

Chapter 17.34

OFF-STREET PARKING AND LOADING FACILITIES

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17.34.010 Purpose.

A. In order to prevent traffic congestion and shortage of curb spaces, off-street parking facilities shall be provided incidental to any new building or structure and major alterations and enlargements of existing uses. Off-street parking spaces or areas required by this chapter shall be in proportion to the need for such facilities created by the particular type of land use. Off-street parking facilities shall also be laid out in such a manner that the facilities will protect the public safety and insulate surrounding land uses from their impact.

B. For the purposes of tabulating the number of off-street parking spaces, the term "floor area" means the gross floor area of a building and its accessory buildings on the same site measured from the outside wall. All applications shall be accompanied by a detailed tabulation of the gross floor area as herein defined and a calculation of the required number of off-street spaces as specified in Section 17.34.020.

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17.34.020 Schedule of off-street parking space requirements.

A. Residential.

1. Single-family dwelling: two parking spaces (one covered) per unit;
2. Multi-family dwelling: 1.5 parking spaces per dwelling unit for all multi-family developments with the following exceptions:
 - a. One parking space per dwelling unit for senior citizen housing developments. Senior citizen means a person of fifty-five (55) years of age or older. Senior citizen housing development shall be defined as a multi-family project wherein the units are made available solely to senior citizens,
 - b. Planning Commission shall have the authority to require an additional .25 parking spaces per dwelling unit for guest parking spaces under the following circumstances:
 - i. Should on-street parking not be available to provide a minimum of .25 spaces per unit;
 - ii. Within developments ~~which~~that include more than fifty (50) percent of the units as three or four bedroom units.
 - c. In cases where multi-family developments do not require planning commission review, the site plan review committee shall have similar authority as described above.
3. Boarding houses, private clubs providing sleeping accommodations: one covered parking space for each bedroom or one parking space for each one hundred fifty (150) square feet of sleeping area, whichever is greater.
4. Motels, hotels. One parking space for each guest room.
5. Single-room occupancy (SRO) housing: One space for each employee onsite on the highest shift.

Further, there shall be one parking space for each two employees per shift regularly employed by the motel, or any independent business located within the motel structure. If the motel provides an area for the consumption of food or beverages or provides meeting or assembly halls the following requirements must be met.

Number of Motel Rooms Parking Requirements

3-10 One parking space for each 100 square feet of area used for the consumption of food or beverages and one parking space for each 35 square feet of meeting or assembly hall space.

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11-40 One parking space for every 200 square feet of area used for the consumption of food or beverages and one parking space for each 70 square feet of meeting hall or assembly hall space.

41-75 One parking space for each 300 square feet of area designated for the consumption of food or beverages and one parking space for each 150 square feet of meeting or assembly hall space.

76 or more One parking space for each 400 square feet of area set aside for the consumption of food or beverages and one parking space for each 300 square feet of meeting or assembly hall area.

5. Planned unit developments, condominiums: one covered parking space plus one uncovered guest parking space for each dwelling unit.

B. Medical Offices, Clinics, Hospitals and Other Facilities.

1. Dental and medical clinics and offices: one parking space for each two hundred (200) square feet of ~~floor~~-building area, or four parking spaces for each doctor, whichever is greater.

2. Major medical facilities, hospitals: one parking space for each two hundred fifty (250) square feet of ~~floor~~-building area.

3. Sanitariums and charitable and religious institutions providing sleeping accommodations: one parking space for each three beds.

4. Group care facilities: one parking space for each three beds.

C. Educational Facilities.

1. Kindergarten and nursery schools: one parking space for each employee plus one parking space for each ten children.

2. Elementary and junior high schools: two parking spaces for each classroom.

3. High schools: one parking space for each employee plus seven parking spaces for each classroom.

4. Colleges; business and professional schools and colleges; trade schools: one parking space for each employee plus ten parking spaces for each classroom.

D. Places of Public Assembly.

1. For auditoriums, community centers, theaters, churches, libraries, museums, stadiums, clubs and funeral chapels: one parking space for every four permanent seats in the principal assembly area or room, or one parking space for every thirty (30) square feet of ~~floor~~-building area, whichever is greater.

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E. Recreational Facilities.

1. Bowling alleys: four parking spaces for each alley, ~~plus one parking space for each one hundred (100) feet of floor area used for restaurant and/or cocktail lounge.~~
2. Billiard and/or pool parlors: two parking spaces for each table.
3. Skating rinks: one parking space for each employee, plus one parking space for each one hundred (100) square feet of ~~floor~~-building area.
4. Dance halls: one parking space for each thirty-five (35) square feet of dance floor area, plus one parking space for each five fixed seats or for each thirty-five (35) square feet of seating area where there are no fixed seats.
5. Gymnasiums: one parking space for each five hundred (500) square feet of ~~floor~~-building area.

F. Commercial Facilities.

1. Banks: one parking space for each two hundred fifty (250) square feet of ~~floor~~-building area plus five tandem lane spaces for each outdoor teller or teller station.
2. Savings and loan and other financial institutions: One parking space for each two hundred fifty (250) square feet of ~~floor~~-building area.
3. General retail stores, except as otherwise specified: one parking space for each three hundred (300) square feet of ~~floor~~-building area.
4. Offices, including all public and professional offices, except as otherwise specified: one parking space for each two hundred fifty (250) square feet of ~~floor~~-building area, with a minimum of four parking spaces.
5. Commercial service establishments, repair shops, wholesale establishments and retail stores ~~which~~not handle only bulky merchandise such as furniture, household appliances, motor vehicles, ~~farm implements~~farm implements and machinery: one parking space for each five hundred (500) square feet of ~~floor~~-building area.
6. Automobile dealerships: one parking space for each two employees during the time of maximum employment, plus one parking space for each two thousand (2,000) square feet of lot and building area used for the display or storage of automobiles.
7. Self-service laundries and dry cleaners: one parking space for each three washing machines.
8. Automobile repair shops: one parking space for four hundred (400) square feet of ~~floor~~-building area.

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9. Barber shops, beauty salons: two parking spaces for each barber or beautician, with a minimum of four spaces.
 10. Restaurants, cafés, soda fountains and similar establishments: one parking space for each one hundred ~~fifty (100)~~ fifty (150) square feet of ~~building floor~~ area.
 11. Manufacturing plants and other industrial uses: one parking space for each employee during the shift of maximum employment, plus one parking space for each vehicle used in conjunction with the use.
 12. Retail food market: one parking space for each five hundred (500) square feet of ~~building floor~~ area.
 13. Nurseries, retail: one parking space for each one thousand five hundred (1,500) square feet of site area, plus one loading space for each acre of site area.
 14. Shopping centers (major): one parking space for each two hundred twenty-five (225) square feet of ~~building floor~~ area.
 15. Open uses, commercial and industrial uses conducted primarily outside of buildings: one parking space for each employee on the maximum shift plus additional parking spaces prescribed by the planning department.
 16. Transportation terminal facilities: one parking space for each two employees plus additional parking spaces prescribed by the city planner.
 17. Storage and warehouses: one parking space for each one thousand (1,000) square feet of ~~building floor~~ area.
- G. For a use not specified in this section, the same number of off-street parking spaces shall be provided as are required for the most similar specified use.

17.34.030 Standards for off-street parking facilities.

All off-street parking facilities shall conform with the following standards:

- A. All parking areas shall have adequate ingress and egress to a street or alley.
- B. Entrances and exits to parking lots and other parking facilities shall be provided at locations approved by the site plan review committee.
- C. The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of two-inch minimum thickness on a four-inch untreated rock base. The subgrade shall be compacted to a minimum relative compaction of ninety (90) percent. The minimum slope of asphalt paved surface in the direction of drainage shall be twelve (12) inches per one hundred (100) feet and the minimum slope of concrete gutters shall be three inches per one hundred (100) feet.

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- D. The four-inch untreated rock base may be modified on basis of an “R” value test of the existing soil. The test to be made with a traffic index of 5.0.
- E. On major developments service roads shall be designed to carry the traffic loads anticipated.
- F. No parking areas shall be located within a required front setback or within a street side setback of a corner lot.
- G. Each parking space shall conform to standards as specified by the city traffic engineer. Open spaces shall be plainly marked by striping.
- H. ~~Parking spaces for the physically handicapped person shall be provided in all commercial, quasi-public, industrial, and professional and administrative office districts. Each handicap parking space shall be nineteen (19) feet in length and fourteen (14) feet in width including a five-foot ramp area which must be cross-hatched with white paint so as to identify it as a walkway. When two handicapped spaces are required, each space shall be nineteen (19) feet in length, but may be nine feet in width separated by a five-foot common ramp area. Each handicapped parking space shall be clearly identified as set forth in the California Vehicle Code, Section 22511.8(a). One stall for the physically handicapped shall be provided for each fifty (50) parking spaces, or fraction thereof, and shall be located as near as practical to any public entrance on a development as approved by the site plan review committee. Said parking spaces for the handicapped shall be properly painted, stenciled, and/or signed and maintained in a reasonable manner per the latest adopted version of the California Building Code.~~
- I. Parking spaces for “compact automobile” will be permitted providing that each parking space is not less than fifteen (15) feet in length and seven and one-half feet in width, exclusive of aisles and access drives. Number of compact parking spaces shall not exceed thirty (30) percent of the total required parking spaces of an establishment. There shall be no more than four contiguous compact stalls within a parking lot. Any compact parking shall be approved by the site plan review committee.
- J. If the parking area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.
- K. In all ~~R(C), P-PA, P-OC, P-OG, or P-BRP~~ C-N, C-R, C-S, C-MU, D-MU, O-PA, O-C, and BRP zone districts where a site adjoins or is directly across the street from an ~~R-A, R-1, or R-M~~ zone, a concrete block or masonry wall not less than six feet in height shall be located on the property line except in a required front yard, in which case the wall shall be three feet, and suitably maintained.
- L. No repair work or servicing of vehicles shall be conducted on a parking area.
- M. New parking facilities shall promote the use of time and/or motion sensitive parking lot and security lights, where feasible, as determined by the Site Plan Review Committee.
- N. New parking facilities shall promote and be evaluated as part of an overall program to implement low impact development features on-site that reduce impermeable surfaces and

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increase infiltration. The implementation and design of low impact development features for the site will be determined by the Site Plan Review Committee.

O. Vacant or unimproved lots shall not be used as vehicle parking facilities and/or outdoor storage of commercial equipment, construction equipment, and similar uses unless screened appropriately, as determined by Site Plan Review Committee.

P. For Residential zones, all parking shall be permitted on impervious surfaces such as pavement or concrete when in the front yard setback area.

Q. For Residential zones, all driveways shall be paved.

17.34.040 Landscape requirement.

The submission of any plan for off-street parking facilities shall be accompanied by a detailed landscape plan for approval by the site plan review committee. All off-street parking facilities shall conform with the following standards, but not limited to:

- A. A plot plan indicating the location of all landscaping shall be submitted for approval;
- B. Not less than six percent of a parking lot comprising up to twenty (20) parking spaces shall be landscaped and continuously maintained;
- C. Not less than ten percent of a parking lot comprising more than twenty (20) parking spaces shall be landscaped and continuously maintained;
- D. Not more than ten consecutive parking stalls shall be allowed without an approved landscaped tree well of eighty (80) square feet or more;

E. A minimum five-foot landscape strip shall be provided outside the public right-of-way along the street frontage perimeter of all proposed parking facilities.

FE. A planting list shall be shown on the required plot plan to obtain a grading permit, or building permit, for the buildings for which the parking lot is provided, which planting list shall give the botanical and common names of the plants to be used, the sizes to be planted, the quantity of each, and the spacing to insure balance and design. The plants shall be listed alphabetically and assigned key numbers to be used in locating the plants on the plan;

GF. The site plan review committee shall approve all landscaping plans within a parking area and shall have the right to require additional landscaping if the committee deems it necessary to improve the aesthetic character of the project.

17.34.050 Shared parking.

The ~~planning commission and city council~~site plan review committee may grant an exception to the total number of spaces required when the joint users of a parking facility have divergent

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needs with respect to daytime versus nighttime use, or weekdays versus Saturdays or Sundays. Conditions for allowing shared parking are:

- A. The buildings and uses shall be within three hundred (300) feet of the nearest point by walking distance within a parking facility to said building or use;
- B. The applicant shall show there is no conflict in the principal operating hours of the buildings or uses;
- C. A shared parking agreement between the principal parties and the city shall be entered into ~~which~~that restrict the shared parking area to a parking use only.

17.34.060 Location of off-street parking facilities.

A. ~~In an A, R-A, R-1, R-M, P(C), P-PA, P-OC, P-OG, P-BRP, P(I) zone, except P-C-DT all~~In all zones districts except the D-MU zone, off-street parking facilities prescribed in Section 17.34.020 shall be located on the same site as the use for which the spaces are required or on an adjoining site (if an exception is approved) or a site separated only by an alley from the use for which the spaces are required.

B. ~~In a P-C-DT~~In the D-MU zone district, off-street parking facilities prescribed in Section 17.34.020 shall be located within three hundred feet of the use for which the spaces are required, measured by the shortest route of pedestrian access. Such spaces shall be deemed to provide parking for one use only unless approved subject to Section 17.34.050.

~~C. Parking facilities should to be provided on the side of or behind buildings, where feasible.~~

17.34.070 Off-street loading facilities required.

A. ~~In all commercial and industrial zones, all R-M zones, and manufacturing zones; and in P-PA, P-OC, P-OG, P-BRP, the O-PA, O-C, and BRP zones, or multiple residential zones,~~ if required by the commission, there shall be located on the site of each building or structure, off-street loading facilities for vehicles. Where, in the opinion of the site plan review committee, a practical difficulty is involved relating to site size, existing development or access, the planning commission may grant an exception to any portion of the requirements necessary to achieve the intent of this section. For all commercial and industrial buildings, one off-street loading berth shall be provided if the gross floor area exceeds five thousand (5,000) square feet, and one additional berth shall be provided for each additional ten thousand (10,000) square feet.

No off-street loading berths shall be required for buildings of less than five thousand (5,000) square feet of gross floor area.

~~B. Off-street loading facilities shall to be provided on the side of or behind buildings, where feasible.~~

~~BGB.~~ The location of off-street loading facilities shall be approved by the site plan review committee.

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17.34.080 Standards for off-street loading facilities.

Off-street loading facilities provided in compliance with Section 17.34.070 shall conform to the following standards:

- A. The loading area, aisles and access drives shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches, over four inches of untreated rock base;
- B. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites to prevent annoying glare;
- C. No repair work or servicing of vehicles shall be conducted in a loading area.

17.34.090 Existing uses.

No existing use of land or structure shall be deemed to be a non-conforming use solely because of the lack of off-street parking facilities or used for off-street parking and off-street loading at the time of the adoption of this chapter shall not be reduced in a capacity to less than the number of spaces or berths prescribed in this chapter or reduced in area to less than the minimum standards prescribed in this chapter. Where an existing use is expanded, the parking requirements of this chapter shall apply only to the addition.

17.34.100 Reduction of off-street parking and loading facilities.

No off-street parking facility or off-street loading facility providing for a use of land or structure in compliance with Section 17.34.020 or 17.34.070 shall be reduced in capacity or in area without sufficient additional capacity or additional area being provided to comply with the regulations of this chapter.

17.34.110 Off-street parking and loading facilities to serve one use.

No off-street parking space or off-street loading berth provided for a use of land or structure in compliance with the requirements of this chapter shall be deemed to provide an off-street parking space or an off-street loading berth for a use or a structure on another site, except as otherwise provided in Section 17.34.020 and 17.34.070.

Chapter 17.36 FENCES, WALLS AND HEDGES

Sections:

- 17.36.010 Purpose.**
- 17.36.015 Fence, wall or hedge height measurement.**
- 17.36.020 ~~Rural residential.~~[Reserved]**
- 17.36.030 Single-family residential zones.**
- 17.36.040 Multiple-family residential zones.**
- 17.36.050 ~~Planned commercial~~Commercial and mixed use zones.**
- 17.36.060 ~~Planned office~~Office zones (PO-PA, P-O-C, P-OG, P-BRP).**
- 17.36.070 ~~Planned industrial~~Industrial zones.**

17.36.010 Purpose.

The purpose of this chapter is to control location and height of fences as may be required by city laws, rules and regulations to safeguard life or limb, property and public welfare. Fences may be constructed of any generally acceptable material except that barbed wire and electric charged fences are specifically prohibited in any R-1-6 or R-M zone.

17.36.015 Fence, wall or hedge height measurement.

The height of a fence or wall shall be measured from the adjacent finished grade, excluding raised planters or berms, to the top of the fence, wall or hedge.

17.36.020 ~~Rural residential.~~[Reserved]

~~A. Fences, walls and hedges not exceeding seven feet in height shall be permitted, except that in a required front yard, or side yard on a corner lot, a fence, wall or hedge shall not exceed three feet in height. A fence or wall may be allowed to a height of four feet provided that the additional one foot height is not of a solid material.~~

~~B. Exceptions may be granted in accordance with Chapter 17.42. (Ord. 2002-06 § 3 (part); 2002, prior code § 7513.)~~

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17.36.030 Single-family residential zones.

The following standards shall apply to sites within an R-1 zone:

A. Fences, walls and hedges not exceeding seven feet in height shall be permitted, except that in a required front yard or within five feet of a street side property line on a corner or side on cul-de-sac lot, a fence, wall or hedge shall not exceed three feet in height. A fence or wall may be allowed to a height of four feet provided that the additional ~~one-foot~~one-foot height at least fifty (50) percent open.

B. Required block walls for residential developments along arterial or collector roadways shall be designed to provide pedestrian access between the arterial or collector to the residential development. A Pedestrian access shall always be required as part of the block wall design abutting an arterial or collector roadway when a transit stop is located within one-quarter mile of the residential development.

CB. Exceptions may be granted in accordance with Chapter 17.42.

17.36.040 Multiple-family residential zones.

The following standards shall apply to sites within an R-M zone:

A. Fences, walls and hedges not exceeding seven feet in height shall be permitted except that in a required front yard, or a required side yard on a corner or side on cul-de-sac lot, a fence, wall or hedge shall not exceed three feet in height. A fence or wall may be allowed to a height of four feet provided that the additional ~~one-foot~~one-foot height is at least fifty (50) percent open.

B. Wrought Iron Fences. A decorative open metal fence of wrought iron or tubular steel (not chain link) not exceeding seven feet in height shall be permitted along the front and street side property lines or within the front yard and street side yard setback areas of multi-family uses. This subsection does not authorize solid walls or fences composed of woven wire (chain link), wood, or other materials other than open metal wrought iron or tubular steel. A post or pilaster consisting of masonry, brick, or other solid material not exceeding 18 inches square and seven feet tall may be used to support a wrought iron or tubular steel fence at a minimum distance of six feet between the posts or pilasters.

C. Required block walls, fences, wrought iron fences for multi-family developments along arterial or collector roadways shall be designed to provide pedestrian access between the arterial or collector to the multi-family residential development. A Pedestrian access shall always be required as part of the block wall, fences or wrought iron fence design abutting an arterial or collector roadway when a transit stop is located within one-quarter mile of the multi-family residential development.

CD. Exceptions may be granted in accordance with Chapter 17.42.

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17.36.050 ~~Planned commercial~~Commercial and mixed use zones.

The following standards shall apply to sites within a C-N, C-R, C-S, C-MU, or D-MU zone:

A. Where a site in the C-N, C-R, C-S, C-MU, or D-MU zone adjoins an ~~R-A~~, R-1 or R-M zone, either a concrete block masonry wall not less than seven feet in height shall be located on the property line except in a required front yard and suitably maintained or a landscaped buffer be provided as approved by the planning commission.

B. A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from an ~~R-A~~, R-1 or R-M zone shall be screened by a concrete block or masonry wall not less than six feet in height, if the city planning commission finds said use to be unsightly. A landscaped buffer can be approved by the planning commission in place of a required wall as an exception.

C. Open storage of materials and equipment, except commercial vehicles and used car sales lots, shall be permitted only within an area surrounded and screened by a concrete block or masonry wall not less than six feet in height; provided, that no materials or equipment shall be stored to a height greater than that of the wall or fence.

D. No fence or wall shall exceed seven feet in height if located in a required side or rear yard or three feet in height if located in a required front yard. A fence or wall may be allowed in a required front yard to a height of four feet provided that the additional ~~one-foot~~one-foot height is not of a solid material, upon approval of the city planner.

E. Exceptions may be granted in accordance with Chapter 17.42.

17.36.060 ~~Planned office~~Office zones (~~PO-PA, P-O-C, P-OG, P-BRP~~).

The following standards shall apply to sites within a O-PA, O-C, or BRP zone:

A. Where a site in the OPA, O-C, or BRP zone adjoins an R-A, R-1 or R-M zone a concrete or masonry wall not less than seven feet in height shall be located on the property line except in a required front yard, and suitably maintained. A landscaped buffer can be approved by the planning commission in place of the wall as an exception.

B. No fence or wall in the OPA, O-C, or BRP zone shall exceed seven feet in height if located in a required side or rear yard or three feet in height if located in a required front yard. A fence or wall may be allowed in a required front yard to a height of four feet provided that the additional ~~one-foot~~one-foot height is not of a solid material, upon approval of the city planner.

C. Exceptions may be granted in accordance with Chapter 17.42.

17.36.070 Planned industrial.

The following standards shall apply to sites within an I-L or I zone:

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A. Where a site within an I-L or I zone adjoins an R-A, R-1 or R-M zone a concrete block or masonry wall not less than seven feet in height shall be located on the property line except in a required front yard and suitably maintained.

B. A use not conducted entirely within an enclosed structure, on a site across a street or alley from an R-A, R-1 or R-M zone shall be screened by a concrete block or masonry wall not less than seven feet in height, if the site plan review committee finds said use to be unsightly.

C. ~~In P (I) zones open~~ Open storage of materials and equipment shall be permitted only within an area screened by a concrete block or masonry wall not less than six feet in height, which is adjacent to a public street or a residence provided that no materials or equipment shall be stored to a height greater than that of the wall or fence.

D. No fence or wall shall exceed seven feet in height if located in a required side or rear yard or three feet in height if located in a required front yard. A fence or wall may be allowed to a height of four feet; provided, that the additional ~~one foot~~ one-foot height is not of a solid material.

E. Exceptions may be granted in accordance with Chapter 17.42.

Chapter 17.38

CONDITIONAL USE PERMITS

Sections:

- 17.38.010 Purposes and powers.**
- 17.38.020 Application procedures.**
- 17.38.030 Lapse of conditional use permit.**
- 17.38.040 Revocation.**
- 17.38.050 New application.**
- 17.38.060 Conditional use permit to run with the land.**
- 17.38.065 Abandonment of conditional use permit.**
- 17.38.070 Temporary uses or structures.**
- 17.38.080 Public hearing—Notice.**
- 17.38.090 Investigation and report.**
- 17.38.100 Public hearing—Procedure.**
- 17.38.110 Action by planning commission.**
- 17.38.120 Appeal to city council.**
- 17.38.130 Effective date of conditional use permit.**

17.38.010 Purposes and powers.

In certain zones conditional uses are permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning ordinance and with respect to their effects on surrounding properties. In order to achieve these purposes and thus give the zone use regulations the flexibility necessary to achieve the objectives of this title, the planning commission is empowered to grant or deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permits.

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17.38.020 Application procedures.

A. Application for a conditional use permit shall be made to the planning commission on a form prescribed by the commission which shall include the following data:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property or is the authorized agent of the owner;
3. Address and legal description of the property;
4. The application shall be accompanied by such sketches or drawings as may be necessary by the planning division to clearly show the applicant's proposal;
5. The purposes of the conditional use permit and the general description of the use proposed;
6. Additional information as required by the historic preservation advisory committee.

7. Additional technical studies or reports, as required by the Site Plan Review Committee.

8. A traffic study or analysis prepared by a certified traffic engineer, as required by the Site Plan Review Committee or Traffic Engineer, that identifies traffic service levels of surrounding arterials, collectors, access roads, and regionally significant roadways impacted by the project and any required improvements to be included as a condition or mitigation measure of the project in order to maintain the required services levels identified in the General Plan Circulation Element.

B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of handling the application.

17.38.030 Lapse of conditional use permit.

A conditional use permit shall lapse and shall become void twenty-four (24) months after the date on which it became effective, unless the conditions of the permit allowed a shorter or greater time limit, or unless prior to the expiration of twenty-four (24) months a building permit is issued by the city and construction is commenced and diligently pursued toward completion on the site ~~which~~that was the subject of the permit. A permit may be renewed for an additional period of one year; provided, that prior to the expiration of twenty-four (24) months from the date the permit originally became effective, an application for renewal is filed with the planning commission. The commission may grant or deny an application for renewal of a conditional use permit. In the case of a planned residential development, the recording of a final map and improvements thereto shall be deemed the same as a building permit in relation to this section.

