling on the site and to which an auxiliary housing unit is to be attached or included within shall be made to comply with minimum city building and housing code standards, to the satisfaction of the building inspector, including the installation of some detector devices in both units;

J. **Fees.** All applicable development fees shall apply to the auxiliary unit;

K. **Signs.** Street number signs for each unit, principal and auxiliary, shall be provided in such a manner as to be visible from the street to the satisfaction of the chief of police;

L. **Utility Meters.** Each unit, principal and auxiliary, shall be provided with separate utility (electricity, gas and water) hook-ups and meters, and no occupancy of the auxiliary unit shall take place until all conditions set forth in this section are satisfied. (Prior code § 11-204 (part))

Chapter 17.12

R-2 DISTRICTS

Sections:

- 17.12.010 Regulations for R-2 districts.**
- 17.12.020 Permitted uses.**
- 17.12.030 Building height limits.**
- 17.12.040 Building site area requirements.**
- 17.12.050 Lot coverage.**
- 17.12.060 Front yard requirements.**
- 17.12.070 Side yard requirements.**
- 17.12.080 Rear yard requirements.**
- 17.12.090 Distance between buildings on same lot.**

17.12.010 Regulations for R-2 districts.

The following regulations shall apply in all R-2 districts and shall be subject to the provisions of Chapter 17.36. (Prior code § 11-205.1 (part))

17.12.020 Permitted uses.

In the R-2 districts, the following uses are permitted:

1. All uses permitted in R-1 districts, subject to securing a use permit for any use for which a use permit is required in an R-1 district;
2. Two-family dwellings, dwelling groups; two-family flats; multiple dwellings, hotels, clubs, lodges;
3. Automobile courts, automobile camps, and similar uses subject to securing a use permit in each case. (Prior code § 11-205.1(a))

17.12.030 Building height limits.

In the R-2 districts, building heights are limited as follows:

Three stories, but not exceeding thirty-five (35) feet in height, except that in any R-2 district surrounded by any R-1 district, the building height limit shall be that specified for such surrounding district. (Prior code § 11-205.1(b))

17.12.040 Building site area requirements.

In the R-2 districts, building site area requirements are as follows:

Same as specified for R-1 districts, except that there may be more than one dwelling upon one lot. (Prior code § 11-205.1(c))

17.12.050 Lot coverage.

In the R-2 districts, the buildings on any lot shall not cover in the aggregate more than sixty (60) percent of its area. (Prior code § 11-205.1(d))

17.12.060 Front yard requirements.

In the R-2 districts, front yards are required as follows:

Same as specified for R-1 districts. (Prior code § 11-205.1(e))

17.12.070 Side yard requirements.

In the R-2 districts, side yards are required as follows:

Same as specified for R-1 districts except as hereinafter specified for dwelling groups; provided, that for any building of more than two stories in height, the width herein required for each side yard shall be increased by two feet for each story by which the height of such building exceeds two stories. (Prior code § 11-205.1(f))

17.12.080 Rear yard requirements.

In the R-2 districts, rear yards are required as follows:

Each lot shall have a rear yard of a depth of not less than fifteen (15) feet. (Prior code § 11-205.1(g))

17.12.090 Distance between buildings on same lot.

In the R-2 districts:

A. No main building shall be closer than fifteen (15) feet to any other main building on the same lot, except as hereinafter specified for dwelling groups.

B. Dwelling groups shall conform to the following regulations as to their location upon the lot and distances between buildings:

1. In any such front to back series of buildings, at least fifteen (15) feet between buildings and at least eight feet for the side yard providing access;

2. In any single row side to side series of buildings, at least eight feet between buildings, at least five feet for the side yard to the rear thereof and at least sixteen (16) feet for the side yard in front thereof;

3. In any multiple row side to side series of buildings, at least eight feet between buildings, at least five feet for the side yard to the rear thereof and at least twenty (20) feet for the court between the rows;

4. No building or group of buildings to rear on any street line;

5. No building or group of buildings to encroach on the front yard required for adjacent lots. (Prior code § 11-205.1(h))

Chapter 17.16

D DISTRICTS

Sections:

17.16.010	Description and purpose.
17.16.020	Description of land.
17.16.030	Conditional uses.
17.16.040	Property development standards.

17.16.010 Description and purpose.

A. Del Rey Oaks is primarily a residential city endowed overall with plant life and oak trees. Thirty-four (34) acres of such land was deeded to the city upon incorporation for recreation purposes only. The city desires to maintain these qualities by adoption of a multiple family, density and design control zone.

B. The purpose of adding this zone classification to the present city of Del Rey Oaks' zoning ordinance is to control the subdividing of open land so designated within the present city limits by approving only certain types of multiple family dwellings with controlled density, designed lot areas, and architectural treatment as provided herein. (Prior code § 11-205-A-1)

17.16.020 Description of land.

This chapter is designed to specifically cover those parcels designated "D" zone or district. (Prior code § 11-205-A-2)

17.16.030 Conditional uses.

No uses are permitted in the "D" zone without a use permit. The following uses are permitted in the "D" zone subject to first securing a conditional use permit:

1. Common-interest subdivisions (including condominiums and planned development townhouses) exceeding a density of five units per gross acre to a maximum density of eighteen (18) units per gross acre designed to provide an optimum of open space and similar amenities which will enhance the living qualities of the development and will promote, insofar as compatible with the intensity of land use, a suitable environment for family life;

2. Private swimming pools, exclusively for the use of residents and guests;

3. Other recreational uses exclusively for the use of residents and guests, and which are compatible with the purposes of the "D" zone;

4. Private garages, parking areas, and other accessory buildings and accessory uses appurtenant to any permitted use. (Prior code § 11-205-A-3)

17.16.040 Property development standards.

The following property development standards shall apply to all lands and buildings in the "D" zone:

A. Right-of-Ways. Public right-of-ways, with minimum width of twenty-eight (28) feet, shall be offered for dedication by the applicant. Private right-of-ways, with a minimum width of twenty-eight (28) feet, shall be maintained by the owners of the project. Improvements shall meet the objectives of the city in regard to construction location, adequate ingress and egress for normal flow of traffic (including emergency vehicles).

B. Green Belts and/or Open Spaces. The "D" zone may contain common green belts

and/or open spaces (such as Parcels A and B as indicated in the general plan) other than those specified in subsection (D)(3). Such common green belts and/or open spaces are hereby encouraged. These areas may be dedicated to the city for park and recreational uses, or may be retained under the ownership, maintenance and control of a homeowners' association; and shall be restricted against any improvements, except recreational improvements and accessory buildings as approved by the city.

C. Standards for "D" Zone.

1. Off-street Parking. Off-street parking shall be required, subject to the following standards: The number of parking spaces required shall be not less than 1.75 spaces for each studio, one bedroom and two bedroom dwelling unit, and not less than two spaces for each dwelling unit of three bedrooms or larger. One parking space for each dwelling unit shall be in a garage or carport. Carports may be allowed where the open portions of carports are not visible from a public street, and provided each carport has adequate cabinet or closet storage space. Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be adequate provision for ingress and egress to all parking spaces. No curbside parking shall be permitted, but this shall not be construed to exclude such interspersed parking bays as may be approved by the planning commission in connection with the design review of a specific project.

D. Lot Area and Dimensions.

1. Lot Area. The minimum lot area shall be fourteen thousand (14,000) square

feet. The minimum lot width shall be eighty (80) feet, and the minimum lot depth shall be one hundred (100) feet.

2. Area Per Dwelling Unit. The minimum lot area per dwelling unit shall be fifteen hundred (1,500) square feet.

3. Usable Open Space. The minimum usable open space per dwelling unit shall be four hundred (400) square feet.

4. Yards.

a. Front Yard. There shall be a front yard of at least twenty (20) feet.

b. Side Yard. There shall be a side yard of at least seven feet, which shall be increased at the rate of two feet per story for each story over one contained in a multiple family dwelling. Where any multiple dwelling or dwelling group is arranged so as to have a rear entry opening into a side yard, said side yard shall be no less than nine feet and the side yard upon which said dwelling fronts shall be not less than twenty (20) feet.

c. Rear Yards. There shall be a rear yard of at least fifteen (15) feet except as otherwise provided for accessory buildings.

5. Building Height. No principal building shall exceed either three and one-half stories or thirty-five (35) feet in height and no accessory building shall exceed one story or fifteen (15) feet in height.

6. Lot Coverage. Fifty (50) percent of the lot area is the maximum which may be covered by all buildings and/or structures located thereon.

E. Use Permit Procedure. Multiple-family projects pursuant to Section 17.16.020 shall require a conditional use permit granted by the planning commission. An application for a conditional use permit shall

include a site plan and a topographic map, together with such additional information, as may be requested by the planning commission in sufficient detail to enable the planning commission to determine that the project fulfills the following objectives of the "D" zone:

1. That the buildings and roads are sited so as to be compatible with existing topography and vegetation, and so as to minimize grading and removal of trees;

2. That circulation, including streets, driveways and parking areas are designed and located so as to provide for safe, efficient, and convenient movement of vehicles and aesthetically pleasing parking;

3. That open spaces are designed and located so as to provide the maximum feasible amount of open space usable for active and passive recreation, and so as to provide visual screening from surrounding areas;

4. That open space areas, other than those proposed to remain in a natural condition, are adequately landscaped and that adequate provision is made for the continual maintenance of such landscaping in a healthy and weed-free condition;

5. For any development that is considered for this zone, the city shall require a fiscal impact study done by an independent economist to assess the project's projected demands for services and the fiscal impacts of the project upon the city's finances, with the cost of same to be paid by the owner or developer. (Prior code § 11-205-A-4)

Chapter 17.20**C DISTRICTS****Sections:**

- 17.20.010 Regulations for C districts.**
- 17.20.020 Permitted uses.**
- 17.20.030 Building height limits.**
- 17.20.040 Yard requirements.**
- 17.20.050 Additional requirements.**

17.20.010 Regulations for C districts.

The following regulations shall apply in all "C" districts and shall be subject to the provisions of Chapter 17.36. (Prior code § 11-206.1)

17.20.020 Permitted uses.

In the C districts, the following uses are permitted:

1. All uses permitted in any R district without regard to securing any use permit, except automobile camps and similar uses;
2. Stores and shops for the conduct of any retail business (but not including second hand stores and pawn shops), automobile service stations for sale of gasoline, oil and minor accessories only; banks; barber shops, beauty parlors; dressmaking, shoe and tailor shops; messenger offices, professional offices; storage garages; studios; telegraph offices, and other business uses which are of the same general character as those enumerated in this subsection and not obnoxious or detrimental to the district;
3. Stores and shops for the conduct of any wholesale business clothing manufacture; laundries, laundrettes, auto laundries;

cleaning and dyeing establishments; carpenter shops; lumber yards; paint, paper hanging and decorating shops; plumbing shops; tinsmith shops; storage of household goods; storage and wholesale distributors of petroleum products; second hand stores and pawn shops; undertaking establishments; animal hospitals and pet shops; commercial kennels; and other uses which in the opinion of the planning commission are similar in character to those enumerated in this section and will not be obnoxious or detrimental to the district in which they are located and subject to the securing of a use permit in each case;

4. Automobile camps, and similar uses subject to securing a use permit in each case;

5. The use of power-driven machinery incidental and accessory to any of the uses permitted in C district;

6. Outdoor advertising signs and structures, when appurtenant to any use permitted in the district and when located on the premises on which such use is conducted; also outdoor advertising signs and structures when used for informational or directional purposes and subject to securing a use permit. (Prior code § 11-206.1(a))

17.20.030 Building height limits.

In the C districts, building heights are limited as follows:

Same as specified for R-2 districts. (Prior code § 11-206.1(b))

17.20.040 Yard requirements.

In the C districts, yard requirements are as follows:

None except:

A. Every building or portion thereof which is designed or used for any dwelling purposes shall comply with the provisions of this title as to side yard which are required in R-1 districts; provided, that when the ground floor of any such building is used for any commercial purpose, no side yard shall be required, except as hereinafter in this section provided. Every such building or portion thereof shall have a rear yard of not less than ten feet.

