

ATTACHMENT A

ORDINANCE NO. ____ - 2023

AN ORDINANCE OF THE CITY OF FREMONT AMENDING VARIOUS CHAPTERS OF FREMONT MUNICIPAL CODE TITLE 17 (SUBDIVISIONS) AND TITLE 18 (PLANNING AND ZONING) TO COMPLY WITH STATE LAW AND IMPLEMENT PROGRAMS 16, 17, 18, 32, 34, 36, 37, 44, 45, 46, 69, 74, 76, AND 91 OF THE CITY'S 2023-2031 HOUSING ELEMENT; AND MAKING FINDINGS OF CEQA EXEMPTION (PLN2023-00213).

WHEREAS, the City occasionally initiates amendments to the Fremont Municipal Code (FMC) to clarify, add, or amend certain provisions to ensure that the local regulations remain current with Federal and State law, internally consistent, simple to understand and implement, and relevant to changes occurring in the community; and

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Government Code §65589.5.); and

WHEREAS, the Legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration” (Government Code §65589.5.); and

WHEREAS, the Legislature adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita... California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years;” and

WHEREAS, State Housing Element Law (Government Code §65580 et seq.) requires that the City to adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City’s regional housing need allocation (RHNA) of 12,897 housing units, comprised of 3,640 very-low income units, 2,096 low-income units, 1,996 moderate-income units, and 5,165 above moderate-income units; and

WHEREAS, State law requires that the City take meaningful steps to promote and affirmatively further fair housing (Government Code §65583(c)(5)); and

WHEREAS, State law requires that the City make zoning available for all types of housing, including multifamily housing (Government Code §§ 65583.2 and 65583(c)); and

WHEREAS, the Housing Element must be adopted to comply with State law, accommodate the RHNA, affirmatively further fair housing, and facilitate and encourage a variety of housing types for all income levels, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

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WHEREAS, the City contracted with a CEQA consultant to analyze the appropriate CEQA determinations for the proposed Housing Element, as attached in Exhibit B, which, together with other evidence in the record as a whole demonstrates that the proposed Housing Element update is exempt from the requirements of the California Environmental Quality Act (CEQA) and/or that no further environmental review is required; and

WHEREAS, on December 22, 2022, the Planning Commission held a public hearing and recommended that the City Council adopt a General Plan Amendment to update the Housing Element; and

WHEREAS, on January 10, 2023, the City Council conducted a public hearing, reviewed the 2023-2031 Housing Element and all pertinent maps, documents and exhibits, including the findings and recommended changes made by HCD, the City's response to HCD's findings, public comments, and the Planning Commission's recommendation, and adopted the Housing Element after determining it to be consistent with State law and the City's General Plan; and

WHEREAS, on March 22, 2023, HCD certified the City's 2023–2031 Housing Element, making Fremont the sixth city in Alameda County to receive State certification; and

WHEREAS, State law requires that the City review its Housing Element as frequently as appropriate to evaluate the progress of the City in implementation of its Housing Element (Government Code §65588); and

WHEREAS, the proposed FMC amendments to Title 17 (Subdivisions) and Title 18 (Planning and Zoning) are intended to implement the requirements of State law; and

WHEREAS, on **October 26, 2023**, the Planning Commission held a duly noticed public hearing, during which all interested persons were heard, and recommended that the City Council adopt the proposed FMC amendments to Title 17 (Subdivisions) and Title 18 (Planning and Zoning); and

WHEREAS, a Staff Report, recommending approval of the proposed FMC amendments to Title 17 (Subdivisions) and Title 18 (Planning and Zoning), was submitted to the City Council; and

WHEREAS, on _____, the City Council held a duly noticed public hearing, at which time all interested parties had the opportunity to be heard; and

WHEREAS, proper notice of said hearing was given in all respects as required by law; and

WHEREAS, the City Council did hear and consider all said reports, recommendations, and testimony herein above set forth and used its independent judgment to evaluate the project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

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SECTION 1. FMC §17.20.620, AMENDED

FMC §17.20.620 is amended to read as follows:

17.20.620 Lot combinations.

When a property owner of two or more contiguous lots desires to combine the lots, or is compelled to combine the lots due to public policy or ordinance, the property owner shall file a lot combination application with the planning manager. The application shall consist of a plat of the properties to be combined, with as many copies as may be required by the planning manager. If the manager finds that the proposed lot combination is in conformance with the general plan, the zoning ordinance and the city's development policies, the manager ~~may~~shall approve the lot combination.