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17.38.040 Revocation.

Upon violation of any applicable provision of this title, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a conditional use permit shall be suspended automatically. The planning commission shall hold a public hearing within sixty (60) days, in accordance with the procedure prescribed in Section 17.38.080, and if not satisfied that the regulation, general provision or condition is being complied with, may revoke the permit or take such action as may be necessary to insure compliance with the regulation, general provision or condition. Appeals of the decision of the planning commission may be made to the city council as provided in Section 17.38.120.

17.38.050 New application.

Following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the permit unless such denial was a denial without prejudice by the planning commission or city council.

17.38.060 Conditional use permit to run with the land.

A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure ~~which~~that was the subject of the permit application subject to the provisions of Section 17.38.065.

17.38.065 Abandonment of conditional use permit.

If the use for which a conditional use permit was approved is discontinued for a period of one hundred eighty (180) days, the use shall be considered abandoned and any future use of the site as a conditional use will require the approval of a new conditional use permit.

17.38.070 Temporary uses or structures.

A. Conditional use permits for temporary uses or structures may be processed as administrative matters by the city planner and/or planning division staff. However, the city planner may, at his/her discretion, refer such application to the planning commission for consideration.

B. The city planner and/or planning division staff is authorized to review applications and to issue such temporary permits, subject to the following conditions:

1. Conditional use permits granted pursuant to this section shall be for a fixed period not to exceed thirty (30) days for each temporary use not occupying a structure, including promotional enterprises, or six months for all other uses or structures.

2. Ingress and egress shall be limited to that designated by the planning division. Appropriate directional signing, barricades, fences or landscaping shall be provided where required. A security officer may be required for promotional events.

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3. Off-street parking facilities shall be provided on the site of each temporary use as prescribed in Section 17.34.020.
4. Upon termination of the temporary permit, or abandonment of the site, the applicant shall remove all materials and equipment and restore the premises to their original condition.
5. Opening and closing times for promotional enterprises shall coincide with the hours of operation of the sponsoring commercial establishment. Reasonable time limits for other uses may be set by the city planner and planning division staff.
6. Applicants for a temporary conditional use permit shall have all applicable licenses and permits prior to issuance of a conditional use permit.
7. Signing for temporary uses shall be subject to the approval of the city planner.
8. Notwithstanding underlying zoning, temporary conditional use permits may be granted for fruit and vegetable stands on properties primarily within undeveloped agricultural areas. In reviewing applications for such stands, issues of traffic safety and land use compatibility shall be evaluated and mitigation measures and conditions may be imposed to ensure that the stands are built and are operated consistent with appropriate construction standards, vehicular access and off-street parking. All fruits and vegetables sold at such stands shall be grown by the owner/operator or purchased by said party directly from a grower/farmer.

9. Fruit/Vegetable stands shall be subject to site plan review.

C. The ~~Community Development Director or City Planner~~ shall deny a temporary use permit if findings cannot be made, or conditions exist that would be injurious to existing site, improvements, land uses, surrounding development or would be detrimental to the surrounding area.

D. The applicant or any interested person may appeal a decision of temporary use permit to the planning commission, setting forth the reason for such appeal to the commission. Such appeal shall be filed with the city planner in writing with applicable fees, within ten (10) days after notification of such decision. The appeal shall be placed on the agenda of the commission's next regular meeting. If the appeal is filed within five (5) days of the next regular meeting of the commission, the appeal shall be placed on the agenda of the commission's second regular meeting following the filing of the appeal. The commission shall review the temporary use permit and shall uphold or revise the decision of the temporary use permit, based on the findings set forth in Section 17.38.110. The decision of the commission shall be final unless appealed to the council pursuant to Section 17.02.145.

~~The applicant may appeal an administrative decision to the planning commission.~~

E. A privately owned parcel may be granted up to six (6) temporary use permits per calendar year.

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17.38.080 Public hearing--Notice.

- A. The planning commission shall hold at least one public hearing on each application for a conditional use permit.
- B. Notice of the public hearing shall be given not less than ten days nor more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use ~~which~~that is the subject of the hearing, and by publication in a newspaper of general circulation within the city.

17.38.090 Investigation and report.

The planning staff shall make an investigation of the application and shall prepare a report thereon ~~which~~that shall be submitted to the planning commission. The report can recommend modifications to the application as a condition of approval.

17.38.100 Public hearing--Procedure.

At the public hearing the planning commission shall review the application and the statement and drawing submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings prescribed in Section 17.38.110. The planning commission may continue a public hearing from time to time as it deems necessary.

17.38.110 Action by planning commission.

A. The planning commission may grant an application for a conditional use permit as requested or in modified form, if, on the basis of the application and the evidence submitted, the commission makes the following findings:

1. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purposes of the zone in which the site is located;
2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to

the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

B. A conditional use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the commission may prescribe. The commission may grant conditional approval for a permit subject to the effective date of a change of zone or other ordinance amendment.

C. The commission may deny an application for a conditional use permit.

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17.38.120 Appeal to city council.

The decision of the City planning commission on a conditional use permit shall be subject to the appeal provisions of section 17.02.145.

17.38.130 Effective date of conditional use permit.

A conditional use permit shall become effective immediately when granted or affirmed by the council, or ~~upon the sixth working day~~ten days following the granting of the conditional use permit by the planning commission if no appeal has been filed.

Chapter 17.40

NONCONFORMING USES AND STRUCTURES

Sections:

- 17.40.010 Purpose.**
- 17.40.020 Definitions.**
- 17.40.030 Existing uses.**
- 17.40.040 Nonconforming structures.**
- 17.40.050 Appeal process.**
- 17.40.060 Nonconforming uses.**
- 17.40.070 Expansion of nonconforming uses and structures.**
- 17.40.080 Structure permits or certificates of occupancy prohibited.**
- 17.40.090 Removal of illegal nonconforming structures and uses.**
- 17.40.100 Elimination of nonconforming uses.**

17.40.010 Purpose.

A. These provisions are intended to provide for the orderly termination of nonconforming structures and uses to promote the public health, safety and general welfare, and to bring these structures and uses into conformity with the goals and policies of the general plan. This chapter is intended to prevent the expansion of nonconforming structures and uses to the maximum extent feasible, to establish the criteria under which they may be continued or possibly expanded, and to provide for the correction or removal of these land use nonconformities in an equitable, reasonable and timely manner.

B. It is declared that nonconforming structures and uses within the city are detrimental to orderly development and the general welfare of citizens and property. It is further declared that nonconforming structures and uses shall be eliminated as rapidly as possible without infringing upon the constitutional rights of property owners.

17.40.020 Definitions.

As used in this chapter, the following terms are defined in this section:

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“Nonconforming structure” means a structure that was lawfully erected prior to the adoption of this ~~chapter~~title, but which, under this ~~chapter~~title, or due to changes in the City of Visalia municipal code or the lawful taking of private property by or under threat of eminent domain, does not conform with the standards of coverage, yard spaces, height of structures or distances between existing structures prescribed in the regulations for the zone or design district in which the structure is located.

“Nonconforming use” means one that lawfully existed prior to the effective date of this chapter, but which is no longer permitted in the zone in which it is located.

17.40.030 Existing uses.

An existing use of land or structure shall not be deemed to be a nonconforming use solely because of the lack of off-street parking facilities; however, property on the site used for off-street parking and off-street loading at the time of the adoption of this chapter shall not be reduced in a capacity to less than the number of spaces or berths prescribed in Chapter 17.34 or reduced in area to less than the minimum standards prescribed in Chapter 17.34. Where an existing use is expanded, the parking requirements of Chapter 17.34 shall apply only to the addition.

17.40.040 Nonconforming structures.

A structure ~~which~~that lawfully existed prior to the effective date of this chapter is a legal nonconforming structure, and may continue even though the structure fails to conform to the present requirements of the zone or design district in which it is located. A legal nonconforming structure may be maintained as follows:

A. A legal nonconforming structure ~~which~~that is damaged to an extent of one-half or more of its replacement cost immediately prior to such damage may be restored only if made to conform to all provisions of this chapter.

B. Reasonable repairs and alterations may be made to legal nonconforming commercial, institutional or industrial structures; provided, that no structural alterations shall be made which would prolong the life of the supporting members of a structure, such as bearing walls, columns, beams or girders. Structural elements may be modified or repaired only if the chief building official determines that such modification or repair is immediately necessary to protect the health and safety of the public or occupants of the nonconforming structure or adjacent property and the cost does not exceed one-half of the replacement cost of the legal nonconforming structure. However, improvements required to reinforce nonreinforced masonry structures shall be permitted without replacement cost limitations; provided, that such retrofitting is strictly limited to compliance with earthquake safety standards.

C. Changes to interior partitions or other nonstructural improvements and repairs may be made to a legal nonconforming commercial, institutional or industrial structure; provided, that the cost of the desired improvement or repair shall not exceed one-half of the replacement cost of the nonconforming structure over any consecutive ~~five-year~~five-year period.

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D. The replacement cost shall be determined by the city planner.

E. Necessary repairs and desired alterations including expansions may be made to a legal nonconforming residential structure(s), including multi-family, located in a residential land use district. Expansions shall not increase the number of dwelling units on the site nor increase discrepancy of nonconformance with physical development standards (height, yard area, etc.).

F. Any additional development of a parcel with a legal nonconforming structure will require that all new structures be in conformance with this chapter.

G. If the occupancy of a nonconforming structure/site is discontinued for a period of six or more consecutive months, the structure and site shall be made to conform to the provisions of the ordinance to the extent possible upon re-occupation of the structure/site by a "permitted use" in the zone classification. The occupancy of a legal nonconforming structure/site shall be considered discontinued when any of the following apply:

1. The intent of the owner to discontinue use of the nonconforming structure is apparent, as determined by the city planner;

2. Where characteristic furnishings and equipment associated with the use have been removed and not replaced with equivalent furnishings and equipment during this time, and where normal occupancy and/or use has been discontinued for a period of six or more consecutive calendar months;

3. Where there are no business receipts available for the ~~six months~~six-month period;

4. The extent of required improvements shall be determined through application for ~~planned developments~~site plan review permit by the site plan review committee. Additional parking shall not be required except where a use is expanded in area or intensity, in which case the parking requirements shall apply only to the addition. Appeals of findings of the site plan review committee may be made to the planning commission as provided in Section 17.28.050.

H. No nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the zone in which the structure is located.

I. Residential uses are exempt from Section 17.40.040(G). When a legally existing residential unit is discontinued for a period of twelve (12) or more consecutive months, the residential structure and site shall be made to conform to all current residential standards prior to re-occupancy as a residence. A nonconforming residential structure within a commercial, office or industrial zoning district that is ordered to be repaired by the City Building Official shall do so in compliance with the minimum requirements of the California Building Code.

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17.40.050 Appeal process.

Appeals to findings made pursuant to Section 17.40.040A, B, C, and D, may be made by the applicant/property owner. Appeals shall be made in writing, setting forth the reason(s) for said appeal. Such appeal shall be filed with the city planner, whereupon it will be placed on the agenda of the city planning commission's regular meeting. The commission shall review said appeal and set forth recommendations to the city council regarding the disposition of the appeal. The city council shall consider the contents of the appeal and recommendations of the planning commission and either approve, modify, approve with conditions or deny said appeal.

17.40.060 Nonconforming uses.

A nonconforming use is one ~~which~~that lawfully existed prior to the effective date of this chapter, but ~~which~~that is no longer permitted in the zone or design district in which it is located. The continuance of a legal nonconforming use is subject to the following:

- A. Change of ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status; provided, that the use and intensity of use does not change.
- B. If a nonconforming use is discontinued for a continuous period of one hundred eighty (180) days, it shall lose its legal nonconforming status, and the continued use of the property shall be required to conform with the provisions of the chapter.
- C. A nonconforming use of a permanent structure may be continued; provided, there is no increase or enlargement of the area, space or volume occupied by such a nonconforming use, except as provided in Section 17.40.070. In the event no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or more restrictive nature, provided that this change occurs within the one hundred eighty (180) day period as indicated in Section ~~17.44.060(B)~~17.40.060(B).
- D. Additional development of any property on which a legal nonconforming use exists shall require that all new uses conform to the provision of this chapter.
- E. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed.

17.40.070 Expansion of nonconforming uses and structures.

An existing legal nonconforming use or legal nonconforming structure may be minimally expanded or changed subject to the granting of a conditional use permit after a noticed public hearing as specified in Chapter 17.38, and if all of the following findings are made:

- A. That such expansion or change is minimal. An expansion or change is considered to be minimal if the expansion comprises generally twenty (20) percent or less additional square footage of structure or site area or twenty (20) percent increase or less in intensity as measured by additional vehicle trips, parking need generation, etc., over what was existing at the time of adoption of an ordinance making the use or structure nonconforming;

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- B. That such expansion or change will not adversely affect or be materially detrimental to adjoining properties;
- C. That there is a need for relief of overcrowded conditions or for modernization in order to properly operate the use;
- D. That the use and/or structure is existing and has not been discontinued for a one hundred eighty (180) day continuous period;
- E. That the expansion shall not increase the discrepancy between existing conditions and the standards of coverage, front yards, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the zone in which the structure is located.

17.40.080 Structure permits or certificates of occupancy prohibited.

When any nonconforming structure or use is no longer permitted pursuant to the provisions of this chapter, no permit for a structure shall thereafter be issued for further continuance, alteration, or expansion, except as provided in this chapter. Any permit issued in error shall not be construed as allowing the continuation of the nonconforming structure or use.

17.40.090 Removal of illegal nonconforming structures and uses.

Nothing contained in this chapter shall be construed or implied so as to allow for the continuation of illegal nonconforming structures and uses. Said structures and uses shall be removed immediately subject to the provisions of Title 15 and 17 of the Visalia Municipal code and state law.

17.40.100 Elimination of nonconforming uses.

- A. A nonconforming use ~~which~~that does not occupy a structure shall be discontinued and removed from the site within three years from the effective date of this chapter.
- B. A nonconforming use ~~which~~that involves aboveground bulk storage of Class I liquids and is hazardous as determined by the fire department according to the following codes in force in the city:
 - 1. Fire Prevention Code;
 - 2. National Electrical Code;
 - 3. Uniform Building Code;
 - 4. Uniform Plumbing Code; shall be discontinued, removed, or made to conform within thirty (30) years from the date of installation or five years from the date of the adopting ordinance, whichever is longer.

Chapter 17.42

VARIANCES ~~AND EXCEPTIONS~~

Sections:

- 17.42.010 Variance purposes.
- 17.42.020 ~~Exception purposes.~~ [Reserved]
- 17.42.030 Variance powers of city planning commission.
- 17.42.040 ~~Exception powers of city planning commission.~~ [Reserved].
- 17.42.050 Application procedures.
- 17.42.060 Hearing and notice.
- 17.42.070 Investigation and report.
- 17.42.080 Public hearing procedure.
- 17.42.090 Variance action of the city planning commission.
- 17.42.100 ~~Exception action of the city planning commission.~~ [Reserved].
- 17.42.110 Appeal to city council.
- 17.42.120 Lapse of variance.
- 17.42.130 Revocation.
- 17.42.140 New application.

17.42.010 Variance purposes.

The city planning commission may grant variances in order to prevent unnecessary hardships that would result from a strict or literal interpretation and enforcement of certain regulations prescribed by this title. A practical difficulty or unnecessary hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity. The power to grant variances does not extend to use regulations, because the flexibility necessary to avoid results inconsistent with the objectives of the zoning ordinance is provided by the conditional use provisions of this title.

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17.42.020 ~~Exception purposes.~~[Reserved]

~~A. The planning commission may grant exceptions to ordinance requirements where there is a justifiable cause or reason; provided, however, that it does not constitute a grant of special privilege inconsistent with the provisions and intentions of this title.~~

~~B. The planning commission may grant exceptions or modifications to site development standards and zoning in accordance with the provisions of Chapter 17.32, Article 2, density bonuses and other incentives for lower and very low income households and housing for senior citizens.~~

17.42.030 Variance powers of city planning commission.

The city planning commission may grant variances to the regulations prescribed by this title with respect to fences and walls, site area, width, frontage coverage, front yard, rear yard, side yards, height of structures, distance between structures, and off-street parking facilities, accessory dwelling unit standards pursuant to Sections 17.12.140 through 17.12.200, and downtown building design criteria pursuant to Section 17.58.082 through 17.58.088; in accordance with the procedures prescribed in this chapter.

17.42.040 ~~Exception powers of city planning commission~~[Reserved].

~~The city planning commission may grant exceptions to the regulations prescribed in this title, with respect to the following, consistent with the provisions and intentions of this title:~~

~~A. Second dwelling units, pursuant to Sections 17.12.140 through 17.12.200;~~

~~B. Downtown building design criteria, pursuant to Section 17.58.090;~~

~~C. Fences, walls and hedges; and~~

~~D. Upon the recommendation of the historic preservation advisory board and/or the downtown design review board, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distance between structures and off-street parking facilities;~~

~~E. In accordance with Chapter 17.32, Article 2, density bonuses, may grant exceptions or modifications to site development standards and/or zoning codes.~~

17.42.050 Application procedures.

A. Application for a variance or exception shall be made to the city planning commission on a form prescribed by the commission and shall include the following data:

1. Name and address of the applicant;

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2. Statement that the applicant is the owner of the property, is the authorized agent of the owners, or is or will be the plaintiff in an action in eminent domain to acquire the property involved;
 3. Address and legal description of the property;
 4. Statement of the precise nature of the variance or exception requested and the hardship or practical difficulty ~~which~~that would result from the strict interpretation and enforcement of this title;
 5. The application shall be accompanied by such sketches or drawings ~~which~~that may be necessary to clearly show applicant's proposal;
 6. Additional information as required by the historic preservation advisory board;
 7. When reviewing requests for an exception associated with a request for density bonus as provided in Chapter 17.32, Article 2, the applicant shall submit copies of the comprehensive development plan, sketches and plans indicating the nature of the request and written justification that the requested modifications result in identifiable cost reductions required for project to reach target affordability.
- B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of handling the application.

17.42.060 Hearing and notice.

- A. The city planning commission shall hold a public hearing on an application for a variance.
- B. Notice of a public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use ~~which~~that is the subject of the hearing.

17.42.070 Investigation and report.

The city planning staff shall make an investigation of the application and shall prepare a report thereon ~~which~~that shall be submitted to the city planning commission.

17.42.080 Public hearing procedure.

At a public hearing the city planning commission shall review the application and the statements and drawings submitted therewith and shall receive pertinent evidence concerning the variance, particularly with respect to the findings prescribed in Section 17.42.090.

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17.42.090 Variance action of the city planning commission.

A. The city planning commission may grant a variance to a regulation prescribed by this title with respect to fences and walls, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distances between structures or landscaped areas or in modified form if, on the basis of the application, the report of the city planning staff or the evidence submitted, the commission makes the following findings:

1. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;
3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;
4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;
5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

B. The city planning commission may grant a variance to a regulation prescribed by this title with respect to off-street parking facilities, if, on the basis of the application, the report of the city planner or the evidence submitted the commission makes the findings prescribed in subsection (A)(1) of this section and that the granting of the variance will not result in the parking of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.

C. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the commission may prescribe.

D. The city planning commission may deny a variance application.

17.42.100 ~~Exception action of the city planning commission.~~ [Reserved]

~~A. The city planning commission may grant an exception to a regulation prescribed by this title with respect to fences and walls, and, upon recommendation of the historic preservation advisory board, site area, width, frontage, coverage, front yard, rear yard, side yards, height of structures, distances between structures or landscaped areas, provided that all of the following criteria is applicable:~~

- ~~1. That the granting of the fence exception will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;~~

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~~2.— That the granting of the exception does not create an obstructed visibility that will interfere with traffic safety in the public right of way or to adjacent properties;~~

~~3.— That the exception proposal becomes an integral part of the existing site development (e.g., design, material, contour, height, distance, color, texture);~~

~~B.— The city planning commission may grant exceptions or modifications to zoning code requirements in accordance with the provisions of Chapter 17.32, Article 2, density bonuses. The granting of the exception shall become effective upon the granting of the density bonus by the city council.~~

17.42.110 Appeal to city council.

The decision of the city planning commission on a variance or exception application shall be subject to the appeal provisions of Section 17.02.145.

17.42.120 Lapse of variance.

A variance shall lapse and become void one year following the date on which the variance became effective, unless prior to the expiration of one year, a building permit is issued by the building official and construction is commenced and diligently pursued toward completion on the site ~~which~~that was the subject of the variance application, or a certificate of occupancy is issued by the building official for the site or structure ~~which~~that was the subject of the variance application. A variance may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the variance became effective, an application for renewal of the variance is made to the commission. The commission may grant or deny an application for renewal of a variance.

17.42.130 Revocation.

A variance granted subject to a condition or conditions shall be revoked by the city planning commission if the condition or conditions are not complied with.

17.42.140 New application.

Following the denial of a variance application or the revocation of a variance, no application for the same or substantially the same variance on the same or substantially the same site shall be filed within one year of the date of denial of the variance application or revocation of the variance.

Chapter 17.44

ZONING AMENDMENTS

Sections:

- 17.44.010 Purpose.**
- 17.44.020 Initiation.**
- 17.44.030 Application procedures.**
- 17.44.040 Public hearing—Notice.**
- 17.44.050 Investigation and report.**
- 17.44.060 Hearing.**
- 17.44.070 Action of city planning commission.**
- ~~**17.44.080 Appeal to city council.**~~
- 17.44.090 Action of city council.**
- 17.44.100 Change of zoning map.**
- 17.44.110 New application.**
- 17.44.120 Report by city planner.**

17.44.010 Purpose.

As a general plan for Visalia is put into effect, there will be a need for changes in zoning boundaries and other regulations of this title. As the general plan is reviewed and revised periodically, other changes in the regulations of this title may be warranted. Such amendments shall be made in accordance with the procedure prescribed in this chapter.

17.44.020 Initiation.

A. A change in the boundaries of any zone may be initiated by the owner of the property within the area for which a change of zone is proposed or by his authorized agent. If the area for which a change of zone is proposed is in more than one ownership, all of the property owners or their authorized agents shall join in filing the application, unless included by planning commission resolution of intention.

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B. A change in boundaries of any zone, or a change in a zone regulation, off-street parking or loading facilities requirements, general provision, exception or other provision may be initiated by the city planning commission or the city council in the form of a request to the commission that it consider a proposed change; provided, that in either case the procedure prescribed in Sections 17.44.040 and 17.44.090 shall be followed.

17.44.030 Application procedures.

A. A property owner or his authorized agent may file an application with the city planning commission for a change in zoning boundaries on a form prescribed by the commission and ~~which~~that said application shall include the following data:

1. Name and address of the applicant;
 2. Statement that the applicant is the owner of the property for which the change in zoning boundaries is proposed, the authorized agent of the owner, or is or will be the plaintiff in an action in eminent domain to acquire the property involved;
 3. Address and legal description of the property;
 4. The application shall be accompanied by such sketches or drawings as may be necessary to clearly show the applicant's proposal;
 5. Additional information as required by the historic preservation advisory board.
- B. The application shall be accompanied by a fee set by resolution of the city council sufficient to cover the cost of processing the application.

17.44.040 Public hearing—Notice.

The city planning commission shall hold at least one public hearing on each application for a change in zone boundaries and on each proposal for a change in zone boundaries or of a zone regulation, off-street parking or loading facilities requirements, general provisions, exception or other provision of this title initiated by the commission or the city council. Notice of the public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the city, and by mailing notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use ~~which~~that is the subject of the hearing.

17.44.050 Investigation and report.

The city planning staff shall make an investigation of the application or the proposal and shall prepare a report thereon ~~which~~that shall be submitted to the city planning commission.

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17.44.060 Hearing.

A. At the public hearing, the city planning commission shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is necessary to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020.

B. If the commission's recommendation is to change property from one zone designation to another, the commission may recommend that conditions be imposed so as not to create problems adverse to the public health, safety and general welfare of the city and its residents.

17.44.070 Action of city planning commission.

The city planning commission shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. The commission shall transmit a report to the city council recommending that the application be granted, conditionally approved, or denied or that the proposal be adopted or rejected, together with one copy of the application, resolution of the commission or request of the Council, the sketches or drawings submitted and all other data filed therewith, the report of the city engineer and the findings of the commission.

17.44.080 ~~Appeal to city council~~ Reserved.

~~A. Within five working days following the date of a decision of the city planning commission on a zone change application, the decision may be appealed to the city council by the applicant or any other interested party. An appeal shall be made on a form prescribed by the commission and shall be filed with the city clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein it is claimed or wherein its decision is not supported by the evidence in the record.~~

~~B. The city clerk shall give notice to the applicant and the appellant (if the applicant is not the appellant) and may give notice to any other interested party of the time when the appeal will be considered by the city council. (Prior code § 7587)~~

17.44.090 Action of city council.

A. Upon receipt of the resolution or report of the city planning commission, the city council shall review the application or the proposal and shall consider the resolution or report of the commission and the report of the city planning staff.