B. In case of a C district bordering on property in an R district, the side yard required shall be the same as required for the adjacent R district; except, that on a corner lot adjacent to a key lot, the side yard adjacent to the street shall be not less than one-half of the front yard required for the key lot. There shall be a rear yard of not less than ten feet on the rear of any lot in C district bordering on property in any R district.

C. No building shall hereafter be erected, nor shall any use of land be made, except the use of land for agricultural purposes which will be closer to the right-of-way line of any street than any official plan line or any building line which has been established for such street by the street and highway plan of the city; and provided further, that on the specifically designated streets the front yard required shall be as noted. (Prior code § 11-206.1(c))

be detrimental to the general welfare and the public health and safety of the community in which such use or uses are located.

B. Plot plans and elevations for any commercial building proposed to be erected in a C district shall be submitted to the planning commission for review and to determine compliance with this section.

C. Appeal from any decision of the planning commission may be made to the city council in written form stating reasons for such appeal. (Prior code § 11-206.1(d))

17.20.050 Additional requirements.

In the C districts:

A. The architectural and general appearance of all commercial buildings and grounds shall be in keeping with the character of the neighborhood, but such as not to

Chapter 17.24

C-1 DISTRICTS

Sections:

- 17.24.010** Regulations for C-1 districts.
- 17.24.020** Permitted principal uses.
- 17.24.030** Conditional uses.
- 17.24.040** Property development standards.
- 17.24.050** Other required conditions.

17.24.010 Regulations for C-1 districts.

A. The C-1 district is a zone to provide for restricted neighborhood commercial needs. Business and professional offices and limited retail stores and service establishments to serve the convenience of the area are permitted.

B. The standards of development are designed to coordinate with all density and design control in such zone, promote orderly development and retain and promote scenic landscaping basic to natural beauty of the city. (Prior code § 11-205-B-1)

17.24.020 Permitted principal uses.

In the C-1 districts, the following principal uses are permitted:

A. Retail Stores:

1. Bakery shops, including baking only when incidental to retail sales from the premises;
2. Bookstore;
3. Children's wearing apparel stores;
4. Cigar or tobacco stores;

5. Confectionery or candy stores;
 6. Delicatessens;
 7. Dressmaking or millinery only when incidental to retail sales from the premises;
 8. Drug stores;
 9. Florist shops;
 10. Dry goods or notions stores;
 11. Food markets;
 12. Garden supplies stores;
 13. Gift stores;
 14. Hardware stores;
 15. Hobby supply stores;
 16. Ice cream stores;
 17. Jewelry stores with incidental repairs;
 18. Liquor stores;
 19. Newsstands;
 20. Photograph shops;
 21. Restaurants, cafes, soda fountains (no floor shows, dancing or drive-in car service);
 22. Stationery stores;
 23. Toy stores.
- ##### B. Services:
1. Banks and financial institutions;
 2. Barber and beauty shops;
 3. Cleaning and dyeing pick-up agencies, including incidental spotting, sponging, pressing and repairs;
 4. Laundries, self-service;
 5. Laundry agencies;
 6. Real estate and insurance offices;
 7. Shoe repair shops;
 8. Tailor shops.
- ##### C. Office and Professional:
1. Administrative, business, executive, editorial and professional office (in which chattels or goods, wares or merchandise are not manufactured or sold);
 2. Clinics, medical, dental and therapeutic;

3. General research not involving manufacture, fabrication or processing, or sale of products listed in any other commercial or industrial zone;

4. Laboratories, biological, optical, medical, dental and X-ray, not including the manufacture of pharmaceuticals or other products for general sale or distribution and only when incidental to retail sales from the premises;

5. Libraries and reading rooms;

6. Optometrists;

7. Professional pharmacy;

8. Public utility customer service offices;

9. Stenographers, public;

10. Stock exchanges and brokers;

11. Tax consulting service;

12. Travel agency. (Prior code § 11-205-B-2)

17.24.030 Conditional uses.

In the C-1 districts, the following conditional uses are permitted, after obtaining a conditional use permit from the planning commission:

1. Blueprint shops;

2. Business technical schools and schools and studios for photography, art, music and dance;

3. Caterer;

4. Diaper supply service;

5. Escort bureau;

6. Hotels, motels and motor hotels;

7. Ice storage house, not more than one ton capacity;

8. Printing and publishing or lithographic shop;

9. Cocktail lounges, theaters, and similar enterprises, provided that such uses are conducted within buildings;

10. Slenderizing studios;

11. "R" zone residential uses, subject to all restrictions and requirements of that zone;

12. Accessory uses and buildings customarily appurtenant to a permitted use, such as incidental storage facilities, by use permit if not included in original building permit;

13. Signs as permitted by the sign ordinance which pertain only to permitted use on the premises; are either integral with, or attached flat against the building, and which do not face the side of an adjoining lot which is in an R-district;

14. Public and quasi-public uses appropriate to the "C-1" zone;

15. Auto service stations;

16. Social halls, lodges, fraternal organizations and clubs;

17. Any other use not specifically defined in Section 17.24.020 shall be subject to receiving a use permit. (Prior code § 11-205-B-3)

17.24.040 Property development standards.

The following standards shall apply to all land and buildings in the "C-1" zone:

A. Lot Area and Dimensions. All lots hereafter created shall comply with following minimum standards and requirements, except where a variance is granted by the city council:

1. Lot Area. Ten thousand (10,000) square feet minimum

2. Lot Width. Fifty (50) feet and Depth - one hundred (100) feet

3. Yards. Front thirty-five (35) feet; side ten feet and rear fifteen (15) feet set-back

4. **Building Height.** No principal building shall exceed two stories or thirty (30) feet in height and no accessory building shall exceed one story or fifteen (15) feet in height, except as approved by a variance.

B. Off-Street Parking and Loading.

1. Before issuance of a building permit for any building or structure in the "C-1" zone, the developer or builder shall show on plot-site plan proposed off-street parking spaces, and ingress and egress to same, to care for total parking and loading need, created by particular type of commercial business involved.

2. The number of parking spaces required shall be as set forth in the following:

a. Dwellings, single-family and detached guest houses: one space for each dwelling unit or guest house which shall be in garage

b. Hotels, motels, motor hotels and boatels: one space for each living or sleeping unit, plus two spaces for every fifty (50) rooms

c. Theaters, churches, stadiums, funeral homes, auditoriums, sports arenas, assembly halls:

1. One space for each five seats of maximum seating capacity;

2. In cases where temporary or movable seats are provided for, there shall be one space for each fifty (50) square feet of floor area used for assembly.

d. Dance halls, skating rinks, lodge halls, exhibition halls without fixed seats: one space for each fifty (50) square feet of floor area used for assembly or dancing.

e. Professional or business office buildings: one space for each three hundred (300) square feet of floor area.

f. Retail or service commercial stores and shops, banks, post offices, repair garages: one space for each five hundred (500) square feet of floor area.

g. Restaurants, bars and nightclubs: one space for each 2.5 seats.

h. Nursery sales and display yards, building materials and lumber sales yards and similar uses: one space for each two thousand five hundred (2,500) square feet of space devoted to sales, display and yard storage.

i. Shopping centers:

i. Under 100,000 square feet - eight cars per one thousand (1,000) square feet;

ii. 100,000 - 250,000 square feet - seven cars per one thousand (1,000) square feet;

iii. Over 250,000 square feet - six cars per one thousand (1,000) square feet.

3. Common parking facilities may be provided in lieu of the individual requirement specified, but such facilities shall be approved by the planning commission as to size, shape and relationship to business sites to be served; provided, that the total of off-street parking spaces when used together shall not be less than the sum of the various use computed separately.

4. Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be adequate provision for ingress and egress to all parking spaces. (Prior code § 11-205-B-4)

17.24.050 Other required conditions.

Other required conditions in C-1 districts are as follows:

A. All uses shall be conducted wholly within a completely closed building except for service stations, off-street parking and loading facilities, nurseries, sidewalk cafes, and similar uses as approved by the planning commission.

B. In any "C-1" zone directly across a street from an "R" or "D" zone, the parking and loading facilities shall be a distance at least ten feet from said street and said setback space shall be permanently landscaped with woody plants.

C. Goods for sale shall consist primarily of new merchandise and shall be sold at retail on the premises.

D. No more than three persons shall be directly engaged in the fabrication and processing of goods in any one establishment without approval of a use permit.

E. Off-street parking areas shall be effectively screened.

F. Any off-street parking area shall be surfaced with asphalt concrete or portland cement binder pavement, so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water within the area, and shall be so arranged and marked as to provide the orderly and safe loading or unloading and parking and storage of vehicles. All parking areas shall be maintained by the owner in a good and usable condition.

G. Lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises in an "R" or "D" zone.

H. 1. Either complete underground electrical distribution or streamline distribution, as approved by city council, will be required in a "C-1" zone.

2. Also underground TV-cable and telephone distribution lines shall be required in a "C-1" zone unless a variance is obtained from city council. The person constructing, remodeling, owning, operating, leasing, occupying, or renting each building or structure located within a "C-1" zone shall ensure that when the trench where the underground electrical distribution facilities or lines are to be placed has been excavated, notice of the same is given to each utility supplying utility service to the zone in which said building or structure is situated, prior to the time said trench is filled.