Upon approval of the lot combination, the property owner shall record the notice of approval for the lot combination with the county recorder. A copy of the recorded document shall be filed with the planning manager. Failure to record the lot combination shall be cause for the denial of any project dependent on the lot combination.

The above procedures for lot combinations shall not apply to parcel mergers as addressed in Sections 17.20.530 through 17.20.610.

SECTION 2. FMC §18.25.213, AMENDED

FMC §18.25.213 is amended to read as follows:

“Assisted living facility” shall mean any facility licensed or proposed to be licensed by the state of California as a continuing care retirement community, residential care facilities ~~for the elderly,~~ or skilled nursing health facility.

SECTION 3. FMC §18.25.1030, AMENDED

FMC §18.25.1030 is amended to read as follows

18.25.1030 Emergency shelters.

“Emergency shelter” is defined by Cal. Health & Safety Code § 50801(e) and also includes other interim interventions, including, but not limited to, navigation centers, bridge housing, and respite or recuperative care. Emergency shelter does not include: (a) transitional housing;¹ or (b) temporary shelter provided by general relief in the wake of a disaster where assistance by the American Red Cross and/or federal disaster relief program is provided. Emergency shelters are governed by Section 18.190.150.

Cal. Health & Safety Code § 50801(e) is reprinted here for reference:

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“Emergency shelter” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.” This paragraph is advisory only and not intended to deviate from state law as it may be amended from time to time.

SECTION 4. FMC §18.25.1060, AMENDED

FMC §18.25.1060 is amended to read as follows:

18.25.1060 Family.

“Family” shall mean:

- (a) One person living alone;
- (b) Two or more persons living together who have made social, economic, and psychological commitments to each other and who constitute a bona fide single housekeeping unit. Family includes the residents of residential care facilities and group homes for people with disabilities.

SECTION 5. FMC §18.25.1793, ADDED

FMC §18.25.1793 is added, in numerical order, to Chapter 18.25, Definitions, to read as follows:

18.25.1793 Low-barrier navigation centers (LBNC).

“Low-Barrier Navigation Centers” (LBNC) is defined in Government Code Section 65660, as may be amended, and reprinted here for reference:

“Low-barrier Navigation Center” means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low-barrier” means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- (2) Pets.
- (3) The storage of possessions.
- (4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

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SECTION 6. FMC §18.25.2408, AMENDED

FMC §18.25.2408 is amended to read as follows:

18.25.2408 Residential care facilities ~~for the elderly.~~

~~“Residential care facilities for the elderly” is defined by Cal. Health & Safety Code § 569.2(p)(1) and does not include other types of residential care facilities, including residential care facilities for developmental disabilities, substance abuse treatment, or mental illness. Residential care facilities for the elderly are governed by Section 18.190.026.~~

~~Cal. Health & Safety Code § 1569.2(p)(1) is reprinted here for reference:~~

~~“Residential care facility for the elderly” means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Cal. Health & Safety Code § 1569.316.~~

~~“Residential care facilities” shall mean any family home, group care facility, or similar facility that is maintained and operated to provide twenty-four (24) hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.~~

SECTION 7. FMC §18.25.2410, REPEALED

FMC §18.25.2410 is repealed as follows:

18.25.2410 ~~Residential care facilities, special~~ Repealed.

~~“Special residential care facilities” means any state authorized, certified or licensed family care home, foster home or group home serving six or fewer persons with disabilities, children, or the elderly that provide care on a 24 hour a day basis.~~

SECTION 8. FMC §18.25.2601, ADDED

FMC §18.25.2601 is added, in numerical order, to Chapter 18.25, Definitions, to read as follows:

18.25.2601 Single housekeeping unit.

~~“Single housekeeping unit” shall mean one or more individuals living together sharing household responsibilities and activities, which may include, sharing expenses, chores, eating evening~~

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meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.