B. The city council shall make a specific finding as to whether the change is required to achieve the objectives of the zoning ordinance prescribed in Section 17.02.020. If the council finds that the change is required, it shall enact an ordinance amending the zoning map or an ordinance amending the regulations of this title, whichever is appropriate. The city council may impose conditions on the change of zone for the property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city and its residents. If conditions are imposed on a change of zone, said conditions shall run with the land and shall not automatically be removed by a subsequent reclassification or

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change in ownership of the property. Said conditions may be removed only by the city council after recommendation by the planning commission. If the council finds that the change is not required, it shall deny the application or reject the proposal.

17.44.100 Change of zoning map.

A change in zone boundary shall be indicated on the zoning map.

17.44.110 New application.

Following the denial of an application for a change in a zone boundary, no application for the same or substantially the same change shall be filed within one year of the date of denial of the application.

17.44.120 Report by city planner.

On any amendment to the zoning code changing property from one zone classification to another, the city planner shall inform the planning commission and the city council of any conditions attached to previous zone changes as a result of action taken pursuant to Sections 17.44.060, 17.44.070 and 17.44.090.

Chapter 17.46 ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.46.010 Administration.**
- 17.46.020 Code enforcement.**
- 17.46.030 Right of entry.**
- 17.46.040 Violation--Declared public nuisances and actions.**
- 17.46.050 Violation--Procedure.**
- 17.46.060 Infraction and penalty.**

17.46.010 Administration.

All department heads, officials or other employees of the city vested with the duty or authority to issue any permit, license or certificate shall conform to the provisions of this title and shall issue no permit, license or certificate for uses, buildings, or structures or purposes in conflict with provisions contained in this title. Any such permit, license or certificate issued in conflict with this title, intentionally or otherwise, shall be null and void.

17.46.020 Code enforcement.

The city planner and zoning compliance inspector, or other person authorized by the city manager, shall be authorized to enforce provisions of this title and to issue citations and make arrests pursuant to Section 836.5 of the California Penal Code and Sections 1.08.010, 1.08.020, ~~and 1.08.030, 1.12.010, and Chapter 1.13~~ of the Visalia Municipal Code.

17.46.030 Right of entry.

In the discharge of enforcement duties authorized persons shall have the right to enter any site or to enter any structure for the purpose of investigation and inspection. Such right of entry shall be exercised only at reasonable hours and only with the consent of the owner or tenant unless a written order of a court of competent jurisdiction has been issued.

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17.46.040 Violation—Declared public nuisances and actions.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this title and any use of land, building, or premises established, conducted, operated or maintained contrary to the provisions of this title shall be and the same are declared to be unlawful and a public nuisance. The zoning compliance inspector shall immediately initiate all necessary legal proceedings for the abatement, removal and enjoinder thereof in the manner provided by law and shall take such other steps as may be necessary to accomplish these ends, and may apply to a court of competent jurisdiction to grant such relief as will remove and abate the structure or use and restrain or enjoin the person, firm or corporation, or an organization from erecting, moving, altering or enlarging the structure or using the site contrary to the provisions of the ordinance. The remedies prescribed by this section are cumulative and nonexclusive.

17.46.050 Violation—Procedure.

Any person, firm, corporation, or organization found in violation of any provisions of this title shall be notified and cited in accordance with policies established by the planning department and approved by the city council. Such policies shall be available for inspection by any person upon request to the planning department.

17.46.060 Infraction and penalty.

Except as otherwise provided in this chapter, any violation of this title is unlawful and constitutes an infraction pursuant to Section 19(c) of the California Penal Code. Any person convicted of an infraction under this code shall be punishable by: (1) a fine not exceeding fifty dollars (\$50.00) for a first violation; (2) a fine not exceeding one hundred dollars (\$100.00) for the second violation of the same ordinance within one year; (3) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of the same ordinance within one year. The phrase "violation of the same ordinance" as used in this section means and refers to a violation of the same numbered section of the Visalia Municipal Code. In addition, each day such violation continues shall be regarded as a new and separate offense.

Chapter 17.48

SIGNS

Sections:

- 17.48.010 Purpose.**
- 17.48.020 Applicability and Severability.**
- 17.48.030 Exempt Signs.**
- 17.48.040 Prohibited Signs.**
- 17.48.050 Permits Required.**
- 17.48.060 Sign Design Principles.**
- 17.48.070 Rules for Sign Measurement.**
- 17.48.080 General Sign Standards.**
- 17.48.090 Sign Standards for Agricultural and Residential Zones.**
- 17.48.100 Sign Standards for Other Zones.**
- 17.48.110 Standards for Specific Sign Types.**
- 17.48.120 Downtown Retail Design District Sign Standards.**
- 17.48.130 Temporary Signs.**
- 17.48.140 Master Sign Program.**
- 17.48.150 Variances and Exceptions.**
- 17.48.160 Nonconforming Signs.**
- 17.48.170 Maintenance, Abandonment, and Enforcement.**
- 17.48.180 Definitions.**

17.48.010 Purpose.

The purpose of this Chapter is to regulate signs as an information system that preserves and enhances the aesthetic character and environmental values of Visalia, its residential neighborhoods, its Downtown, and commercial/industrial areas, while also providing an effective means for members of the public to express themselves through the display of signs.

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These regulations recognize the importance of business activity to the economic vitality of the City as well as the need to protect the visual environment. Specifically, these regulations are intended to implement the General Plan and:

- A. Provide minimum standards to safeguard life, health, property, public welfare, and traffic safety by controlling the design, quality of materials, construction, illumination, size, location and maintenance of signs and sign structures;
- B. Preserve and enhance the visual attractiveness of the City for residents, businesses, and visitors;
- C. Protect and enhance property values and community appearance by encouraging signs that are compatible with the architectural style, character, and scale of the building to which they relate and with adjacent buildings and businesses;
- D. Restrict signs that may create visual clutter or a nuisance to nearby properties, violate privacy, create hazards or unreasonable distractions for pedestrians and drivers;
- E. Provide adequate opportunity for the exercise of the free speech by display of a message or image on a sign, while balancing that opportunity with other community and public interests;
- F. Ensure that commercial signs are accessory or auxiliary to a principal business or establishment on the same premises, rather than functioning as general advertising for hire; and
- G. Prohibit signs that may cause traffic or pedestrian safety hazards or interfere with ingress and egress.

17.48.020 Applicability and Severability.

This Chapter regulates signs that are located or mounted on private property within the jurisdictional boundaries of Visalia. The provisions in this Chapter apply in all Zoning Districts within the City. No sign within the regulatory scope of this Chapter shall be erected or maintained anywhere in the City except in conformity with this Chapter. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause term or word in this Chapter is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the Chapter.

17.48.030 Exempt Signs.

The following signs are exempt from the permit requirements of this Chapter and do not count toward the total sign area limit for a site, provided that they conform to applicable standards:

- A. Address Signs. One nameplate, not exceeding two square feet in area, identifying the address of the property.
- B. Barber Poles. Barber poles, not exceeding 18 inches in height, located on a non-residential zoned property and containing no lettering.

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C. **Commercial Displays On Vehicles.** Signs on vehicles may be displayed, provided that:

1. The message pertains to the establishment of which the vehicle is an instrument or tool; and
2. The message does not utilize changeable copy or special illumination.

D. **Decorations.** Holiday and cultural observance decorations on private property. Decorations cannot include commercial advertising. This exemption includes strings of lights associated with a holiday decoration.

E. **Flags.** Flags may be erected and located in accordance with the following standards:

1. **Location.** Flagpoles must not be located within any required side yard setbacks.
2. **Maximum Flagpole Height.** If a flag is on a flag pole, the pole height must not exceed 30 feet or the distance from the base of the pole to the closest lot line plus two feet, whichever is less.
3. **Maximum Size.** The maximum individual flag area on a lot is 48 square feet in all zoning districts.

Pennants, banners, feather banners, strings of ornamental fringes and streamers are not included in this exemption and are regulated under Section 17.48.130, Temporary Signs.

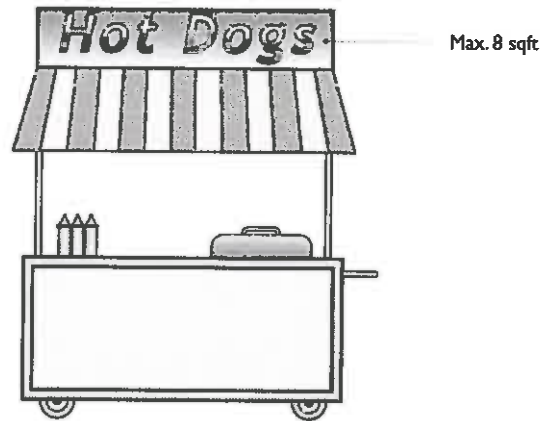
F. **Government Signs.** Official notices issued by a court, public body or office and posted in the performance of a public duty; notices posted by a utility or other quasi-public agency; signs erected by a governmental body to direct or regulate pedestrian or vehicular traffic; noncommercial bus stop signs erected by a public transit agency, or other signs required or authorized by law. This exemption also covers signs and banners for special civic events sponsored by the City, which may be displayed in public rights of way.

G. **Interior Signs.** Signs that are located entirely within a building or enclosed structure and not visible from the public right of way.

H. **Mobile Vendor Signs.** Signs and menu display boards fixed to mobile vending carts or food trucks that identify or advertise the name, product, or service provided by the vendor. Each mobile vending cart or food truck is limited to a maximum of eight square feet of sign area, plus a menu display board.

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Figure 17.48.030(H): Mobile Vendor Signs



I. Newspaper Stands. Signs that are part of newspaper stands provided the sign area does not exceed four square feet.

J. Temporary Signs. Signs that conform to the standards of Sections 17.48.090(C), 17.48.090(D), 17.48.110(B), 17.48.120(G) or 17.48.130.

K. Public Carrier Graphics. Graphic images mounted on carrier vehicles such as buses, taxicabs, and limousines that legally pass through the City.

L. Window Signs. Permanent Window Signs that conform to the standards of Section 17.48.110(I).

17.48.040 Prohibited Signs.

Unless expressly allowed by another Section of this Chapter or other applicable law, the following signs, locations, and materials are prohibited:

A. Animated or Moving Signs. Animated, flashing, blinking, reflecting, revolving, or other similar sign with visibly moving or rotating parts or visible mechanical movement of any kind, unless expressly permitted under this Chapter. This prohibition does not apply to signs using digital display technology, such as LED (light emitting diodes) or functionally equivalent display methods, which are permitted, subject to the regulations of this Chapter.

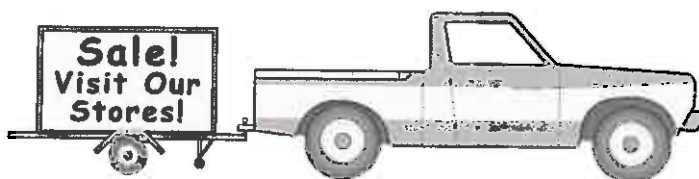
B. Air Activated Graphics and Other Attention-Getting Devices. Balloons, blimps and air activated graphics which serve as attention-getting devices, made of light-weight fabric or similar material, designed to rotate or move with the wind or activated by forced air, that direct, promote, or that are otherwise designed to attract attention for outdoor advertising purposes are prohibited in all zoning districts. Stationary, inflatable signs displayed and secured at ground level are allowed as temporary portable signs.

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C. **General Advertising (for Hire).** Except as otherwise specifically provided in this Chapter, temporary signs that publicize or promote other businesses or causes using methods of advertising (in contrast to self-promotion, on-site sales, or on-site advertising). General advertising is also known as advertising for hire.

D. **Mobile Billboards.** The City prohibits any person to conduct, or cause to be conducted, any mobile billboard advertising upon any street, or other public place within the City in which the public has the right of travel. The purpose of this prohibition is to eliminate mobile billboard advertising within the City in order to reduce traffic congestion, promote the safe movement of vehicular traffic, to reduce air pollution, and to improve the aesthetic appearance of the City. This prohibition does not apply to signage on a licensed commercial vehicle that is related to the goods or services provided by the vehicle owner or operator and to public transit/public carrier graphics on properly licensed buses and taxicabs.

Figure 17.48.040(D): Mobile Billboards

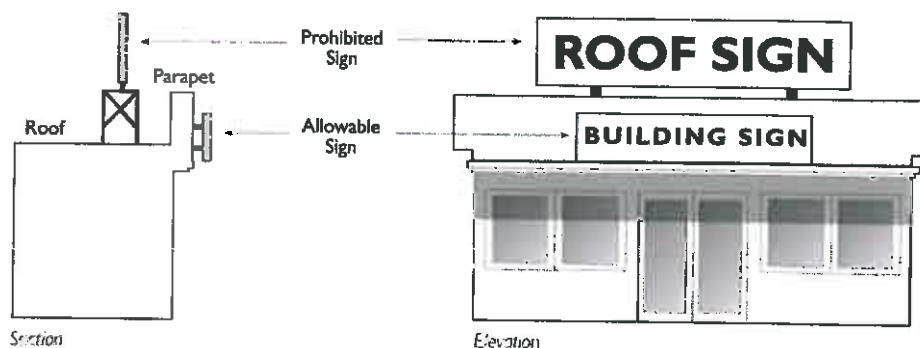


E. **Murals.** Murals which contain advertising copy or function as advertising. Murals without advertising copy must be approved by the City Council under the provisions of the City's adopted mural policy.

F. **Outdoor Advertising Displays ("Billboards").** Permanent signs that display outdoor advertising for hire are prohibited in all zones.

G. **Roof Signs.** Roof signs, including signs mounted or painted on roofs, except those painted on a flat roof and not visible from the public right of way.

Figure 17.48.040(G): Roof Signs



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H. **Search Lights and Klieg Lights.** Search and Klieg lights when used as attention attracting devices for commercial uses. They may be allowed with a temporary conditional use permit for special events.

I. **Signs in the Public Right-of-Way without an Encroachment Permit.** Other than government signage, and except as otherwise provided in this Chapter, no sign can be placed in the public right-of-way in median strips or islands, sidewalks, on street trees or retaining walls, on bridges, public benches, traffic signals, public fences, street poles, utility poles and equipment, street lighting, traffic signs, or within a railroad right-of-way, unless it has been authorized by an encroachment permit issued by the City.

J. **Signs on Doors, Windows, or Fire Escapes.** Signs shall not be located or installed on any door, window, or fire escape that will prevent free ingress or egress. No sign shall be attached to any standpipe or fire escape, except those required by other codes.

K. **Signs that Create a Traffic Hazard or Affect Pedestrian Safety.** Signs located in such a manner as to constitute a safety hazard or to impede the public use of the public right of way. These signs include but are not limited to:

1. Signs located in such a manner as to constitute a traffic hazard or obstruct the view of traffic or any authorized traffic sign or signal device.

2. Signs that may create confusion with any authorized traffic sign, signal, or traffic control device because their color, design, illumination, location or wording, or use of any phrase, symbol, or character which interferes with, misleads, or confuses vehicular drivers in their use of roads or conflicts with any traffic control sign or device.

3. Signs within five feet of a fire hydrant, street sign, or traffic signal.

4. Signs erected at or near the intersections of public and/or private rights-of-way in such a manner as to create a safety hazard by obstructing clear view of pedestrian and vehicular traffic.

L. **Signs that Produce Noise or Emissions.** Signs that produce visible smoke, vapor, particles, odor, noise, or sounds that can be heard at the property line, excluding voice units at menu boards and devices for servicing customers from their vehicles, such as drive up windows at banks or pharmacies, provided these latter units comply with the standards of the City's Noise Ordinance.

M. **Commercial Mascot Signage.** A person or animal, whether or not costumed or decorated, that actively holds, displays or attends to a commercial sign, are prohibited in all zones. Includes "sign twirlers", "sign clowns", "human sandwich boards", and persons or animals holding or supporting any sign or advertising device displaying commercial speech or conveying a commercial message. This prohibition also applies to robotic devices intended to simulate a live person or animal.

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N. Snipe Signs. Signs tacked, nailed, posted, pasted, glued, or otherwise attached to trees, utility poles, government signs, fences, trailers, temporary construction barriers or other supporting structures.

17.48.050 Permits Required.

A. Sign Permit Required. No sign shall be erected, altered, reconstructed or relocated without a sign permit. A permit is not required for ordinary maintenance and repairs to signs and for temporary signs on private property that conform to the standards of this Chapter. The Planning Department will review all applications for sign permits for consistency with this Chapter.

B. Encroachment Permit. Signs that project over or extend into a public street or sidewalk shall be subject to Encroachment Permit approval by the Community Development Department pursuant to the provisions of Chapter 12 of the Municipal Code.

C. Conditional Use Permit Required. A Conditional Use Permit, issued pursuant to Chapter 17.38 of the Visalia Municipal Code, is required for Master Sign Programs (see paragraph E below) and electronic signs, excluding interior electronic signs and digital displays that are regulated as window signs and are exempt from permit requirements.

D. Owner's Consent Required. Consent of the property owner or business owner is required before any sign may be displayed on any real or personal property in the City.

E. Master Sign Program. A Master Sign Program, prepared pursuant to Section 17.48.130, is required for the following projects:

1. New or remodeled non-residential or mixed used projects on a site of five or more acres; and
2. Any development in the BRP zone.

17.48.060 Sign Design Principles.

The following sign design principles should be used as criteria for review and approval of sign permits and Master Sign Programs.

A. Architectural Compatibility. A sign, including its supporting structure, if any, should be designed as an integral design element of a building's architecture and be architecturally compatible, including color and scale, with any building to which the sign is to be attached and with surrounding structures. A sign that covers a window or that spills over "natural" boundaries or architectural features and obliterates parts of upper floors of buildings is detrimental to visual order and will not be permitted. Common indicators of compatibility include:

1. Quality sign design and construction;
2. Proportional size and scale; and

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3. Use of materials, shapes and colors that complement the building's architectural style and the surrounding environment.

B. **Legibility.** The size and proportion of the elements of the sign's message, including logos, letters, icons and other graphic images, should be selected based on the average distance and average travel speed of the viewer. Sign messages oriented towards pedestrians may be smaller than those oriented towards automobile drivers. Colors chosen for the sign text and/or graphics should have sufficient contrast with the sign background in order to be easily read during both day and night. Symbols and logos can be used in place of words. Substantial contrast should be provided between the color and materials of the background and the letters or symbols to make the sign easier to read in both day and night.

C. **Readability.** A sign message should be easily recognized and designed in a clear, unambiguous and concise manner, so that a viewer can understand or make sense of what appears on the sign.

D. **Visibility.** A sign should be conspicuous and readily distinguishable from its surroundings so a viewer can easily see the information it communicates.

E. **Placement.** Often, a building's architectural details create logical places for signage. Signs should not cover or interrupt architectural details or ornaments of a building's façade. On buildings with a monolithic or plain façade, signs can establish or continue appropriate design rhythm, scale and proportion. Well-designed and well-located retail signs create visual interest and continuity with other storefronts on the same or adjacent buildings. Signs should not obstruct windows or doors.

17.48.070 Rules for Sign Measurement.

A. **Calculation of Sign Area.** The area of an individual sign must be calculated as follows:

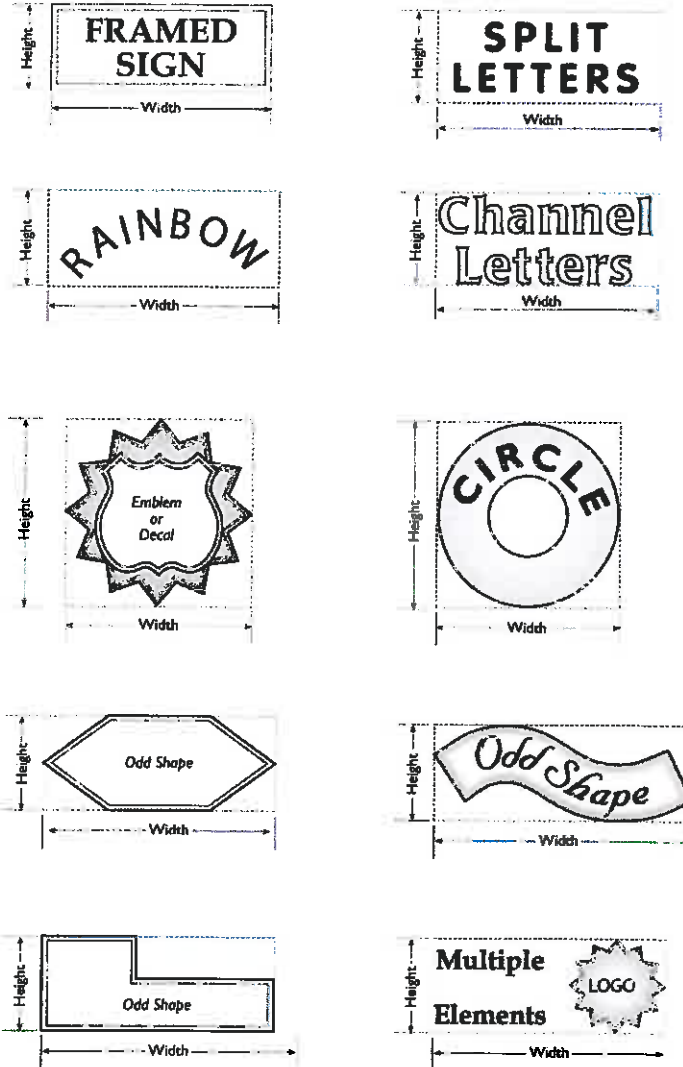
1. **Single-Faced Signs.** Sign area includes the entire area within a single continuous perimeter composed of squares or rectangles that enclose the extreme limits of all sign elements, including, but not limited to, sign structures or borders, written copy, logos, symbols, illustrations, and color. Supporting structures such as sign bases and columns are not included in sign area provided that they contain no lettering or graphics except for addresses or required tags. The calculation of sign area for various types of single-faced signs is illustrated in Figure 17.48.070(A)(2).

2. **Double-Faced Signs.** Where two faces of a double-faced sign are located two feet or less from one another at all points, or located at an interior angle of 45 degrees or less from one another, the sign area must be computed as the area of one face. Where the two faces are not equal in size, the larger sign face will be used. Where two faces of a double-faced sign are located more than two feet or 45 degrees from one another, both sign faces will be counted toward sign area. See Figure 17.48.070(A)(3).

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Figure 17.48.070(A)(2): Measurement of Sign Area

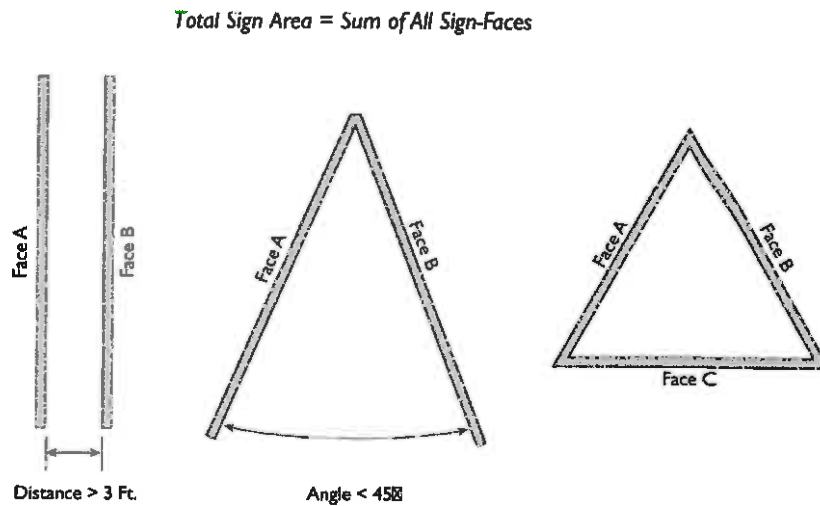
Sign Area = Height x Width



3. Multi-Faced Signs. On a three-faced sign, where at least one interior angle is 45 degrees or less, the area of two faces (the largest and smallest face) must be summed to determine sign area. In all other situations involving a sign with three or more sides, sign area will be calculated as the sum of all faces.

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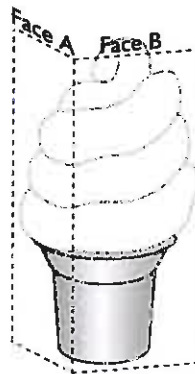
Figure 17.48.070(A)(3): Measurement of Multi-Faced signs



4. **Three-Dimensional Signs.** Signs that consist of, or have attached to them, one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), may have a sign area that is the sum of two adjacent sides of the smallest cube that will encompass the sign. See Figure 17.48.070(A)(4).