I. Architectural designs and landscaping layouts shall be as approved by city council and/or the designated architectural control committee. (Prior code § 11-205-B-5)

Chapter 17.28

ST DISTRICTS

Sections:

- 17.28.010 Regulations for special treatment or ST districts.**
- The following regulations shall apply in all "ST" districts and shall be subject to the provisions of Chapter 17.36. (Prior code § 11-207)
- 17.28.020 Permitted uses.**
- In the ST districts, the following uses are permitted:
1. Agriculture and grazing of cattle, horses, or sheep;
 2. Single-family residences. (Prior code § 11-207.1)
- 17.28.030 Uses permitted subject to obtaining a use permit.**
- In the ST districts, the following uses are permitted, subject to securing a use permit in each case:

A. If the size of a parcel is five acres in one ownership or contiguous properties in individual ownership who have formed a legal corporation for the purpose of development within the special treatment zone, single-family residences and multiple residence to the designated density (e.g., ST Max. A/AC.) may be considered for special treatment as demonstrated by a plot plan of the entire plot to be developed. The plot plan shall show:

1. The area to be developed completely dimensioned to a scale which will clearly show size and details of development including roads and parking;
2. Contours as existing and as they will be after development;
3. Other outstanding topography, including all trees over six inches in diameter or groves of trees of any size where grouped. Trees which will be removed by proposed development shall be so marked;
4. Location of all proposed buildings with those for immediate construction so designated;
5. Areas reserved for open space shall be defined and boundaries clearly shown;
6. Character, materials, color to show development design;
7. Elevations and appropriate perspectives to show relationship of building heights to surrounding topography.

B. Public and quasi-public uses. (Prior code § 11-207.2)

17.28.040 Accessory building and accessory uses.

In the ST districts, the following accessory building and accessory uses are permitted:

Accessory buildings and accessory uses when appurtenant to any permitted use on a parcel of five acres or more. (Prior code § 11-207.3)

17.28.050 Building height limits.

In the ST districts, building heights are limited as follows:

None except as shown on approved plan. (Prior code § 11-207.4)

17.28.060 Building site area, width, depth and coverage requirements.

In the ST districts, building site area, width, depth and coverage requirements are as follows:

A. Minimum building site area required: five acres, except under conditions specified in Section 17.28.030.

B. Average building site width required: none, except as shown on approved plan.

C. Maximum building site depth allowed: none, except as shown on approved plan.

D. Percentage of building site coverage permitted: maximum determined by density designation shown on map for particular "ST" district. (Prior code §§ 11-207.5—11-207.8)

17.28.080 Yard requirements.

In the ST districts, yard requirements are as follows:

A. Minimum front yard required: none except as shown on approved plan.

B. Minimum side yards required: none on interior development; ten feet along property line adjoining another ownership.

C. Minimum rear yard required: none on interior development; twenty (20) feet along rear property line adjacent to another ownership. (Prior code §§ 11-207.9—11-207.11)

17.28.090 Parking.

In the ST districts, parking requirements are as follows:

As required in Section 17.16.040(C). (Prior code § 11-207.12)

Chapter 17.32

VISITOR COMMERCIAL OVERLAY ZONE

Sections:

- 17.32.010** Description and purpose of visitor commercial overlay district.
- 17.32.020** Definitions.
- 17.32.030** Conditional uses.
- 17.32.040** Accessory uses permitted.
- 17.32.050** Performance standards.
- 17.32.060** Cessation of land use.
- 17.32.070** Use permits.

17.32.010 Description and purpose of visitor commercial overlay district.

This overlay district is to provide for the establishment and control of visitor accommodation uses within the city and to specify property development standards for such uses. (Prior code § 11-205-B-6(1))

17.32.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Accessory use” means a use customarily, incidental, related and subordinate to the principal use of the property.

“Auxiliary use” means a use included within a building or building complex that is auxiliary in nature to the principal use of the property.

“Inn” or “resort/conference hotel” means an all-suites hotel located on a parcel of land not less than ten acres in area, providing no outside entrances for non-hotel

business purposes and using no streets for non-hotel business or business displays. (Prior code § 11-205-B-6(7))

17.32.030 Conditional uses.

In the visitor commercial overlay districts, the following conditional uses are permitted:

- A. Inn or resort/conference hotel;
- B. Auxiliary uses to inn or resort/conference hotels (that are listed as permitted or conditional uses in the C-1 district, including restaurants, cocktail lounges and assembly rooms). (Prior code § 11-205-B-6(2))

17.32.040 Accessory uses permitted.

In the visitor commercial overlay districts, the following accessory uses are permitted:

Newsstands; gift shops; game rooms; laundry and dry cleaning pick-up; and personal services such as beauty shops; barber shops; and shoe services if so located and operated as to serve hotel guests only with no outside exposure or advertising that would serve to attract the general public. (Prior code § 11-205-B-6(3))

17.32.050 Performance standards.

In the visitor commercial overlay districts, the following performance standards are required:

- A. Occupancy. Occupancy shall not be permitted nor established for a period in excess of thirty (30) days.

B. Kitchen or Cooking Facilities. Kitchen or cooking facilities shall be limited to convenience of "entertainment" appliances. No kitchenettes, stove tops, hot plates, convection ovens or separate cooking areas shall be permitted. Limited food preparation facilities shall be allowed as part of the all-suites concept proposed for and in this entertainment/food preparation area, located in the living room in conjunction with, and as part of, the entertainment center, shall include: stereo/radio, television, VCR, bar size sink, microwave and minibar which shall be included as part of the half-size under-counter refrigerator.

C. Parking. Parking shall be as required by Section 17.24.040, with fifty (50) percent reduction of parking required for auxiliary uses that primarily serve guests within the hotel. (Prior code § 11-205-B-6(4))

17.32.060 Cessation of land use.

No change of land use can occur in this district without specific authorization. (Prior code § 11-205-B-6(5))

17.32.070 Use permits.

Upon cessation of land use for a period of six months, the city council shall initiate proceedings to consider general plan and rezoning of the property as appropriate. (Prior code § 11-205-B-6(6))

Chapter 17.36

GENERAL USE REGULATIONS

Sections:

17.36.010 General provisions and exceptions.

17.36.010 General provisions and exceptions.

The regulations specified in this title shall be subject to the following general provisions and exceptions; provided, however, that any exception permitted hereunder shall be subject to the securing of a use permit:

A. Uses.

1. The following accessory uses, in addition to those hereinabove specified, shall be permitted in any R district, provided that such accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in such respective districts:

a. Renting of rooms and/or the providing of table board in a dwelling as an incidental use but not to the extent of constituting a rooming house or hotel unless permitted in such districts;

b. Accessory building not over twelve (12) feet in height upon the obtaining of a use permit in each case;

c. Accessory use normally a part of the operation of any use permitted in the district. This shall not be construed as permitting any commercial use in any R district.

2. No livestock, chickens, fowl of any nature, rabbits or similar animals may be kept in any R-1 district, unless use permit is obtained and then, provided, that no such

livestock shall be maintained closer than thirty (30) feet from any dwelling now existing or hereafter erected, and that such livestock shall be kept in a clean and sanitary manner.

3. In addition to any outdoor advertising signs or structures, permitted by this ordinance, outdoor advertising signs and structures not exceeding in the aggregate three square feet in area for each lot may be displayed for the purpose of advertising the sale or lease of any property upon which displayed, and outdoor advertising signs and structures other than those otherwise permitted may be displayed for the advertising of the sale of a subdivision.

4. No amusement park or center, circus, carnival, theater, race track or recreation center or similar use, shall be permitted in any district unless and until a use permit shall first have been secured for the establishment, maintenance and operation of such use.

B. Height.

1. In any district, public and semi-public buildings may be erected to a height exceeding that specified for the district providing all yards shall be increased by two feet for each story in excess of the specified limit.

2. In R-1 districts, dwellings may be increased in height not to exceed ten feet and to a total of not exceeding three stories when two side yards of width of not less than fifteen (15) feet each are provided.

3. Upon securing a use permit, any building in any C district may be erected to a height exceeding that herein specified for such district; provided, that the cubical

contents of the building shall not be increased beyond that possible for a building erected within the height limit hereinabove specified.

4. Subject to other provisions of law, towers, flag poles, gables, spires, penthouses, scenery lofts, monuments, chimneys, cupolas, water tanks and similar structures and necessary mechanical appurtenances may be built and used to a greater height than the limit established for the district in which the building is located; provided, that no exception shall cover any level above the height limit more than fifteen (15) percent in area of the lot and that no such structure shall be used for sleeping or eating quarters or for any commercial purpose other than such as may be incidental to the permitted uses of the main building.

C. Yards.

1. In computing the front yard dimensions, the measurement shall be taken from the nearest point of the front wall of the building to the street line, or if any official plan line has been established for the street, then to such official plan line; providing, that architectural features of the kind and not exceeding the limits stated shall not be considered in making such measurements, to-wit; cornices, canopies, eaves, or any similar architectural features may also extend into any side or rear yard the same distance that they are permitted to extend beyond any front wall, except that no porch, terrace, or outside stairway shall project more than three feet into any side yard and then, in the case of an outside stairway, only if the same is unroofed and enclosed above and below the steps thereof.

2. In any R district where two or more lots and any one block have been improved with buildings, exclusive of frontage on the side of a corner lot, the front yard required shall be the average of the front yards of the improved lots but not more than twenty (20) feet.

3. In case an accessory building is attached to the main building, it shall be made structurally a part of, and have a common wall with the main building, and shall comply in all respects with the requirements of this ordinance applicable to the main building.

4. Detached accessory buildings in any R district shall conform to the following additional regulations as to their location upon the lot:

- a. At least ten feet from the main building on the same or adjacent lot;
- b. Not to encroach on the front half of any interior lot;
- c. Not to project beyond the front yard required on the adjacent lot in the case of a corner lot.

D. Fences and Hedges. No fence or hedge shall be constructed or grown to extend six feet in height on any property line to the rear of the front line of any dwelling, nor to exceed three feet in height from the front line of any dwelling to the street right-of-way line except upon the securing of a use permit in each case.

E. Automobile Garage or Parking Space. Garage or parking space for the parking of automobiles off the street shall be provided as follows:

1. One garage space for each family unit in any multiple dwelling, apartment,

dwelling group, duplex, automobile court or dwelling in any district;

2. One garage space for each two guest rooms in any hotel, rooming house or boarding house;

3. Garage or parking space for other uses allowed in any R district as determined and set forth by the planning commission in approving the use permit for any such use. (Prior code §§ 11-208, 11-208.1)

Chapter 17.40

NONCONFORMING USES

Sections:

17.40.010 Nonconforming uses.

17.40.010 Nonconforming uses.

A. The lawful use of land and/or buildings existing on the date which the ordinance codified in this title becomes effective, although such use does not conform to the regulations specified for the district in which such use is located, may be continued; provided, however, that if any such nonconforming use ceases for a continuous period of six months or if the building in which such use is located is destroyed by fire, explosion, act of God or any other manner, then any subsequent use of land and/or buildings shall be in conformity to the regulations specified by this title for the district in which it is located.

