

## **PART IV - REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS**

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#### **4-1600 Specific Purposes and Applicability**

This article contains development regulations, other than parking, loading, and sign regulations that are applicable to development in all or several districts. These regulations shall be applied as specified in Part II: Base District Regulations, Part III: Overlay District Regulations, and as presented in this article.

#### **Residential Districts**

##### **4-1602 through 4-1628 Reserved**

#### **Non-Residential Districts**

##### **4-1630 Fast Food Establishments**

The following supplementary development regulations shall apply to Fast Food Establishments, Large Scale and Fast Food Establishments, Small Scale use classifications.

- A. No Exterior Walk-Up Service. Food shall be delivered to patrons within a car or within a building, or enclosed or covered outdoor eating area.
- B. Minimum Separation. Fast Food Establishment, Large Scale uses on separate freestanding sites that are: a) not associated as being either a part of or within a shopping center and b) have independent access to adjoining parking shall not be closer than five hundred (500) feet to a public or private school, park, library, or playground. This minimum separation requirement does not apply to the Fast Food Establishment, Small Scale classification.
- C. Litter Control. Fast Food Establishment operators shall be responsible for pick-up of patrons' litter within a minimum of one thousand (1,000) feet from

the restaurant site. Identifiable containers and napkins shall be used for all carryout food, and all litter resulting shall be promptly removed. A condition of use or zoning permit approval may require the operator to retain a contract litter cleanup service or to take other litter clean-up measures if the Zoning Enforcement Official determines that a litter problem exists.

#### **4-1632 Entertainment Activities**

The following regulations shall apply to any use offering entertainment activities as defined in Article 3, more than three (3) times per calendar year:

- A. Exits, not limited to emergency-use-only, shall not be opposite a Residential (R) District adjoining the site.
- B. A use permit shall establish conditions ensuring that no litter problem will exist.
- C. A use permit for entertainment activities shall apply only to the type of entertainment approved, and a different type of entertainment shall require approval of a new use permit.
- D. A use permit may limit hours, duration, or days on which entertainment activities is provided.

#### **4-1634 Service Stations and Automobile Washing**

The following supplementary development regulations shall apply to the Service Stations and Automobile Washing use classifications.

- A. Site Layout. Conditions of approval of a use permit may require buffering, screening, planting areas, or limit hours of operation necessary to avoid adverse impacts on properties in the surrounding area.
- B. Planting Areas. Perimeter planting areas shall be provided, as required for parking lots by Article 17, except where a building adjoins an interior property line. Required interior planting areas may adjoin perimeter-planting areas.
- C. Storage of Materials and Equipment. The provisions of Section 4-1662: Outdoor Facilities shall apply, except that a display rack for automobile products no more than four (4) feet wide may be maintained at each pump island of a service station. If display racks are not located on pump islands, they shall be placed within three feet of the principal building, and shall be limited to one per street frontage. Storage of inoperative vehicles is prohibited. The location of display racks and vending machines shall be specified by the use permit.

- D. Automobile Washing. Automobile washing or cleaning shall not be permitted in conjunction with a service station unless specifically approved by the use permit.

#### **4-1636 Hazardous Materials Storage**

- A. Definitions. For purposes of this section, "hazardous substances" shall include all substances on the comprehensive master list of hazardous substances compiled and maintained by the California Department of Health Services pursuant to Section 25282 of the California Health and Safety Code.
- B. Permit Required. A use permit shall be required for any new commercial, industrial, or institutional use, or accessory use, or major addition or alteration to an existing use that involves the manufacture, storage, handling, or processing of hazardous substances in sufficient quantities that would require permits as hazardous chemicals under the San Leandro Uniform Fire Code, with the following exceptions:
1. Underground storage of bulk flammable and combustible liquids complying with requirements of the San Leandro Fire Code;
  2. Hazardous substances in container sizes of ten (10) gallons or less that are stored or maintained for the purposes of retail or wholesale sales; and
  3. Any manufacture, storage, handling, or processing of hazardous substances which the Zoning Enforcement Official, after consultation with the Fire Marshall and review of any required hazardous materials response plan ("business plan") determines is not likely to substantially and adversely affect property in the vicinity.
- C. Above-Ground Storage Tanks. Aboveground storage tanks for any flammable liquids shall not be allowed except as permitted in the Uniform Fire Code.

#### **4-1638 Game Centers**

The following supplemental regulations shall apply in addition to the requirements of Section 4-3-110 of the Municipal Code to the operation of game centers, including mechanical or electronic games or any other similar machine or device.

- A. Restrictions. The Zoning Enforcement Official may impose reasonable restrictions on the physical design, location, and operation of a game center in order to minimize the effects of noise, congregation, parking, and other

nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.

- B. Appeals. Any person may appeal the decision of the Zoning Enforcement Official on an application for an initial permit or a renewal of a permit for a game center to the Board of Zoning Adjustments.

#### **4-1640 Reserved**

#### **4-1642 Walls Adjoining Residential Use**

A solid masonry or concrete wall at least six (6) feet and not more than eight (8) feet high shall adjoin the property line of the site of a new nonresidential use abutting an existing ground-floor residential use. However, where the portion of the site within ten (10) feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line, the Zoning Enforcement Official may grant an exception to this requirement. A wall within fifteen (15) feet of a street property line shall not exceed three (3) feet in height.

#### **4-1644 Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages**

No person shall engage in the concurrent sale of motor vehicle fuel and alcoholic beverages unless authorized as a conditional use in accord with Article 22, subject to the minimum standards for approval established by this Section and any additional conditions of approval determined by the Board of Zoning Adjustments to be reasonable and necessary.

- A. Minimum Standards for Approval. All persons applying for conditional use approval to engage, and all persons actually engaged as of January 1, 1988, in the concurrent sale of motor vehicle fuel and alcoholic beverages shall comply with all of the following minimum standards:
1. No alcoholic beverages shall be displayed within five (5) feet of the cash register or the front door of the establishment, unless it is in a permanently affixed cooler;
  2. No sale of alcoholic beverages shall be made from a drive-up window;
  3. No display of alcoholic beverages shall be made from an ice tub;
  4. No alcoholic beverage advertising shall be located on motor fuel islands or otherwise visible from outside the building in which the alcoholic beverage is sold; and

5. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least twenty-one (21) years of age to sell alcoholic beverages.
- B. Conditions of Approval. In addition to the minimum standards set forth, the Board of Zoning Adjustments may provide that any approvals for the concurrent sale of motor vehicle fuel and alcoholic beverages be contingent upon acceptance and observance of specified conditions or limitations determined by the Board to be reasonable and necessary in order to make the required findings, including but not limited to any of the following conditions or limitations relating to:
1. Additional limitations on advertising and display of alcoholic beverages;
  2. Banning of video game machines and/or jukeboxes or similar devices where concurrent sale of motor vehicle fuel and alcoholic beverages take place;
  3. Limitations on hours of operation and on amount of shelf space devoted to alcoholic beverages;
  4. Requirement for security guards and other security devices on the premises;
  5. Minimum parking lot lighting and fencing;
  6. Minimum training for sales personnel and/or security guards;
  7. Policies to discourage drinking alcoholic beverages outside the premises; or
  8. A minimum distance required between businesses engaged in the concurrent sale of motor vehicle fuel and alcoholic beverages.

#### **4-1646 Recycling Facilities**

A. Definitions.

1. "Recyclable Material" is reusable material, including but not limited to metals, glass, plastic, and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials, but may include used motor oil collected and transported in accordance with Section 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

2. "Recycling Facility" is a center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.
  - a. "Collection Facility" is a center for the acceptance by donation, redemption, or purchase of recyclable materials from the public.
    - i. Small collection facilities occupy less than five hundred (500) square feet and may include:
      - A mobile unit;
      - Bulk reverse vending machines or a grouping of reverse vending machines occupying more than fifty (50) square feet;
      - Kiosk-type units that may include permanent structures; or
      - Unattended containers placed for the donation of recyclable materials.
    - ii. Large collection facilities occupy more than five hundred (500) square feet and may include permanent structures as well as mobile units, bulk reverse vending machines, Kiosk-type units.
  - b. "Processing Facility" is a building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.
    - i. A light-processing facility occupies less than forty five thousand (45,000) square feet and includes equipment for baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials, except ferrous metals other than food and beverage containers, and repairing of reusable materials.
    - ii. A heavy-processing facility is any processing facility other than a light-processing facility.
3. "Reverse Vending Machine(s)" is an automated mechanical device that accepts at least one or more types of empty beverage containers such

as aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip. A reverse vending machine may sort and process containers mechanically, provided that the entire process is enclosed within the machine.

- a. A single-feed reverse vending machine is designed to accept individual containers one (1) at a time.
  - b. A bulk reverse vending machine is designed to accept more than one (1) container at a time and to compute the refund or credit due on the basis of weight.
4. "Mobile Recycling Unit" means an automobile, truck, trailer, or van and appurtenant bins, boxes or containers used for the collection of recyclable materials.
  5. "Small Scale Hazardous Waste Center" means a center as defined in Article 3: Definitions, Section 1-304, under "Recycling Centers."

**B. Permits Required.**

No person shall permit the placement, construction, or operation of any recycling facility without first obtaining a permit as follows:

<u>Type of Facility</u>	<u>Districts Permitted</u>	<u>Permit Required</u>
Single-Feed Reverse Vending Machine(s)	All C, NA, SA, and I	Zoning Permit
Bulk Reverse Vending Machine and Small Collection	CN, CC, CS, NA, SA, and I	Zoning Permit
Small Scale Hazardous Waste Center	CS	Use Permit
Large Collection	CC, CS, IG, IL and IP	Use Permit
Light Processing	IL and IG	Use Permit
Heavy Processing	IG	Use Permit

**C. Permits for Multiple Sites.**

1. The Zoning Enforcement Official may grant a single zoning permit to allow more than one reverse vending machine or small collection facility located on different sites under the following conditions:
  - a. The operator of each of the proposed facilities is the same;
  - b. The proposed facilities are determined to be similar in nature, size, and intensity of activity; and
  - c. All the applicable criteria and standards set forth in Section 4-1646.D are met for each such proposed facility.