Figure 17.48.070(A)(4): Measurement of 3-Dimensional Signs

Sign Area = Sum of Two Adjacent Sides



B. **Calculation of Lot Frontage.** If a lot fronts on two streets, both frontages may be used for calculating the allowable sign area. On lots with three or more frontages on a public street, the length of only two contiguous sides shall be added together to determine allowable sign area.

C. **Measuring Sign Height.** The height of a sign is the vertical distance measured from the ground level directly beneath the sign to the highest point at the top of the sign, including any

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structural or architectural components of the sign. The ground level shall be either the natural grade or finished grade, whichever is lowest.

1. **Height of Freestanding Signs.** The height of freestanding signs shall be measured as the vertical distance from grade at the edge of the right-of-way along which a sign is placed to the highest point of the sign, including any structural or architectural components of the sign. When the grade at the edge of the right-of-way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the right-of-way shall not be included in determining the sign's overall height. Signs oriented towards a freeway shall be measured from the project site grade or pad, whichever is lower.

D. **Measuring Sign Clearance.** Sign clearance shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.

E. **Building Frontage.** Building frontage is the building facade that directly abuts a public street, private street, parking lot driveway, or parking spaces in which main customer access is provided to the business. A building's frontage is considered continuous if projections or recesses in a building wall do not exceed 10 feet in any direction. For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each building frontage.

17.48.080 General Sign Standards.

A. **Message Neutrality.** It is the City's policy to regulate signs in a constitutional manner that is content neutral as to noncommercial messages which are within the protections of the First Amendment to the U.S. Constitution and the corollary provisions of the California Constitution.

B. **Maximum Sign Area.** The maximum allowable, permissible sign area for permanent signs, exclusive of area of exempt signs, is based on the Zoning District in which the sign is located and the type of sign to be installed. These standards are established in subsequent Sections of this Chapter.

C. **Message Substitution.** A noncommercial message of any type may be substituted, in whole or in part, for any duly permitted commercial message, and any noncommercial message may be substituted, in whole or in part, for any other noncommercial message.

1. **No Additional Approval.** Such substitution of message may be made without any additional approvals. The purpose of this Section is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message.

2. **Limitations.** This message substitution provision does not: 1) create a right to increase the total amount of signage on a parcel, lot or land use; 2) affect the requirement that a sign structure or mounting device be properly permitted; 3) allow a change in the physical structure of a sign or its mounting device; or 4) authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a noncommercial message.

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D. **Changeable Copy.** Non-electronic changeable copy shall represent no more than 20 percent of the total allowable sign area. Copy shall not be changed more than once every 24 hours.

E. **Electronic Copy.**

1. **Location.** Electronic copy is allowed as a display medium wherever monument signs are allowed. A Conditional Use Permit, issued pursuant to Chapter 17.38 of the Visalia Municipal Code, is required for the installation of any electronic sign except an interior electronic sign or digital display, which are regulated as permanent window signs.

2. **Physical Standards.**

a. The sign display face must be directed in a manner that is not visible from the front or side yards of residential properties located in a residential zone district.

b. Electronic display faces must be an integral part of the remainder of the sign area.

3. **Operational Standards.**

a. Electronic display shall be limited to no more than 30 lumens output, measured at 10 feet from the sign face.

b. No portion of the electronic display (either sign copy or pictures) shall change more frequently than once every six seconds.

c. No audible output from any portion of the sign shall be permitted.

d. Electronic signs shall be operative only during the hours of operation of the associated business.

e. Sign copy or electronic picture displays shall be limited to advertising related to the use(s) on the property for which the monument sign is located, except for message substitution, as allowed in Section 17.48.080 D.

f. No change of lighting intensity may occur during a display or between displays except to respond to a change in ambient lighting conditions.

g. No display shall create a potential distraction to drivers by virtue of the frequency of changes of images (i.e. the time between images expressed in seconds), and the Planning Commission may impose limitations on the number of images that can be displayed over a specified time period for reasons of traffic safety.

F. **Illumination.** The illumination of signs, from either an internal or external source, must be designed to avoid negative impacts on surrounding rights-of-way and properties. The following standards apply to all illuminated signs:

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1. **Light Intensity.** Sign lighting must not be of an intensity or brightness that will create a nuisance for residential buildings in a direct line of sight to the sign.
2. **Shielding Required.** External light sources must be directed, shielded, and filtered to limit direct illumination of any object other than the sign, according to Table 17.48.080(F)(2) below.

Table 17.48.080(F)(2): Requirements for Shielding and Filtering

Fixture Lamp Type	Shielding Required	Filtering Required
Low Pressure Sodium ¹	None	None
High Pressure Sodium	Fully	None
Metal Halide	Fully	Yes ⁴
Fluorescent	Fully ⁵	Yes ²
Quartz ³	Fully	None
Incandescent Greater than 100W	Fully	None
Incandescent 100W or less	None	None
LED	Fully	None
Mercury Vapor	Not permitted.	
Fossil Fuel	None	None
Glass Tubes filled with neon, argon, or krypton	None	None
Other Sources	As approved by the Director.	
<ol style="list-style-type: none"> 1. This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations. 2. Warm white natural lamps are preferred to minimize detrimental effects. 3. For the purposes of this article, quartz lamps are not considered an incandescent light source. 4. Most glass, acrylic, or translucent enclosures satisfy these filter requirements. 5. Outdoor signs constructed of translucent materials and wholly illuminated from within do not require shielding. 		

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3. **Energy Conservation.** Light sources shall be hard-wired fluorescent or compact florescent lamps, or other lighting technology that is of equal or greater energy efficiency. Incandescent lamps are prohibited, except when used in signs of historic character as part of the architectural design.

4. **Light Sources Adjacent to Residential Areas.** Illuminated signs located adjacent to any residential area shall be controlled by a rheostat or other acceptable method to reduce glare that will create a nuisance for residential buildings in a direct line of sight to the sign.

G. **Materials.** Signs shall be made of sturdy, durable materials. Paper, cardboard, or other material subject to rapid deterioration can only be used for signs that comply with applicable requirements for Temporary Signs in Section 17.48.130. Fabric signs are restricted to Awnings, Canopies, Flags, and Temporary Signs.

H. **Mounting Required.** All permanent signs shall be firmly anchored and comply with all requirements for public safety and codes.

I. **Minimum Clearance from Utilities.** Signs and their supporting structures shall maintain clearance from and not interfere with electrical conductors, communications equipment, or lines, underground facilities and conduits.

J. **Concealed Electrical Systems.** External conduits, boxes, and other connections related to the function of a sign and associated lighting shall not be exposed. A switch disconnecting each circuit shall be placed in plain sight and near the inspection opening.

17.48.090 Sign Standards for Agricultural and Residential Zones.

A. **Purpose and Applicability.** This Section establishes standards for signs associated with specific types of land uses in Agricultural and Residential zones. Unless otherwise specified below, each sign type also is subject to the standards established in Section 17.48.110, Standards for Specific Sign Types.

B. **Permanent Commercial Signs Prohibited for Residential Zones.** Unless otherwise allowed or exempted by this Chapter, permanent signs displaying a commercial message are prohibited in Residential Zones.

C. **Permanent Noncommercial Signs Allowed on Residential Properties.** The aggregate sign area allowance for all permanent noncommercial signs on a developed lot or site in Residential Zones, excluding exempt signs or signs otherwise allowed by this Chapter, is 8 square feet.

D. **Temporary Signs Allowed on Residential Properties.** The aggregate sign area allowance for all temporary signs on a developed lot or site, or on the common area of a fully developed residential subdivision with 5 or more parcels, or on the common area of fully developed multi-family apartment or condominium complexes with 5 or more units, excluding exempt signs or signs otherwise allowed by this Chapter, is 24 square feet, 4 square feet of which may be used as general advertising for hire. For an undeveloped lot or site not subject to regulation pursuant to

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subsection E, the basic sign area allowance for all temporary signs is 16 square feet, all of which may be used as general advertising for hire.

1. **Sign Types, Materials and Maintenance.** Allowable temporary signs include portable signs, window signs, or banners. Portable signs shall be constructed of materials and maintained as set forth in Section 17.48.130.B.4 below, temporary window signs shall be constructed of materials and maintained as set forth in Section 17.48.130.C.5 below, and banners shall be constructed of materials and maintained as set forth in Section 17.48.130.D.2 below. All temporary signs shall also be maintained in accordance with Section 17.48.170.

2. **Location.** Signs may be posted or displayed from the yard, window, door, balcony, or outside wall of a building.

3. **Maximum Height.** Six feet for freestanding signs. Banner and window signs must not be more than 12 feet above grade.

4. **Maximum Size.** The maximum sign area for any individual sign shall be 16 square feet.

E. Temporary Signs on Developing Residential Properties.

1. The aggregate sign area allowance for all temporary signs on residential zoned property for which a building permit has been issued for purposes of constructing a single-family home or multi-family apartment complex, excluding exempt signs or signs otherwise allowed by this Chapter, is 32 square feet.

a. **Duration.** Temporary signs shall be allowed on a developing residential lot or site after the building permit has been issued and shall be removed upon its expiration, cancellation or termination.

b. **Sign Types.** Signs may be portable signs, window signs, or banners.

c. **Maximum Height.** Eight feet for freestanding signs. Banners and window signs must not be more than 12 feet above grade.

2. Temporary signs on a developing residential subdivision for which at least one final subdivision map has been issued pursuant to Chapter 16.24 are allowed as follows:

a. **Duration.** Temporary signs shall be allowed on a developing residential subdivision site after the first final subdivision map of an approved tentative subdivision map is recorded and shall be removed when all of the lots shown on the approved tentative subdivision map are sold. However, once individual lots or sites are developed and sold, Section 17.48.090.D above shall apply to those developed and sold lots or sites.

b. **External Temporary Signage.** Temporary signs located and intended to be viewed from the public streets surrounding a developing residential subdivision may be erected and maintained within the boundaries of the subdivision in accordance with the sign area allowance above. The basic sign area allowance for external temporary signage is the greater of 64 square feet, or 32

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square feet for every 300 lineal feet that the subdivision site fronts upon a public street. External temporary signage shall be non-illuminated, shall not be made or constructed from cloth, bunting, plastic, paper or similar material, and shall be maintained in accordance with the requirements of Section 17.48.170. Dimensions for temporary external signage shall not exceed four feet by eight feet per sign and 32 square feet per sign face, or a height of eight feet, or if located behind an exterior wall of a residential subdivision, at a height not to exceed 12 feet. The signs shall be no closer than 300 feet from each other.

c. **Internal Temporary Signage.** Additional portable signs, banners and flags may be maintained within the boundaries of a residential subdivision, provided that they are predominantly not viewable from the exterior of the developing residential subdivision, and do not create a safety hazard by obstructing the clear view of pedestrian and vehicular traffic within the developing residential subdivision. Inflatable portable signs may only be displayed on Saturdays and Sundays. Portable signs shall be constructed of materials and maintained as set forth in Section 17.48.130.B.4 below and banners shall be constructed of materials and maintained as set forth in Section 17.48.130.D.2 below. All internal temporary signs shall also be maintained in accordance with Section 17.48.170.

d. **Wall Mounted Banners.** Banners or wall mounted temporary signs not exceeding 80 square feet in the aggregate are allowed on an exterior wall of a residential subdivision.

F. **Agricultural Zones.** Permanent commercial signs incidental to agricultural operations conducted in Agricultural Zones may be erected subject to the following standards:

1. **Maximum Number of Signs.** One sign per street frontage, which may be either a freestanding sign or a wall sign.
2. **Location.** Signs shall be setback a minimum of five feet from the public right-of-way.
3. **Maximum Sign Area per Sign.** 32 square feet.
4. **Maximum Height.** Six feet.

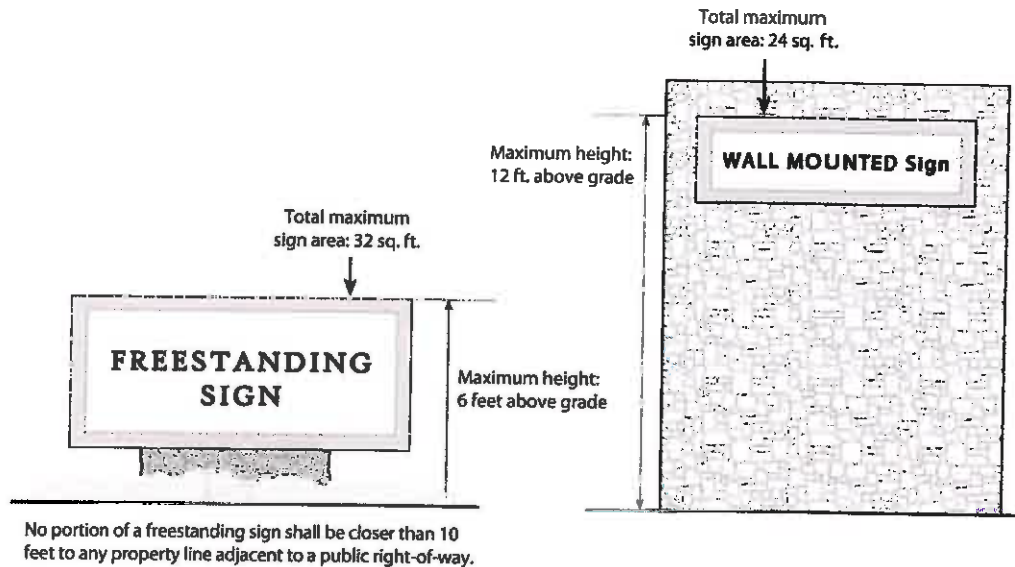
G. **Public and Quasi-Public Uses.** Signs for Public and Quasi-Public uses located in Agricultural and Residential Zones may be erected subject to the following standards. Public and Quasi-Public uses are those identified as permitted or conditionally permitted pursuant to Chapter 17.52.

1. **Maximum Number of Signs:** One freestanding sign and one wall sign.
2. **Maximum Sign Area per Sign:** Freestanding signs shall not be more than 35 square feet in area. Wall signs shall not be more than 36 square feet in area.
3. **Maximum Sign Height.** Freestanding signs shall not be more than 6 feet in height above grade. Wall mounted signs shall not be more than 12 feet in height above grade.

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4. **Setback, Freestanding Signs:** Freestanding signs shall be setback a **minimum** of 10 feet from the public right-of-way.
5. **Illumination:** Signs may be internally illuminated.

Figure 17.48.090(G): Public and Quasi-Public Uses

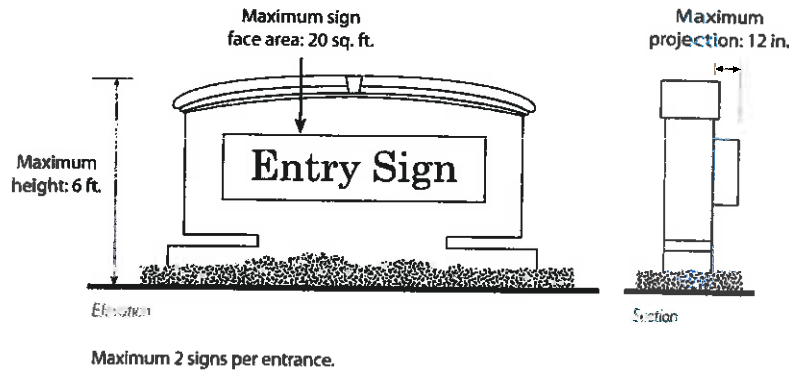


H. Entrance Signs. Entrance signs for residential subdivisions with 5 or more than residential parcels, or multi-family apartment or condominium complexes with 5 or more units, shall be permitted subject to the following standards:

1. **Maximum Number:** Two signs per entrance.
2. **Maximum Sign Face per Sign:** 20 square feet.
3. **Maximum Height:** Six feet.
4. **Maximum Projection:** 12 inches from sign surface.
5. **Location:** Entrance signs may be attached to a wall, fence, or project identification feature located at or within 100 feet of the entrance to a development.
6. **Illumination.** Entrance signs may be externally illuminated.

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Figure 17.48.090(H): Entrance Signs



17.48.100 Sign Standards for Other Zones.

A. Purpose and Applicability. This Section establishes sign area allowances for specific Zones as well as dimensional standards for the type of signs permitted. Unless otherwise specified below, standards for each sign type are in Section 17.48.110.

B. Aggregate Wall Sign Area. In all Zones other than Agricultural and Residential Zones, the basic sign area allowance for all wall signs on a lot or site, excluding signs for which no permit is required under Section 17.48.030 (Exempt Signs), is as follows:

Table 17.48.100(B): Maximum Area for Wall Signs By Zone

	Commercial Zones	Office Zones	Industrial Zones	Quasi-Public Zones
Total Sign Area Allowed*	2 sq. ft. x ln. ft. of frontage	1 sq. ft. x 2 ln. ft. of frontage	1 sq. ft. x ln. ft. of frontage	0.5 sq. ft. x ln. ft. of frontage
	Maximum 150 sq. ft.	Maximum 30 sq. ft.	Maximum 100 sq. ft.	Maximum 100 sq. ft.
* Total Sign Area is based on an allowance in square feet per lineal foot (ln. ft.) of street frontage.				
(1): Unless the standards in the specific Design District state otherwise.				

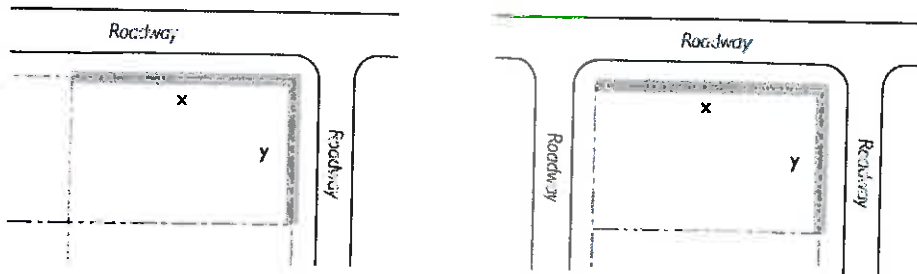
1. Sites with Multiple Frontages. On lots and sites with more than one frontage on a public street (excluding alleys), the maximum permitted wall sign area is calculated as follows:

a. Corner and Through Lots. Where a lot fronts on two streets (a corner or “through lot”), either both the front and side, or front and rear lot lines as related to the applicable frontages may be used for calculating the allowable wall sign area.

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- b. **Three or More Frontages.** Where a lot has three or more frontages on a public street, the length of only two contiguous sides, one of which must be the principal street frontage, are added together to determine allowable wall sign area.

Figure 17.48.100(B)(1): Sites with Multiple Frontages

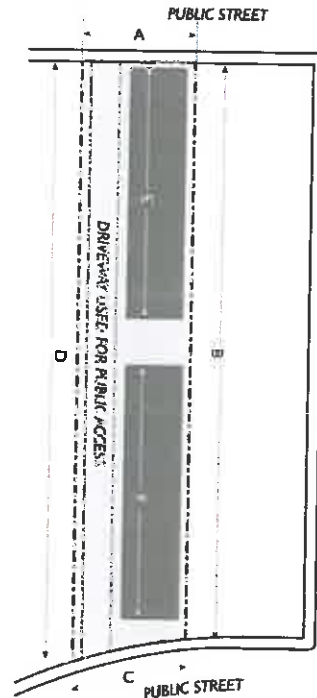


Lot Frontage for Determining Allowable Sign Area = $x + y$

2. **Multiple-Occupancy Commercial Sites with Limited Frontage.** Where a multiple-occupancy commercial site has public street frontage equal to 20 percent or less of the perimeter measurement of the site, the maximum allowable wall sign area for the site is calculated as follows (see Figure 17.48.100(B)(2)):
- One square foot of sign area per one lineal foot of public street frontage; plus
 - One lineal foot of exterior building walls fronting on driveways and parking lots that are generally used for public access and are located on the same site.
 - Pedestrian-only passageways that are lined on both sides by building walls are considered interior spaces, and although signs may be placed on such walls, the area of such walls is not included in the calculation of the maximum allowable sign area for the site.

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Figure 17.48.100(B)(2): Calculation of Aggregate Sign Area for Multi-Occupancy Commercial Sites with Limited Frontage



Where a multi-occupancy commercial site has public street frontage of 20 percent or less the perimeter measurement of the site, or

where $(A+C) < 20\% \times (A+B+C+D)$,

the maximum allowable sign area for the site is one square foot of sign area per one lineal foot of public street frontage, plus one lineal foot of exterior building walls facing driveways or parking lots used for public access, or:

Total Sign Area (sq. ft.) = $1 \times (A+C+E+F)$

3. **Additional Allowance for Signs in Shopping Centers.** Shopping centers may exceed the basic sign allowance by up to 25 percent through the approval of a Conditional Use Permit issued pursuant to Chapter 17.38 of the Visalia Municipal Code.
 4. **Minimum Allowance in Multi-Tenant Projects.** For multi-tenant commercial projects, the aggregate sign area may be increased to the extent that each tenant has a minimum of 0.5 square feet of sign area per lineal foot of business frontage on a primary access way.
- C. **Dimensional Standards for Signs.** The Table below presents the dimensional standards for signs in Zoning Districts other than Agricultural and Residential Zones. Detailed controls by sign type are located in Section 17.48.110.

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Table 17.48.100(C): Standards for Signs in Non-Residential Zoning Districts

Sign Type	Maximum Number Permitted	Maximum Area per Individual Sign	Maximum Height	Maximum Horizontal Projection from Wall	Additional Regulations
Awning or Canopy Sign	N/A	25% of exterior surface of awning or canopy	N/A	N/A	Minimum 8 ft. vertical clearance.
Freestanding Sign	1 per street frontage	35 sq. ft. per face; 70 sq. ft. total	12 ft. in Commercial Districts; 6 ft. in Office and Industrial Districts	N/A	
Projecting Sign	1 per building frontage or tenant space	8 sq. ft. per face; 3 sq. ft. per face if under awning canopy	18 ft. but not above the ground floor of the frontage or tenant space	4 ft.	
Wall Sign	N/A	See Table 17.48.100(B)	The height of the wall of the building	6 in.	
Permanent Window Signs	N/A	100% of aggregate window area for permanent window signage	N/A	N/A	

17.48.110 Standards for Specific Sign Types.

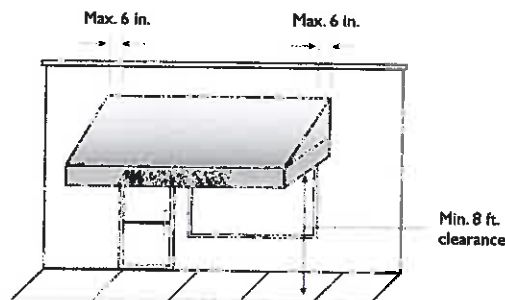
A. Purpose. This Section establishes location and other general standards for specific sign types that apply to all areas where such signs are permitted. Additional standards applicable to these signs in specific Zoning Districts are located in Sections 17.48.090 and 17.48.100.

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B. Awning and Canopy Signs. The installation of awnings and canopies and signage located on awnings and canopies are subject to the following standards:

1. **Location.** Awning signs shall be located on the ground floor of buildings and the maximum height above grade shall not exceed 14 feet.
2. **Minimum Vertical Clearance.** Eight feet.
3. **Width.** Awnings shall be designed to fit the width of the storefront opening or individual window opening. Awnings shall not extend more than six inches on either side of the storefront or window opening.
4. **Materials.** Awning signs must be made of durable, long lasting materials.
5. **Type.** Awnings may have a flexible or fixed skirt, be open or closed on the sides, and be fixed or retractable.
6. **Signs on Awnings.** Sign copy may be located on permitted awnings in lieu of other signage but may not exceed the total aggregate sign area. The area of the sign copy shall not exceed 25 percent of the exterior surface of the awning or canopy.

Figure 17.48.110(B): Awning and Canopy Signs



C. Freestanding Signs. Freestanding signs are subject to the following standards:

1. **Where Allowed.** The base of the supporting structure must be setback at least five feet from the street right-of-way.
2. **Maximum Number.** One per street frontage or one per occupancy/tenant.
3. **Maximum Height.**
 - a. **Agricultural, Residential, and Quasi-Public Districts.** Six feet.
 - b. **Commercial Districts.** 12 feet.
 - c. **Office and Industrial Districts.** Six feet.