B. The nonconforming use of a building may be changed to another nonconforming use of a more restrictive nature upon the securing of a use permit in such case.

C. Except upon securing a use permit no nonconforming use of land and/or building shall be enlarged, structurally altered, reconstructed, or extended.

D. Nothing contained in this title shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this title; actual construction is hereby defined to be: the actual placing of construction materials in their permanent position,

fastened in a permanent manner; provided, that in all cases, actual construction work shall be diligently carried on until the completion of the building or structure involved.

E. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed. (Prior code §§ 11-209—11-209.5)

Chapter 17.44

VARIANCES

Sections:

- 17.44.010** Variance—When granted.
- 17.44.020** Application for variance—Public hearing—Showing required.
- 17.44.030** Action by planning commission—Findings.
- 17.44.040** Conditions.
- 17.44.050** Appeals procedure.
- 17.44.060** Revocation.
- 17.44.070** Term—Expiration.

17.44.010 Variance—When granted.

The planning commission, upon making certain findings on each case, as hereinafter provided, shall have the power to grant variances in the application of any of the provisions of this title to the following extent, and no further:

A. To vary or modify the strict application of any of the regulations or provisions contained in this title in cases in which there are practical difficulties or unnecessary hardships in the way of the strict application;

B. To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of the passage of this title. (Prior code § 11-211.1)

17.44.020 Application for variance—Public hearing—Showing required.

Application for any variance permissible under the provisions of this section shall be

made in writing to the planning commission, in the form prescribed by the commission, and shall be accompanied by a fee to be established by resolution of the city council from time-to-time. Upon receipt of any such application, the planning commission shall hold at least one public hearing, within forty-five (45) days after the filing of the application, notice of which hearing shall have been given by posting on the property involved and any adjacent property within the ten days prior to the date of said hearing. At said hearing the applicant shall present a statement and adequate evidence, in such form as the planning commission may require, showing:

A. That there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same district;

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner;

C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the property or improvements in said neighborhood. (Prior code § 11-211.2)

17.44.030 Action by planning commission—Findings.

After the conclusion of the aforesaid hearing, the planning commission shall make a written finding of facts showing whether the three foregoing qualifications apply to the land, building and/or use for which the variance is sought, and if the planning commission finds that such qualifications do apply and that the variance requested is in harmony with the general purposes of this chapter, the planning commission may by resolution grant such variance. (Prior code § 11-211.3)

17.44.040 Conditions.

In approving the granting of any variance under the provisions of this chapter, the planning commission shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation or provisions to which such variance applies, as to light, air, and the public health, safety, morals, convenience and general welfare. In all cases in which variances are granted under the provisions of this chapter, the planning commission shall require such evidence and guarantees as it may deem to be necessary that the conditions designated in connection therewith are being and will be complied with. (Prior code § 11-211.4)

17.44.050 Appeals procedure.

Any person aggrieved by any decision or action of the planning commission in respect to a variance application may appeal in writing to the city council within twenty (20) days after the decision or action in question. In addition, any member of the

city council may request in writing, within said time period, that the decision or action of the planning commission be reviewed by the city council as if on appeal. Notice of such appeal or review shall be given to the planning commission and a report shall be submitted by the planning commission to the city council setting forth the reasons for the action taken by the commission, or else the planning commission shall be represented at the council hearing on the appeal. The matter of the appeal or review shall be heard by the city council within forty-five (45) days from the date of filing a request therefor, and notice of the time and place of such hearing shall be mailed to the appellant, to the applicant if other than the appellant, and to the owners of all adjacent property, not less than ten days prior to the date of such hearing. Failure of any person to receive notice of the hearing shall in no way effect the validity of the action taken. (Prior code § 11-211.5)

17.44.060 Revocation.

Where one or more of the conditions of the granting of a variance have not been, or are not being, complied with, or when a variance was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the planning commission may revoke or modify such variance following a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to the hearing. Notice of such hearing shall also be given as described in Section 17.44.020. Following the hearing, the planning commission may revoke or modify the

variance. An appeal may be taken from such revocation or modification in the same manner as described in Section 17.44.050. (Prior code § 11-211.6)

17.44.070 Term—Expiration.

All variances issued by the planning commission shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the planning commission, all such permits shall expire one year from the date of granting the permit unless construction on, or use of, the subject property pursuant to the permit has started with this period. (Prior code § 11-211.7)

Chapter 17.48

**HOME OCCUPATION USE
PERMITS**

Sections:

- 17.48.010 Home occupation use permits.**
- 17.48.020 Permits issued by clerk.**
- 17.48.030 Additional staff-issued permits.**
- 17.48.040 Permits issued by commission.**
- 17.48.050 Restrictions on all permits.**
- 17.48.060 Term—Expiration.**
- 17.48.070 Termination of uses in nonconformance.**

17.48.010 Home occupation use permits.

Use permits, revocable, conditional and/or valid for a specified term, may be issued for home occupations (as defined in Section 17.04.160), in an R-1 district or other district permitting same, pursuant to the following procedures and provisions. (Prior code § 11-212.6 (part))

17.48.020 Permits issued by clerk.

A home occupation permit shall be issued by the city clerk, without conditions other than as specifically set forth herein, upon payment of the required fee and the filing of a declaration by the applicant that all special and general conditions relevant for the use requested will be satisfied, for the following occupations:

A. Accountant; appraiser, architect; attorney; bookkeeper; insurance or real

estate broker or agent; drafting service; engineer; stenographer; and telephone answering service.

B. Commission merchant; and mail order business; subject to the following special conditions:

1. The home will be the mailing address and office only; the applicant will only take orders at the home and the orders will be filled by direct shipment from factory to the customer; and

2. There is no storage of stock on the premises.

C. Contractor's office; janitorial service office; and landscape garden office; subject to the following special conditions:

1. Employees will not report in person to the home for work assignments or to do work therein in conjunction with the occupation; and

2. No supplies or equipment will be stored on the premises.

D. Dressmaker and tailor; subject to the following special conditions:

1. No manufacturing for stock in trade; and

2. No cleaning, dyeing, or pressing by mechanically operated equipment.

E. Fine arts studio and tutoring; subject to the following special conditions:

1. Where works of art will be created as part of the home occupation, only individual works of art may be created; and

2. That music, voice, and dancing studios or tutoring will not take place on the premises as part of this occupation.

F. Interior decorator offices; and photo laboratory; subject to the special condition that the residence will not be used as a studio.

G. Tutoring of individuals. (Prior code § 11-212.6(A))

17.48.030 Additional staff-issued permits.

The planning commission, by resolution, may authorize the city clerk to issue home occupation permits for additional occupations not set out in this section (in Section 17.48.020), and may establish thereby special conditions for the issuance of permits for such occupations; provided, however, that said conditions may not give the city clerk discretionary authority regarding the issuance of the permits. (Prior code § 11-212.6(B))

17.48.040 Permits issued by commission.

For any home occupations not delegated to the city clerk for the issuance of permits, the planning commission may, after holding a public hearing in the manner and with the notice prescribed for variances in Section 17.44.020, issue a home occupation use permit for any home occupation upon a finding that the public health, safety and general welfare would not be adversely affected by the issuance of such permit. All other provisions of said Chapter 17.44, relating to the appeal procedures and the designation by the commission of conditions upon which the permit may be issued and guarantees that such conditions will be complied with, shall apply to the granting of a home occupation permit under this section. (Prior code § 11-212.6(C))

17.48.050 Restrictions on all permits.

All home occupation use permits, whether issued by the planning commission or the city clerk, shall be subject to all of the following restrictions and criteria, except that the planning commission may modify or waive restrictions/criteria (1) through (10) upon a specific affirmative determination, made following a public hearing, that the application in question involves an unusual situation or hardship and that the public health, safety and general welfare will not be adversely affected by the modification or waiver:

1. No more than one home occupation permit shall be granted per dwelling unit;
2. No person, other than a member of the permittee's family who resides on the premises, shall be employed in the business at the subject property;
3. The use shall not generate additional pedestrian or vehicular traffic, or involve the repeated use of commercial vehicles for delivery of materials to or from the premises, beyond that normal to residential use;
4. There shall be no activity which involves frequent meetings or gatherings of any kind such as may generate traffic and parking congestion, noise or disturbances beyond that which is normal to residential use;
5. There shall be no sign, nameplate or any other form of advertising displayed on the premises in which a home occupation is permitted;
6. No telephone directory listing, vehicle sign, newspaper, radio or television service used to advertise the home occupation shall mention or contain the street

address of the premises for which a permit has been issued;

7. There shall be no dispatching of persons or equipment from the subject property;

8. No portion of any dwelling shall be used for a home occupation which has direct access thereto other than through the main (i.e., front) entrance to the dwelling unit;

9. There shall be no outdoor storage of any materials, equipment or supplies other than that necessary or usual for normal domestic purposes;

10. No garage space shall be used for the conduct of any home occupation which interferes with the use of such space for the parking of vehicles, if such use for parking of vehicles is necessary to satisfy the off-street parking requirements of this section;

11. No permit shall be issued for a home occupation which involves: (a) the manufacture of goods, materials or objects; (b) food handling, processing or packing; (c) animal boarding (a kennel) or treatment; or (d) automobile repairing;

12. There shall be no use of any mechanical equipment, appliance or motor: (a) outside of an enclosed building; or (b) which generates noise detectable from outside the building in which it is located; or (c) which creates any electrical disturbance adversely affecting the operation or use of any appliance or equipment located in any other dwelling unit or on property not owned by the person conducting the home occupation in question;

13. In no way shall the appearance of the dwelling or lot be so altered, or the home

occupation be so conducted, that the dwelling or lot may be reasonably recognized as serving a nonresidential use (either by color, materials, construction, lighting, sounds or noises, signs, vibrations, etc.);

14. No home occupation shall be permitted which creates noise, odor, dust, fumes, smoke or vibration readily discernible at the exterior boundaries of the parcel on which it is located;

15. A valid business license shall be obtained from the city by the permittee for each fiscal year or part thereof that the home occupation is conducted;

16. There shall be no dispatching of persons or equipment from the subject property. (Prior code § 11-212.6(D))

17.48.060 Term—Expiration.

A home occupation permit shall be valid only as to the specific occupation individual(s) and residence for which it is issued. Permits issued pursuant to this chapter must be renewed, if the occupation is to continue, every two years by the issuing authority (i.e., planning commission or city clerk). A fee equal to one-half of the original permit fee shall accompany the renewal application. Each permit shall be valid for said two-year period, unless sooner revoked or suspended by the planning commission, in action at a public hearing, except that a permit will expire automatically prior thereto either: (a) at the end of a shorter term thereof if specified as a condition upon issuance; or (b) if the occupation for which the permit was issued is discontinued for a period of one year. Discontinuance of an occupation shall be presumed if a business license is not obtained each year. (Prior code § 11-212.6(E))

17.48.070 Termination of uses in nonconformance.

Any and all presently existing uses in nonconformance with the foregoing amendment to the zoning ordinance and Municipal Code shall be required to be terminated within six months of the effective date of this title, or to apply for a new home occupation permit within said period; provided, however, that the planning commission, upon written application being made to it prior to the expiration of the six-month date, may, for good cause shown, extend the termination or renewal date of a nonconforming use for a period of not to exceed an additional six months. In addition, all presently existing uses for which home occupation permits were previously given, whether in nonconformance with the provisions hereof or not, shall be terminated within one year from the effective date of this title, and a new permit be obtained under the provisions of this chapter. (Prior code § 11-212.6(F))

Chapter 17.52

SATELLITE DISH ANTENNAE

Sections:

- 17.52.010** Legislative findings and determination.
- 17.52.020** Definition.
- 17.52.030** Satellite antennae requirements—
Residential districts.
- 17.52.040** Satellite antennae requirements—
Commercial districts.
- 17.52.050** Development standards.
- 17.52.060** Limitation.
- 17.52.070** Existing antennae.