**D. Design Criteria and Standards.**

1. Reverse Vending Machine(s).
  - a. Each machine shall be located so as not to obstruct pedestrian or vehicular circulation.
  - b. No required parking space shall be occupied, and machine shall not encroach into aisles.
  - c. Each machine shall occupy no more than fifty (50) square feet of space, including any protective enclosure, and shall not exceed eight (8) feet in height.
  - d. Each machine shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative.
  - e. The maximum sign area is four (4) square feet per machine, exclusive of operating instructions of Subsection 4-1646.D.1.d, above;
  - f. Adequate nighttime lighting shall be provided, if warranted.
2. Small Collection Facilities.
  - a. Small collection facilities shall be no larger than five hundred (500) square feet, shall be set back at least ten (10) feet from a front or side property line, and twenty (20) feet from an R district boundary

or lot developed for residential use, and shall not obstruct pedestrian or vehicular circulation.

- b. No power-driven processing equipment shall be used except for reverse vending machines.
- c. All containers shall be constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, secured from unauthorized entry or removal of material, and of a capacity sufficient to accommodate materials collected.
- d. All recyclable material shall be stored in containers or in a mobile unit vehicle.
- e. Attended facilities located within one hundred (100) feet of the boundary of an R district shall operate only between 7 a.m. and 7 p.m.
- f. Containers shall be clearly marked to identify the type of material that may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- g. The maximum sign area shall be sixteen (16) square feet exclusive of informational requirements and operational instruction of Subsection (b) above. Directional signs bearing no advertising message may be installed if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way.
- h. No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One (1) space may be provided for the attendant, if needed.
- i. Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.
- j. No required parking spaces shall be occupied by the facility.

3. Large Collection Facilities.

- a. A large collection facility shall be located at least two hundred (200) feet from an R district.

- b. Each facility shall be in an enclosed building or within an area enclosed by a fence at least eight (8) feet in height that substantially screens the site.
- c. Six (6) parking spaces shall be for customers and one (1) parking space shall be provided for each commercial vehicle operated by the recycling facility.
- d. Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding, or other light-processing activities necessary for efficient temporary storage and shipment of material may be allowed if noise and other conditions are met.

4. Processing Facilities.

- a. Processors shall operate in a wholly enclosed building except for incidental storage, or within an area enclosed on all sides by an opaque fence or wall not less than eight (8) feet in height and landscaped on all street frontages located at least one hundred fifty (150) feet from an R district.
- b. Power-driven processing shall be permitted provided all noise-level requirements are met. Light-processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials.
- c. If the facility is open to the public, space shall be provided for a minimum of ten (10) customers or the peak load, whichever is higher, except where the Zoning Enforcement Official determines that allowing overflow traffic is compatible with surrounding businesses and public safety.
- d. One (1) parking space will be provided for each commercial vehicle operated by the processing center.

5. All Collection and Processing Facilities.

- a. No facility shall occupy a required front or corner side yard, and all regulations applicable to the principal structure on the site shall apply to collection and processing facilities except as provided in this Section.
- b. A large collector or processing facility may accept used motor oil for recycling from the generator in accordance with Section 25250.11 of the California Health and Safety Code.

- c. All exterior storage of material shall be in sturdy containers or enclosures that are covered, secured, and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing.
- d. Noise levels shall not exceed sixty decibels (60 dBA) as measured at the property line of an R district or otherwise shall not exceed seventy decibels (70 dBA).
- e. All facilities shall be administered by on-site personnel during hours the facility is open. If a large collection or processing facility is located within five hundred (500) feet of an R district, it shall not be in operation between 7 p.m. and 7 a.m.
- f. Any containers provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secure from authorized entry or removal of materials.
- g. The site of the facility shall be kept free of litter and any other undesirable material. Containers shall be clearly marked to identify the type of material that may be deposited. A notice stating that no material shall be left outside the recycling containers shall be displayed.
- h. Sign requirements shall be those provided for the zoning district in which the facility is located. In addition, each facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation.

No dust, fumes, smoke vibration or odor above ambient level may be detectable on neighboring properties.

## **All Districts**

### **4-1648 Relocated Buildings**

In addition to the requirements of San Leandro's Municipal Code, Title IV, Article 5, Moving Buildings, Oversized Vehicles or Objects, a permit for relocation of a building shall be required. This permit, to be issued by the Zoning Enforcement Official, shall establish conditions necessary to ensure that the relocated building and its new site will be compatible with its surroundings in terms of architectural character, height and bulk, and quality of exterior appearance.

#### **4-1650 Development on Lots Not Meeting Minimum Area or Width**

A legally created lot having a width or area less than required for the base district in which it is located may be occupied by a permitted or conditional use if it meets the following requirements:

- A. R Districts. Such lots shall be subject to the same yard, setback, density, and FAR requirements as a standard lot. One (1) dwelling unit may be located on a lot of less than required area or width if it conforms to all requirements for a single-family dwelling in the RS District. A use permit shall be required for any other proposed new use.
- B. Other Districts. A use permit shall be required for any proposed new use.

#### **4-1652 Development on Lots Divided by District Boundaries**

The regulations applicable to each district shall be applied to the area within that district, and no use other than parking serving a principal use on the site shall be located in a district in which it is not a permitted or conditional use. Pedestrian or vehicular access from a street to a use shall not traverse a portion of the site in a district in which the use is not a permitted or conditional use.

#### **4-1654 Building Projections into Yards and Courts**

Projections into required yards or required open space shall be permitted as follows. In addition, all development proposals in the SA Districts shall be reviewed by City staff to ensure general consistency with the provisions contained in the Design Guidelines in the East 14<sup>th</sup> Street South Area Development Strategy.

- A. Cornices, eaves, mechanical equipment, and ornamental features: two (2) feet.
- B. Uncovered porches, terraces, platforms, decks, subterranean garages, and patios not more than thirty (30) inches in height: three (3) feet in a side yard, and six (6) feet in a front or rear yard for a length of ten (10) feet parallel to the adjoining property line.
- C. Balconies, stairs, canopies, awnings, and covered porches: six (6) feet into a front or rear yard, and two (2) feet into an interior side yard.
- D. Fire Escapes: three and one-half (3½) feet.
- E. Bay Windows: two and one-half (2½) feet for a width of no more than eight (8) feet.

- F. Chimneys: two (2) feet, except where the required setback from an interior property line is three (3) feet or less in which case no projection is permitted.
- G. Wheelchair Ramps: Ramps constructed as part of an accessible route are permitted in required front or side yard (for corner properties) setbacks with administrative approval. Ramps shall not be allowed to encroach into the City right-of-way. In addition, ramps shall not block access to or encroach into any required off-street parking space or driveway leading to such place; unless there is no other feasible location for the ramp. Ramps may be constructed of concrete and wood or galvanized metal/aluminum and shall comply with the Uniform Federal Accessibility Standards (UFAS) Section 4.8 Ramps. Wood railings shall be stained or painted to be compatible with the color/trim of the home. Metal handrails, spindles and hardware shall be powder-coated to be compatible with the color/trim of the home.

#### **4-1656 Reserved**

#### **4-1658 Exceptions to Height Limits**

Towers, spires, cupolas, chimneys, elevator penthouses, water tanks, flagpoles, monuments, theater scenery lofts, radio and television antennas, transmission towers, fire towers, and similar structures and necessary mechanical appurtenances covering not more than ten percent (10%) of the ground area covered by the structure to which they are accessory may exceed the maximum permitted height in the district in which the site is located by no more than ten (10) feet, unless the Board of Zoning Adjustments approves a variance that authorizes additional height.

#### **4-1660 Reserved**

#### **4-1662 Outdoor Facilities and Storage/Loading Facilities**

- A. Outdoor Storage - Where Permitted:
  - 1. IG District – Permit Not Required. Outdoor storage of materials or equipment is allowed in the IG district, subject to the screening requirements prescribed in Subsection C below. Outdoor storage of materials or equipment shall be strictly related to the operation of the principal use. In no case shall this section permit outdoor storage or display of merchandise, goods, or materials for retail or wholesale sales, unless a Temporary Use Permit is obtained in accordance with Section 5-2222.
  - 2. Other Commercial and Industrial Districts – Outdoor Facilities Permit Required. Outdoor storage and display of merchandise, materials, or equipment, including display of merchandise, materials, and equipment for customer pick-up shall be subject to approval of an Outdoor

Facilities Permit by the Zoning Enforcement Official in the CN, CC, CG, CS, CR, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, C-RM, NA-1, NA-2, SA-1, SA-2, SA-3, IL, and IP Districts subject to screening requirements prescribed in Subsection C below. Sidewalk cafes and outdoor food service accessory to an Eating and Drinking Establishment or a retail use shall be permitted subject to approval of an Outdoor Facilities Permit by the Zoning Enforcement Official in the CN, CC, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, CR, C-RM, NA-1, NA-2, SA-1, SA-2, SA-3, P, PHD, IL, IP, and OS Districts and shall be subject to subsection (B) below. Temporary displays for Outdoor Retail Sales may be allowed with a Temporary Use Permit in accordance with Section 5-2222, consistent with the applicable base district land use regulation, as modified by an overlay district.

- B. Outdoor Facilities Permits – Conditions of Approval and Grounds for Denial. The Zoning Enforcement Official may impose conditions of approval on any permit for outdoor storage, display, or food service issued under this Section, including requirements for yards, screening, or planting areas where it is determined by the Zoning Enforcement Official that such conditions are necessary to prevent adverse impacts on surrounding properties and uses. If the Zoning Enforcement Official determines that such impacts cannot be adequately mitigated, the permit shall be denied.
- C. Outdoor Storage and Loading Facilities –Screening Required:
1. Outdoor storage areas, and truck bays/loading docks areas, shall be screened by the placement of a solid wall, fence, landscaping, and/or building location in order to substantially obscure visibility from a public street. Limited visibility of truck staging areas, as necessary only for truck access to and from the site, may be permitted if no other alternative layout is practical.
  2. The storage of merchandise, materials, and/or equipment at height above the screening wall is not permitted, unless administrative approval is given by the Zoning Enforcement Official, who in order to give approval shall find that: a) the limitation in storage would not be practical for the subject business, and b) such stored items would not be visually obtrusive from a public street or neighboring property.
- D. Exemptions. Notwithstanding the permit regulations of Subsections A and B above, and the screening requirements prescribed in Subsection C above, unscreened outdoor storage and display may be permitted, subject to any restrictions and/or limitations within project specific conditions attached to a use permit, site plan approved pursuant to Article 2, or zoning approval, in conjunction with the following use classifications in districts where they are

permitted or conditionally permitted, and provided outdoor storage and display shall be limited to vehicles or equipment:

1. Vehicle/Heavy Equipment Dealers, New
  2. Vehicle/Heavy Equipment Dealers, Used
  3. Vehicle/Heavy Equipment Rentals
- E. Vehicles/Equipment as Advertisement. No vehicle or equipment shall be stored with mast arms in an elevated position.