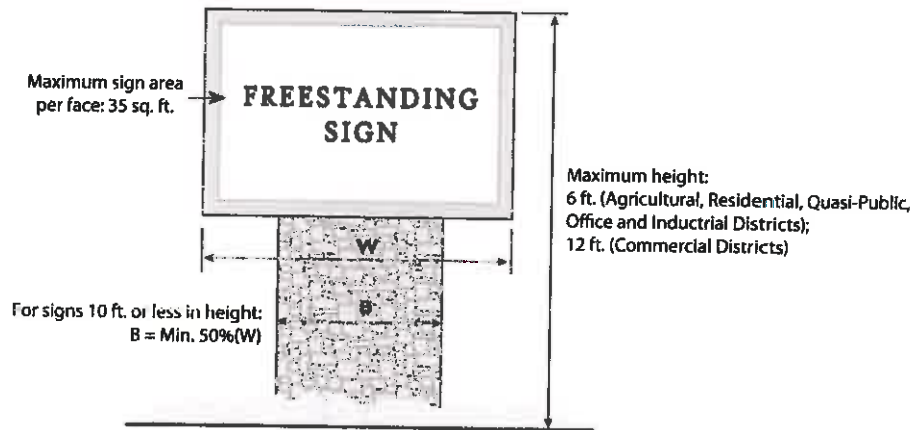
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4. **Maximum Area.** The sign area must not exceed 35 square feet per face, not to exceed 70 square feet in total. The total aggregate surface of the sign faces and sign structure shall not exceed 140 square feet.

5. **Setback.** Freestanding signs may be located within the required setback areas as long as they are a minimum of five feet from the front property line, and 20 feet from any interior side property line.

6. **Sign Base.** Freestanding signs of 10 feet or less shall be mounted on a base, the width of which shall not be less than 50 percent of the width of the widest part of the sign.

Figure 17.48.110(C): Freestanding Signs



Max. 1 freestanding sign per street frontage or 1 per occupancy/tenant.

Max. total sign face area: 70 sq.ft.; Max. total aggregate sign face and sign structure area: 140 sq. ft.

7. **Monument Base Exception.** The City Planner, or their designee, may approve a post or similar style sign structure instead of the required monument base for properties which are residential conversions wherein all of the following criteria are met:

- a. The sign structure is designed to match the primary structure on the site in architectural style and general appearance.
- b. All other sign requirements are met.
- c. The primary structure is a residential conversion which has maintained a residential character/appearance.

8. **Open Air Uses.** For open air uses such as automobile dealerships, the additional standards apply to freestanding signs:

- a. **Maximum Sign Area.** 35 square feet per face, with the total sign area not exceeding 70 square feet.

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b. Setback. 20 feet from any interior side property line

D. Projecting Signs. A sign may project horizontally from the exterior wall of a building or beneath a canopy structure subject to the following standards:

1. Maximum Number. One per building or tenant space.

2. Maximum Size.

a. Projecting Signs. Eight square feet.

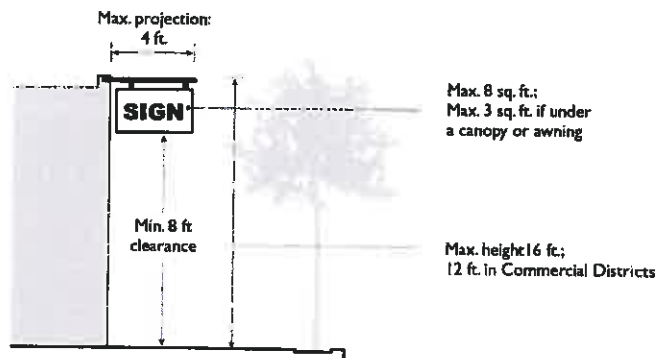
b. Under Canopy of Awning Signs. Three square feet.

3. Maximum Height. 18 feet; 12 feet in Commercial Districts.

4. Minimum Vertical Clearance. Eight feet.

5. Projection Allowed. A projecting sign cannot extend more than four feet from the building to which it is attached and shall be designed and located so as to cause no harm to street trees.

Figure 17.48.110(D): Projecting Signs



E. Wall Signs. Wall signs are subject to the following standards:

1. Maximum Number. No limit, provided that the total area of wall signs does not exceed the limits in Table 17.48.100.B.

2. Maximum Height. No higher than the roof line or the parapet of the wall of the building to which the sign is attached, whichever is lower.

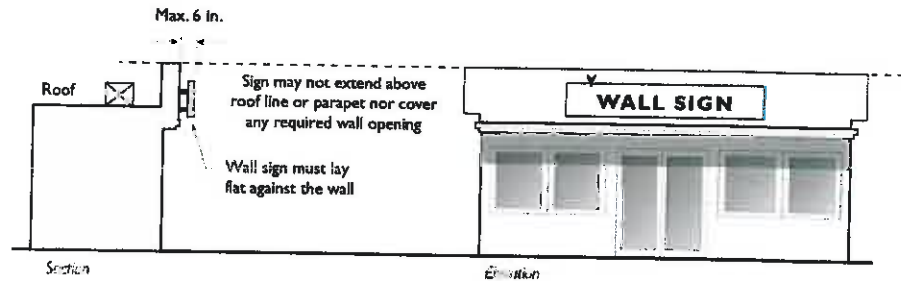
3. Maximum Sign Area per Sign. See Table 17.48.100(B).

4. Projection Allowed. Wall signs shall not extend more than six inches beyond the face of the wall to which they are attached.

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5. Placement. No wall sign may cover, wholly or partially, any required wall opening.
6. Orientation. Unless a different orientation is specifically authorized, each wall-mounted sign shall be placed flat against the wall of the building.

Figure 17.48.110(E): Wall Signs



7. Rear Facades. Where a property has two facades and both are visible from the public right-of-way, a wall sign may be installed on the rear (non-primary) façade if it meets the following:
 - a. Size. Maximum of 25 percent of the allowed sign area calculated for the primary occupancy frontage.
 - b. Illumination. Signs on rear facades may not be internally illuminated.
- F. Permanent Window Signs. Window signs capable of enduring without fundamental change and affixed to either side of an exterior window of a building, or erected or mounted in the interior of the building, and intended to be viewed from the exterior of such building, are allowed subject to the following standards:
 1. Materials. Permanent window signs shall be made from or involve the use of materials intended for permanent, enduring display, such as:
 - a. Etching, frosting, painting or similar chemical or physical non-removable glass treatments.
 - b. Interior electronic signs or digital displays.
 - c. Window shades, blinds, draperies or similar window treatments bearing a commercial message and utilized for the primary purpose of energy efficiency and sun glare and UV ray reduction to the interior of a building or structure.
 2. Maintenance. All permanent window signs shall be maintained in accordance with the requirements of Section 17.48.170. The structural integrity of signs shall be maintained at all times. Normal wear and tear of aged signs shall be repaired when they detract from the visible quality of the sign, based on the current condition of the sign compared to the appearance of the sign when first installed. Exposed surfaces shall be cleaned and painted and defective parts shall be replaced if necessary.

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3. Sign Area. Window sign area shall not be considered in computing the maximum allowed building signage.

17.48.120 Downtown Retail ~~Design-Overlay~~ District Sign Standards.

The ~~following~~ standards in this section apply to all signage within the Downtown Retail ~~Design Overlay~~ District, as defined in Chapter 17.58.

A. Size Standards.

1. Two square feet of sign area is permitted for each lineal foot of occupancy frontage to a maximum of 50 square feet.
2. Users may choose any exterior side of the building as the primary frontage for the purpose of calculating the permitted sign area. The building sign so calculated must then be mounted on that side of the building.
3. A building sign may be affixed to or incorporated as a part of the design of an awning; however, such sign area shall be deducted from that calculated for the exterior building wall to which the awning is attached. Numerals used for the purpose of identifying street addresses need not be deducted from the calculated sign area.
4. Additional signs of a maximum 25 percent of the sign area calculated for the primary occupancy frontage will be allowed for each remaining exterior wall, provided that the sign for any given wall does not exceed two square feet per linear foot of the wall length. This subsection does not apply to alley frontages or buildings that have frontages on two streets with no common visibility for vehicles or pedestrians. In these latter two cases, the allowable signage is in addition to the amount calculated above, and shall be calculated on the basis of two square feet of sign area per lineal foot of public street or alley frontage.

B. Projecting Signs Beneath a Canopy/Awning Structure.

1. One double-faced sign not exceeding an area of three square feet per face is permitted. Signs shall be a minimum of 7 feet above the sidewalk and shall not exceed a maximum height of 12 feet.
2. A sign may also be affixed to or incorporated into the design of the side valance of awnings which are perpendicular to the store frontage. Both side valances of an awning may be so utilized, however, only one sign face per awning side is allowed. Each sign face shall not exceed three square feet for each individual shop or tenant.

C. Alley Signs. The maximum building sign area on an alley frontage is calculated separately from that permitted for the primary occupancy frontage, using the same allowance as for the primary occupancy frontage (two square feet per linear foot of the wall length).

D. Reader Boards and Multi-Tenant Buildings.

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1. Each building may display a reader board of a maximum area of 20 square feet indicating the name, address and type of business of the businesses within the building. If the reader board is located on a part of the building qualifying as an occupancy frontage for which sign area is calculated, the sign area used for the reader board shall be deducted from the total permitted for that building; otherwise it is considered exempt from sign area limits. Reader boards shall be designed as one with each copy panel consisting of similar materials and designs. Permits for reader boards shall not be issued without the consent of the property owner.

2. Each commercial use which has direct pedestrian access through an exterior building wall which is visible from a public right-of-way, shall be allowed at least 10 square feet of building sign area, regardless of building occupancy frontage. Commercial uses have a sole access from the interior of any building or from an enclosed lobby or court shall not be allowed the minimum building sign area referred to in this section.

E. Window Signage. See Sections 17.48.110(F) and 17.30.130(D).

F. Enclosed Bulletin Boards and Message Centers. Enclosed bulletin boards or message centers shall be allowed in the Downtown Retail ~~Design Overlay~~ District, subject to the following requirements.

1. Locations Allowed. Unless located on private property, enclosed bulletin boards and message centers shall require an encroachment permit.

2. Size. Enclosed bulletin boards and message centers shall not be greater than eight feet in height and 12 feet in width.

3. Materials and Maintenance. Enclosed bulletin boards and message centers shall be constructed of metal painted frames, shall have lockable display cases with shatter resistant glass or similar materials, and may only include internal illumination. Enclosed bulletin boards and message centers shall be maintained in accordance with the requirements of Section 17.48.170.

4. Prohibitions. Enclosed bulletin boards and message centers shall not include electronic message displays.

G. Temporary Signs. Banners shall be allowed in the Downtown Retail ~~Design Overlay~~ District pursuant to the requirements of Section 17.48.130(C). All portable signs covered in Section 17.48.130.B shall be prohibited in the Downtown Retail ~~Design Overlay~~ District, except A-frame signs, which shall be allowed subject to the following requirements. A-Frames and easels are generally allowed for the purpose of advertising the location, goods or services offered on the premises, however, they may be used as general advertising for hire subject to the limitations in this section.

1. Prohibitions. A-Frame signs are prohibited from any form of broadcasting or audio presentation.

2. Materials and Maintenance. A-frame signs must be made of a durable, rigid material not subject to rapid deterioration, such as, without limitation, wood, plastic or metal, and must be

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professional in appearance. A-frame signs must be maintained in accordance with the requirements of Section 17.48.170.

3. **Locations Allowed.** A-Frame signs are allowed within a front or corner side setback area and in the public right-of-way directly in front of a business.
4. **Maximum Height and Area.** The A-Frame sign, when placed in an open position must not exceed a height of four feet from ground level to the top of the sign and be no more than 7.5 square feet per sign face.
5. **Maximum Number:** One A-Frame sign is allowed per business, which does not count against maximum allowed permanent sign area. They must be removed at the close of business.
6. **Placement:** A-Frame signs shall be placed so that a minimum of four feet is left clear for pedestrian passage on all sidewalks and walkways. They shall only be placed at grade level and shall not be placed in site visibility triangles or on walls or boulders, within planters, flower beds or tree wells, on vehicles, on other signs or on or affixed to any other type of structure.
7. **City's Right to Remove:** If at any time any portion of the public right-of-way occupied and used by the A-Frame sign may be needed or required by the City, or the business fails to maintain the permitted sign in accordance with the requirements of this subsection, it may be removed by the City.

H. Projecting Signs Mounted to Building Face.

1. Projecting signs shall be located no higher than the cornice or parapet line, whichever is lower, and must be located so as to not obscure any architectural detail of the façade. A double face projecting sign shall be considered one sign.
2. The maximum size of a projecting sign shall be 40 square feet (20 square feet per side). Projecting signs shall not project more than five feet horizontally. In no case may the sign come within 2.5 feet of the curb.
3. Projecting signs shall be clear of street trees, traffic signals, street lighting and regulatory signs.
4. Projecting signs shall be counted against overall allowed signage square footage per location.

17.48.130 Temporary Signs.

A. General Requirements.

1. **General.** Each developed property or establishment, or property for which a building permit has been issued, in non-residential zones, as specified, shall be allowed sign copy area for the display of temporary signs, in addition to allowed permanent signage as specified in this Chapter. No permit shall be required for temporary signage.

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2. **Limits.** Temporary signage must comply with the sign area limits and maximum number of allowed temporary signs, for each of the categories of temporary signage specified in this section. No other temporary signage shall be allowed in non-residential zones.
 3. **Illumination.** Temporary signs cannot be illuminated or constructed with reflective materials.
- B. Portable Signs.** Portable signs are allowed subject to the following standards.
1. **Relation to Associated Business.** Portable signs may be located up to 300 feet away from the business so long as they remain within the development site with which the business is associated and the business obtains property owner authorization.
 2. **Maximum Sign Area per Parcel or Business Location.** The total aggregate sign area for all portable signs may not exceed 16 square feet for each developed or developing parcel, or business location where more than one business is located on a single parcel. Where a parcel or business location has a street frontage exceeding 75 lineal feet, the aggregate sign area for all portable signs shall be 16 square feet for each 75-foot segment of street frontage. Each undeveloped parcel shall have a maximum aggregate portable sign area of 16 square feet, all of which may be used as general advertising for hire.
 3. **Maximum Size and Sign Area.** All portable signs, except A-Frame signs and feather banners, shall not exceed 8 feet in height above ground level, nor have a maximum sign area greater than 8 square feet. A-Frames sign, when placed in an open position, must not exceed a height of four feet above the ground level, to the top of the sign, nor have a maximum sign area greater than 7.5 square feet. Feather banners must not exceed a height of ten feet above the ground level, nor have a maximum sign area greater than 16 square feet.
 4. **Materials and Maintenance.** Portable signs shall:
 - a. Be constructed of durable, weather-resistant materials not subject to rapid deterioration or fading, and be professional in appearance.
 - b. Be maintained in accordance with the requirements of Section 17.48.170.
 - c. Portable signs shall be constructed of acceptable materials such as corrugated extruded, twin wall plastic or acrylic sheets mounted to stakes or polls, metal sign blanks, traditional painted wood or vinyl or paper film attached to a plywood core, or similar materials. Acceptable materials for feather banners include vinyl, nylon reinforced vinyl, polyethylene or polyester-like materials, durable fabric or similar materials.
 - d. Be affixed to supporting structures made of a durable, rigid material such as, without limitation, wood, plastic or metal. Feather banners must be secured and stabilized so as to withstand wind gusts, or be removed during windy conditions.
 5. **Placement.** The portable signs shall be placed on private property on the same lot or development site as the establishment that qualifies for such sign and, with an encroachment

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permit, may be placed in the public right of way in front of the associated use or on the nearest sidewalk provided a four-foot wide pedestrian clear zone is maintained. Portable signs must be a minimum of seven feet from the back of the curb, or edge of pavement where no curb exists. Feather banners cannot interfere with either pedestrian or vehicular sight distance, any view corridor or obstruct views to any existing business or existing permanent sign.

6. **Prohibited Locations.** Portable signs shall not be located:
 - a. In any public right-of-way;
 - b. In parking lot driving lanes, aisles or stalls;
 - c. On multi-use trails or sidewalks if they would block a four-foot wide pedestrian clear zone;
 - d. At any location where they would block pedestrian access;
 - e. Within 100 feet on either side, or in front of a monument sign;
 - f. Within 20 feet from any other portable sign; and
 - g. Within 30 feet from a shopping center access drive or street intersection.

7. **Hours for Display for A-frame Signs and Feather Banners.** A-frame signs and feather banners are permitted during the hours a business is open for business and one-half hour before opening and one-half hour after closing. They must be removed during hours when the establishment is not open to the public.

C. **Banners and Pennants.** Banner signs and pennants, including similar devices such as strings of ornamental fringes or streamers, are allowed for establishments within commercial zones, subject to the following standards:

1. **Maximum Sign Area per Parcel or Business Location.** The total aggregate sign area for banners and pennants may not exceed 32 square feet for each parcel, or business location where more than one business is located on a single parcel. Where a parcel or business location has a street frontage exceeding 75 lineal feet, the aggregate sign area for banners or pennants shall be 32 square feet for each 75-foot segment of street frontage.
2. **Maximum Size.** The maximum size for any banner is 64 square feet, provided that the parcel or business location has an aggregate sign area allowance that allows for banners within this maximum size allowance.
3. **Maximum Height.** Banners and pennants shall not extend above the roofline or the parapet of a wall.
4. **Banners as Permanent Signs Prohibited.** Banners shall not be used as permanent signs, and shall not otherwise replace the primary permanent identification sign(s) for the business or

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establishment, and the business or establishment utilizing a banner must have a permanent sign application on file with the City.

5. **Materials and Maintenance.** Banners and pennants shall be constructed of durable, weather-resistant materials not subject to rapid deterioration or fading, and shall be professional in appearance. Acceptable materials include but are not limited to vinyl, nylon reinforced vinyl, polyethylene or polyester-like materials, or durable fabric. Banners and pennants shall be maintained in accordance with the requirements of Section 17.48.170.

6. **Allowable Locations.** Banners are only allowed on sites where permanent signs are allowed.

D. **Temporary Window Signs.** Temporary window signs are allowed for establishments within commercial zones, subject to the following standards:

1. **Maximum Sign Area.** The allowable sign area of temporary window signs shall not exceed 40 percent of the total window area for each window or transparent door in a building or structure. For the purpose of defining window area, multiple windows separated by mullions or frames of less than four (4) inches are considered a single window.

2. **Materials and Maintenance.** Temporary window sign shall be constructed of suitable materials and be professional in appearance. Suitable materials include glossy paper, matte paper, card stock or presentation bond paper, vinyl, polypropylene, or paint-on decals, water-based or other easily removable paint or similar materials. Temporary window signs shall be maintained in accordance with requirements of Section 17.48.170.

3. **Illumination.** Temporary window signs shall not be illuminated.

17.48.140 Master Sign Program.

A. **Purpose.** The purpose of a Master Sign Program is to provide a method for an applicant to integrate the design and placement of signs within a project with the overall design of the development to achieve a more unified appearance. Master Sign Programs may also be used for subdivision projects with a phased development and/or sales plan. Minor variations in dimensional standards and other limitations of this Section may be approved, provided they achieve a result that is superior to what would otherwise be allowed. The Sign Program must demonstrate how it:

1. Improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement;

2. Provides for sign design or placement appropriate for the area;

3. Incorporates sign design and placement related to architectural and landscape features on site; and

4. Incorporates sign design, scale, and placement oriented to pedestrian traffic.

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B. Applicability and Approval Required.

1. Master Sign Program Required. A Master Sign Program approved by the Planning Commission is required for:

- a. New or remodeled non-residential or mixed used projects on sites of five acres or more;
- b. Multiple tenant commercial or mixed use buildings where the entire façade is being remodeled; and
- c. Any development in the BRP Zone.

2. Optional Sign Program. A Master Sign Program may be substituted for specific sign designs and individual applications if requested by an applicant and approved by the Planning Commission.

C. Required Submittals. Applications for a Master Sign Program must include the following plans and text:

1. A site plan showing the location of buildings, parking lots, driveways and landscaped areas;
2. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed, if proposed;
3. An accurate indication on the site plan of the proposed location of each proposed sign and existing sign which is to remain;
4. Color schemes, lettering and graphic style (if tenants are not known, generic styles may be presented);
5. Lighting and sign construction materials; and
6. Sign dimensions (if tenants are not known, generic dimensions may be presented); and
7. A written program of standards for all sign types to be distributed to future tenants, including color, size, illumination, construction details, and sign placement.

D. Findings. The Planning Commission will only approve a Master Sign Program if the following findings are made:

1. That the proposed signs are in harmony and visually related to:
 - a. Other Signs Included in the Master Sign Program. This may be accomplished by incorporating several common design elements such as materials, letter style, colors, illumination, sign type or sign shape.
 - b. The Buildings They Identify. This may be accomplished by utilizing materials, colors or design motifs included in the building being identified.

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c. The Surrounding Development. Approval of a planned sign program must not adversely affect surrounding land uses or obscure adjacent conforming signs.

2. That the proposed signs will comply with all the provision of this Section, except with regard to:

a. Number of signs allowed; and

b. Location and height of signs.

E. Conditions. Reasonable conditions of approval may be imposed by the Planning Commission to achieve the purposes of this Section and ensure compatibility with adjacent land uses and signage.

F. Post-Approval Procedures. After approval of a Master Sign Program, no signs shall be erected, placed, painted, or maintained, except in conformance with such Program, and such Program may be enforced in the same way as any provision in this Section.

1. Lease Agreements. The Master Sign Program and all conditions of approval shall be attached to the lease agreements for all leasable space within a project.

2. Individual Signs. Any sign that conforms to an approved Master Sign Program may be approved by the City Planner or designee; however, approval of a Master Sign Program does not waive the permit requirements for individual signs.

3. Amendments. The City Planner or designee may approve minor amendments to a Master Sign Program that are in substantial conformance with the original approval. All other amendments, including amendments to conditions of approval shall be processed as a new application.

17.48.150 Variances and Exceptions.

A. Purposes.

1. Variances. The Planning Commission may grant variances for setbacks, locational and dimensional standards that apply to signs in order to prevent unnecessary hardships that would result from a strict or literal interpretation and enforcement of certain regulations prescribed by this chapter. A practical difficulty or unnecessary hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity, or from street locations or traffic conditions in the immediate vicinity that would affect the signing of a site or building.

2. Exception. The Planning Commission may grant an exception to the physical design standards if it can be demonstrated that such an exception is necessary to facilitate an improved aesthetic relationship between a sign and the structures upon which it is mounted.

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B. Application Procedures. Application for a sign variance or sign exception shall be submitted to the City Planner on an approved form and include the following:

1. Name and address of the applicant;
2. Statement that the applicant is the owner of the property, is the authorized agent of the owner(s), or is or will be the plaintiff in an action in eminent domain to acquire the property involved;
3. Address and legal description of the property;
4. Statement of the precise nature of the variance or exception requested and the hardship or practical difficulty which would result from the strict interpretation and enforcement of the standards in this Chapter;
5. The application shall be accompanied by such sketches or drawings as may be necessary to clearly show applicant's proposal in comparison with the standards that otherwise would apply; and
6. The required fee or deposit.

The application shall be reviewed by the City Planner, who shall determine whether it is complete or, if not, what additional information is needed. Once the application is determined to be complete, the City Planner shall give notice to the applicant of the time when the application will be considered by the Planning Commission. The City Planning also may give notice of the time to any other interested party.

C. Public Notice and Hearing.

1. Notice of a public hearing on a sign variance or sign exception shall be given not less than ten days nor more than 30 days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area occupied or to be occupied by the use which is the subject of the hearing.
2. After the required notice has been provided, the Planning Commission shall hold a public hearing on an application for a variance.

D. Staff Report. The City Planner shall prepare a staff report on the application, including a recommendation, which shall be submitted to the Planning Commission.

E. Public Hearing Procedure. At a public hearing the Planning Commission shall review the application and the statements and drawings submitted by the applicant and the staff report and the evidence presented in that report with respect to the findings listed below, that are required to approve a variance or exception.

F. Findings Required for a Variance.

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1. The Planning Commission may grant a variance to a regulation or standard prescribed by this Chapter, as applied for or as modified by the Commission, provided that, on the basis of the application and staff report and/or evidence submitted, the Commission determines:
 - a. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the sign regulations;
 - b. That there are exceptional or extraordinary circumstances or conditions applicable to the property which do not apply generally to other properties classified in the same zoning district;
 - c. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
 - d. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
 - e. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
 2. A variance may be revocable, may be granted for a limited time period, or may be granted subject to such reasonable conditions as the Commission may prescribe.
 3. The Planning Commission must deny a variance application if the required findings cannot be made.
- G. Findings Required for an Exception. The Planning Commission may approve, conditionally approve or deny a request for an exception to the physical design standards of this chapter. For the Planning Commission to approve or conditionally approve an exception, the following findings must be made:
1. That the granting of the exception is necessary to attain a high aesthetic sign design which would be restricted if the provisions and standards of this Chapter were strictly applied;
 2. That the granting of an exception would not adversely affect the visibility of signs on adjacent properties; and
 3. That the granting of an exception would not constitute a granting of a special privilege.
- H. Appeal to City Council. The decision of the Planning Commission on a variance or exception application shall be subject to the appeal provisions of the zoning ordinance.
- I. Revocation. A variance or exception granted subject to a condition or conditions shall be revoked by the Planning Commission if the applicant fails to comply with any the condition of approval.