17.52.010 Legislative findings and determination.

The city council of the city does find, determine and declare as follows: That the use of satellite dish antennae is increasing throughout the city due to technological advances of such equipment; that although such equipment is large, cumbersome and can be aesthetically unattractive, it appears to be a necessary and desirable accessory use of property within the city; that at the present time the size, location and appearance of such equipment are not adequately addressed in the zoning regulations in effect in the city; that in the absence of regulation, the placement of unattractive equipment in residential and commercial locations would interfere with the use, possession and enjoyment of adjacent property; and that the public peace, health, safety and general welfare require enactment of the ordinance codified in this chapter to regulate the use of satellite dish antennae rather than prohibit them. (Prior code § 11-651)

17.52.020 Definition.

“Satellite dish antenna” means any antenna or parabolic reflector established to receive transmissions directly from satellites, but does not include antennae established for the purpose of receiving transmissions from ground transmitters. (Prior code § 11-652)

17.52.030 Satellite antennae requirements— Residential districts.

In residential districts:

A. The planning commission shall be the primary reviewing body of applications to install satellite dish antennae. It shall ensure that each application is consistent with the provisions and intent of this chapter prior to approval;

B. Prior to installation of a satellite dish antenna, all appropriate permits must be obtained from the building department;

C. Satellite dish antennae shall be considered accessory structures, and unless otherwise stated, shall comply with the height, setback, and lot coverage requirements for buildings in the zone for which they are to be located;

D. All satellite dish antennae shall be located on the back half of the lot as ground-mounted units only. (Prior code § 11-653)

17.52.040 Satellite antennae requirements— Commercial districts.

In commercial and industrial districts:

A. A use permit approved by the planning commission shall be required for all satellite dish antennae;

B. Prior to installation of a satellite dish antenna, all appropriate permits must be obtained from the building department;

C. Antennae may be ground-mounted, roof-mounted or aboveground pole-mounted;

D. Roof-mounted and aboveground pole-mounted antennae shall not exceed the height of structures allowed in the district in which they are to be located;

E. No commercial advertising of any kind shall be allowed on satellite dish antennae. (Prior code § 11-654)

17.52.050 Development standards.

A. The planning commission may add any conditions to a permit necessary to achieve the compatibility of a satellite dish antenna with its neighborhood;

B. All satellite dish antennae located in residential districts shall be located to minimize the visual impact on surrounding properties and from public rights-of-way and adjacent properties by use of screens, fences and/or landscaping without impeding the efficiency of the dish, to the approval of the planning commission;

C. Satellite dish antennae shall be painted to blend with their surroundings and shall not be unnecessarily bright, shiny, garish, or reflective;

D. Prior to installation of a satellite dish antenna, all appropriate permits must be obtained from the building department;

E. All proposals for roof-mounted antennae shall be designed by a registered architect, or civil or structural engineer;

F. The installation of all satellite dish antennae shall be subject to the design of

footings, anchorage, and fasteners by a California registered architect, civil or structural engineer, to meet the current city Uniform Building Code;

G. The electrical system shall be designed and installed in accordance with the city current National Electrical Code;

H. All electrical wiring associated with antennae shall be installed underground;

I. A satellite dish antenna shall be maintained in a safe and aesthetically acceptable condition for the duration of the time it exists on the property. (Prior code § 11-655)

17.52.060 Limitation.

Certain parcels of land in the city may not be able to accommodate satellite dish antennae because of unique terrain problems and/or adverse effects on the surrounding neighborhood. In such instances, the planning commission may withhold approval to construct, install and/or maintain a satellite dish antenna. (Prior code § 11-656)

17.52.070 Existing antennae.

A. All owners of antennae installed or constructed prior to the effective date of the ordinance codified in this chapter shall apply to the planning commission for a use permit no later than six months after the effective date of this chapter.

B. Within sixty (60) days after such application, the planning commission shall:

1. Issue a use permit if the antenna conforms to the provisions of this chapter; or

2. Prior to the issuance of a use permit, require the owner to move the antenna, or to make structural and/or design changes to

the antenna so that it conforms to the provisions of this chapter; or

3. Issue an exemption, if it determines that the antenna is installed or constructed in a safe manner and is in substantial compliance with the provisions and/or intent of this chapter.

C. In granting an exemption, the planning commission may add any conditions necessary to effectuate the purpose and intent of this chapter, including the condition that the exemption will expire if and when the property upon which the antenna is located is sold or otherwise transferred in ownership. (Prior code § 11-657)

Chapter 17.56

DESIGN REVIEW

Sections:

- 17.56.010** Design review board.
- 17.56.020** Purpose and objectives.
- 17.56.030** Scope of power.
- 17.56.040** Procedure.

17.56.010 Design review board.

The planning commission shall be the design review board. A committee of the board may be appointed to review plans and make recommendations to the board prior to any presentation to the design review board (planning commission) regarding aesthetics and visual appearance. (Prior code § 11-224.1)

17.56.020 Purpose and objectives.

The purpose and objectives of the design review process are to:

A. Preserve the natural beauty of Del Rey Oaks and protect the visual character and charm of the city by insuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures, with due regard to the aesthetic qualities of a natural terrain and landscaping, and that proper attention is given to exterior appearance of structures, signs and improvements;

B. To encourage high quality development and good professional design practices and site planning;

C. To discourage poor exterior design, appearance and inferior quality, which is likely to have a depreciating effect on the

local environment and surrounding properties; and

D. To protect, preserve and enhance the values of properties in recognition of the interdependence between land values and aesthetics. (Prior code § 11-224.2)

17.56.030 Scope of power.

The design review board shall consider all plans, architectural plans, and all color and material designations of exterior in all commercial districts and all developments in residential districts which require: (1) a variance; (2) a use permit; or (3) a building permit for a new building or structure or for exterior remodeling or changes of or to existing buildings which involve structural changes (and excluding thereby building permits for sidewalks, driveways, grade level slabs or decks, new siding or stucco exteriors, retaining walls, door and window replacements not requiring structural changes, and fences of allowable heights). The matters by the board shall include but not be limited to the following:

A. The height, bulk and area of buildings;

B. The setback distances from all property lines;

C. The colors and materials on the exterior;

D. The type and pitch of roofs;

E. The size and spacing of windows, doors, and other openings;

F. Towers, chimneys, roof structures, flagpoles, radio, television and satellite dish antennae and towers;

G. The size, type and location of signs;

H. Plot plan landscaping and automobile parking areas;

I. The relocation to the existing buildings and structures in the general vicinity and area; and

J. Lighting of buildings, signs and grounds. (Prior code § 11-224.3)

17.56.040 Procedure.

The following shall apply with regard to the design review process:

A. Plans of the exterior architectural design and appearance of all buildings and structures, plot plans, landscape plans, advertising sign plans, parking area plans and building setback plans shall be subject to the approval of the design review board in order that the proposed buildings, structures, signs and landscaping will be in harmony with other structures and improvements in the area, and not of undesirable or unsightly appearance. No building or other required permit as set forth above shall be issued prior to design approval.

B. In the event it is determined that such proposed structures are inharmonious or unsightly in appearance, the design review board shall confer with the applicant in an endeavor to have the plans changed so that the structures will be harmonious and attractive in appearance. The design review board may approve or disapprove all or any part of the plans or may approve subject to specified changes, additions or conditions. Disapproved plans may be resubmitted after revision. In case the applicant or any other affected person is not satisfied with the action of the design review board he may within twenty (20) days after such action, appeal in writing to the city council. The

city council shall hold a public hearing on said appeal and shall render its decision thereon within thirty (30) days after the filing thereof. Upon approval by the city council, the building or other permit shall be issued, provided all other requirements of law have been complied with.

C. Additional regulations and procedures to assist the design review board in the implementation of this section may be adopted from time to time by the board. (Prior code § 11-224.4)

**STATUTORY REFERENCES
FOR
CALIFORNIA CITIES**

This list is of a general nature and does not necessarily directly reflect the Del Rey Oaks, California Municipal Code.

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. This reference list is up-to-date through July, 2001. As the statutes are revised, these references will be updated by Book Publishing Company.

General Provisions

Code adoption
Gov. Code §§ 50022.1—50022.10

Ordinances
Gov. Code § 36900 **et seq.**

Penalties for ordinance violations
Gov. Code §§ 36900 and 36901

Imprisonment
Gov. Code §§ 36903 and 36904

Citations for misdemeanors
Penal Code §§ 853.5—853.85

Administrative fines and penalties
Gov. Code § 53069.4

Judicial review of city decisions
Code of Civil Procedure § 1094.6

Expedited judicial review of First
Amendment cases
Code of Civil Procedure § 1094.8

Elections
Gov. Code §§ 34050 and 36503 and
Elections Code §§ 1301, 9200 **et seq.** and
10100 **et seq.**

Classification of cities
Gov. Code §§ 34100—34102

General powers
Gov. Code § 37100 **et seq.** and Cal. Const.