#### **4-1664 Screening of Mechanical Equipment**

- A. General Requirement. Except as provided in Subsection B below, all exterior mechanical equipment, except solar collectors in any district and operating mechanical equipment in an IG District located more than five hundred (500) feet from a C, NA, SA, R, PS, PD, or OS district boundary, shall be screened from view on all sides. Except to the extent restricted by public utility companies, equipment to be screened includes but is not limited to heating, air conditioning, refrigeration equipment, plumbing lines, ductwork, and transformers. The Zoning Enforcement Official may waive the screening requirement in C, NA, SA, or I district for equipment not visible from a public street or R district.
- B. Utility Meters. Utility meters shall be screened from view from public rights-of-way, but need not be screened on top or when located on the interior side of a single-family dwelling. Meters in a required front yard or in a side yard adjoining a street shall be enclosed in subsurface vaults.
- C. Screening Specifications. Screening materials may have evenly distributed openings or perforations averaging fifty percent (50%) of the surface area and shall effectively screen mechanical equipment, so that it is not visible from a street or adjoining lot.

#### **4-1666 Refuse Storage Areas**

Except as exempted by the Zoning Enforcement Official, a refuse storage area screened on all sides by a six (6) foot solid wood or masonry wall or located within a building, shall be provided prior to occupancy for all commercial, industrial, and public/semipublic uses. Locations, horizontal dimensions, and general design parameters of refuse storage areas shall be in accord with standards established by the Zoning Enforcement Official, subject to appeal to the Planning Commission. The Zoning Enforcement Official may waive the screening requirement for dumpsters and equipment for refuse collection and storage in a CS, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, or I District, which are not visible from a public street or from an R district.

#### 4-1668 Underground Utilities

All new electrical, telephone, CATV, and similar distribution lines providing direct service to a development site, and any existing such service on the site, shall be installed underground within the site unless the Zoning Enforcement Official finds such installation is unfeasible.

#### 4-1670 Performance Standards

The following performance standards shall apply to all use classifications in all zoning districts:

- A. Noise. All uses and activities shall comply with the provisions of the San Leandro Noise Regulations (Title IV, Chapter 1 of the Municipal Code).
- B. Vibration. No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
- C. Dust. No use, process, or activity shall produce objectionable dust that is perceptible without instruments by a reasonable person at the property lines of a site.
- D. Glare.
  - 1. From Glass. Mirror or highly reflective glass shall not cover more than twenty percent (20%) of a building surface visible from a street unless an applicant submits information demonstrating to the satisfaction of the Zoning Enforcement Official that use of such glass would not significantly increase glare visible from adjacent streets or pose a hazard for moving vehicles.
  - 2. From Outdoor Lighting. Parking lot lighting shall comply with Article 17. Security lighting in any district may be indirect or diffused, or shall be shielded or directed away from an R district within five hundred (500) feet. Lighting for outdoor court or field games within three hundred (300) feet of an R district shall require approval of a use permit.
- E. Combustibles and Explosives. The use, handling, storage, and transportation of combustibles and explosives shall comply with the provisions of the San Leandro Uniform Fire Code (Title III, Chapter 3 of the Municipal Code) and any other applicable laws.

- F. Radioactive Materials. The use, handling, storage, and transportation of radioactive materials shall comply with the provisions of the California Radiation Control Regulations and any other applicable laws.
- G. Hazardous and Extremely Hazardous Materials. The use, handling, storage, and transportation of hazardous and extremely hazardous materials, including biologically hazardous material, shall comply with the provisions of the California Hazardous Materials Regulations and the San Leandro Uniform Fire Code.
- H. Heat and Humidity. Uses, activities, and processes shall not produce any unreasonable, disturbing, or unnecessary emissions of heat or humidity, at the property line of the site on which they are situated that cause material distress, discomfort, or injury to a reasonable person.
- I. Electromagnetic Interference. Uses, activities, and processes shall not cause electromagnetic interference with normal radio or television reception or with the function of other electronic equipment beyond the property line of the site on which they are situated.
- J. Evidence of Compliance. The Zoning Enforcement Official may require such evidence of ability to comply with performance standards as he deems necessary prior to issuance of a zoning permit or any other required permit.

#### **4-1672 Earth Station and Microwave Equipment**

- A. Purpose. To ensure that amateur radio antennas and satellite and microwave dish earth stations and equipment do not have an adverse impact on aesthetic values and public safety in residential, commercial, and industrial areas, installation of these earth stations and equipment is governed by the following controls. The intent of these regulations is only to locate such earth stations and equipment where they are least visible from public rights-of-way in the vicinity, while not burdening adjacent property owners with adverse visual impacts. The intent is not to discriminate against dish earth stations in favor of other communications facilities.
- B. Permit Required. A zoning permit shall be required for the installation of amateur radio antennas, a satellite or microwave-receiving earth station, and a use permit shall be required for the installation of microwave transmitting and relay equipment. In considering a permit application, the Zoning Enforcement Official or Board of Zoning Adjustments shall balance the imposition of all applicable codes, regulations, and standards of the City of San Leandro with the applicant's right to receive satellite transmissions without unreasonable limitations on transmission reception or the imposition of costs which are excessive in light of the purchase cost of the equipment.

- C. Location Criteria: Amateur Radio. An amateur radio antenna may be installed on a lot in any district if it complies with the following criteria:
1. Setbacks. Five (5) feet from interior side or rear property line.
  2. Maximum Height. Ten (10) feet above the district height limit, provided that additional height may be authorized with a use permit.
  3. Surface Materials and Finishes. Highly reflective surfaces shall not be permitted.
- D. Location Criteria: Satellite. A satellite earth station may be installed on a lot in any zoning district if it complies with the following criteria:
1. Placement on Lot: The preferred placement of a satellite earth station shall be in the rear yard or interior side yard of a given parcel, no closer than five (5) feet to the side or rear property line, or to the front street-side setback line. The placement of a satellite earth station on a roof, shall be allowed only upon proof, presented to the satisfaction of the Zoning Enforcement Official by the property owner at the time of application for a permit, that placement of the earth station at other preferred locations would unreasonably limit reception of satellite transmission.
  2. Maximum Height: Ten (10) feet, measured from ground level, or the point of attachment on the roof, immediately under the earth station to the highest point of the earth station or any appurtenance attached to it.
  3. Screening:
    - a. If other than roof-mounted, the satellite earth station must be effectively screened by a solid screen fence, wall, or hedge six (6) feet in height, so as not to be visible from public streets. The fence, wall, or hedge shall be located no closer than five (5) feet to the satellite earth station.
    - b. If roof-mounted, the satellite earth station must be effectively screened so as not to be visible from public streets. Where possible, all roof-mounted satellite earth stations shall be painted to match the existing roof color. No satellite earth stations shall be more than ten (10) feet in height above the point of attachment, or four (4) feet in height above any peak of a pitched roof or parapet of a flat roof unless it is demonstrated that this height limit unreasonably restricts reception of a signal.

The above requirements for screening shall not apply in an "I" District unless the earth station is readily visible from an R District.

4. Undergrounding: All wires and/or cables necessary for operation of the earth station or reception of the signal shall be placed underground, except for wires or cables attached flush with the surface of a building or the structure of the earth station.
  5. Surface Materials and Finishes: Highly reflective surfaces shall not be permitted, nor shall any lettering or emblem be allowed, except the name of the manufacturer in letters not to exceed two (2) inches in height.
- E. Locational Criteria: Microwave Receiving. Microwave receiving earth stations may be installed if they comply with the following criteria:
1. CC, CG, CS, NA-1, NA-2, SA-1, SA-2, SA-3, and I Districts. Installation is prohibited in any required front or street side setback area, and all wires or cables necessary for the operation of the earth station or reception of the signal shall be placed underground, except those wires or cables attached flush with the surface of a building or structure of the earth station. Landscaping or solid screening shall be placed around the base of any tower to screen the tower from view and to provide a physical separation between the tower and any pedestrian or vehicular circulation.
  2. CN, DA-1, DA-2, DA-3, DA-4, DA-5, DA-5, DA-6 and P Districts. Installation is permitted only if the earth station is attached to the rear half of a roof or is fully screened from view from any adjacent public street or R district.
- F. Location Criteria: Microwave Transmitting and Relay Equipment. Microwave transmitting and relay equipment may be installed in any zoning district subject to the requirements of a use permit and the criteria of Subsection E above.

#### **4-1674 Bed and Breakfast Inns**

The following regulations shall apply to bed and breakfast inns.

- A. Where Permitted. Bed and breakfast inns are conditionally permitted in the CN, CC, DA-1, DA-2, DA-3, DA-4, DA-5, DA-6, CR, P, PHD, NA-1, NA-2, SA-1, SA-2, and RM districts or in any L Overlay District in owner-occupied landmark buildings.

- B. Use Permit Required. A use permit issued by the Board of Zoning Adjustments shall be required for bed and breakfast inns. Applications shall be submitted to the Planning Division accompanied by: the required fee; plans and elevations showing any proposed modifications to the existing exterior of the structure, descriptions of landscaping, exterior finishes, signs, and parking to be provided; and any other information required by the Zoning Enforcement Official to determine whether the proposed bed and breakfast inn conforms to all the requirements of this ordinance.

The Board of Zoning Adjustments shall approve a bed and breakfast inn after a duly noticed public hearing upon finding that:

1. The bed and breakfast inn will be operated by a property owner or resident manager living on the premises;
2. The bed and breakfast inn conforms to the design and development standards of Subsection C of this Section and is compatible with adjacent buildings in terms of building materials, colors and exterior finishes; and
3. Public and utility services including emergency access are adequate to serve the bed and breakfast inn.