SECTION 9. FMC §18.25.2860, REPEALED

FMC §18.25.2860 is repealed as follows:

18.25.2860 Target population.

“Target population” is defined by California Government Code Section 65582~~Cal. Health & Safety Code § 53260~~.

~~California-Health & Safety~~ Government Code Section 65582(i)~~§ 53260~~ is reprinted here for reference:

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

This paragraph is advisory only and not intended to deviate from state law as it may be amended from time to time.

SECTION 10. FMC §18.43.070, AMENDED

FMC §18.43.070 is amended to read as follows:

- (a) General Requirements. All property subject to the city center code shall comply with the following provisions as applicable pursuant to Section 18.43.030:
 - (1) The standards of this chapter and those specific standards of the applicable zone identified in Figure 18.43.050;
 - (2) The requirements for processing of applications in Chapter 18.235 (Design Review Permits);
 - (3) Section 18.183.020 (When off-street parking is required);
 - (4) Sections 18.183.110(c) through (k) (Development and maintenance of parking and loading areas);
 - (5) Section 18.183.120 (Parking spaces accessible to disabled people);

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- (6) Section 18.183.172 (Car share and electric vehicle spaces);
 - (7) Section 18.183.174 (Electric vehicle charging stations);
 - (8) Section 18.183.175 (Tandem parking spaces for residential uses);
 - (9) Section 18.183.176 (Mechanical parking systems);
 - (10) Section 18.183.178 (Parking garages – Above and below grade).
- (b) Open Space Requirements. As required by the building placement standards of the applicable zone, open space shall be provided as follows:
- (1) Required Open Space. Required open space shall be distributed throughout the site as follows:
 - (A) At least 50 percent of required open space is to be adjacent to a streetscape with a minimum dimension of 50 feet in width along the streetscape and shall be accessible to the general public;
 - (B) No more than 25 percent of required open space may be on the roof(s);
 - (2) Required Private Open Space. Required private open space shall be provided in the form of balconies, roof decks or ground floor patios as follows, unless otherwise specified through review and approval of a design review permit (DRP):
 - (A) At least 50 square feet per dwelling;
 - (B) If the private open space is adjacent to a sidewalk or other circulation path, the private open space shall be defined by a low wall and/or a terrace which may include a porch;
 - (C) Common open space may be substituted for the required private open space by a ratio of 2:1 (e.g., 100 square feet of common open space may be substituted for 50 square feet of required private open space);
 - (3) (All open space shall be designed to enhance or complement the architectural design and ground floor frontages of adjacent buildings;
 - (4) All open space shall be designed to generate the urban environment envisioned in the city center community plan;
 - (5) All open space shall be designed to not create a security or physical hazard to pedestrians or motorists;
 - (6) All open space shall be designed to provide visual interest year-round;

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- (7) All open space shall be designed to utilize water conservation methods and drought-tolerant planting.

[All subdivisions to follow remain unchanged]

SECTION 11. FMC TABLE 18.43.120, AMENDED

FMC Table 18.43.120 is amended to update the “Residential” uses as follows:

**Table 18.43.120
Permitted, Conditionally Permitted, and Prohibited Uses in City Center Zones**

Use	2012 NAICS ²	Zones			Specific Use Requirements/Notes
		CC-TN	CC-UO	CC-UN	
Residential					
Emergency shelters¹		P	P	P	Section 18.190.150
Live/work units ¹		P3	P3	P3	Section 18.190.290
Low-barrier navigation centers¹		P	P	P	Section 18.190.295
Multifamily including units within mixed-use buildings excluding townhouse ¹ , listed below		P	P	P	Detached units not allowed
Special Residential care facilities ¹		P	P	P	Section 18.190.465
Supportive ¹ and/or transitional housing ¹		P	P	P	Section 18.190.527
Townhouse ¹		Z	Z	Z	Detached units not allowed