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J. **Time Limits for Filing a New Application.** Following the denial of a variance or exception application or the revocation of a variance or exception, no application for the same or substantially the same sign shall be filed within one year of the date of denial of the variance or exception application or the date of revocation of the variance or exception.

17.48.160 Nonconforming Signs.

A. **Purpose.** A nonconforming sign is a sign that was lawfully constructed and maintained prior to the adoption of the regulations codified in this Chapter but which does not conform to the provisions of this Chapter. The purpose of the regulations in this Section is to limit the number and extent of nonconforming signage by prohibiting alteration or enlargement of such signage so as to increase the discrepancy between their condition and the standards and requirements of this Chapter.

B. **Continuance and Maintenance.** Reasonable and routine maintenance and repairs may be performed on signs that are nonconforming provided there is no expansion of any nonconformity with the current requirements of this Chapter.

C. **Abandonment of Nonconforming Sign.** Whenever a nonconforming sign has been abandoned, or the use of the property has been discontinued for a continuous period of 30 days, the nonconforming sign must be removed.

D. **Restoration of a Damaged Sign.** An on-premise sign may be restored that meets any of the following criteria:

1. A sign with damage that does not exceed 50 percent of the total sign area, including hardware and attachments, provided that the repairs start within 30 days and diligently pursued to completion.
2. A sign that is a danger to the public or is unsafe as determined by the Building Official.

E. **Signs Rendered Nonconforming by Annexation.** Any sign that becomes non-conforming subsequent to the effective date of this Chapter by reason of annexation to the City of the site upon which the sign is located is subject to the provisions of this Section.

17.48.170 Maintenance, Abandonment, and Enforcement.

A. **Maintenance Required.** All signs and associated supporting structures shall be maintained in like-new condition, without rips, tears, fading and similar damage that inevitably occurs as a result of normal wear and aging.

1. **Deteriorated Signs.** Any sign or sign structure that is sagging, leaning, fallen, decayed, broken, deteriorated, ripped, torn, faded, or other deteriorating or dilapidated condition shall be promptly repaired, to the satisfaction of the City, or removed.

2. **Graffiti.** Graffiti on a sign shall be removed within two days of notice of its placement on such sign.

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3. **Maintenance Standards.** All parts, portions, units and materials composing a sign, together with the frame, background, surface, support or enclosure shall be maintained in a like-new, safe condition, painted, and adequately protected from weathering with all braces, bolts and structural parts and supporting frames and fastenings reasonably free from deterioration, rot, rust, and loosening so that they do not create a hazard to persons or property or constitute a nuisance.

4. **Summary Removal of Hazards.** Whenever any sign, by virtue of its physical nature and condition, poses an immediate and serious threat to the public safety, the same may be removed by City personnel, or its physical deficiency cured, to the extent necessary to protect the public safety. The cost of such removal or repair shall be assessed against the sign owner.

B. **Abandoned or Obsolete Sign.** An on-premise sign advertising an activity, business, service or product must be removed within 30 days following the actual discontinuance of the activity, business, service or product. If the sign is not so removed, the City Planner or designee may have the sign removed in accordance with the public nuisance abatement provisions of this Code.

C. **Illegal Signs.** Any sign, banner, or sign structure not erected, constructed or located in conformance with this Chapter and not classified as a legal nonconforming sign is an illegal sign and is subject to abatement in accordance with the public nuisance abatement procedures set forth elsewhere in the Visalia Municipal Code.

D. **Enforcement.** Signs which do not conform to the provisions of this Chapter and are erected after its effective date and signs erected after the effective date of this Chapter without obtaining the permit required thereby are declared to be unlawful and a public nuisance. All signs declared to be unlawful by this Section and all persons erecting or maintaining them shall be subject to the terms of Chapter 17.46, Administration and Enforcement, specifically Sections 17.46.010 to 17.46.060, of this Code and all amendments thereof, as well as Chapter 1.13, Administrative Code Enforcement. The City Planner or designee shall forthwith take all necessary actions or proceedings for the abatement, removal and enjoinder pursuant of said sections of the Visalia Municipal Code. The remedies provided for in this Section are cumulative and nonexclusive.

17.48.180 Definitions.

The following definitions apply within this Chapter, regardless of how the terms may be defined in the Municipal Code.

A-Frame Sign. A portable upright, rigid, self-supporting frame sign in the form of a triangle or letter "A".

Abandoned Sign. A sign remaining in place or not maintained for 30 days that does not provide direction for, advertise, or identify a legally established business, product, or service available on the business premises where the sign is located.

Animated Sign. A sign with messages that visually change, or images that move or appear to move, flash on or off, wink or blink with varying light intensity, show motion or create the illusion of motion, or revolve to create an illusion of being on or off. This definition does not

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include traditional barber poles or scoreboards, nor does it include “commercial mascots,” “digital displays” and “electronic signs”, which are defined separately.

Awning. Any structure made of flexible fabric or similar material covering a metal frame attached to a building, whether or not the same is so erected as to permit its being raised to a position flat against the building when not in use.

Awning or Canopy Sign. Sign copy placed on an awning or any other projecting structure made of flexible fabric or similar material covering a metal frame supported by the ground or sidewalk.

Banner Sign. Any sign of vinyl, nylon reinforced vinyl, polyethylene or polyester-like materials, durable fabric or similar material that is mounted to a structure or a building at one or more edges with no enclosing framework on which a message or image is painted or otherwise affixed. Flags are not within this definition.

Billboard: See Outdoor Advertising Display.

Changeable Copy Sign. A sign constructed or designed to allow for periodic changes of copy, and for which the copy is changed not more than once each 24-hour period. Examples include signs for an auditorium, theater, school, church, meeting hall, or similar uses characterized by public assembly and changing programs or events, or gas station prices. This definition does not include animated signs or electronic signs.

Commercial Message. A message on a sign, or portion of a sign, that promotes, informs, or proposes an economic transaction, primarily concerns the economic interests of the sign sponsor and/or audience, or is intended to further discussion in the marketplace of goods and services.

Copy. Any letters, numerals, or symbols displayed on a sign face conveying a message to the public.

Digital Display. A method of displaying a visual image that uses liquid crystal cells or other types of light emitting diodes (LEDs) or their functional equivalent allow for the message or image to be easily changed, typically by remote control or computer programming. This definition applies to signs displaying a series of still images.

Electronic Sign. A sign that is capable of presenting variable message displays by projecting an electronically controlled pattern and which can be programmed to periodically change the message display. See also Digital Display.

Exempt Sign. A sign which may be legally displayed, erected or maintained, but is not subject to a sign permit requirement.

Externally Illuminated Sign. Any sign that is lit by a light source that is external to the sign directed towards and shining on the face of the sign.

Face. That portion of a sign upon which the copy is mounted or displayed.

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Feather Banner. A portable sign consisting of a vertical banner made of vinyl, nylon reinforced vinyl, polyethylene or polyester-like materials, durable fabric or similar material, the longer dimension of which is typically attached to a pole or rod that is driven into the ground, supported by an individual stand or bracketed to a structure. Also called a “blade sign,” “swooper,” “flutter flag,” “bow sign” or “teardrop banner.” This definition includes functionally similar devices.

Flag. Any fabric or banner containing distinctive colors, patterns, or design that displays the symbol(s) of a nation, state, local government, company, organization, belief system, idea, or other meaning.

Freestanding Sign. A permanent sign that is self-supporting in a fixed location and not attached to a building. It includes monument signs, which are connected or attached to a sign structure, fence, or wall that is not an integral part of a building, and pole signs, which is mounted on a pole(s) or other support(s) that is placed on and anchored in the ground or on a base and that is independent from any building or other structure. Freestanding signs are of two types: monument and pole. Flag poles are not within this definition.

Graffiti. Marks, such as inscriptions, drawings, or designs, which are placed, scratched, etched, painted, or sprayed on public or private property without the owner’s consent.

Illuminated Sign. A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. This includes signs made from neon or other gas tube(s) that are bent to form letters, symbols, or other shapes. Ambient lighting, by itself, does not make a sign “illuminated.”

Master Sign Program. A coordinated sign plan which includes details of all signs (not including exempt or temporary signs) which are or will be placed on a site, including master identification, individual business and directory signs.

Mobile Billboard. Any vehicle, or wheeled conveyance which carries, conveys, pulls, displays, or transports any sign or billboard for the primary purpose of advertising a commercial or noncommercial message, or other general advertising for hire.

Monument Sign. See Freestanding Sign.

Moving Sign. A sign or any portion thereof that rotates, moves, or appears to move in some manner by mechanical, electrical, natural, or other means.

Mural. A work of graphic art on an exterior building wall that may or may not contain a commercial logo or trademark but does not serve to advertise or promote any business, product, activity, service, interest, or entertainment.

Name Plate. A sign that identifies an occupant and/or address.

Noncommercial Message. A message or image on a sign, or portion of a sign, which displays noncommercial speech, e.g., commentary or advocacy on topics of public debate and concern.

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This definition shall be construed and interpreted in light of relevant court decisions. Noncommercial messages do not have a location factor, such as on-site or off-site.

Non-Communicative Aspects. Those aspects of a sign that are not directly communicative, such as physical structure, mounting device, size and height, setback, illumination, spacing, and scale relative to other structures.

Nonconforming Sign. A sign lawfully erected and legally existing on the effective date of this Section, or of amendments thereto, but which does not conform to the provisions of this Chapter.

On-Site or On-Premise Sign. Any sign or portion thereof that identifies, advertises, or attracts attention to a business, product, service, event or activity sold, existing or offered upon the same property or land use as the sign. The off-site/on-site distinction applies only to commercial messages.

Outdoor Advertising Display. A sign that identifies, advertises or attracts attention to a business, product, service, event or activity sold, existing or offered at a different location or which identifies by brand name a service or product which, although sold on the premises, does not constitute the principal item for sale on the premises. The off-site/on-site distinction applies only to commercial messages. This type of sign is also known as a billboard.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a rope, wire, or string, usually in a series, designed to move in the wind and attract attention. Flags and banners are not within this definition.

Pole Sign. See Freestanding Sign.

Portable Sign. A movable sign that has a transitory purpose or functionality that is intended to be displayed for a time only. The definition includes A-frame type signs, feather banners, stationary inflatable signs displayed and secured at ground level, and other free standing temporary signs made of materials not suitable for or intended for permanent display, affixed to stakes or poles or similar supporting structures that accommodate the ability to affix such free standing temporary signs in multiple locations.

Projecting Sign. A single or double faced sign that is perpendicular to the face of a building and projects more than 18 inches from the face. This category includes awning and under canopy signs.

Primary Building Face. The wall of a building which contains the principal entrance(s) to the building. If there are principal entrances in more than one wall, the longest of the walls in which principal entrances are located shall be the primary building face. "Primary building face" shall include not only the wall itself but all doors, windows, or other openings therein and projections therefrom.

Readerboard. A sign structure or mounting device on which at least a portion of the display face may be used for changeable copy that is either non-commercial or commercial, electronic or manual.

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Roofline. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Roof Sign. Any sign located on a roof of a building or having its major structural supports attached to a roof.

Sign. Any identification, description, illustration, or device illuminated or non-illuminated, which is visible to the general public from any exterior public right-of-way, and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, or placard designed to advertise, identify, or convey information. A display, device, or thing need not contain lettering to be a sign. Notwithstanding the generality of the foregoing, the following are not within this definition:

- A. Architectural features. Decorative or architectural features of buildings (not including lettering, trademarks or moving parts), that do not perform a communicative function;
- B. Fireworks, etc. The legal use of fireworks, candles and artificial lighting not otherwise regulated by this Code;
- C. Foundation stones, cornerstones;
- D. Grave markers, grave stones, headstones, mausoleums, shrines, and other markers of the deceased;
- E. Personal Appearance. Items or devices of personal apparel, decoration or appearance, including tattoos, makeup, wigs, costumes, and masks, but not including commercial mascots or hand-held signs; and
- F. Symbols Embedded in Architecture. Symbols of noncommercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a permanent building, including stained glass windows on churches, carved or bas relief doors or walls, bells, and religious statuary.

Sign Area. The area contained within a single continuous perimeter enclosing all parts of such sign copy, excluding any structural elements outside the limits of the sign required to support the sign.

Sign Face. An exterior display surface of a sign, including non-structural trim, exclusive of the supporting structure. It includes the area of a sign which is available for mounting and public display of the visually communicative image.

Temporary Sign. A structure or device with a transitory purpose or functionality and used for the public display of visual messages or images intended to last for a time only.

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Vehicle Display Sign. A sign mounted, attached, affixed, or painted upon any surface of a motor vehicle, trailer, or similar conveyance parked on public or private property for the purpose of general advertising for hire.

Wall Sign. Any sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall. Wall signs also include signs on a false or mansard roof.

Window Sign. Any structure, device or substance device used for the public display of visual messages or images and affixed to either side of an exterior window of a building, or in the interior of the building, within two feet of a window, intended to be viewed from the exterior of such building, which is not intended for or suitable for long term or permanent display. Window displays placed behind a window that are presentations of merchandise provided by the establishment with associated artwork and features are not considered signs.

Chapter 17.50
AIRPORT ZONINGZONE

Sections:

- 17.50.010** Airport zoning-zone regulations.
- 17.50.015** Applicability.
- 17.50.020** Legislative authority.
- 17.50.030** Definitions.
- 17.50.040** Type of zones and heights limits.
- 17.50.050** Airport zoning map.
- 17.50.060** Airport land use zone.
- 17.50.070** Use restrictions.
- 17.50.080** Uses within nonaviation commercial areas.
- 17.50.090** Administration and enforcement.
- 17.50.100** Permits.
- 17.50.110** Violation.

17.50.010 Airport zoning-zone regulations.

A. All of the provisions of Chapter 3, Part 7 of the Ordinance Code of Tulare County, as amended by Tulare County Ordinance No. 1233, are referred to, adopted as a city ordinance and made a part of this code, and all of the provisions thereof shall be applicable within the boundaries of the city.

B. All references to the County of Tulare in said Ordinance No. 1233 of the County of Tulare shall refer to the city of Visalia.

17.50.015 Applicability.

The requirements in this chapter shall apply to all property within the AP zone district.

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17.50.020 Legislative authority.

This chapter is adopted pursuant to the Airport Approaches Zoning Law of the state of California (commencing at Section 50485 of the Government Code of the state of California and the Planning and Zoning Law of the state of California (commencing at Section 65000 of the Government Code of the state of California).

17.50.030 Definitions.

Except where the context otherwise requires the following definitions shall govern the construction of this chapter:

"Airport" means any area of land or water designated and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes, a map of which has been or is hereafter included as part of the airport zoning map of the county of Tulare.

"Airport elevation" means the elevation of the highest point on the usable or designed runway as established by the county surveyor.

"Airport hazard" means any structure, tree, or use of land ~~which~~that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

"Airport reference point" means the point established at the approximate geographic center of the airport landing area and so designated.

"Height," used for the purpose of determining height limits in all zones set forth in this chapter, means the vertical elevation in feet above the established airport elevation unless otherwise stated.

"Landing area" means the area of an airport used, or to be used, for the landing, taking off or taxiing of aircraft.

"Nonconforming use" means any structure, tree or use of land ~~which does~~that does not conform to the provisions of this chapter at the time this chapter is made applicable to a particular airport.

"Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, city, county or district, and includes any trustee, receiver, assignees or other similar representative thereof.

"Planning commission" means the planning commission of the county of Tulare.

"Runway" means the paved surface of an airport landing area designated for the landing or taking off of aircraft.

"Structure" means any object constructed, installed or placed on real property by man including, but not limited to, buildings, towers, smokestacks, and overhead lines.

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"Tree" means any object of natural growth.

17.50.040 Type of zones and heights limits.

Six ~~typetypes~~ of zones, and the height limits for said zones, are established for the purposes of airport zoning. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone to a height in excess of the height limit established for such zone. The datum plane for measurement of such height, except as otherwise specified herein, shall be based on the airport elevation, as defined by Section 17.50.030. Said zones are as follows:

- A. Landing Zone ("L"). A surface, and the airspace above it, rectangular in shape, longitudinally centered on the runway and extending in length two hundred (200) feet beyond the ends of the runway. The landing zone shall have an elevation, at any point along its longitudinal profile, coincident with the runway centerline or centerline prolongations as appropriate. The landing zone shall have the width specified on each map adopted pursuant to Section 17.50.050.
- B. Approach Zone ("AA"). A plane surface and the airspace above it, trapezoidal in shape, longitudinally centered on the prolongation of the runway centerline, beginning at each end of each landing zone, coinciding in width with the landing zone where they join. The height and width of the approach zone shall be as specified on each map adopted pursuant to Section 17.50.050.
- C. Landing Transition Zone ("LT"). A plane surface, and the airspace above it, rectangular in shape, lying adjacent and parallel to each side of each landing zone, having a length equal to the landing zone and extending outward and upward, at right angles to the runway centerline, at a slope of seven-to-one to a height of one hundred fifty (150) feet above the established airport elevation.
- D. Approach Transition Zone ("AT"). A plane surface and the airspace above it, triangular in shape, lying adjacent to each side of each approach zone and at each end of each landing transition zone, coinciding in height with the approach outward and upward, at right angles to the prolongation of the runway centerline, at a slope of seven-to-one to a maximum airport elevation or to the conical zone surface, whichever is higher.
- E. Horizontal Zone ("H"). A horizontal circular plane surface, and the airspace above it, one hundred fifty (150) feet above the established airport elevation, its radius point being the airport reference point and having the radius specified on each map adopted pursuant to Section 17.50.050. The horizontal zone does not include the landing zone or transition zones.
- F. Conical Zone ("C"). A conical surface of an inverted conical frustum, and the airspace above it, its minor base being coincidental with the periphery of the horizontal zone and extending outward and upward, radially to its axis, at a slope of twenty-to-one for the horizontal distance specified on each map adopted pursuant to Section 17.50.050. The conical zone does not include the approach zone at the approach transition zone.

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17.50.050 Airport zoning map.

A. The several zones established by Section 17.50.040 shall be shown and delineated on the airport zoning map of the county of Tulare, which is adopted. Said zoning map, for convenience and identification, is divided into parts corresponding to the operational areas of the respective airports included with the provisions of this chapter. Additional parts of the airport zoning map may be adopted from time to time by ordinance. Each part of the airport zoning map of the county of Tulare adopted or hereafter adopted identify the subject and the location and shall contain a map and diagrams including a plot plan of the subject runways, the location and dimensions of all zones described in accordance with the formulas established for the regulation of any of the aforementioned zones need not be the same for different airports. The following parts of the airport zoning map are hereby adopted:

1. Part 1, Porterville Municipal Airport;
2. Part 2, Tulare Airpark;
3. Part 3, Visalia Municipal Airport.

B. The airport zoning map and amendments or additional parts thereof adopted pursuant to this chapter, shall not be included in or made a part of this code.

17.50.060 Airport land use zone.

A. This section establishes an "AP" (airport) zone ~~which~~that will be an integral part of the Visalia zoning ordinance. The "AP" zone will allow only airport related land uses as follows:

1. Signs, subject to the provisions of ~~Section 17.48.070~~Chapter 17.48;
2. Terminal area;
3. Noncommercial aviation;
4. Airport reserve;
5. Nonaviation (highway) commercial;
6. Airport services;
7. Aviation commercial;
8. Air cargo reserve;
9. Recreation;
10. Agriculture;
11. Safety (open space) area;

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12. Runways and taxiways;

13. Airport service roads;

14. The keeping of household pets, subject to the definition of household pets set forth in Section 17.04.030.

B. The uses shall be developed within the areas ~~which~~that are specifically delineated within the Visalia "airport master plan."

C. Prior to issuance of any building permits, the airport commission shall review the proposal and the Visalia planning commission shall recommend its approval based upon the proposal's conformance with the "airport master plan."

D. Any changes to the "airport master plan" shall require review by the airport commission and a public hearing before the Visalia planning commission and city council.

17.50.070 Use restrictions.

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare to the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

17.50.080 Uses within nonaviation commercial areas.

It is the intent of this section to specify a list of permitted uses within an area designated "nonaviation commercial" on the airport master plan. Two use areas within this designation are area "A" and area "B" as designated on approved development plans.

A. Area "A" Permitted Uses.

1. Animal shelters;

2. Banks;

3. Barber shops;

4. Beauty shops;

5. Blueprinting ~~and photostat~~ shops;

6. Broadcasting studios;

7. Communications equipment buildings;

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8. Duplicating services;
9. Eating places, not including drive-in restaurants or places ~~which~~that serve ~~intoxicating~~alcoholic beverages;
10. Limited office equipment sales;
11. Locksmiths;
12. Medical or dental laboratories;
13. Medical and orthopedic appliance stores;
14. Offices;
15. Office and business machines sales and service;
16. Opticians and optometrist~~s~~ shops;
17. Parking facilities;
18. ~~Pharmacy~~Pharmacies;
19. Photograph studios;
20. Photography supply stores;
21. Scientific instrument stores;
22. Signs, subject to provisions of ~~Section 17.48.070~~Chapter 17.48;
- ~~23. Telegraph offices;~~
- ~~24~~23. Travel bureaus.

B. Area "B" Permitted Uses.

1. All uses listed in Area "A";
2. Warehousing, wholesaling, and distribution uses limited to a maximum area of four thousand (4,000) square feet in conjunction with an office;

Assembly and repair service uses limited to a maximum area of four thousand (4,000) square feet in conjunction with an office;

3. Business, trade, and professional schools.

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C. All storage of materials and activities ~~whiehthat~~ occur with each use shall be conducted entirely within an enclosed structure.

D. Uses may be added to the list of permitted uses as specified in Section 17.50.060.

17.50.090 Administration and enforcement.

A. The planning commission is designated as the agency for the administration and enforcement of this chapter.

B. The city building inspector shall not issue building permits for the construction, reconstruction or structural alteration of any structure within any of the zones established by Section 17.50.040 if said construction, reconstruction or structural alteration would result in violation of the provisions of this subsection any building permits so issued shall be null and void.

17.50.100 Permits.

Before that portion of any nonconforming structure ~~whiehthat~~ exceeds the height limitation established by the airport zoning map and Section 17.50.040 may be structurally altered and before any non-conforming structure or tree may be replaced, reconstructed, allowed to grow higher or replanted, a permit must be secured from the planning commission authorizing such structural alteration, replacement, reconstruction or change. Those portions of an existing nonconforming structure below the applicable height limitations may be structurally altered, repaired and added to, and those portions of an existing nonconforming structure above the applicable height limitation may be repaired and minor replacements made therein, without securing such a permit unless such structural alteration, repair, addition or enlarge that portion of the structure ~~whiehthat~~ exceeds the applicable height limitation. No such permit shall be granted that will allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation that it was on the date that this chapter was made applicable to a particular airport or than it was when the application for a permit was made, but all other application for such permits shall be granted.

17.50.110 Violation.

Any person violating any of the provisions of Chapter 3, Part 7 of the Ordinance Code of Tulare County as amended by Tulare County Ordinance No. 1233, which are declared to be unlawful shall be deemed guilty of a misdemeanor.

Chapter 17.52 QUASI-PUBLIC ZONE

Sections:

17.52.010 Purpose and intent.

17.52.015 Applicability.

17.52.020 Permitted uses.

17.52.030 Conditional uses.

17.52.010 Purpose and intent.

The purpose and intent of the quasi-public zone is to provide a zone ~~which~~that is intended to allow for the location of institutional, academic, community service, governmental, and nonprofit uses.

17.52.015 Applicability.

The requirements in this chapter shall apply to all property within the QP zone district.

17.52.020 Permitted uses.

Permitted uses in the quasi-public zone include public uses of an administrative, recreational, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public building, structures and facilities; public playgrounds, parks and community centers. Permitted uses also include wireless telecommunication facilities on parcels that are a minimum of five (5) acres, subject to the requirements of Section 17.32.163 (Regulation of Wireless Telecommunication Facilities) of the Visalia Zoning Ordinance. The keeping of household pets, subject to the definition of household pets set forth in Section 17.04.030. Other uses similar in nature and intensity as determined by the city planner.

17.52.030 Conditional uses.

Conditional uses in the quasi-public zone include:

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- A. Public and quasi-public uses of an education or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, licensed day care facilities for more than fourteen (14) children; churches, parsonages and other religious institutions;
- B. Public and private charitable institutions, general hospitals, sanitariums, nursing and convalescent homes, senior care facilities, senior housing; not including specialized hospitals, sanitariums, or nursing, rest and convalescent homes including care for acute psychiatric, drug addiction or alcoholism cases;
- C. Ambulance service;
- D. Electric distribution substations;
- E. Gas regulator stations;
- F. Public service pumping stations;
- G. Communications equipment buildings;
- H. Wireless telecommunication facilities on parcels that are a less than five (5) acres subject to the Section 17.32.163 of the Visalia Zoning Ordinance;
- I. Residential development specifically designed for senior housing;
- J. Other uses similar in nature and intensity as determined by the city planner.