C. Design and Development Standards.

1. Number of Guest Rooms. No more than six (6) rooms shall be rented for lodging.
2. Parking. A minimum of one (1) independently accessible, off-street parking space shall be provided for each guest room plus one (1) for the resident owner. This requirement may be reduced to one (1) space for each two (2) rooms for a bed and breakfast inn provided that the Board of Zoning Adjustments finds that on-street parking in the vicinity is not subject to time restrictions that would interfere with the hours normally required for guest parking.
3. Signs. No identifying sign shall be displayed other than one (1) sign no larger than six (6) square feet per frontage identifying the name of the establishment. The face of the sign may be indirectly illuminated by an exterior light source entirely shielded from view, but no illumination from an internal light source shall be permitted.

#### **4-1676 Airport Safety Zones**

The following regulations shall apply to land uses occurring within airport safety zones established for Metropolitan Oakland International Airport by the Alameda County Airport

Land Use Commission (ALUC) and set forth in the Airport Land Use Policy Plan. Maps of airport safety zone boundaries as established by the Airport Land Use Policy Plan are kept on file with the Zoning Enforcement Official. The airport safety zone boundaries shall also be delineated on the Zoning Map with reference to applicable regulations.

- A. Purposes. The specific purposes of the Airport Safety Zone regulations are to ensure land use compatibility with airport operations in proximity to San Leandro and to provide for the safe operation of aircraft. The airport safety zone consists of two (2) areas, an inner portion and an outer portion, for which different land use regulations apply. The four air safety considerations addressed by these regulations are:
1. Height Limits. The prevention of obstacles to air navigation caused by tall objects, structures, or buildings.
  2. Hazards. The prevention of hazards to air navigation caused by smoke, glare, electrical interference, bright or concentrated beams of light, and concentrations of birds.
  3. Ground Safety. The exposure of persons on the ground to accidents, especially where land uses are characterized by concentrations of persons.
  4. Noise. The exposure of persons on the ground to noise from aircraft operations, especially jet aircraft.
- B. Inner Portion. Within the inner portion of the airport safety zone, extending to fourteen hundred (1,400) feet from the end of the runway, the following uses and structures are not permitted:
1. Permanent structures or objects projecting above the level (elevation) of the primary surface of the runway.
  2. Any land use that on a regular basis would result in a concentration of persons exceeding twenty-five (25) persons per net acre.
  3. Compatible land uses in this portion of the safety zone include limited horticulture provided that no nursery equipment or materials shall be stored and no structures erected, open space for natural resources (wetlands), open space for the managed production of resources (water areas necessary to commercial fisheries), and open space for public health and safety (uses related to flood control such as retention ponds, drainage easements, or flood plains.)

- C. Outer Portion. Within the outer portion of the airport safety zone, extending beyond fourteen hundred (1,400) feet to five thousand three hundred (5,300) feet, new uses shall be nonresidential low-density.
1. Uses which will have a density of more than twenty-five (25) persons per net acre over an eight (8) hour period or a density of more than fifty (50) persons per net acre for more than two (2) hours per day are considered incompatible and shall not be allowed. In addition, retail sales, eating and drinking establishments, schools, hospitals, places of public or religious assembly, and detention facilities are prohibited land uses.
  2. Compatible land uses include all those allowed in the inner portion of the airport safety zone. Additional compatible land uses are open space for outdoor recreation, limited warehousing and storage, vehicle storage, and limited industry provided these land uses comply with density regulations specified in Subsection C.1 above and height restrictions on structures and facilities contained in FAR Part 77, including Subpart D. (FAR Part 77 is included in Appendix C to the Airport Land Use Policy Plan and kept on file with the Zoning Enforcement Official.)
  3. Within the overall density limits established in Subsection C.1 above, clustering of uses within a parcel may be compatible where such clustering provides emergency landing areas, avoids concentration of development along the extended runway centerline, and does not pose a hazard to air navigation.
  4. Flammable liquids, as defined in the Uniform Fire Code, shall be stored underground.
- D. Use Permit Required. Any new development proposed for a parcel located within the airport safety zone must secure a use permit from the Board of Zoning Adjustments. The Board shall approve a use permit if it makes the findings required by Section 5-2212 and determines that the proposed development is a compatible land use in that portion of the safety zone in which the project will be located and meets the requirements of this section.
- E. Noise and Aviation Easement. No land division shall be approved nor shall a permit of any type be issued for any development within the airport safety zone until the City is provided with a noise and aviation easement permitting the right of flight in the airspace above the site. Such easement shall be supplied in a form prescribed by the City Attorney and shall be recorded on the title of the property. The purpose of the easement is to ensure that prospective property owners and developers are informed and aware of the potential impacts of airport over-flights and operations.

- F. Recorded Notice of Aircraft Over-flight Required. No land division shall be approved nor shall a permit of any type be issued for any development activity within the airport safety zone until a notice has been recorded in the Office of the County Recorder, stating that the property is subject to aircraft over-flight. Such a notice shall include a map showing the boundaries of the airport safety zone as adopted by the Alameda County Airport Land Use Commission.

#### 4-1678 Restrictions On Use of Razor/Barbed Wire

- A. Razor/barbed wire materials, such as wire strips or coiled (“concertina”) wire attached to a fence or a building. The installation of razor wire shall be permitted only in the CG, CS, IL and IG zoning districts, prohibited in all other zoning districts, and is subject to the following restrictions where permitted and must meet the following criteria:
1. Razor/barbed wire, on either a fence, wall or building, is prohibited within three hundred (300) feet of the public street frontage, unless such installations will not be visible from any public street as to be determined by and subject to the approval of the Zoning Enforcement Official prior to installation.
  2. Razor/barbed wire shall not extend over a property line or over the public right-of-way.
  3. Razor/barbed wire shall not be located within two hundred (200) feet of a residential district.
  4. The height of the fence, with the razor/barbed wire, cannot exceed the fence height limits established in the fence regulations.
- B. Removal of Non-conforming Razor/Barbed Wire. In regards to use and/or development applications for properties with razor/barbed wire installations, which are not in compliance with the regulations prescribed in Subsection A, the non-conforming razor/barbed wire shall be removed as a condition of approval for any zoning permit, conditional use permit, or site plan approval given after August 15, 2001.

#### 4-1680 Site Remediation Screening Review

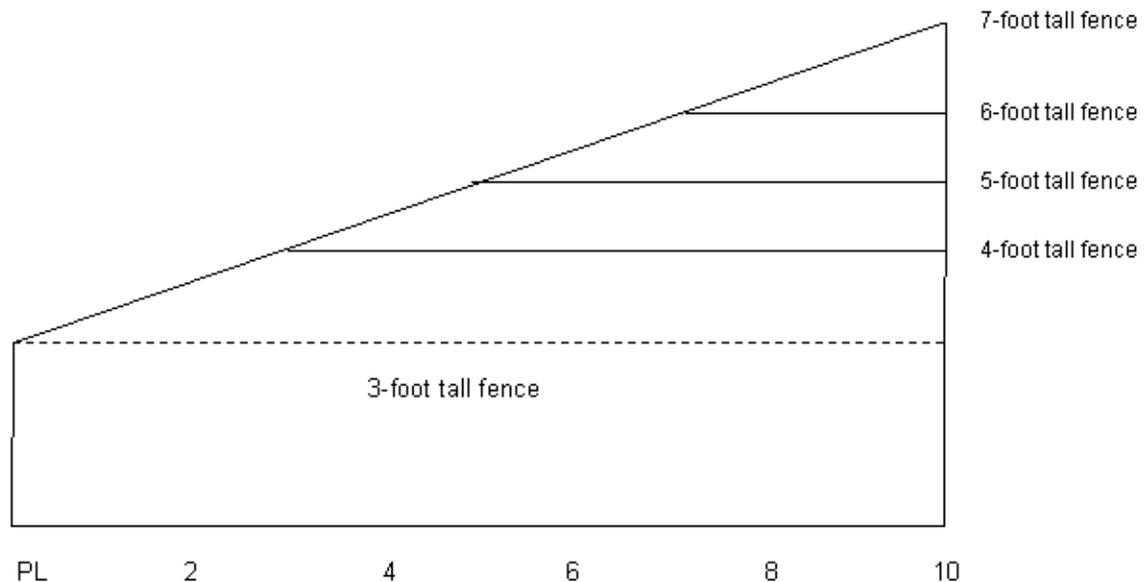
Prior to the removal or on-site remediation of contaminated soil or water, details on screening of the site and noise mitigation measures for any mechanical equipment used in the process shall receive approval of the Community Development Director if the removal or remediation process will exceed twenty-one (21) days in length. Screening of the site shall be by an obscure material and allowable noise shall not exceed the levels provided in the General Plan. This Section shall apply in all zoning districts.

#### 4-1682 Fences, Walls, and Hedges

- A. Residential, Open Space and Public/Semi-Public Districts. Except as provided for in Paragraphs 1, 2 and 3 below, the maximum height of a fence, wall, or hedge shall be seven (7) feet except in required front or corner side yards abutting a street where the maximum height shall be three (3) feet. All fences, walls, and hedges shall be subject to the driveway

visibility requirements of Article 17, Off-Street Parking and Loading Requirements.

1. RO District. The maximum height of a fence, wall, or hedge in the RO District shall be six (6) feet except in required front or corner side yards abutting a street where the maximum height shall be three (3) feet.
2. Corner lots in the RO, RS, RS-40, RS-VP, and RD Districts. Starting from the back wall of the house, the maximum height of a fence, wall, or hedge on a corner lot in the RO, RS, RS-40, RS-VP or RD District shall follow the gradient formula diagram below, which allows for an increase in height of one (1) foot for each 2.5 feet back from the street side property line, up to a maximum of six (6) feet in the RO District, and seven (7) feet in the RS, RS-40, RS-VP and RD Districts. The area in front of the fence shall be required to be planted with a combination of groundcovers, shrubs, and/or small trees and shall also have irrigation installed. Over-height fences along the side of the house shall continue to require review and approval of a Fence Modification.



Gradient Fence Formula (illustrative)

(Where PL = Property Line and 2-10 indicates feet back from Property Line)

3. RS-VP District. In order to protect the existing view corridor, the maximum height of a solid fence, wall or hedge in the RS-VP District shall be no more than three (3) feet above finished grade. The portion of a permitted fence between the heights of three (3) feet to seven (7) feet shall be constructed with glass to allow for continued enjoyment of the view. Transparent

materials do not include chain link, mini-mesh, chicken wire, wood or lattice materials. Non-transparent structural materials necessary for the support of the fence are permitted every four (4) feet.