Art. 11 § 7
Conflict of interest code
Gov. Code § 87100 **et seq.**

Administration and Personnel

City records
Gov. Code §§ 34090—34090.7 **et seq.**

Alternative forms of government
Gov. Code § 34851 **et seq.**

City Manager
Gov. Code §§ 34851—34859

Elective Mayor
Gov. Code §§ 34900—34906

City officers generally
Gov. Code § 36501 **et seq.**

Legislative body
Gov. Code § 36801 **et seq.**

Election of legislative body by districts
Gov. Code § 34870 **et seq.**

Meetings
Gov. Code § 54950 **et seq.**

Mayor
Gov. Code § 40601 **et seq.**

City clerk
Gov. Code § 40801 **et seq.**

City treasurer
Gov. Code § 41001 **et seq.**

City assessor
Gov. Code § 41201 **et seq.**

Chief of police
Gov. Code § 41601 **et seq.**

City attorney
Gov. Code § 41801 **et seq.**

Local planning agencies
Gov. Code § 65100 **et seq.**

Emergency services
Gov. Code § 8550 **et seq.**

Fire department
Gov. Code § 38611

Peace officer standards and training
Penal Code § 13520 **et seq.**

Personnel system
Gov. Code § 45000 **et seq.**

Retirement systems
Gov. Code § 45341 **et seq.**

Revenue and Finance

Financial powers
Gov. Code § 37200 **et seq.**

Transfer of tax function to county
Gov. Code § 51500 **et seq.**

Property tax assessment, levy and collection
Gov. Code § 43000 **et seq.**

Sales and use tax
Rev. and Tax. Code § 7200 **et seq.**

Transient occupancy tax
Rev. and Tax. Code §§ 7280 through 7283

Real property transfer tax
Rev. and Tax. Code § 11901 **et seq.**

Special gas tax street improvement fund
Str. and Hwys. Code § 2106 **et seq.**

Unclaimed property
Civil Code § 2080 **et seq.**

Local agency service fees and charges
Gov. Code § 66013 **et seq.**

Public works and public purchases
Gov. Code § 4000 **et seq.**

Contracting by local agencies
Pub. Contracts Code § 20100 **et seq.**

Uniform Public Construction Cost Accounting Act
Pub. Contracts Code § 22000 **et seq.**

Claims against public entities
Gov. Code § 900 **et seq.**

Development fees
Gov. Code § 66000 **et seq.**

Business Licenses, Taxes and Regulations

Authority to license businesses
Gov. Code § 37101, Bus. and Prof. Code § 16000 **et seq.** and Const. Art. II, § 2

Bingo
Penal Code § 326.5

Community antenna TV systems
Gov. Code § 53066

Charitable solicitations
Bus. and Prof. Code § 17510 **et seq.**

Commercial filming
Gov. Code § 65850.1

Private investigators
Bus. and Prof. Code § 7512 **et seq.**

Taxicabs
Vehicle Code §§ 16500 **et seq.**, 21100,
21112 and Gov. Code § 53075.5

Gaming clubs
Bus. and Prof. Code § 19800 **et seq.**

Massage parlors
Gov. Code § 51030 **et seq.**

Automatic checkout systems
Civil Code § 7100 **et seq.**

Telecommunications
Gov. Code § 50030

Animals

Animals generally
Food and Agric. Code § 16301 **et seq.**

Dogs
Gov. Code § 38792 and Food and Agric.
Code § 30501 **et seq.**

Potentially dangerous and vicious dogs
Food and Agric. Code § 31601 **et seq.**

Rabies control
Health and Saf. Code § 121575 **et seq.**

Cruelty to animals
Penal Code § 597 **et seq.**

Health and Safety

Garbage and refuse collection and disposal
Public Resources Code §§ 49300 and
49400

Nuisance abatement
Gov. Code § 38771 **et seq.** and Penal Code
§ 373a

Littering
Penal Code § 374 **et seq.**

Smoking
Labor Code § 6404.5

Graffiti abatement
Gov. Code § 38772

Fire prevention
Health and Saf. Code § 13000 **et seq.**

Noise control
Health and Saf. Code § 46000 **et seq.** and
Gov. Code § 65302(f)

Hospitals
Gov. Code § 37600 **et seq.**

Public Peace, Morals and Welfare

Crimes against public justice
Penal Code § 92 **et seq.**

Crimes against the person
Penal Code § 187 **et seq.**

Crimes against the person involving sexual
assault and against public decency and
good morals Penal Code § 261 **et seq.**

Crimes against public health and safety
Penal Code § 369d **et seq.**

Crimes against the public peace
Penal Code § 403 **et seq.**

Crimes against property
Penal Code § 450 **et seq.**

Weapons
Penal Code § 12000 **et seq.**

Vehicles and Traffic

Local traffic rules and regulations
Vehicle Code § 21100 **et seq.**

Traffic signs, signals and markings
Vehicle Code § 21350 **et seq.**

Turning movements
Vehicle Code §§ 22100 **et seq.** and 22113

Speed limits
Vehicle Code § 22348 **et seq.**

One-way street designations
Vehicle Code § 21657

Stopping, standing and parking
Vehicle Code § 22500 **et seq.**

Through highways
Vehicle Code §§ 21101, 21353, 21354

Curb markings
Vehicle Code § 21458

Weight limits
Vehicle Code § 35700 **et seq.**

Pedestrians
Vehicle Code § 21950 **et seq.**

Establishment of crosswalks
Vehicle Code § 21106

Bicycles
Vehicle Code §§ 21100, 21206 and 39000 **et seq.**

Penalties
Vehicle Code § 40000.1 **et seq.**

Streets, Sidewalks and Public Places

Improvement Act of 1911
Str. and Hwys. Code § 5000 **et seq.**

Construction of sidewalks and curbs
Str. and Hwys. Code § 5870 **et seq.**

Underground utility districts
Str. and Hwys. Code § 5896.1 **et seq.**

Obstructions and encroachments on public ways
Gov. Code § 38775

Municipal parks
Public Res. Code § 5181 **et seq.**

Tree planting
Str. and Hwys. Code § 22000 **et seq.**

Landscaping and Lighting Act of 1972
Str. and Hwys. Code § 22500 **et seq.**

Charitable solicitations
Bus. and Prof. Code § 17510 **et seq.**

Advertising displays
Bus. and Prof. Code §§ 5230 and 5231

Public Services

Municipal water systems
Gov. Code § 38730 **et seq.**

Municipal sewers
Gov. Code § 38900 **et seq.** and Health and Saf. Code § 5470 **et seq.**

Water wells
Water Code § 13803 **et seq.**

Buildings and Construction

Authority to regulate buildings and construction
Gov. Code §§ 38601 and 38660

State Housing Law
Health and Saf. Code § 17910 **et seq.**

Adoption of construction codes
Health and Saf. Code §§ 17922 and 17958

Mobile homes
Health and Saf. Code § 18200 **et seq.**

Signs

Gov. Code §§ 38774 and 65850; Bus. and
Prof. Code § 5229 **et seq.**

Inspection warrants

Civil Pro. Code § 1822.50 **et seq.**

Development fees

Gov. Code § 66000 **et seq.**

Subdivisions

Subdivision Map Act

Gov. Code § 66410 **et seq.**

Zoning

Local planning generally

Gov. Code § 65000 **et seq.**

Local authority to regulate land use

Gov. Code § 65850

Local zoning administration

Gov. Code § 65900 **et seq.**

Open-space zoning

Gov. Code § 65910 **et seq.**

Family day care homes

Health and Saf. Code § 1597.30 **et seq.**

Environmental Protection

Environmental Quality Act

Public Res. Code § 21000 **et seq.**

Noise Control Act

Health and Saf. Code § 46000 **et seq.**

CROSS-REFERENCE TABLE

This table provides users with the current disposition of the sections of the Del Rey Oaks Municipal Code.

Thus, prior code Section 1-201 appears in this code as Section 2.04.010.

The prior code section information was derived from the Ordinances of the City of Del Rey Oaks.

Prior Code §	Herein	Prior Code §	Herein
1-001	Not codified	1-402	2.12.050
1-201	2.04.010	1-403	2.12.060
1-202	2.04.020	1-404	Repealed by 233
1-203	2.04.030	1-501	3.28.010
1-204	2.04.040	1-502	3.28.020
1-205	2.04.050	1-503	3.28.030
1-206	2.04.060	1-504	2.32.010
1-207	2.04.070	1-601	3.24.010
1-208	2.04.080	1-602	3.24.020
1-209	2.04.090	1-603	3.24.020
1-210	2.04.100	1-604	3.24.030
1-211	2.04.110	1-901A	1.16.010
1-212	2.04.120	1-901B	1.16.020
1-213	2.04.130	1-901C	1.16.030
1-214	2.04.140	1-902	1.12.010
1-215	2.04.150	1-903	1.12.020
1-216	2.04.160	1-904	1.08.010
1-217	2.04.170	3-101	3.04.010
1-218	2.04.180	3-201	3.04.020
1-219	2.04.190	3-202	3.04.030
1-220	2.04.200	3-203	3.04.030
1-221	2.04.210	3-401	Repealed by 233
1-222	2.04.220	3-402	Repealed by 233
1-223	2.04.230	3-403	Repealed by 233
1-224	2.04.240	3-404	Repealed by 233
1-225	2.04.250	3-405	Repealed by 233
1-301	2.12.010	3-406	Repealed by 233
1-302	2.12.020	3-407	Repealed by 233
1-303	2.12.030	3-408	Repealed by 233
1-401	2.12.040	3-409	Repealed by 233

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
3-410	Repealed by 233	3-609	3.20.090
3-411	Repealed by 233	3-610	3.20.100
3-412	Repealed by 233	3-611	3.20.110
3-413	Repealed by 233	3-612	3.20.120
3-414	Repealed by 233	3-613	3.20.130
3-415	Repealed by 233	3-614	3.20.140
3-416	Repealed by 233	3-615	Not codified
3-417	Repealed by 233	3-616	Not codified
3-418	Repealed by 233	3-701	3.12.010
3-419	Repealed by 233	3-702	3.12.020
3-420	Repealed by 233	3-703	3.12.030
3-421	Repealed by 233	3-704	3.12.040
3-422	Repealed by 233	3-705	3.12.050
3-423	Repealed by 233	3-706	3.12.060
3-424	Repealed by 233	3-707	3.12.070
3-425	Repealed by 233	3-708	3.12.080
3-426	Repealed by 233	3-709	3.12.130
3-427	Repealed by 233	3-710	3.12.140
3-428	Repealed by 233	3-711	Not codified
3-429	Repealed by 233	3-712	Not codified
3-430	Repealed by 233	3-713	Not codified
3-431	Repealed by 233	3-801	3.16.010
3-501	Repealed by 233	3-802	3.16.020
3-502	Repealed by 233	3-803	3.16.030
3-503	Repealed by 233	3-804	3.16.040
3-504	Repealed by 233	3-805	3.16.050
3-505	Repealed by 233	3-806	3.16.060
3-506	Repealed by 233	3-807	3.16.070
3-506.1	Repealed by 233	3-808	3.16.080
3-507	Repealed by 233	3-809	3.16.090
3-601	3.20.010	3-810	3.16.100
3-602	3.20.020	3-811	3.16.110
3-603	3.20.030	3-812	3.16.120
3-604	3.20.040	3-813	Repealed by 233
3-605	3.20.050	3-814	Repealed by 233
3-606	3.20.060	3-815	3.16.130
3-607	3.20.070	3-816	3.16.140
3-608	3.20.080	3-817	3.16.150