Chapter 17.54 GENERAL PLAN AMENDMENTS

Sections:

- 17.54.010 Purpose.**
- 17.54.020 Initiation.**
- 17.54.030 Application procedures.**
- 17.54.040 Public hearing—Notice.**
- 17.54.050 Investigation and report.**
- 17.54.060 Hearing.**
- 17.54.070 Action of city planning commission.**
- 17.54.080 Action of the city council.**

17.54.010 Purpose.

As the general plan for Visalia is implemented, there may be a need for amendments to land use boundaries and policies of the general plan. Such amendments shall be made in accordance with the procedure prescribed in this chapter.

17.54.020 Initiation.

A. An amendment to the land use boundaries of the general plan may be initiated by any interested person or the owners of the property within the area for which the amendment is proposed. The area of a proposed land use amendment and/or policy amendment may be expanded in scope by the planning commission in the resolution of intention.

B. An amendment to land use boundaries and/or policies may be initiated by the city planning commission or the city council by adoption of a resolution of intention.

17.54.030 Application procedures.

A. An application for an amendment shall be filed by the applicant with the city planning commission on a form prescribed by the commission. ~~and which said~~ application shall include the following data:

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1. Name and address of the applicant;
 2. Statement that the applicant is the owner of the property for which a land use boundary amendment is proposed or the authorized agent of the owner. In the case of a policy amendment the statement shall indicate the interest of the applicant;
 3. Address and legal description of the subject property, if applicable;
 4. The application shall include material deemed necessary by the city planner to clearly show the applicant's proposal.
- B. The application shall be accompanied by a fee set by resolution of the city council to cover the cost of processing the application.

17.54.040 Public hearing—Notice.

Notice of the public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the city, and by mailing notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area under consideration if an amendment to the land use element is under consideration.

17.54.050 Investigation and report.

The city planning staff shall make an investigation of the application or the proposal and shall prepare a report thereon ~~which~~that shall be submitted to the city planning commission.

17.54.060 Hearing.

At the public hearing, the city planning commission shall review the application or the proposal and may receive pertinent evidence regarding the proposed amendment.

17.54.070 Action of city planning commission.

Within forty-five (45) days following the public hearing, the city planning commission shall make a specific recommendation and shall transmit a report to the city council. The report shall include a resolution recommending either approval or denial of the proposed amendment, together with pertinent information and the report of the city planning staff.

17.54.080 Action of the city council.

A. Upon receipt of the resolution and report of the city planning commission, the city council shall hold at least one public hearing with public notice as prescribed in Section 17.54.040. Following the noticed public hearing, the city council shall approve, deny or modify the city planning commission recommendation.

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B. If the element or amendment has been approved by the city planning commission, the city council shall not modify the recommendation until the proposed change or modification has been referred back to the city planning commission for a report and a copy of the report has been filed with the city council. Failure of the city planning commission to report within forty (40) days after the reference, or such longer period as may be designated by the city council shall be deemed to be approval of the proposed change or modification. It shall not be necessary for the city planning commission to hold a public hearing on such proposed change or modification.

C. The adoption of a general plan element, or amendment, shall be by resolution of the city council.

Chapter 17.56 HISTORIC PRESERVATION DISTRICT

Sections:

- 17.56.010** Purposes and intent.
- 17.56.020** Components of the chapter.
- 17.56.030** Definitions.
- 17.56.040** Regulation of structures.
- 17.56.050** Creation of historic preservation advisory committee.
- 17.56.060** Appeal.
- 17.56.070** Demolition or moving of historic structures.
- 17.56.080** ~~Ordinance~~ Ordinary maintenance and repair.
- 17.56.090** Exceptions to Visalia Municipal Code requirements.
- 17.56.100** Building design compatibility criteria.
- 17.56.110** Local register structures.
- 17.56.120** Role of building official.
- 17.56.130** Separability.

17.56.010 Purposes and intent.

A. There is created a historic district, the boundaries of which are shown on the two maps entitled, "Historic District Overlay," which accompany the ordinance codified in this chapter and which are on file in the office of the city clerk, on the 19th day of November, 1979 and dated 19th day of November, 1979. Said maps are adopted and made a part of this chapter.

B. This chapter is enacted to preserve and promote the public health, safety and welfare of the residents of the city, and to express the commitment of the city to assure that the city's cultural heritage, as reflected in its historic structures, sites, and features is not destroyed, through:

1. The protection and preservation of historic structures;

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2. The preservation and maintenance of historic residential areas as cohesive neighborhood units;
3. The enhancement of property values in the older areas of the city;
4. The assurance that the community's cultural heritage, as reflected in the environment, is not lost;
5. The encouragement of the development of vacant and incompatibly developed properties in accordance with the character of the historic district;
6. The involvement of residents of the older areas in planning their own neighborhoods.

17.56.020 Components of the chapter.

This chapter shall include:

1. The ordinance, which specifies the historic district overlay designation, design evaluation criteria, and the formation, powers and duties of a historic preservation advisory committee;
2. Creation of a local register of historic structures, sites and features ~~which~~that may be modified from time to time by resolution of the city council.
3. Two maps ~~which~~that designate the historic district overlay.

17.56.030 Definitions.

A. All definitions, general and specific, set forth in Section 17.04.030 shall be applicable to this chapter.

B. Definitions.

“Construction” means any building activity requiring the issuance of a building permit, except for any activity ~~which~~that does not affect the exterior appearance of the structure.

“Enlargement” means construction ~~which~~that results in the expansion of the gross floor area of a structure.

“Historic structure” means a structure listed on the Local Register.

“Local register” means the listing of local historic structures, sites and features adopted by the city council and maintained by the historic preservation advisory committee, and incorporated herein by reference.

17.56.040 Regulation of structures.

No structure shall be constructed, altered or enlarged ~~which~~that is located in the historic district or ~~which~~that is listed as an “exceptional” or “focus” structure on the local register and is located

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outside the historic district, unless such a permit is issued pursuant to the terms of this chapter. No structure listed on the local register shall be moved or demolished unless a permit is issued pursuant to the terms of this chapter.

17.56.050 Creation of historic preservation advisory committee.

In order to execute the purposes declared in this chapter, there is created a historic preservation advisory committee.

A. Committee Membership.

1. The historic preservation advisory committee shall consist of seven members appointed by the city council to serve without compensation. All committee members shall be residents of the city at the time of their appointment and will lose their position if they move outside the city limits during their term of office. Members shall be appointed on the basis of:

- a. Relevant professional or business qualifications;
- b. Ownership of property within the historic district;
- c. Practical experience in restoration or preservation;
- d. Exceptional civic interest.
- e. Terms of office shall be for two years.

2. Vacancies ~~which~~that may occur on the committee shall be filled by appointment of a new member of the city council for the duration of the unexpired term of office. The Council has the option of appointing up to two Historic Preservation Advisory Committee alternates. Should a mid-term vacancy occur, an alternate may automatically fill the unexpired term. The council shall also have the power to remove any member from the committee by an affirmative vote of three council members.

3. Four members of the committee shall constitute a quorum for the transaction of business.

B. Procedures for the Review of Applications. The operating procedures of the historic preservation advisory committee shall be prescribed from time to time by resolution of the city council, for the purpose of carrying into effect the standards and specifications of this chapter. The committee may adopt, amend, and repeal rules and regulations governing the conduct of its meetings, as long as said rules do not violate the procedures established by the city council or the terms of this chapter.

C. Duties and Responsibilities. The historic preservation advisory committee shall review applications only as specified in this chapter, consistent with the rules and regulations adopted from time to time by resolution of the city council (as referred to in Section 17.56.050(B)). Applications shall be approved or disapproved based solely on the considerations set forth in this chapter. It is the intent of this chapter that the historic preservation advisory committee shall

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encourage applicants to make alterations and repairs to structures in the spirit of the architectural style of the structure. The duties and responsibilities of the historic preservation advisory committee shall include the following:

1. It shall be the duty of the historic preservation advisory committee to review all proposed zoning actions (zone changes, conditional use permits, special zoning exceptions, planned unit developments and variances) within the historic district. The committee may recommend approval, conditional approval, modification or disapproval of an application based upon the expected impact of the proposed zoning action on the historic or architectural significance of the affected structure(s), neighborhood, or the entire historic district. The committee's recommendation shall be forwarded to the planning commission for its consideration.
2. It shall be the duty of the historic preservation advisory committee to review all applications for ~~planned development~~ site plan review permits within the historic district for compliance with the provisions of this chapter. Items ~~which~~ that shall be subject to review by the committee include but are not limited to vehicular access, location and screening of parking, setbacks, location of service use areas, walls and landscaping. The committee may recommend approval, conditional approval, disapproval or resubmittal of the ~~planned development~~ site plan review permit application. The committee's recommendation shall be forwarded to the site plan review committee for its consideration.
3. It shall be the duty of the historic preservation advisory committee to review all applications for the construction or exterior alteration or enlargement of structures within the historic district or for structures located outside the historic district and listed as "exceptional" or "focus" structures on the local register. The committee shall have the power to approve, modify or disapprove such applications before a building permit can be issued, subject to the provisions of Sections 17.56.100 and 17.56.110.
4. It shall be the duty of the historic preservation advisory committee to review all applications for sign permits within the historic district or for properties located outside the historic district and listed as "exceptional" or "focus" on the local register. The committee may recommend approval, conditional approval or denial of the sign permit application based upon the proposed design and/or materials, but not upon the proposed size or location. The application shall then be presented to the proper issuing authority for sign permits, pursuant to Chapter 17.48. Sign permits shall be issued only in compliance with the recommendation of the committee. Approval by the committee in no way implies approval by the issuing authority for sign permits, whose approval must also be secured pursuant to Chapter 17.48.
5. It shall be the duty of the historic preservation advisory committee to review all applications for the moving or demolition of structures listed on the local register. The committee shall have the power to approve, conditionally approve, or disapprove such applications, subject to the provisions of Section 17.56.130.
6. It shall be the duty of the historic preservation advisory committee to compile and update the historic survey and inventory, and to nominate properties to the local register and the National

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Register of Historic Places. In selecting properties for nomination to the local register, the board shall consider:

- a. Architectural significance and style;
- b. Historic significance, including age of structure, original owners, and events related to the structure, site or original owners.

The committee shall review the local register annually, make recommendations for the addition or deletion of structures or sites, and submit said recommendations to the planning commission and city council for certification.

7. Permits may be issued for air conditioners, electrical work and plumbing work ~~which~~that is visible from a public right-of-way when the chief building official determines that the work insignificantly affects the exterior of a structure, or that reasonable alternatives as to location or screening have been employed. The building official may forward to the historic preservation advisory committee applications for permits for this type of work when it appears that the appearance of a structure may be significantly altered.

This subsection shall not apply to the following types of permit applications:

1. Reroofing with like materials;
2. Residing with like materials;
3. Swimming pools;
4. Masonry repairs with like materials;
5. Chimney repair with like materials.

17.56.060 Appeal.

Any person or persons jointly or severally aggrieved by a decision of the historic preservation advisory committee may make an appeal in writing therefrom to the city council within ten days of said action. The city council, after proceeding in the manner as provided therein and with the same power and authority there invested in passing upon appeals before it under the provisions of law and this chapter and in the exercise thereof, may reverse, affirm or modify or affirm as modified the action of the historic preservation advisory committee. Appeals of a decision of the site plan review committee shall be filed with the planning commission in the manner prescribed in Section 17.28.050.

17.56.070 Demolition or moving of historic structures.

A. The demolition of structures listed on the local register, and the moving of local register structures from their sites, shall be discouraged. The historic preservation advisory committee

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shall review all applications for demolition or moving permits for structures on the local register and for any structures within the historic district boundaries.

B. After due consideration, the committee shall exercise one of the options listed below:

1. The committee may approve the demolition permit if it finds that the structure is a hazard to public health or safety, as determined by the building official or his designee, in consultation with the historic preservation advisory committee.
2. The committee may decide that up to a six-month moratorium be placed upon the processing of the demolition or moving permit, in order to allow time for the applicant and the committee to find alternative uses for the structure and to seek alternative solutions to the demolition or moving of the structure. If no alternatives are found, after the six-month moratorium has expired, the committee must approve the application.
3. In the case of local register structures ~~which that~~ have been classified as “exceptional,” the committee may deny an application for demolition, after the six-month moratorium has expired. Denial of a demolition permit by the committee is subject to appeal to the city council pursuant to Section 17.56.060.
4. The committee may approve the application.

C. When an application is acted upon, the committee shall notify the building official of the approval, conditional approval or denial. Upon receipt of said notification, the building official shall process the application accordingly. If, after six months from the date of filing of the application, the building official has not received such notification, a permit may be issued. Approval of a permit application by the committee in no way implies approval by the building official, whose approval must also be secured.

17.56.080 ~~Ordinance-Ordinary~~ maintenance and repair.

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any structure within the historic district; provided such work involves no change ~~which that~~ requires issuance of a building permit. Nothing in this chapter shall be construed to prevent the construction, reconstruction, alteration or demolition of any feature ~~which that~~ in the view of the proper authority acting lawfully, is required for the public safety because of an unsafe or dangerous condition.

17.56.090 Exceptions to Visalia Municipal Code requirements.

Due to the peculiar conditions of design and construction in historic neighborhoods where structures were sometimes built close to lot lines, and where ownership patterns have changed over the years, it is sometimes in the public interest to retain the historic appearance of a neighborhood by making an exception to normal setback, parking, landscaping, fencing and screening requirements of the Visalia Municipal Code, where such an exception does not interfere with the public health or safety. Within the historic district, where it is deemed that such an exception is warranted and will not adversely affect neighboring properties, the historic

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preservation advisory committee may initiate and/or recommend to the planning commission that such exception to Visalia Municipal Code requirements be made.

17.56.100 Building design compatibility criteria.

This section contains criteria for reviewing all applications for new construction and sign permits within the historic district, and for any rehabilitation, renovation, alteration, reconstruction, or enlargement affecting the exterior appearance of any structure within the historic district ~~which that~~ is not listed on the local register, which requires the issuance of a building permit. Each application shall be considered in terms of its compatibility or complementariness with a majority of structures in the immediately surrounding area. In reviewing an application, the historic preservation advisory committee shall consider the following general design standards and principles:

- A. **Height and Scale.** New buildings should be constructed to a height within a reasonable average height of existing adjacent buildings.
- B. **Spacing of Buildings on Street.** A rhythm of recurrent building masses to separations should be retained.
- C. **Relationship of Materials and Textures.** Choice of building materials and texture (smooth and rough) should enhance the desired neighborhood qualities such as compatibility, similarity and continuity.
- D. **Relationship of Architectural Details and Roof Shapes.** Choice of architectural details and roof shape should insure compatible appearance with surrounding structures.
- E. **Walls of Continuity.** Physical ingredients such as brick walls, wrought iron fences, ~~evergreen and evergreen~~ landscape masses should be used to form continuous cohesive walls of enclosure along the street.
- F. **Landscaping.** Landscaping should reflect the predominant quality and quantity of landscaping within the surrounding area. The concern here is more with mass and continuity.
- G. **Directional Expression of Front Elevations.** Structural shape, placement of openings, and architectural details should be used to give a compatible appearance with adjacent structures ~~which that~~ may be horizontal, vertical or nondirectional in nature.

17.56.110 Local register structures.

This section contains criteria for reviewing all applications for building permits for exterior rehabilitation, renovation, alteration, reconstruction, or enlargement of any local register structure within the historic district, or any “exceptional” or “focus” local register structure outside the historic district, and for any interior modification ~~which that~~ requires the issuance of a building permit for a publicly owned and publicly accessible local register structure. In reviewing an application, the historic preservation advisory committee shall consider the following general standards and principles:

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- A. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
- B. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- C. All buildings, structures and sites shall be recognized as products of their own time. Alterations ~~which that~~ have no historic basis and ~~which that~~ seek to create an earlier appearance shall be discouraged.
- D. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- E. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure or site, shall be treated with sensitivity.
- F. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- G. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken, without prior approval of the historic preservation advisory committee.
- H. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project.

17.56.120 Role of building official.

- A. The building official shall refuse to issue all building or sign permits based upon an application disapproved by the historic preservation advisory committee, unless such application is later approved by the city council. The building official may approve any application approved or conditionally approved by the committee at such time as any conditions specified in such conditional approval are clearly indicated by the applicant on the plans presented to the building official for approval. ~~The building official shall, within ten days from the date of committee approval, issue the permit applied for; provided, that all requirements of the building code are met. The building official shall likewise issue the permit as applied for in the case of any building permit application referred to the committee which the committee has failed to approve or disapprove within thirty (30) days of the date of submittal of the application. If an appeal to~~

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the city council is filed within ten days from the date of committee approval of an application, no permit shall be issued until the outcome of said appeal is finally determined by the city council.

B. After a building permit has been issued, the building official or his/her designee shall from time to time inspect the construction, alteration or enlargement approved by the committee and shall take such action as is necessary to assure compliance with the approved plans.

17.56.130 Separability.

The provisions of this chapter shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not impair any of the remaining provisions.

Chapter 17.58 DOWNTOWN RETAIL OVERLAY DISTRICT

Sections:

17.58.010 Purposes and intent.

17.58.015 Applicability.

17.58.020 Components of the chapter.

17.58.030 Definitions.

17.58.040 Regulation of improvements.

17.58.050 Creation of downtown design review board.

17.58.060 Appeal to the city council.

17.58.070 Ordinary maintenance and repair.

~~17.58.080 Building design criteria.~~

Standards applying to new buildings and alterations to existing buildings.

~~17.58.082 Standards applying alterations to existing buildings.~~

~~17.58.084 Standards applying to new buildings.~~

~~17.58.086 Maintenance and repair required.~~

17.58.090 Exceptions.

17.58.100 Role of building official.

17.58.110 Separability.

17.58.010 Purposes and intent.

A. There is created a downtown retail ~~design overlay~~ district, the boundaries of which are shown on the map entitled, "Downtown Retail ~~Design Overlay~~ District," which is ~~on file at city hall~~ delineated on the Zoning Map. Said map is adopted and made a part of this ordinance.

B. This chapter is enacted to preserve and promote the public health, safety, and welfare of the citizens of Visalia, and to express the commitment of the city toward the continued vitality and

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stabilization of regional retail commercial activity within the area traditionally known as Downtown Visalia. This commitment seeks to:

1. Protect and enhance existing buildings and improvements in the ~~Downtown~~downtown area.
2. Enhance the character and physical environment of the ~~Downtown~~downtown area by establishing specific design compatibility criteria for new and remodeled buildings within the overlay District~~district~~.
3. Ensure that new development is compatible with existing and future plans for the area.
4. Involve both design professionals and area residents, property owners and merchants, in the implementation of the Visalia Downtown Framework Plan and the continued viability of the downtown retail economy.

17.58.015 Applicability.

The requirements in this chapter shall apply to all structures and properties within the downtown retail overlay district, as defined herein.

17.58.020 Components of the chapter.

This chapter shall include:

- A. The ordinance text, which specifies the downtown retail ~~design overlay~~ district overlay designation, design evaluation criteria, and ~~establishes the formation,~~ powers and duties ~~of the downtown design review board~~with regard to the overlay district;
- B. A map designating the downtown retail district overlay, which shall be depicted on the official zoning map of the city.

17.58.030 Definitions.

- A. All definitions, general and specific, set forth in Section 17.04.030, shall be applicable to this chapter.
- B. Word Usage.
 1. The word “shall” is prescriptive in nature and indicates that compliance is mandatory.
 2. The words “may,” “should” and “preferred” are permissive in nature and indicate that compliance is discretionary on the part of the applicant.
- C. Definitions.

“Construction” means any building activity requiring the issuance of a building permit ~~which~~that affects the exterior appearance of a structure.

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“Enlargement” means construction ~~which~~that results in the expansion of the gross floor area of a structure.

“Exterior architectural feature” means the architectural elements embodying the style, design, general arrangement, and components of all of the outer surfaces of an improvement; the kind, color, and texture of the building materials; and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

“Improvement” means any building, structure, place, parking facility, fence, gate, wall, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

~~“Owner” means the person or persons in actual charge of the structure or a portion of the structure. It includes the agent or agents of the owner specifically charged with responsibility for maintenance of the structure by a written contractual agreement and the occupants specifically charged with responsibility for maintenance of the structure by a written contractual agreement.~~

17.58.040 Regulation of improvements.

No improvement or exterior architectural feature of any improvement shall be constructed, altered or enlarged ~~which~~that is located in the downtown retail overlay district unless a site plan review permit is issued pursuant to the terms of this chapter and Chapter 17.28. Where this chapter may conflict with Chapter 17.28, this chapter shall apply. This section shall not apply to any interior alteration ~~which~~that has no ~~effect~~effect on the condition or appearance of any exterior architectural feature of an improvement.

~~17.58.050 Creation of downtown design review board~~Procedures for review of applications.

~~In order to execute the purposes declared in this chapter, there is created a downtown design review board.~~

~~A. Board Membership~~The site plan review committee created in Chapter 17.28 shall be the reviewing authority for the downtown retail overlay district, with powers and duties as specified in this chapter.

~~1. The downtown design review board shall consist of seven members appointed by the city council to serve without compensation. All board members shall be residents of the city at the time of their appointment and will lose their position if they move outside the city limits during their term of office. Members shall be appointed on the basis of the following qualifications:~~

~~a. At least three members shall have professional design or architectural experience or background, one of which shall be a licensed architect;~~

~~b. At least four members shall own property or have businesses within the area;~~

~~c. Exceptional civic interest relating to the downtown area.~~

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~~1. Terms of office shall be for two years, except that initial appointments shall be three years for three members, two years for two members, and one year for two members.~~

~~2. Vacancies which that may occur on the board shall be filled by appointment of a new member by the city council for the duration of the unexpired term of office. The council shall also have the power to remove any member from the board by an affirmative vote of three council members.~~

~~3. Four members of the board shall constitute a quorum for the transaction of business.~~

~~B. Procedures for the Review of Applications. The operating procedures of the board shall be prescribed from time to time by resolution of the city council, for the purpose of carrying into effect the standards and specifications of this chapter. The board may adopt, amend and repeal rules and regulations governing the conduct of its meetings, as long as said rules do not violate the precedures established by the city council or the terms of this chapter.~~

~~B. Duties and Responsibilities. The site plan review committeeboard shall review applications only as specified in this chapter, consistent with the rules and regulations adopted from time to time by resolution of the city council (as referred to in Section 17.58.050(B)) in this chapter.~~

~~Applications shall be approved or disapproved based solely on those building design criteria adopted pursuant to Section 17.58.080 in this chapter, for which compliance is mandatory. The board may suggest that building design criteria which that are permissive be followed; however, applications shall not be approved or disapproved on the basis of any such nonmandatory criteria. The duties and responsibilities of the downtown design review boardsite plan review committee shall include the following:~~

~~4C. At the option of the planning commission, the board-site plan review committee may review proposed zoning actions (zone changes, conditional use permits, special zoning exceptions, planned unit developments and variances) within the district. The board-site plan review committee may recommend approval, conditional approval, modification or disapproval of an application based upon the expected impact of the proposed zoning action on the character of the affected improvement(s), neighboring properties, or the entire district. The board's recommendation shall be forwarded to the planning commission for its consideration.~~

~~2D. It shall be the duty of the site plan review committeeboard to review all applications for the construction or exterior alteration or enlargement of improvements within the overlay district. The site plan review committeeboard shall have the power to approve, modify or disapprove such applications before a building permit can be issued.~~

~~3E. It shall be the duty of the site plan review committeeboard to review all applications for sign permits within the district. Applications for sign permits shall be obtained from and filed with city pursuant to Chapter 17.48, and thereafter the application shall immediately be referred to the site plan review committee downtown design review board for their review and recommendation. The site plan review committeeboard may recommend approval, conditional approval or denial of the sign permit application. The application shall then be presented to the proper issuing authority for sign permits, pursuant to Chapter 17.48 of the Municipal Code. Sign~~

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permits shall be issued only in compliance with the recommendation of the ~~site plan review committee board~~. Approval by the ~~site plan review committee board~~ in no way implies approval by the issuing authority for sign permits, whose approval must also be secured pursuant to Chapter 17.48.

~~4F.~~ It shall be the duty of the ~~site plan review committee board~~ to review all applications for the moving or demolition of structures within the ~~overlay~~ district. The ~~site plan review committee board~~ shall have the power to approve, conditionally approve, or disapprove such applications, subject to the provisions of Section 17.58.060.

~~5G.~~ Permits may be issued for air conditioners, electrical work and plumbing work ~~which that~~ is visible from a public right-of-way when the chief building official determines that the work insignificantly affects the exterior of a structure, or that reasonable alternatives as to location or screening have been employed. The building official may forward to the ~~site plan review committee Board~~ applications for permits for this type of work when it appears that the appearance of a structure may be significantly altered. This subsection shall not apply to the following types of permit applications:

- ~~a1.~~ Reroofing with like materials;
- ~~b2.~~ Residing with like materials;
- ~~e3.~~ Masonry repairs with like materials;
- ~~d4.~~ Chimney repair with like materials.