The views currently enjoyed by neighbors shall be respected. The proposed construction shall not unreasonably block or diminish neighbors' views of distant and scenic features, such as the San Francisco Bay and surrounding open spaces and skylines, while balancing the applicant's ability to improve the subject property in accordance with the applicable restrictions.

The Zoning Enforcement Official may modify the standards referenced herein subject to the approval of a Fence Modification Permit.

B. Commercial, Professional and Industrial Districts.

1. Maximum Height. The maximum height of a fence, wall, or hedge shall be eight (8) feet except in required front or corner side yards where the maximum height shall be three (3) feet.
2. Minimum standards for fences along street frontages. Fences that are adjacent to the required minimum front, corner side and/or rear yard with frontage along a public street frontage shall be constructed of either: a) tubular steel, or of equally high quality "visually transparent" style, or b) a solid architectural wall compatible with the building colors and materials.

In addition, all fences, walls, and hedges shall be subject to the driveway visibility requirements of Article 17: Off-Street Parking and Loading Requirements. Walls adjoining residential uses shall be subject to the regulations of Section 4-1642: Walls Adjoining Residential Use.

C. Fence Modifications. Approval to vary from the standards of this Section may be granted with the approval of a fence modification application.

1. The Zoning Enforcement Official May Approve Modifications. The Zoning Enforcement Official in a hearing following informal notice as specified in Paragraph 4 below may modify the requirements for the maximum height, minimum setback, and material of construction for fences as established in the Zoning Code.
2. Noticing Requirements. Notice of the time, place, and purpose of the hearing shall be posted at least ten (10) days prior to the date of the hearing, on or adjacent to the property involved, and mailed at least ten (10) days prior to the hearing to the owners of adjacent property.

3. Standards for Approval:
  - a. The fence is not detrimental to adjacent property;
  - b. The fence is compatible with the neighborhood in terms of aesthetics;
  - c. The fence does not create a site distance hazard; and
  - d. The fence is not detrimental to the public health, safety, or welfare.
  
4. Referrals and Appeals: The Zoning Enforcement Official may refer a fence modification request to the Board of Zoning Adjustments. The Board of Zoning Adjustments shall also review fence modification(s) requests that are made in conjunction with an application for either a conditional use permit or variance. Appeals of the decision of the Zoning Enforcement Official approving or denying a fence modification shall be heard by the Board of Zoning Adjustments, pursuant to the requirements of Article 28.

#### **4-1683 Adult-Oriented Business Regulations**

- A. Purpose and Intent. It is the intent of this article to prevent community wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which 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, churches, 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 article 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.
  
- B. Location Standards.
  1. Subject to the provisions of this chapter, Adult-Oriented Businesses shall be permitted only in the Industrial Park (IP), Industrial Limited (IL) and Industrial General (IG) Districts, provided:
    - a. Each Adult-Oriented Business shall, prior to commencement or continuation of such business, first apply for and receive zoning approval from the Community Development Department.

- b. Each such Adult-Oriented Business must, prior to commencement or continuation of such business, first apply for and receive an Adult-Oriented Business License.
  - c. Each such Adult-Oriented Business must comply with all applicable development and design regulations of the applicable Zone.
  - d. No Adult-Oriented Business shall be located in any zoning district with an overlay zone.
  - e. No Adult-Oriented Business shall be located on any parcel that contains frontage on Merced Street, Alvarado Street, Williams Street, Doolittle Drive or Fairway Drive.
2. No Adult-Oriented Business shall be established or located within one-thousand feet (1,000') of the following:
- a. Any place of religious assembly;
  - b. Any residentially zoned land, whether in the City of San Leandro, in an adjoining City, or within the unincorporated area;
  - c. Any public park, or property zoned, planned, or otherwise designated for such use by City action, and a public or private educational facility including but not limited to child day care facilities, libraries, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; schools includes the school grounds, but does not included facilities used primarily for another purpose and only incidentally as a school;
  - d. Any boys club, girls club, or similar youth organization; or
  - e. Any large family, general, or limited day care facility licensed by the State of California.
  - f. Any establishment that holds a state license for the sale or consumption of alcohol beverages, except this definition shall not include restaurants that have a bar on site so long as more than 50% of the customer seating is dedicated to restaurant patrons. This definition applies solely to the location criteria of this Section.

The uses and zones set forth herein shall be collectively known as “impacted uses.”

3. No Adult-Oriented Business may be established or located within one-thousand feet (1,000’) of any other Adult-Oriented Business, whether in the City of San Leandro, in an adjoining city, or within the unincorporated area.
  4. If any portion of a property fails to meet the distance criteria set forth above, the entire property shall be ineligible for an Adult-Oriented Business use.
- C. Design Standards. Per Zoning Code Section 2-700E, the purpose of the industrial district regulations include ensuring that “the appearance and effects of industrial uses are compatible with the character of the area in which they are located”. The Zoning Enforcement Official shall review and approve all plans and elevations of buildings housing Adult-Oriented Businesses to determine whether they meet this standard. This review will consider building color, massing, architectural features and other exterior details. A decision on this design compliance for a new business shall be given within 30 days of the granting of an Adult-Oriented Business Regulatory Permit; any changes to the exterior of the building after the initial review shall also be subject to review and approval by the Zoning Enforcement Official.
- D. Appeal. Any decision of the Zoning Enforcement Official made pursuant to this Article may be appealed to the Planning Commission pursuant to Article 28. Any administrative action made pursuant to this Article may be appealed to a court of competent jurisdiction.

#### **4-1684 Hazardous Waste Facilities**

- A. Intent. The purpose of this Section is to establish uniform standards, land-use regulations and a permit process for controlling the location, design, maintenance and safety of off-site hazardous waste facilities. These standards, regulations and processes are intended to be consistent with Article 8.7 of the California Health and Safety Code, applicable portions of the Alameda County Hazardous Waste Management Plan and the City of San Leandro General Plan.
- B. Applicability.
1. The specific requirements of this ordinance are applicable to the siting and development of off-site hazardous waste treatment, storage, or transfer facilities. Off-site hazardous waste facilities mean those facilities which treat, store, recycle, incinerate or transfer hazardous

wastes from at least two (2) producers of hazardous wastes which are not located on the same property of the hazardous waste facility. Consistent with the Alameda County Hazardous Waste Management Plan, off-site hazardous waste facilities only include those facility types as defined by the Plan for small-scale transfer and storage including hazardous waste collection facilities, industrial transfer, storage and treatment facilities, and residual repositories.

2. The off-site facility definition does not apply to:
  - a. Transportable Treatment Units (TTU's), which are designed to be moved either intact or in modules and which are intended to be operated at a given location for a limited period of time; or
  - b. Permanent on-site hazardous waste facilities at locations where hazardous waste is produced and which are owned by, leased to, or under the control of the producer of the waste.
3. All such facilities (i.e., off-site, on-site, household hazardous waste collection, and TTU's) shall obtain all necessary state licensing to install and operate.
4. A conditional use permit for a hazardous waste facility shall be granted for only those substances and quantities identified in the conditions of approval. No additional types of wastes or increases in the quantity of approved wastes shall be allowed beyond those specified in the approved permit, unless a separate application is made, which shall satisfy the same procedures and contents as those required in an initial application.

C. Procedure. Applications for hazardous waste facilities as defined by this Section shall follow the procedure specified by Article 8.7 of the State Health and Safety Code and Article 22 of the Zoning Ordinance pertaining to use permits.

D. Application Requirements.

The information listed below is required at the time a hazardous waste facility application for an off-site facility is submitted to the Community Development Department:

1. A complete development case application signed by the property owner or their authorized representative.
2. A non-refundable deposit or fee as set forth by ordinance or resolution of the City Council.

3. Any deposit for technical assistance pursuant to Section 25199.7 (g) of the State Health and Safety Code.
4. A letter of justification describing the proposed project and explaining how it will satisfy the findings in Section 4-1684.J.
5. Information required for public meetings and hearings, as determined by the Community Development Director.
6. A scaled, fully-dimensioned site plan and development plan drawn in sufficient detail to clearly describe the following:
  - a. Physical dimensions of property and structures;
  - b. Location of existing and proposed structures;
  - c. Setbacks;
  - d. Methods of circulation and location of truck routes;
  - e. Ingress and egress;
  - f. Utilization of property under the requested permit;
  - g. The distance from the project property lines to the nearest residential structure;
  - h. Proximity of the project to one hundred (100) year floodplain areas;
  - i. Proximity of the project to any known earthquake fault zones;
  - j. The relationship of the proposed project to all aboveground water supplies, as well as known underground aquifers that could conceivably suffer contamination;
  - k. Topographic description of the property and surrounding area;
  - l. Existing and proposed utilities that service or will be needed to service the facility;
  - m. Identification of surrounding zoning and land uses;
  - n. Landscape plans showing theme and location of all landscape areas;
  - o. Building elevations showing building height, exterior materials, and architectural theme; and
  - p. Other information as required by the Community Development Director.
7. A preliminary geological study of the property and surrounding area, which includes a soils analysis down to the depth of the deepest known aquifers, regardless of the potability of those aquifers.
8. Identification of all wastewater, treated and untreated, generated by the proposed facility and the method and place of final discharge.
9. Identification of the amounts (tonnage) and types of hazardous wastes to be treated at the proposed facility; the sources of these wastes; the

ultimate disposition of the wastes; and the anticipated life of the facility. Information shall be provided on the amount, sources, and types of hazardous wastes to be treated based on an actual survey of the industries to be served and, thereby, be representative of the wastes that will be processed at the facility.

10. A plan that clearly delineates all public involvement with the proposed project prior to any formally advertised and scheduled public hearings. Said plan will provide for adequate public testimony on the project in an effort to mitigate all public concerns prior to the approval body reviewing the case.
11. A plan that identifies an ongoing monitoring program to ensure no unintentional release of any hazardous substance from the site. This shall include any ongoing monitoring necessary by other permitting agencies such as State Department of Health Services, the Bay Area Air Quality Management District (BAAQMD), Environmental Protection Agency (EPA), San Francisco Bay Regional Water Quality Control Board, etc.
12. A preliminary contingency plan for emergency procedures designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. The plan shall provide for its immediate implementation whenever there is a fire, explosion, or release of hazardous waste constituents, which could threaten human health or the environment. The preliminary contingency plan shall address the requirements included in Section 4-1684.G.3.
13. Other information as required by the Community Development Director to demonstrate compliance with the facility siting criteria as outlined in Section 4-1684.F.