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
3-818	Not codified	5-102	Repealed by 233
3-819	3.16.160	5-103	Repealed by 233
4-101	5.04.010	5-104	Repealed by 233
4-102	5.04.020	5-105	Repealed by 233
4-103	5.04.030	5-106	Repealed by 233
4-104	5.04.040	5-107	Repealed by 233
4-105	5.04.050	5-108	Repealed by 233
4-106	5.04.060	5-109	Repealed by 233
4-107	5.04.070	5-110	Repealed by 233
4-108	5.04.080	5-111	Repealed by 233
4-109	5.04.090	5-112	Repealed by 233
4-110	5.04.100	5-113	Repealed by 233
4-111	5.04.110	5-201	Repealed by 233
4-112	5.04.120	5-202	Repealed by 233
4-113	5.04.130	5-203	Repealed by 233
4-114	5.04.140	5-204	Repealed by 233
4-115	5.04.150	5-205	Repealed by 233
4-116	5.04.160	5-206	Repealed by 233
4-117	5.04.170	7-101	Repealed by 233
4-118	5.04.180	7-102	9.04.020
4-119	5.04.190	7-103	8.20.010
4-120	5.04.200	7-104	Repealed by 233
4-121	5.04.210	7-401	9.08.010
4-122	5.04.220	7-402	9.08.020
4-123	5.04.230	7-403	9.08.030
4-124	5.04.240	7-404	Not codified
4-125	5.04.250	8-101	8.08.010
4-126	5.04.260	8-102	8.08.020
4-127	5.04.270	8-103	8.08.030
4-128	5.04.280	8-104	8.08.040
4-129	5.04.290	8-105	8.08.050
4-130	5.04.300	8-106	8.08.060
4-131	Not codified	8-107	8.08.070
4-201	5.12.030	8-108	8.08.080
4-202	5.12.020	8-109	8.08.080
4-203	5.12.010	8-110	8.08.090
4-204	5.12.010	8-111	8.08.100
5-101	Repealed by 233	8-112	8.08.100

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
8-113	8.08.100	8-353	Repealed by 233
8-114	8.08.150	8-401	8.24.010
8-115	8.08.110	8-402	8.24.020
8-116	8.08.120	8-403	8.24.030
8-117	8.08.130	8-404	8.24.040
8-118	8.08.130	8-405	8.24.050
8-119	8.08.130	8-406	8.24.060
8-120	8.08.140	8-501	8.16.010
8-121	8.08.140	8-502	8.16.020
8-122	8.08.140	8-503	8.16.030
8-123	8.08.140	8-504	8.16.040
8-124	8.08.150	8-505	8.16.050
8-125	8.08.160	8-506	8.16.060
8-126	8.08.170	8-507	8.16.070
8-127	8.08.180	8-508	8.16.080
8-128	8.08.190	8-509	8.16.090
8-129	8.08.190	8-510	8.16.100
8-301	6.08.010	8-511	8.16.110
8-302	6.04.020	8-512	8.16.120
8-303	6.08.020	8-513	8.16.130
8-304	6.08.030	8-514	8.16.140
8-305	6.08.040	8-515	8.16.150
8-306	6.08.050	8-516	8.16.160
8-307	6.08.060	8-517	8.16.170
8-308	6.04.030	8-518	8.16.180
8-309	6.04.050	8-519	Not codified
8-310	6.04.060	8-701	2.16.010
8-311	6.08.070	8-702	2.16.020
8-312	6.04.070	8-801	8.04.010
8-313	6.04.090, 6.08.080	8-801.2	Not codified
8-314	Not codified	8-802	8.04.020
8-315	Not codified	8-803	8.04.030
8-316	6.04.040	8-804	8.04.020
8-317	6.04.080	8-900	2.24.010
8-318	6.04.010	8-901	2.24.020
8-350	Repealed by 233	8-902	2.24.030
8-351	Repealed by 233	8-903	2.24.040
8-352	Repealed by 233	8-904	2.24.040

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
8-905	2.24.040	8-977	8.28.180
8-906	2.24.050	8-978	8.28.190
8-907	2.24.070	8-979	8.28.200
8-908	2.24.080	9-101	10.04.010
8-909	2.24.060	9-102	10.04.020
8-910	2.24.100	9-103	10.04.030
8-911	2.24.070	9-104	10.04.040
8-912	2.24.070	9-105	10.04.050
8-913	2.24.090	9-106	10.04.060
8-914	2.24.110	9-107	10.04.070
8-940.1	8.12.010	9-108	10.04.080
8-940.2	8.12.020	9-109	10.04.090
8-940.3	8.12.030	9-110	10.04.100
8-940.4	8.12.040, 8.12.120	9-111	10.04.110
8-940.5	8.12.050	9-112	10.08.010
8-940.6	8.12.060	9-112A	10.08.020
8-940.7	8.12.070	9-113	10.04.120
8-940.8	8.12.080	9-114	10.04.130
8-940.9	8.12.090	9-115	10.08.030
8-940.10	8.12.100	9-201	10.16.010
8-940.11	8.12.110	9-202	10.16.020
8-950	6.12.010	9-203	10.16.030
8-951	6.12.020	9-204	10.16.040
8-960	8.28.010	9-205	10.16.050
8-961	8.28.020	9-206	10.16.060
8-962	8.28.030	9-207	10.16.070
8-963	8.28.040	9-208	10.16.080
8-964	8.28.050	9-209	10.16.090
8-965	8.28.060	9-210	10.16.100
8-966	8.28.070	9-211	10.16.110
8-967	8.28.080	9-212	10.16.120
8-968	8.28.090	9-213	10.16.130
8-969	8.28.100	9-214	10.16.140
8-970	8.28.110	9-215	10.16.150
8-971	8.28.120	9-216	10.16.160
8-972	8.28.130	9-217	10.16.170
8-973	8.28.140	9-218	Repealed by 233
8-974	8.28.150	9-300	Repealed by 233
8-975	8.28.160	9-301	Repealed by 233
8-976	8.28.170	9-302	Repealed by 233

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
9-303	Repealed by 233	10-208	Repealed by 233
9-304	Repealed by 233	10-209	Repealed by 233
9-305	Repealed by 233	10-210	12.04.060
9-306	Repealed by 233	10-211	12.04.070
9-307	Repealed by 233	10-212	12.04.080
9-308	Repealed by 233	10-213	12.04.090
9-309	Repealed by 233	10-301	12.16.040
9-310	Repealed by 233	10-302	12.16.070
9-311	Repealed by 233	10-303	12.16.080
9-312	Repealed by 233	10-304	12.16.090
9-313	Repealed by 233	10-401	12.04.010
9-314	Repealed by 233	10-402	12.04.020
9-315	Repealed by 233	10-403	12.04.030
9-316	10.32.010	10-404	12.04.040
9-317	10.32.020	10-405	12.04.050
9-318	Repealed by 233	10-406	12.08.070
9-401	10.28.010	10-501	12.20.010
9-402	10.28.020	10-502	12.20.020
9-403	10.28.030	10-503	12.20.030
9-404	10.28.040	10-504	12.20.040
9-405	Not codified	10-505	12.20.050
9-406	Not codified	10-506	12.20.060
9-500	10.12.010	10-507	12.20.070
9-501	10.12.020	10-508	12.20.080
9-502	10.12.030	10-509	12.20.090
9-503	10.12.040	10-510	12.20.100
9-504	10.12.050	10-601	12.16.010
9-505	10.12.060	10-602	12.16.020
9-510	10.20.010	10-603	12.16.030
9-520	10.20.020	10-604	12.16.050
9-530	10.20.030	10-605	12.16.060
9-540	10.20.040	10-606	12.16.100
10-101	Repealed by 233	10-701	12.12.010
10-201	12.08.010	10-702	12.12.020
10-202	12.08.020	10-703	12.12.030
10-203	12.08.050	10-704	12.12.040
10-204	12.08.030	10-705	12.12.050
10-205	12.08.040	10-706	12.12.060
10-206	12.08.050	10-707	12.12.070
10-207	12.08.060	10-708	12.12.080

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
10-709	12.12.090	11-205-B-6(2)	17.32.030
10-710	12.12.100	11-205-B-6(3)	17.32.040
10-711	12.12.110	11-205-B-6(4)	17.32.050
11-101	2.20.010	11-205-B-6(5)	17.32.060
11-102	2.20.020	11-205-B-6(6)	17.32.070
11-103	Not codified	11-205-B-6(7)	17.32.020
11-201	17.04.010	11-206.1	17.20.010
11-202.1	17.04.020	11-206.1(a)	17.20.020
11-202.2	17.04.030	11-206.1(b)	17.20.030
11-202.3	17.04.040	11-206.1(c)	17.20.040
11-202.4	17.04.050	11-206.1(d)	17.20.050
11-204	17.08.100	11-207	17.28.010
11-204.1	17.08.010	11-207.1	17.28.020
11-204.1(a)	17.08.020	11-207.2	17.28.030
11-204.1(b)	17.08.030	11-207.3	17.28.040
11-204.1(c)	17.08.040	11-207.4	17.28.050
11-204.1(d)	17.08.050	11-207.5	17.28.060
11-204.1(e)	17.08.060	11-207.6	17.28.060
11-204.1(f)	17.08.070	11-207.7	17.28.060
11-204.1(g)	17.08.080	11-207.8	17.28.060
11-204.1(h)	17.08.090	11-207.9	17.28.080
11-205.1	17.12.010	11-207.10	17.28.080
11-205.1(a)	17.12.020	11-207.11	17.28.080
11-205.1(b)	17.12.030	11-207.12	17.28.090
11-205.1(c)	17.12.040	11-208	17.36.010
11-205.1(d)	17.12.050	11-208.1	17.36.010
11-205.1(e)	17.12.060	11-209.1	17.40.010
11-205.1(f)	17.12.070	11-209.2	17.40.010
11-205.1(g)	17.12.080	11-209.3	17.40.010
11-205.1(h)	17.12.090	11-209.4	17.40.010
11-205-A-1	17.16.010	11-209.5	17.40.010
11-205-A-2	17.16.020	11-210.1	17.04.060
11-205-A-3	17.16.030	11-210.2	17.04.060
11-205-A-4	17.16.040	11-211.1	17.44.010
11-205-B-1	17.24.010	11-211.2	17.44.020
11-205-B-2	17.24.020	11-211.3	17.44.030
11-205-B-3	17.24.030	11-211.4	17.44.040
11-205-B-4	17.24.040	11-211.5	17.44.050
11-205-B-5	17.24.050	11-211.6	17.44.060
11-205-B-6(1)	17.32.010	11-211.7	17.44.070