17.58.060 Appeal to the city council.

Any person or persons jointly or severally aggrieved by a decision of the ~~downtown design review board~~~~site plan review committee~~ may make an appeal in writing therefrom to the city council. Such appeal shall be filed with the city clerk within ten days of said action. The appeal shall be placed on the agenda of the council's next regular meeting after the appeal is filed. The council shall review the decision of the board and may reverse, affirm, modify or affirm as modified the action of the board. The decision of the council shall be final.

17.58.070 Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any structure within any district; provided, such work involves no change in the exterior appearance of a structure. Nothing in this chapter shall be construed to prevent the construction, reconstruction, alteration or demolition of any feature ~~which that~~ in the view of the proper authority acting lawfully is required for the public safety because of an unsafe or dangerous condition.

17.58.080 Building design criteria Standards applying to new buildings and alterations to existing buildings.

~~The city council is empowered to adopt by resolution specific criteria and guidelines for review of applications for new construction and sign permits within the downtown retail district. These criteria and guidelines shall also apply to any rehabilitation, renovation, alteration, reconstruction, repainting or enlargement affecting the exterior appearance of any improvement within the district. The council may amend these standards from time to time, by resolution.~~

The following standards shall apply to new buildings and alterations to existing building within the downtown retail overlay district:

A. Awnings attached above street level storefronts and/or upper-story windows are encouraged. Size and scale shall be appropriate to the building, however, significant elements of the building's architecture should not be obscured by upper-story awnings. Ground floor awnings shall project a minimum of five (5) feet over the sidewalk. Awning materials shall be cloth or canvas. Awning colors shall be limited to a blue, burgundy, tan or tones and/or prints of these. White may be incorporated into the design of awnings for contrast or valance signage, but shall not compromise a majority of the color theme of any awning.

B. The following materials and building elements shall be prohibited:

1. Use of wood siding, cladding or wood shingles, in excess of ten (10) percent of the total area of any building façade.

2. Mansard form roof tiles.

3. Unbroken masses of split face, slump stone or concrete unit masonry.

4. Use of reflective or mirrored surface cladding, in excess of then (10) percent of the total area of any building façade.

5. Exposed utility conduit, junction boxes, meters, or fuse boxes on the front façade of buildings.

17.58.082 Standards applying to alterations to existing buildings.

The following standards shall apply when undertaking the renovation of existing buildings within the downtown retail overlay district:

A. Where originally constructed buildings facades remain, their appearance shall not be altered. Such facades shall be repaired and preserved. Where facades have been altered, as much original material and detail shall be retained in the rehabilitation as possible.

B. Where most of the existing architectural design dated from an interim remodeling and where such remodeling adds to the traditional character of the district, rehabilitation shall conform to the period of such remodeling and not to the original design.

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C. Where the original design cannot be determined or where financial considerations preclude full-scale rehabilitation of a façade which has previously been altered, a design which is not a pure rehabilitation but which is in keeping of the structure are prohibited.

D. Where originally constructed facades and/or architectural details have been covered by an interior remodeling, the removal of coverings is encouraged. When original materials, facades and/or architectural details are uncovered, these shall not be recovered.

E. Where windows and doors still exist, the original sills, lintels, frames, sash, muntins and glass of windows and transoms shall be preserved. The original doorway elements, including sill, lintels, frames, and the doors shall also be retained. Where possible, replacements should duplicate the originals in design and materials. The blocking or covering of any portion of an existing window or door opening with permanent materials is prohibited. When new window or door openings are created, the scale of these should approximate that of the traditional architecture of the district. The base of new window opening shall be a maximum of thirty (30) inches above ground level. Whenever the size and/or scale of any existing window openings are altered, the base of all the window openings in the storefront shall be brought into conformance with the maximum 30-inch standard. This subsection shall not apply to ordinary repair or replacement of window glass or frames where the size and/or scale of window openings are not altered.

F. Brick is most dominant traditional building material within the district and is preferred as a replacement material. Brick shall not be covered by wood shingles, wood, aluminum siding, or any other synthetic materials. Where brick has been painted, repainting in a color that matches the natural color of the brick as closely as possible is preferred. Where brick remains unpainted, the use of paint in the exterior is prohibited, since unpainted brick is a crucial element of the traditional character of the district.

G. Stuccoed brick surfaces should be retained, unless held in place with wire mesh, in which case the stucco should be removed. Where retained, stucco should be repainted in a brick color.

17.58.084 Standards applying to new buildings.

The following standards shall apply to new buildings within the downtown retail overlay district. The objective of this section is to ensure that contemporary design is compatible with the traditional theme and character of the downtown retail overlay district. The effect of the proposed design of new construction on the overall character of the district should be the first frame of reference for such compatibility. The next consideration should be the effect of the proposed design on the adjacent buildings and streetscape.

A. New construction shall maintain the continuity of existing rows of buildings; facades shall be constructed at the property line facing the street, or at a setback even with that of adjacent buildings.

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B. New buildings shall be constructed to within ten (10) percent of the maximum height of adjacent buildings. The scale of new architectural elements should be consistent with that of adjacent structures.

C. Brick is the preferred exterior building material for new construction. The color texture should be similar to that of brick traditionally used in the district.

D. The scale of window and door openings in new buildings should approximate that of the traditional architecture of the district. The base of window openings shall be a maximum of thirty (30) inches above ground level.

17.58.086 Maintenance and repair required.

A. Neither the owner of nor the person(s) in actual charge of a structure within the district shall permit such structure to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural features so as to produce, or tend to produce, in the judgment of the Building Official, a detrimental effect on the character of the district as a whole or the life and character of the structure in question, including, but not limited to:

1. The deterioration or decay of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of exterior chimneys;
4. The extensive deterioration or crumbling of exterior plaster or mortar;
5. The extensive peeling or chipping of exterior paint;
6. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

B. The city's zoning compliance officer, or other designated enforcement official, shall serve written notice upon the owner of any structure deemed to be in violation of this section or any applicable municipal code. Notice shall comply with Visalia Municipal Code Section 1.13.070 if the violation is pursued through administrative enforcement. Alternatively, the enforcement official may pursue the violation as a criminal infraction. Said written notice shall specify the nature of the condition or conditions which are in violation of the maintenance and repair requirement and direct that said conditions be repaired or corrected within an appropriately reasonable period of time. If the condition or conditions are not remedied within the stated period of time in the notice, then an administrative penalty or fine as stated in section 1.12.010 of the Visalia Municipal Code shall be enforced and may be collected under the methods stated in section 1.13.110. Said notice shall further advise the owner of said structure of his/her right to request a hearing before the planning commission to review the determination of the city's enforcement officer. The request for hearing shall be made within ten (10) days of the receipt of notice by the owner, with applicable fees, as set forth in Chapter 1.13 of the Municipal Code and the administrative hearing shall be conducted pursuant to the requirements of Chapter 1.13.

C. After a hearing, the administrative hearing officer may approve, modify, or reject the determination of the city's enforcement officer at the conclusion of such hearing. Should an administrative hearing officer determine at the conclusion of such a hearing that there is a violation of this provision, the administrative hearing officer shall require that the structure in question be brought into compliance within an appropriately reasonable period of time and in addition order the collection of any applicable fines.

17.58.090 Exceptions.

Within the downtown retail overlay district, design and construction conditions exist ~~which~~that are unique and are not generally found elsewhere in the city. Structures were often constructed on or near lot lines and abut one another in many cases. Storefronts and building facades have often been redesigned, covered or otherwise subjected to major alterations over the years. Due to these peculiar conditions, it is sometimes in the interest of enhancing the character of the district to make an exception to the building design criteria ~~adopted pursuant to in this chapter~~ Section ~~17.58.080~~ and/or signage, landscaping, setbacks, fencing and screening requirements of the Visalia zoning ordinance. Where it is deemed that the physical and economic well-being of the district would be better served by such an exception rather than the strict application of the above mentioned building design criteria and other ordinance requirements, the ~~downtown design review board~~site plan review committee may ~~initiate and/or~~ recommend to the planning commission that such exception be made, pursuant to Section 17.42.030.

17.58.100 Role of building official.

A. The building official shall refuse to issue all building or sign permits based upon an application disapproved by the ~~board~~site plan review committee, unless such application is later approved by the city council. The building official may approve any application approved or conditionally approved by the ~~board~~site plan review committee at such time as any conditions specified in such ~~conditional~~ approval are clearly indicated by the applicant on the plans presented to the building official for approval. If an appeal to the city council is filed within ten days from the date of board approval of an application, no permit shall be issued until the outcome of said appeal is finally determined by the city council.

B. After a building permit has been issued, the building official shall from time to time inspect the construction, alteration or enlargement approved by the board and shall take such action as is necessary to assure compliance with the approved plans.

17.58.110 Separability.

The provisions of this chapter shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not impair any of the remaining provisions.

Chapter 17.60 DEVELOPMENT AGREEMENTS

Sections:

- 17.60.010 Authority for adoption and applications.**
- 17.60.020 Hearing and notice.**
- 17.60.030 Action by planning commission.**
- 17.60.040 Action by city council.**
- 17.60.050 Amendment or cancellation of agreement by mutual consent.**
- 17.60.060 Recordation.**
- 17.60.070 Periodic review.**
- 17.60.080 Modification or termination.**
- 17.60.090 Moratorium on further development.**

17.60.010 Authority for adoption and applications.

These regulations are adopted under the authority of Government Code Sections 65864--65869.5.

A. Applications.

1. The city planner shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements.

2. The city planner may require an applicant to submit such information and supporting data as the city planner considers necessary to process the application.

B. Fees. The city council shall by separate resolution fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations.

C. Qualification as an Applicant. Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in

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the real property ~~which~~that is the subject of the development agreement. Applicant includes authorized agent. The city planner may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the city planner may obtain the opinion of the city attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

D. Proposed Form of Agreement. Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by designating the city's standard form of development agreement and including specific proposals for changes in or additions to the language of the standard form.

E. Review of Application. The city planner shall endorse on the application the date it is received. He shall review the application and may reject it if it is incomplete or inaccurate for processing. If he finds that the application is complete, he shall accept it for filing. The city planner shall review the application and determine the additional requirements necessary to complete the agreement. After receiving the required information, a staff report and recommendation shall be prepared, which shall state whether or not the agreement as proposed or in an amended form would be consistent with the general plan and any applicable specific plan.

17.60.020 Hearing and notice.

A. The planning commission and city council shall each hold a public hearing on each application for a development agreement. The city planner shall give notice of intention to consider adoption of the development agreement. Notice of the public hearing shall be given not less than ten days nor more than thirty (30) days prior to the date of the hearing by mailing a notice to all property owners within three hundred (300) feet of the property ~~which~~that is the subject of the proposed development agreement, and by publication in a newspaper of general circulation within the city. The form of the notice of intention to consider adoption of the development agreement shall contain:

1. The time and place of the hearing;
2. A general explanation of the matter to be considered including a general description of the area affected;
3. Other information required by specific provision of these regulations or which the city planner considers necessary or desirable.

B. The failure of any person entitled to notice required by law or these regulations to actually receive such notice, does not affect the authority of the city to enter into a development agreement. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the

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opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not presumption that error is prejudicial or that injury was done if error is shown.

17.60.030 Action by planning commission.

A. After the public hearing, the planning commission shall make its recommendation in writing to the city council. The recommendation shall include the planning commission's determination whether or not the following findings can be made:

1. That the proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the general plan, any applicable specific plan, and/or any proposed amendment to the general plan or applicable specific plan submitted simultaneously and in conjunction with the proposed development agreement;

2. That the proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

3. That the proposed development agreement is in conformity with public convenience, general welfare and good land use practice;

4. That the proposed development agreement will not be detrimental to the public health, safety and general welfare;

5. That the proposed development agreement will not adversely affect the orderly development of property or the preservation of property values.

B. The recommendation shall include the reasons for the recommendation.

17.60.040 Action by city council.

A. After the city council completes the public hearing, it may accept, modify or disapprove the recommendation of the planning commission. It may, but need not, refer matters not previously considered by the planning commission during its hearing back to the planning commission for report and recommendation.

B. The planning commission may, but need not, hold a public hearing on matters referred back to it by the city council.

C. The city council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan, and any applicable specific plan. Any proposed change in the general plan or applicable specific plan must be approved prior to, but simultaneously with, the approval of the development agreement.

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D. If the city council approves the development agreement, it shall do so by the adoption of an ordinance. Upon the ordinance approving the development agreement taking effect, the city may enter into the agreement.

17.60.050 Amendment or cancellation of agreement by mutual consent.

Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into. The procedure for such proposing and adoption of an amendment or cancellation is the same as the procedure for entering into an agreement in the first instance, as prescribed by Sections 17.60.010 through 17.60.040. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement, it shall first give notice to the property owner of its intention to initiate such proceedings at least thirty (30) days in advance of the giving of notice of intention to consider the amendment or cancellation required by this section.

17.60.060 Recordation.

Within ten days after the city enters into the development agreement, the city clerk shall have the agreement recorded with the county recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Section 17.60.050, or if the city terminates or modifies the agreement as provided in Section 17.60.050 for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the city clerk shall have notice of such action recorded with the county recorder.

17.60.070 Periodic review.

A. **Time for and Initiation of Review.** The city planning staff shall review the development agreement every twelve (12) months from the date the agreement is entered into. The time for review may be modified either by agreement between the parties or by initiation in one or more of the following ways:

1. Recommendation of the planning staff;
2. Affirmative vote of at least three members of the planning commission;
3. Affirmative vote of at least three members of the city council.

B. **Notice of Periodic Review.** The city planner shall begin the review proceeding by giving notice to the property owner that the city intends to undertake a periodic review of the development agreement. Following the review of the development agreement, the city planner shall make a determination that the property owner has made good faith performance and compliance with the terms of the agreement. If such finding is made by the city planner, no further action on the part of the city need be taken. If the city planner finds reasonable cause or evidence that the property owner has not demonstrated good faith performance and compliance with the terms of the agreement, such finding constitutes grounds for referring the matter of periodic review before the planning commission in public hearing. The city planner shall give

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the notice at least thirty (30) days in advance of the time at which the matter will be considered by the planning commission.

C. **Public Hearing.** The planning commission shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

D. **Findings Upon Public Hearing.** The planning commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

E. **Procedure Upon Findings.**

1. If the planning commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded;

2. If the planning commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the planning commission may recommend to the city council that the agreement be modified or terminated.

17.60.080 Modification or termination.

A. If, upon a finding under Section 17.60.070(E)(2), the planning commission recommends the modification or termination of the agreement, the city council shall give notice to the property owner of its intention to consider such modification or termination. The notice shall contain:

1. The time and place of the council meeting at which the matter is to be considered;
2. A statement as to whether the city proposes to terminate or to modify the development agreement;
3. Other information ~~which~~that the city considers necessary to inform the property owner of the nature of the proceeding.

B. **Action by City Council.** At the time and place set for the consideration of modification or termination, the property owner shall be given an opportunity to be heard. The city council may modify or terminate the agreement. The council may, but need not, refer the matter back to the planning commission for further proceedings. The council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the council is final.

17.60.090 Moratorium on further development.

In the event that the applicant fails to complete the agreement as specified under Section 17.60.060, or the agreement is terminated as specified under Section 17.60.080, the city council

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shall enact an urgency ordinance placing a moratorium on further development activities on the property which is the subject of the agreement so terminated. The moratorium shall continue until such time as a new development agreement is executed; or until the property is rezoned or other regulations or controls on the development of the property are enacted ~~which~~that the city considers sufficient to protect its interests.

Chapter 17.62 ADULT-ORIENTED BUSINESSES

Sections:

- 17.62.010 Purpose and intent.**
- 17.62.020 Definitions.**
- 17.62.030 Minimum proximity requirements.**
- 17.62.040 Amortization of nonconforming adult-oriented business uses.**
- 17.62.050 Extension of time for termination of nonconforming use.**
- 17.62.060 Permits required.**

17.62.010 Purpose and intent.

It is the purpose of this chapter to regulate adult-oriented businesses in order to promote the health, safety, and general welfare of the citizens of the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

It is the intent of this chapter to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods ~~which that~~ can be brought about by the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as schools for minors, day care facilities, churches, parks, and residentially zoned districts or uses. The city council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area, and an increase in crime, and in addition to the effects described above can cause other businesses and residents to move elsewhere. It is, therefore, the purpose of this chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.

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17.62.020 Definitions.

The following words and phrases shall, for the purposes of this chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended:

“Adult arcade” means an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions, thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

“Adult bookstore or adult video store” means an establishment ~~which~~ has a regular and substantial portion of its business in stocking books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations, or of instruments, artificial devices or paraphernalia, ~~which~~ are distinguished or characterized by an emphasis upon the depiction, description, or use in connection with specified sexual activities and/or specified anatomical areas.

“Adult cabaret” means a nightclub, restaurant, or similar business establishment ~~which~~: (1) regularly features live performances ~~which~~ are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) ~~which~~ regularly features persons who appear seminude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions, thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

“Adult hotel or motel” means a hotel or motel or similar business establishment offering public accommodations for any form of consideration ~~which~~: (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions, thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a twenty-four (24) hour period.

“Adult motion picture theater” means a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

“Adult-oriented business” means an adult theater, adult motion picture theater, adult cabaret, adult hotel or motel, adult arcade, or any other business or concern ~~which~~ regularly features or as a regular and substantial portion of its business offers to its patrons products, merchandise, services, or entertainment ~~which~~ are distinguished or characterized by an emphasis upon

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matter depicting, describing or relating to specified sexual activities or specified anatomical areas but not including those uses or activities, the regulation of which is preempted by state law. Adult-oriented business shall also include modeling studios, body painting studios and sexual encounter establishments.

“Adult theater” means a theater, concert hall, auditorium, or similar establishment ~~which~~that, for any form of consideration, regularly features live performances ~~which~~that are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

“Body painting studio” means an establishment or business ~~which~~that provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is nude or seminude.

“Church or religious institution” means a structure ~~which~~that is used primarily for religious worship and related religious activities.

“Distinguished or characterized by an emphasis upon” means and refers to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon” the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See *Pringle v. City of Covina*, 115 Cal.App.3 151 (1981).

Establishment of an Adult-Oriented Business. “Establish an adult-oriented business” means and includes the following: (1) the opening or commencement of any adult-oriented business as a new business; (2) the conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business defined herein; (3) the addition of any of the adult-oriented businesses defined herein to any other existing adult-oriented business; or (4) the relocation of any such adult-oriented business.

“Modeling studio” means a business ~~which~~that provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display specified anatomical areas to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. Modeling studio further does not include a studio or similar facility owned, operated, or maintained by a facility owned, operated, or maintained by an individual artist or group of artists, and ~~which~~that does ~~not~~not provide, permit, or make available specified sexual activities.

“Nude, nudity or a state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage, with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernable turgid state.

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

“Regularly features or regular and substantial course of conduct” means a business or concern, including an adult theater, adult cabaret, and adult motion picture theater, which presents any type of entertainment distinguished or characterized by an emphasis upon specified anatomical areas or specified sexual activities, or performers, models or employees appearing in public nude, seminude, or dressed only in lingerie, on any two or more occasions within a thirty (30) day period; three or more occasions within a sixty (60) day period; or four or more occasions within a one hundred eighty (180) day period.

“Regular and substantial portion of its business” means a business or concern in ~~which~~that: (1) the area(s) devoted to the display of adult material exceeds twenty (20) percent of the total display area of the business; or (2) at least twenty (20) percent of the average annual gross receipts of the business are derived from the sale, trade, rental, display or presentation of services, products, adult material, or entertainment ~~which~~that are distinguished or characterized by an emphasis upon matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. If the business is a new business, the gross receipts shall be calculated by considering the applicants estimated annual gross receipts for the first year of operation.

“School” means and includes any licensed child or day care facility, as well as any institutions of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

“Seminude” means state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

“Sexual encounter establishment” means any business, other than a hotel, motel or similar establishment, offering public accommodations ~~which~~that, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state of California engages in sexual therapy.

“Specified anatomical areas” means and includes any of the following: (1) less than completely and opaquely covered human (i) genitals or pubic region, (ii) buttocks, or (iii) female breast below a point immediately above the top of the areola; (2) human male genitals in a discernibly

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turgid-state, even if completely and opaquely covered; or (3) any device, costume or covering that simulates any of the body parts included in subdivisions (1) or (2) above.

“Specified sexual activities” means and includes any of the following, whether performed directly or indirectly through clothing or other covering: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, actual or simulated, including intercourse, oral copulation, bestiality, or sodomy; (3) masturbation, actual or simulated; (4) excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (3) of this subsection; (5) pedophilia or any other unlawful sex act; (6) striptease, burlesque, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models dressed only in lingerie, to the point where specified anatomical areas are exposed, or to the point of a state of nudity or seminudity.

17.62.030 Minimum proximity requirements.

A. Adult-oriented businesses shall not be established or located in any zone in the city, other than ~~the P-I-H (planned heavy industrial) Industrial zone), P-I-L (planned light industrial) Light Industrial zone), P-C-S (planned service commercial) Service Commercial zone), P-C-R (planned regional retail commercial) Regional Commercial zone), and or P-C-SOC-MU (planned shopping/office) Mixed Use Commercial zone)~~ whichas they are identified on the Zoning map attached hereto as Exhibit A and incorporated herein by reference. In addition, no adult-oriented business shall be located:

1. Within seven hundred fifty (750) feet of any other adult-oriented business located either inside or outside the city limits;
2. Within seven hundred fifty (750) feet of any existing schools, including licensed day care facilities, libraries, parks or other recreational facilities where minors congregate, located either inside or outside of the city limits;
3. Within seven hundred fifty (750) feet of any existing or planned for park or other recreational facility where minors congregate, located either inside or outside of the city limits;
4. Within seven hundred fifty (750) feet of any land ~~whichthat~~ carries a general plan land use designation ~~whichthat~~ contains the words residence or residential within its title.
5. Within seven hundred fifty (750) feet of any existing church or religious institution, located either inside or outside of the city limits.

B. As used in this section, “Existing” means existing at the time the permit application is submitted. “Planned for” means property designated on the general plan of the city for such use, or other official planning documents of the city, or property owned or leased by the city for such use.

C. The distances set forth above shall be measured in a straight line, without regard to intervening structures, as a radius from the primary entrance of the adult-oriented business to the property line of the other use.

17.62.040 Amortization of nonconforming adult-oriented business uses.

A. Any use of real property existing on the effective date of the ordinance codified in this chapter ~~which~~that does not conform to the provisions of Section 17.62.030, but ~~which~~that was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use ~~which~~that may be continued until one year after the effective date of said ordinance. On or before such date, all such nonconforming uses shall be terminated unless an extension of time has been approved by the city council in accordance with the provisions of Section 17.62.050.

B. Abandonment. Notwithstanding the above, any discontinuance or abandonment of the use of any lot or structure as an adult-oriented business shall result in a loss of legal nonconforming status of such use.

C. Amortization--Annexed Property. Any adult-oriented business ~~which~~that was a legal use at the time of annexation of the property and ~~which~~that is located in the city, but ~~which~~that does not conform to the provisions of Section 17.62.030, shall be terminated within one year of the date of annexation unless an extension of time has been approved by the city council in accordance with the provisions of Section 17.62.050.

17.62.050 Extension of time for termination of nonconforming use.

A. The owner or operator of a nonconforming use as described in Section 17.62.040 may apply under the provisions of this section to the city council for an extension of time within which to terminate the nonconforming use.

B. Time and Manner of Application. An application for an extension of time within which to terminate a use made nonconforming by the provisions of Section 17.62.040, may be filed by the owner of the real property upon which such use is operated, or by the operator of the use. Such an application must be filed with the city council at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in Section 17.62.030 for termination of such use.

C. Content of Application--Fees. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the schedule of fees established by resolution from time to time by the city council.

D. Hearing Procedure. The city council shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within forty-five (45) days of receipt of the application. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to California Code of Civil Procedure section 1094.6.

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E. **Approval of Extension--Findings.** An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer appointed by the city council makes all of the following findings or such other findings as are required by law.

1. The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to the effective date of this chapter;
2. The applicant will be unable to recoup said investment as of the date established for termination of the use; and
3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section 17.62.030.

17.62.060 Permits required.

A. **Adult-Oriented Business Regulatory Permit.** It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of an adult-oriented business unless the person first obtains and continues to maintain in full force and effect a permit from the city as herein required.

B. **Adult-Oriented Business Performer Permit.** It is unlawful for any persons to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business unless the person first obtains and continues in full force and effect a permit from the city as herein required.