E. Environmental Review.

1. The project shall be subject to environmental analysis according to the City's environmental guidelines pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000-21177; 15000-15387).
2. The environmental analysis shall address, but not be limited to, the following:
  - a. Describe at least two (2) reasonable alternative sites to the project; these alternatives shall be reviewed pursuant to the California

Environmental Quality Act [Public Resources Code, Section 15060(d)].

- b. An analysis of visual, noise, and any olfactory impacts associated with the project and recommended mitigation measures.
- c. An analysis of all anticipated air quality impacts associated with the project and proposed mitigation to ensure no degradation of air quality in the area.
- d. A health and safety assessment that analyzes in detail all probabilities of accidents or spills at the site, as well as transportation-related accidents from the point of origin to the facility. Such analysis shall identify mitigation measures to reduce identified risks. The health and safety assessment shall identify the most probable routes for transporting hazardous wastes to the facility within Alameda and, if applicable, Contra Costa or Santa Clara counties.
- e. An analysis of traffic impacts associated with the project and recommended mitigation measures.
- f. An analysis of all anticipated water quality impacts associated with the project and proposed mitigation to ensure no degradation of water quality in the area.
- g. Other information as required by the California Environmental Quality Act (CEQA).

F. Facility Siting Criteria and Permitting Requirements.

The following siting criteria has been established for use by hazardous waste facility project proponents in locating and designing suitable facility sites and appropriate facilities and by the City in evaluating proposed sites and facility projects. The purpose of the criteria is to reduce public health and environmental risks and governmental costs associated with development of off-site hazardous waste facilities.

1. Protect the Residents of Alameda County (and the City of San Leandro):
  - a. Health and safety assessment:

All facilities: Facilities shall be sited so as not to create significant risks or cause adverse impacts to the health and safety of populations in surrounding public and private areas, as determined

by a health and safety assessment. A health and safety assessment by a qualified preparer is required for a proposed facility prior to approval of a local permit, to provide technical and environmental evaluation of the proposed facility, site, and surrounding area. A health and safety assessment will provide the information and analysis needed to demonstrate compliance of the proposed facility with the siting criteria. The scope of the assessment will vary according to the size, type, and proposed location of the facility. It is not intended that the health and safety assessment duplicate information developed for environmental impact reports or risk assessments required under local, state or federal regulations. When environmental impact reports and health risk assessments are required, their scopes should provide the information and analysis required, and, thereby, suffice for the health and safety assessment.

The health and safety assessment shall evaluate the potential impact of the proposed facility on existing and planned residences and immobile populations, at minimum, the buffer area prescribed by the Alameda County Hazardous Waste Management Plan. Immobile populations include those in schools, hospitals, convalescent homes, jails, and other similar facilities within the area of potential impact. The health and safety assessment must consider the quantities and the physical and chemical characteristics of the specific types of waste that would be handled, the facility design features, and planned operations practices. The justification for any reduction in buffer areas of the facility from residential areas or immobile populations than that prescribed by the Alameda County Hazardous Waste Management Plan will be identified. The assessment must include a hydrologic evaluation and must assess risks due to physical hazards, such as flooding and earthquakes and potential water or air pollution. The assessment will detail credible potential accidents, including the distance over which effects would carry a variety of options for reducing risks, and procedures for dealing with the effects. The assessment will identify the capabilities (including equipment and trained personnel) and response times of existing emergency services with regard to accidents at the facility and will provide an emergency evacuation plan. If existing emergency services are deemed inadequate, the local agency may require the developer to supplement those services with on-site trained personnel and equipment.

Avoidance or mitigation of potential significant health or safety risks must be demonstrated to the satisfaction of the local permitting agency and the California Department of Health Services.

b. Distance from populations:

All facilities: Facilities shall comply with local minimum zoning code setbacks, unless a greater buffer distance from other uses is deemed necessary based on a required health and safety assessment.

2. Ensure the Structural Stability of the Facility:

a. Floodplains:

All facilities: Facilities must be designed, constructed, operated and maintained to preclude failure due to flooding, per flood control authorities and requirements. Provisions must be made to contain and test storm runoff prior to discharge in areas subject to contamination by waste or treated material. The required health and safety assessment will address flooding risks associated with the facility.

Treatment, recycling and collection facilities: Facilities may be located in areas subject to one hundred (100) year flooding only if protected by offsetting engineered improvements, such as berms or raising the facility above flood levels. This includes areas subject to flooding by dam or levee failure and natural causes such as river flooding, flash floods, rainfall or snowmelt, tsunamis (tidal waves), seiches (earthquake-induced waves in lakes), and coastal flooding. A structural analysis or engineering design study must be provided which shows methods to prevent undulation or washout.

Residuals repositories: Repositories are prohibited from locating in floodplain areas subject to one hundred (100) year flooding from natural causes or dam failure, even with protection, per Code of Federal Regulation (CFR), Title 40, Section 264.18(b) and California Administrative Code (CAC), Title 22, Section 66391(a)(11)(b).

b. Earthquakes:

All facilities: Facilities must have a minimum two hundred (200) foot setback from active or recently active earthquake faults, per the California Administrative Code (CAC), Title 22, Section 6391(a)(f11)A(1) and (2). The required health and safety assessment will address earthquake safety of the facility.

c. Unstable soils:

Treatment, recycling and collection facilities: Facilities are prohibited from locating in areas of potential rapid geologic change unless the facility and its containment structures have engineered design features to assure structural stability. This includes areas with unstable soils, steep slopes, and areas subject to liquefaction, subsidence, or other severe geologic constraints. The required health and safety assessment will include a geologic report defining any such constraints and engineered solutions.

Residual repositories: Repositories are prohibited from locating in areas within twenty-five percent (25%) slope or greater or in areas subject to liquefaction or subsidence.

3. Protect Surface and Groundwater Quality:

a. Groundwater:

All facilities: Facilities shall be fully enclosed by containment structures of impermeable materials, which would contain any unauthorized release of hazardous material. Facilities shall be equipped with leak detection and spill control and recovery capability.

Facilities are also encouraged to locate outside of areas where groundwater is within twenty (20) feet of the natural land surface. Facilities may locate in these areas only with increased engineered design features such as horizontal and vertical containment and monitoring systems to ensure protection. Subsurface storage or treatment operation is prohibited.

Industrial facilities: Groundwater monitoring wells must be located around each facility to determine background vadose zone and groundwater quality, and to detect leaks and spills from the facility unless demonstrated to be safe without them through the health and safety assessment. An ongoing groundwater monitoring program should be developed in consultation with local, state, and water district representatives.

b. Surface Water quality:

All facilities: Developers shall comply with the requirements of the Alameda Countywide Clean Water Program.

c. Wastewater:

All facilities: Facilities operating wastewater should locate in areas with adequate industrial sewer capacity. The quality of wastewater must meet all federal, state, and local sewerage agency discharge requirements, and the facility must obtain a valid industrial wastewater discharge permit.

4. Protect Air Quality:

a. Air quality non-attainment and PSD areas:

All facilities: Facilities may be sited in non-attainment and PSD (prevention of significant deterioration) areas only if they meet the requirements of the Bay Area Air Quality Management District. The required health and safety assessment will identify air emissions, impacts and mitigation associated with the facility.

5. Protect Environmentally Sensitive Areas:

a. Wetlands:

All facilities: Facilities are prohibited from locating in wetlands, such as salt-water, fresh water and brackish marshes, swamps and bogs, as defined in local regional and state plans and policies (generally, areas inundated by surface water or groundwater with a frequency to support, under normal circumstances, a prevalence of vegetative or aquatic life, which requires saturated soil conditions for growth and reproduction).

b. Animal and plant habitats:

All facilities: Facilities are prohibited from locating within critical habitats of endangered species, defined as areas known to be inhabited permanently or seasonally or known to be critical at any stage in the life cycle of any species of wildlife or vegetation identified or being considered for identification as "endangered" or "threatened" by the U.S. Department of Interior or the State of California.

c. Prime agricultural lands:

All facilities: Facilities are prohibited from locating on prime agricultural lands, as defined in California law and local plans, unless an overriding public need is served and demonstrated.

d. Recreational, cultural, and aesthetic resources:

Small-Scale Transfer and Storage facilities: Low-volume transfer and storage facilities may locate in protected, recreational, cultural, or aesthetic resource areas, as defined by local, regional, state, or national plans or policies, only if necessary to handle hazardous wastes generated by workers, residents, or visitors in these areas.

Industrial facilities and residuals repositories: Facilities are prohibited from locating in protected recreational, cultural and aesthetic resource areas, as defined by local, regional, state, or national plans or policies.

e. Mineral resource areas:

All facilities: Facilities are prohibited from locating on lands containing significant mineral deposits, as classified by local plans or California's mineral land class maps and reports, if the extraction of the mineral deposit would be precluded.

6. Ensure Safe Transportation of Hazardous Waste:

a. Proximity to waste generation areas:

Treatment, recycling and collection facilities: Facilities shall locate in Light Industrial and General Industrial Districts at locations close to sources of hazardous waste generation to minimize the risks of transportation.

Residuals repositories: Repositories may be located more distant from waste generation sources than other facilities because of the need for large land areas.

b. Proximity and Access to Major Routes:

All facilities: Facilities shall locate to minimize distance from major transportation routes. Facilities must have good access by roads designed to accommodate heavy vehicles. Travel routes from facilities to major transportation routes shall be on industrial streets, accessible to designated truck routes, not pass through residential neighborhoods, shall minimize residential frontages, and shall be demonstrated as safe with regard to road design and construction, accident rates, excessive traffic, etc. The required health and safety assessment will evaluate risks associated with transportation of hazardous wastes.