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
11-212.1	17.04.070	11-408	15.32.080
11-212.2	17.04.080	11-409	15.32.090
11-212.3	17.04.090	11-410	15.32.100
11-212.4	17.04.100	11-411	15.32.110
11-212.5	17.04.110	11-412	15.32.120
11-212.6	17.48.010	11-413	15.32.130
11-212.6(A)	17.48.020	11-414	15.32.140
11-212.6(B)	17.48.030	11-415	15.32.150
11-212.6(C)	17.48.040	11-416	15.32.160
11-212.6(D)	17.48.050	11-417	15.32.170
11-212.6(E)	17.48.060	11-418	15.32.180
11-212.6(F)	17.48.070	11-419	15.32.190
11-213.1	17.04.120	11-420	15.32.200
11-213.2	17.04.120	11-421	15.32.210
11-213.3	17.04.120	11-422	15.32.220
11-213.4	17.04.120	11-423	15.32.230
11-213.5	17.04.120	11-424	15.32.240
11-213.6	17.04.120	11-425	15.32.250
11-214.1	17.04.130	11-426	15.32.260
11-214.2	17.04.130	11-427	15.32.270
11-214.3	17.04.130	11-428	15.32.280
11-215.1	Not codified	11-429	15.32.290
11-216.1	17.04.140	11-430	15.32.300
11-217.1	17.04.150	11-431	15.32.310
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11-219.1	Not codified	11-460.2	15.40.020
11-220.1	Not codified	11-460.3	15.40.030
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11-224.4	17.56.040	11-600.1	15.44.010
11-300	Note to Title 17	11-600.2	15.44.020
11-401	15.32.010	11-600.3	15.44.030
11-402	15.32.020	11-601	15.44.040
11-403	15.32.030	11-602.1	15.44.050
11-404	15.32.040	11-602.2	15.44.060
11-405	15.32.050	11-602.3	15.44.070
11-406	15.32.060	11-602.4	15.44.080
11-407	15.32.070	11-602.5	15.44.090

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Prior Code §	Herein	Prior Code §	Herein
11-602.6	15.44.100	13-107	5.16.070
11-603.1	15.44.110	13-108	5.16.080
11-603.2	15.44.120	13-109	5.16.090
11-603.3	15.44.130	13-110	5.16.100
11-604.1	15.44.140	13-201	Not codified
11-604.2	15.44.150	13-202	Not codified
11-604.3	15.44.160	13-203	Not codified
11-604.4	15.44.170	13-204	Not codified
11-604.5	15.44.180	13-205	Not codified
11-605	15.44.190	13-206	Not codified
11-651	17.52.010	13-207	Not codified
11-652	17.52.020	13-208	Not codified
11-653	17.52.030	13-209	Not codified
11-654	17.52.040	13-210	Not codified
11-655	17.52.050	13-401	5.08.010
11-656	17.52.060	13-402	5.08.020
11-657	17.52.070	13-403	5.08.030
12-201	15.04.010	13-404	5.08.040
12-202	15.04.020	13-405	5.08.050
12-203	15.04.030	13-406	5.08.060
12-301	15.04.040	13-407	5.08.070
12-302	15.04.050	13-408	5.08.080
12-401	15.08.010	13-409	5.08.090
12-402	15.08.020	13-410	5.08.100
12-501	15.12.010	13-411	5.08.110
12-502	15.12.020	13-412	5.08.120
12-601	15.16.010	13-413	5.08.130
12-602	15.16.020	13-414	5.08.140
12-701	15.20.010	13-415	5.08.150
12-702	15.20.020	13-416	5.08.160
12-801	15.24.010	13-417	5.08.170
12-802	15.24.020	13-418	5.08.180
12-901	15.28.010	13-419	5.08.190
12-902	15.28.020	13-420	5.08.200
13-101	5.16.010	13-421	5.08.210
13-102	5.16.020	13-422	5.08.220
13-103	5.16.030	13-423	5.08.230
13-104	5.16.040	13-424	5.08.240
13-105	5.16.050	13-425	5.08.250
13-106	5.16.060	13-426	5.08.260

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13-427	5.08.270
13-428	5.08.280
13-429	5.08.290
13-430	5.08.300
13-431	5.08.310
13-501	13.04.010
13-502	13.04.020
13-503	13.04.030
13-504	13.04.040
13-505	13.04.050
13-506	13.04.060
13-507	13.04.070
13-508	13.04.080
13-509	13.04.090
13-510	13.04.100
13-511	13.04.110
13-512	13.04.120
13-513	Not codified
14-101	2.28.010
14-102	2.28.020
14-103	2.28.030
14-104	2.28.040
14-105	2.28.050
14-106	2.28.060
14-107	2.28.070
14-108	2.28.080
14-109	2.28.090
14-110	Not codified
14-111	Not codified
14-112	Not codified

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Ordinance Number	Disposition	Ordinance Number	Disposition
157	Adopts uniform construction codes (15.04, 15.08, 15.12, 15.16, 15.20, 15.24, 15.28)	230	Adds prior code §§ 3-901—3-917, admission tax (3.08)
164	Smoke detectors (15.36)	231	Amends prior code §§ 10-603 and 10-604 and adds § 10-607, preservation of trees (12.16)
193	Amends Ord. 157 (15.04)	232	Adds prior code §§ 8-960—8-979, property maintenance (8.28)
219	Amends prior code § 1-301, salaries of city clerk and ex-officio city treasurer (2.12)	233	Adds prior code §§ 3-714, revenue and taxation; 7-101A, alcoholic beverages; amends prior code §§ 1-902, citations; 3-201, city funds, 3-705, real property transfer; 3-917(a), admission tax; 8-304(b), dogs; 9-110 and 9-401, vehicles and traffic; 9-540, public nuisance; 10-204, 10-302, streets and sidewalks; 10-509(4) park policies; 13-502, utilities; repeals prior code §§ 1-404, city clerk; 3-401—3-431, 3-501—3-506.1, 3-507, 3-812 (second of two), 3-813, 3-814, taxation; 5-101—5-113, private ambulances; 5-201, 5-203—5-206, item pricing; 7-101, public intoxication; 7-104, fortunetelling, 8-350—8-353, noise; 9-218, right of entry; 9-300—9-315, 9-318, bicycles; 10-101, 10-208, 10-209, streets and sidewalks; 10-507(1)(c), intoxicating
220	Repeals Ord. 217 (Repealer)		
221	Adds prior code §§ 3-901—3-912, special public safety tax (Not codified)		
222	Adds prior code §§ 9-219—9-222, abandoned vehicles (10.16)		
223	Adds prior code §§ 1-251—1-261, office of city manager (2.08)		
224	Amends prior code § 1-301, salaries of city clerk and ex-officio city treasurer (2.12)		
225	Amends prior code §§ 10-506 and 10-507, games, alcoholic beverages and dogs in city parks (12.20)		
226	Amends prior code § 8-302, all dogs to be restrained by leash (6.04)		
227	Amends prior code § 7-103, loud noises (8.20)		
228	Adds prior code Ch. 15, trip reduction program (10.24)		
229	Amends prior code §§ 8-304 and 8-305, licensing fees for dogs (6.08)		

**Ordinance
Number**

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	beverages; 10-507(6), solici- tation of alms (3.04, 3.08, 3.12, 6.08, 9.04, 10.04, 10.20, 10.28, 12.08, 12.16, 12.20, 13.04)
234	Repeals and replaces prior code § 1-904, elections (1.08)

USE OF THE INDEX

Book Publishing Company uses an indexing system especially suited to the municipal codes. Similar in form to the usual index, our system follows code organization and is designed to facilitate supplementation. Each section is indexed under one main heading, with single references for required appeals, fees, bonds, licenses and permits. Multiple entries increase page costs and the likelihood of error in later supplements; therefore, extensive cross-references are used in lieu of multiple entries to direct the code user to the information sought.

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⁴TRAFFIC ENGINEER

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⁷TRANSIENT MERCHANT

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⁸TWO-FAMILY DWELLING

See ZONING

EXPLANATION OF ENTRIES

1. Information is under a specific heading, such as SALES, USE TAX or TRANSIENT OCCUPANCY TAX.
2. Related entries can be found under the heading VEHICLE.
3. Information can be located at another division of this heading.
4. Officials and agencies usually have their own entries.
5. Parking provisions of the traffic title are indexed separately under PARKING.
6. Information is under the heading TRAFFIC, consolidated under the subheading Control device.
7. Provisions have been consolidated with similar information, under the heading PEDDLER.
8. Zoning provisions are indexed under ZONING. A more extensive treatment is given these provisions: permitted uses and development standards are listed under both specific and general headings, as in these examples:

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Yard

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R-2 district 18.22.050

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Ordinance Number	Disposition	Ordinance Number	Disposition
	beverages; 10-507(6), solici- tation of alms (3.04, 3.08, 3.12, 6.08, 9.04, 10.04, 10.20, 10.28, 12.08, 12.16, 12.20, 13.04)	243	Amends § 1.12.020, actions brought by city—liability for costs (1.12)
234	Repeals and replaces prior code § 1-904 , elections (1.08)	244	Adds Ch. 1.01, adopts Del Rey Oaks Municipal Code (1.01)
235	Code adoption (Not codified)		
236	Amends §§ 10.24.020 and 10.24.080, trip reduction pro- gram (10.24)		
237	Adds §§ 10.08.040 and 10.08.050, prohibits unau- thorized parking in private parking lots (10.08)		
238	Interim urgency ordinance prohibiting permits or appli- cations for residential subdi- visions (Special)		
239	Adds § 10.08.060, prohibits habitation of vehicles during certain hours (10.08)		
240	Interim urgency ordinance prohibiting permits or appli- cations for residential subdi- visions (Special)		
241	Interim urgency ordinance es- tablishing prezoning for por- tion of the former Fort Ord Military Reservation (Special)		
242	Interim urgency ordinance es- tablishing prezoning for por- tion of the former Fort Ord Military Reservation consistent with city's general plan up- date. (Special)		

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 - C districts 17.20.040
 - front
 - D districts 17.16.040
 - R-1 districts 17.08.050
 - R-2 districts 17.12.060
 - ST districts 17.28.080
 - generally 17.36.010
 - rear
 - D districts 17.16.040
 - R-1 districts 17.08.070
 - R-2 districts 17.12.080
 - ST districts 17.28.080
 - side
 - D districts 17.16.040
 - R-1 districts 17.08.060
 - R-2 districts 17.12.070
 - ST districts 17.28.080
 - Zoning map established 17.04.030
 - Zoning plan adopted 17.04.010