7. Protect the Social and Economic Goals of the Community:

a. Consistency with General Plan and zoning:

All facilities: Facilities must be consistent with local planning policies, including the City General Plan and zoning ordinance.

b. Fiscal impact:

All facilities: A facility's fiscal impact to the City, whether positive or negative, must be demonstrated.

c. Socioeconomic impacts:

All facilities: The City may require the facility developer to fund an independent study on socioeconomic impacts of the facility.

d. Proximity to Public Services:

All facilities: Facilities shall be served by necessary public services, including but not necessarily limited to sewer, water, electricity, gas, and telephone. Potential adverse impacts which could occur because of proximity to public facilities shall be determined as a part of the risk assessment conducted in the permitting process. This should consider the physical and chemical characteristics of the wastes that will be handled and the design features of the facility. Proximity to other public facilities such as corporation yards, utilities, roads, and state school lands in remote areas may be acceptable. The response time from the nearest fire station shall also be considered.

e. Consistency with Alameda County Hazardous Waste Management Plan:

All facilities: Facilities shall be consistent with the goals and policies of the Alameda County Hazardous Waste Management Plan, and must demonstrate compliance with the siting criteria established by this Section. Facilities shall be consistent with the fair-share principal, and with any inter-jurisdictional agreements on hazardous waste management. Local needs are to be the primary basis for facility siting criteria decisions, along with regional commitments; facilities are to be designed and sized primarily to meet the hazardous waste management needs of Alameda County, or to meet the county's broader regional commitments under an inter-jurisdictional agreement.

G. Special Development Requirements.

1. General Conditions:

The City may impose conditions on the granting of a conditional use permit for a hazardous waste facility in order to achieve the purposes of this Chapter and the General Plan and to protect the health, safety and general welfare of the community.

2. Safety and Security:

- a. The owner or operator shall prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons or livestock onto any portion of the facility.
- b. The operator shall provide a twenty-four (24) hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel), which continuously monitors and controls entry onto the facility.
- c. An artificial or natural barrier (e.g., a wall or a wall combined with a landscaped berm) shall be constructed to completely surround the facility.
- d. All gates or other entrances into the facility shall be provided with adequate means to control entry at all times. Signs with the legend, "Danger - Hazardous Waste Area - Unauthorized Personnel Keep Out," shall be posted at each entrance to the facility and at other locations in sufficient numbers to be seen from any approach. The legend shall be written in English, Spanish, and any language predominant in the area surrounding the facility and shall be legible from a distance of at least twenty-five (25) feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

3. Contingency Plan:

- a. The hazardous waste facility is required to have a contingency plan designed to minimize hazards to human health and the environment from fires, explosions, or unplanned release of hazardous waste to air, soil, or surface water. The plan shall be carried out immediately whenever a fire, explosion, or unplanned release occurs.
- b. The contingency plan shall include:

- i. The actions employees must take in response to a fire, explosion, or unplanned release of hazardous waste.
  - ii. Arrangements agreed to by local emergency response officials.
  - iii. The names, addresses, and telephone numbers (office and home) of all persons qualified to act as emergency coordinator. [If more than one (1) name is listed, the order in which they may assume authority shall be given, with one (1) person designated as primary coordinator.] The emergency coordinator shall be available to respond to all emergency response measures. The emergency coordinator shall be familiar with all aspects of the contingency plan, all operations and activities of the facility, the location and characteristics of wastes handled, and general facility layout. The emergency coordinator shall have the authority to commit the resources needed to carry out the contingency plan.
  - iv. A listing of all emergency equipment at the facility, including its location and an outline of its capabilities.
  - v. An evacuation plan for employees where evacuation may be necessary, including signals used to begin evacuation, primary evacuation routes, and alternate routes.
- c. Facility emergency coordinator responsibilities shall be identified in the contingency plan to include, at minimum, the following:
- i. In the event of a fire, explosion, or release of any hazardous material, the emergency coordinator shall immediately activate facility alarms to notify employees and shall contact appropriate state or local emergency response agencies.
  - ii. In the event of a fire, explosion, or release of any hazardous material, the emergency coordinator shall immediately identify the character, exact source, amount, and aerial extent of any released materials. Concurrently, the emergency coordinator shall assess possible hazards, both direct and indirect, to human health or the environment that may result from the emergency.
  - iii. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health and the environment outside the facility, the emergency

coordinator shall report his findings as per the following Subsections 4 and 5.

- iv. If evacuation is necessary, local officials shall be so notified.
- v. The emergency coordinator shall in every situation notify the State Office of Emergency Services and the Alameda County Fire Department, providing the following information:
  - (a) Name and telephone of person reporting;
  - (b) Name and address of facility;
  - (c) Time and type of incident;
  - (d) Name and quantity of material(s) involved;
  - (e) Extent of injuries; and
  - (f) Possible hazard to human health and the environment outside facility.
- vi. During the emergency, the emergency coordinator shall take all reasonable measures to ensure that fires, explosions, and releases do not occur or spread, including such measures as:
  - (a) Stopping operations;
  - (b) Collecting and containing released waste; and
  - (c) Removing or isolating containers.
- vii. If the facility stops operations during an emergency, the emergency coordinator shall monitor for leaks, pressure build-up, gas generation, or ruptures in valves, pipes or other equipment as appropriate.
- viii. Immediately after an emergency, the emergency coordinator shall provide for treating, storing or disposing of recovered waste, contaminated soil or surface water, or any other material resulting from a release, fire, or explosion.
- ix. Other activities required of the emergency coordinator after an emergency are:

- (a) No wastes incompatible with the released material is handled until cleanup is completed; and
  - (b) Emergency equipment is cleaned and ready for use before operations are resumed.
- d. Owner/operator responsibilities shall be identified in the contingency plan to include, at minimum, the following:
  - i. Notify the State Department of Health Services and appropriate state and local authorities that the above requirements have been met before operations are resumed in the affected area.
  - ii. Record the time, date and details of any incident, which requires implementing the contingency plan.
  - iii. Within fifteen (15) days, submit a written report on the incident to the State Department of Health Services. The report shall include:
    - (a) Name, address and telephone number of owner/operator;
    - (b) Name, address and telephone number of the facility;
    - (c) Date, time, and type of incident;
    - (d) Name and quantity of materials involved;
    - (e) Extent of injuries;
    - (f) Assessment of actual or potential hazards to human health or the environment, where applicable; and
    - (g) An estimate of the quantity of material recovered and its disposition.
  - iv. A copy of the contingency plan shall be maintained at the facility. A copy shall be sent to City of San Leandro Hazardous Materials Division, surrounding hospitals, Alameda County Health Care Agency, and other regulatory agencies as deemed appropriate.
  - v. The contingency plan shall be reviewed and amended when any of the following occur:

- (a) The facility permit is revised.
- (b) Applicable regulations are revised.
- (c) The plan fails in an emergency.
- (d) Operations at the facility change in a way that materially increases the potential of fire, explosion, or unplanned release of hazardous waste.
- (e) The list of emergency coordinators changes.
- (f) The list of emergency equipment changes.

4. Monitoring:

- a. Upon reasonable notice, the City, their designated representatives of other agencies, may enter a parcel on which a conditional use permit for a hazardous waste facility has been granted for the purpose of monitoring the operation of the facility.
- b. The holder of a conditional use permit for a hazardous waste facility shall report quarterly to the City the amount, type, and disposition of all wastes processed by the facility. Included in the report will be copies of all manifests showing the delivery and types of hazardous waste materials.
- c. All structures shall remain accessible for inspection purposes.

5. Closure Plan.

The owner or operator of a hazardous waste management facility shall submit a written closure plan. A copy of the approved plan and all revisions to the plan shall be kept at the facility until closure is completed. The plan shall identify steps necessary to completely or partially close the facility at the end of its intended operating life. The closure plan shall include at least:

- a. A description of how and when the facility will be partially closed, if applicable, and finally closed. The description shall identify the maximum extent of the operation that will be open during the life of the facility.
- b. An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility.

- c. A description of the steps needed to decontaminate facility equipment during closure.
- d. An estimate of the expected year of closure and a schedule for final closure. The schedule shall include, at a minimum, the initial time required to close the facility and the time required for intervening closure activities, which will allow tracking of the progress of closure.

The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.) The owner or operator shall amend the plan whenever changes in operating plans or facility design affect the closure plan or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, a modification of the closure plan shall be requested at the same time.

- e. The plan shall clearly indicate an effective and ongoing use for the facility after closure. The plan will identify how the subject property will be used after the anticipated life of the project, the nature and type of reclamation, provisions for maintenance of the project, and, finally, the requirements for long-term monitoring of the reclaimed area to ensure no hazardous materials are leaking from the site.
- f. The plan shall indicate financial arrangements (irrevocable trust or other form of security arrangement) for the purpose of providing funds for the closure of its site and its long-term, post-closure monitoring maintenance, per Section 4-1684.G.6 below.

H. Financial Responsibility.

The owner/operator shall show proof of liability insurance as follows:

- a. The types, amounts, periods of coverage, and provisions for periodic review as to adequacy of coverage shall be specified in the conditions of approval. Required insurance shall include, but not be limited to: general liability insurance, automotive liability insurance, environmental impairment liability insurance, and architect's and engineer's professional liability insurance.

All such insurance shall name the City as an additional insured and shall be maintained for the life of the site and such additional periods as shall be specified in the conditions of approval.

- b. Additionally, coverage will be provided for workers compensation insurance and such other insurance as may be required. Said insurance will name the City as either additional insured or as an additional loss payee. Certificates of insurance will be submitted to the City annually.
- c. An irrevocable trust will be established to provide funds for closure of the site and its long-term post-closure and monitoring and maintenance. Funds for this trust would be provided by the owner/operator of the facility quarterly, based on quantity and types of percentage of gross income. The terms of the trust would be as agreed upon by the project owner/operator and the City. The terms will be reviewed annually in regards to the amount of funds in the trust and anticipated closure monitoring and maintenance costs. Applicants shall provide a bond in an amount to be determined by the City for purposes of closure of the site.
- d. The owner/operator shall defend, indemnify, and hold harmless the City, its officers, agents, servants, and employees, from all claims, actions, or liabilities arising out of the issuance of this permit, operations at the facility, and transportation of wastes to and from the facility.

I. Local Assessment Committee (LAC).

1. Pursuant to Section 25199.7 (d) of the State Health and Safety Code, the City Council shall appoint a seven (7) member Local Assessment Committee (LAC). The membership, responsibilities, and duties shall be consistent with the provisions of Section 25199.7 of the State Health and Safety Code. The LAC shall cease to exist after the final administrative action has been taken by the state and local agencies on the permit applications for the project for which the LAC was formed.
2. The City Council shall provide staff resources to assist the LAC in performing its duties. (Requirement of Section 25199.7(d)(3) of the California Health and Safety Code.)
3. If the LAC and the applicant cannot resolve any differences through the meetings specified by state law, Office of Permit Assistance (OPA) may assist in this resolution pursuant to Section 25199.4 of the California Health and Safety Code. (Requirement of Section 25199.7(h) of the California Health and Safety Code.)

J. Hearings and Notice.

Hearings and public notices shall be consistent with the applicable requirements of Article 8.7 of the State Health and Safety Code and Article 22: Use Permits, Variances, and Parking Exceptions, of the City of San Leandro Zoning Ordinance.

K. Findings.

In order for the Board of Zoning Adjustments to approve a hazardous waste facility application, the Board must act on this application prior to approving a conditional use permit for a hazardous waste facility. The Board of Zoning Adjustments shall find that:

1. The project is consistent with the City's General Plan and zoning ordinance.
2. The project is not detrimental to the public health, safety or general welfare of the community.
3. The project site is or will be adequately served by roads and other public or private service facilities.
4. The project is consistent with the regional fair-share facility needs assessment and siting policies established in the Alameda County Hazardous Waste Management Plan.
5. The project complies with the facility siting criteria per Section 4-1684.F.

L. Appeal.

An applicant or an interested person may file an appeal of a land-use decision made by the City to the Governor's Appeal Board within thirty (30) days after the date the City takes final action on the land-use decision pursuant to California Health and Safety Code Section 25199.9. Procedures for filing an appeal are outlined in Section 25199.14 of the California Health and Safety Code.

M. Time Limits.

1. A conditional use permit granted for an off-site hazardous waste facility shall be exercised within two (2) years from the effective date thereof, or within such additional time as may be set in the conditions of approval, which shall not exceed a total of seven (7) years; otherwise, the permit shall be null and void. The term "exercised" shall mean the beginning of substantial construction of the use that is authorized, which construction must thereafter be pursued diligently to completion.

2. Permit review and renewal shall be determined at the time of approval and shall not exceed five (5) years.

N. Household Hazardous Waste Collection Facilities.

Household hazardous waste collection facilities which meets the requirements of Article 10.8 of the State Health and Safety Code shall meet the requirements of this Section provided that the Community Development Director may exempt informational or analysis requirements of Sections 4-1684.D, 4-1684.F, and 4-1684.G where the data are determined to be nonessential for the approval of the permit.

O. Conflicts with Industrial Zone Standards.

Where conflicts in standards and requirements may exist between this section and Article 7: Industrial Districts, the provisions of this Section shall take precedence.

P. Severability.

In the event that any one (1) or more of the phrases, sentences, clauses, paragraphs, or sections contained in this ordinance shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this ordinance which are hereby declared as several and shall be interpreted to carry out the intent hereunder.

#### **4-1686 Wireless Telecommunications Facilities**

A. Definitions. As used in this Section, the following terms shall have the meanings indicated:

1. “Alternative tower structure” shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
2. “Antenna” Shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.
3. “FAA” shall mean the Federal Aviation Administration.
4. “FCC” shall mean the Federal Communications Commission.

5. “Governing authority” shall mean the City Council of the City of San Leandro.
6. “Pre-existing towers and antennas” shall have the meaning set forth in Sub-section B(4) of this Section.
7. “Height” shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
8. “Tower” shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structure and the like.

B. Applicability.

1. District Height Limitations. The requirements set forth in this Section shall govern the location of towers that exceed, and antennas that are installed at a height in excess of the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.
2. Public Property. Antennas or towers located on property owned, leased or otherwise controlled by the City shall be exempt from the requirements of this Section, provided a license or lease authorizing such antenna or tower has been approved by the City.
3. Amateur Radio: Receive-Only Antennas. This Section shall not govern any tower, or the installation of any antenna, that is less than ten (10) feet in height above the district height limit and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.
4. Pre-Existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section, other than the requirements of Subsection C.5. Any such towers or antennas shall be referred to in this Section as “pre-existing towers” or pre-existing antennas”.
5. Satellite Earth Station Antenna. This Section shall not apply to any satellite earth station antenna placed in residential zones that are less

than one meter in diameter nor to any other satellite earth station antenna located in any other zone that are less than two meters in diameter.

C. General Guidelines and Requirements.

1. Purpose and Goals. The purpose of this Section is to establish general guidelines for the siting towers and antennas. The goals of this Section are to: (i) encourage the location of towers in non-residential areas and minimize the total number of towers throughout the City; (ii) encourage strongly the co-location at new and existing tower sites; (iii) encourage providers of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (iv) encourage providers of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and (v) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
2. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with zoning district development regulations, including, but not limited to, set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.
3. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Planning Division an inventory of its existing towers that are either within the jurisdiction of the City or within one-quarter mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning Division may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however, that the Planning Division is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
4. Aesthetics; Lighting. The guidelines set forth in this Subsection C.4. shall govern the location of all towers, and the installation of all antennas, governed by this Section; provided, however, that the Board

of Zoning Adjustments may waive these requirements if it determines that the goals of this Section are better served thereby.

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible; and must be sited and designed to appear as an integral part of the structure, to the extent feasible.
  - d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Board of Zoning Adjustments may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - e. Roof-mounted antennas and associated equipment shall be located as far back from the edge of the roof as is technically feasible in order to minimize visibility from street locations. Where appropriate, construction of a rooftop parapet or wall to hide the antenna may be required.
5. Federal and State Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, the California Public Utilities Commission and any other agency of the federal or state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

D. Permitted Uses.

1. General. The uses listed in this Subsection D are deemed to be permitted uses in industrial and commercial zoning districts and shall not require Board of Zoning Adjustments review unless the applicant seeks a modification of the guidelines set forth in Sub-section C.4. Nevertheless, all such uses shall comply with Sub-section C.4., unless a modification is granted, and Sub-section C.4. of the Section and all other applicable legal provisions.
2. Specific Permitted Uses. The following uses are specifically permitted:
  - a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or commercial zoning district; provided, however, that such tower shall be set back from all existing off-site residences a distance at least equal to the height of the tower.
  - b. Installing an antenna on an existing structure in any non-residential district other than a tower (such as a building, sign, light pole, water tower, or other free-standing non-residential structure that is fifty (50) feet in height or greater, so long as said additional antenna adds no more than twenty (20) feet to the height of said existing structure; and
  - c. Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower and said existing tower is not a pre-existing nonconforming tower; provided, however, that such specific permitted use shall not include the placement of additional buildings or other supporting equipment used in connection with said antenna.

E. Administrative Approvals.

1. General.
  - a. The Planning Division may administratively approve the uses listed in this Sub-section E.
  - b. Each applicant for administrative approval shall apply to the Planning Division, providing the information set forth in Sub-sections F.2. and F.4. of this Section.

- c. The Planning Division shall respond to each such application within thirty (30) days after deeming the application complete by either approving or denying the application. If the Planning Division fails to respond to the applicant within thirty (30) days, then the application shall be deemed to be approved.
  - d. In connection with any such administrative approval, the Planning Division may, in order to encourage shared use, administratively waive any zoning district setback requirements by up to fifty percent (50%).
  - e. If an administrative approval is denied, the applicant may appeal said denial to the Board of Zoning Adjustments.
2. Specific Administratively Approved Uses. The following uses may be approved by the Planning Division after conducting an administrative review:
- a. Installing an antenna on an existing structure other than a tower in nonresidential areas (such as a building, sign, light pole, water tower, or other free standing nonresidential structure) that is less than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;
  - b. Installing an antenna on an existing tower of any height in nonresidential areas, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower;
  - c. Locating any alternative tower structure in a zoning district other than industrial or heavy commercial, but not residential, that in the judgment of the Planning Division is in conformity with the goals set forth in Sub-section C.1. of this Section.

F. Conditional Use Permits.

1. General. The following provisions shall govern the issuance of conditional use permits:
- a. If the tower or antenna is not a permitted use under Sub-section 4 of this Section or permitted to be approved administratively pursuant to Sub-section E of this Section, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

- b. In granting a conditional use permit, the Board of Zoning Adjustments may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties
    - c. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
  2. Informational Required. Each applicant requesting a conditional use permit under this ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the Planning Division or Board of Zoning Adjustments to be necessary to assess compliance with this Section. Each applicant shall also submit a master plan, drawn to a reasonable scale, for all of the applicant's planned or reasonably anticipated tower or antenna locations within the jurisdiction of the City or within one-quarter mile of the border thereof, indicating the service area covered by each such tower or antenna and including specific information about the location, height, and design of each tower.
  3. Factors Considered in Granting Conditional Use Permits. The Board of Zoning Adjustments shall consider the following factors in determining whether to issue a conditional use permit, although the Board may waive or reduce the burden on the applicant of one or more of these criteria if the Board concludes that the goals of this ordinance are better served thereby.
    - a. Height of the proposed tower.
    - b. Proximity of the tower to residential structures and residential district boundaries.
    - c. Nature of uses on adjacent and nearby properties.
    - d. Surrounding topography.
    - e. Surrounding tree coverage and foliage.

- f. Design the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - g. Proposed ingress and egress.
  - h. Availability of suitable existing towers and structures as discussed in Sub-section F.4. of this Section.
4. Availability of Suitable Existing Towers or Other Structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Zoning Adjustments that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
5. Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required, provided however, that the Board of Zoning Adjustments may reduce the standard setbacks and separation requirements if the goals of this Section would be better served thereby.

- a. Towers must be set back a distance equal to the height of the tower from any off-site residential structure.
  - b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
  - c. In zoning districts other than industrial or heavy commercial zoning districts, towers over sixty (60) feet in height shall not be located within one-quarter of a mile from any existing tower that is over sixty (60) feet in height.
6. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the Board of Zoning Adjustments may waive such requirements, as it deems appropriate.
7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required, provided however, that the Board of Zoning Adjustments may waive such requirements if the goals of this Section would be better served thereby.
- a. Tower facilities shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least five (5) feet wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited in large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- G. Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same, and restore the site to its pre-installation condition, within ninety (90) days of receipt of notice from the Community Development Department Director notifying the owner of such abandonment. The notice shall specify that the owner has the opportunity to request a public hearing on the removal of the antenna or tower. If such

antenna or tower is not removed within said ninety (90) days, the Community Development Director may remove such antenna or tower at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.