[All other portions of the table remain unchanged]

SECTION 12. FMC §18.43.130, REPEALED AND REPLACED

FMC §18.43.130 is repealed and replaced as follows:

18.43.130 Parking standards.

- (a) **Minimum Parking Required.** Required parking may be located off site up to 600 feet from the site for residential parking and up to 1,250 feet from the site for nonresidential parking when:

- (1) The remote parking complies with the site requirements of the zone; and

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- (2) The applicant provides the city with a valid off-site parking agreement pursuant to Section 18.183.070 stating that the owner of the remote site authorizes such activity. Shared parking is permitted, but not required, as part of the off-site parking agreement. When shared parking is not part of the off-site parking agreement, an exclusive use parking shall be required at a minimum and up to the maximum as provided in Table 18.43.130(a) and Table 18.43.130(b).

**Table 18.43.130(a)
City Center – Office and Urban Neighborhoods**

Type of Use	Minimum (Nonexclusive Use)	Minimum (Exclusive Use)	Maximum
Assembly Uses	1 space/5 seats	1 space/4 seats	1 space/3 seats
Commercial Uses (nonhealthcare)	2.25 spaces/tgsf	3.3 spaces/tgsf	5 spaces/tgsf
Healthcare Uses	3.3 spaces/tgsf	4 spaces/tgsf	5 spaces/tgsf
Residential Uses	0.75 space/dwelling unit	1 space/dwelling unit	2 spaces/dwelling unit

**Table 18.43.130(b)
City Center – Transit Neighborhood**

Type of Use	Minimum (Nonexclusive Use)	Minimum (Exclusive Use)	Maximum
Commercial Uses (nonhealthcare)	1.5 spaces/tgsf	2 spaces/tgsf	3.3 spaces/tgsf
Residential Uses	0.50 space/dwelling unit	0.75 space/dwelling unit	1 space/dwelling unit

Note: “tgsf” = thousand gross square feet

(b) Minimum Parking Not Required.

- (1) No minimum parking is required on Bay Area Rapid Transit (BART) district-owned parcels that are subject to the TOD zoning standards in California Public Utilities Code Section 29010.6.
- (2) No minimum parking is required for projects that meet the parking exemptions provided in Chapter 18.183.

SECTION 13. FMC §18.45.040, AMENDED

FMC §18.45.040(b) is amended to read as follows:

(c) Mixed-Use Standards.

- (1) A mixed-use development must include a ~~substantial~~ commercial component. At least 50 percent of the total ground floor building area that is located within 50 feet of the street frontage shall be designated for commercial and/or office uses.

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For mixed-use developments on corner lots, the minimum commercial floor area requirement shall be applied ~~separately to each street frontage; however, this requirement may be modified to only apply~~ to the street frontage located on a Main Street or Urban Corridor (Place Types) or with the highest multimodal traffic volume, ~~subject to approval of a design review permit~~. Additionally, mixed-use developments shall maintain commercial and other active uses along all frontages designated as a main street or urban street corridor as shown in the general plan community character element and place types manual ~~and comply with the storefront review requirements in Section 18.190.525~~.

Notwithstanding the foregoing, the otherwise required minimum commercial component of a mixed-use development can be reduced or waived if a concession is requested for such project in accordance with Chapter 18.165, Density Bonus and Affordable Housing Incentives.

- (2) The minimum depth of commercial space shall be 50 feet. Where other functional or structural elements of a building design (e.g., stairs, elevators, fire equipment, bearing walls) preclude a 50-foot uniform depth, the approval body may allow for an exception to lessen the depth along up to ~~20-25~~ percent of the linear frontage of total commercial space provided. Unless infeasible due to existing lot dimensions or conditions, ~~D~~depths less than 30 feet shall be avoided ~~or repurposed so as not to create undesirable commercial spaces. A discretionary design review permit pursuant to Chapter 18.235 shall be required in instances where the storefront will be less than 50 feet in depth.~~
- (3) The remainder of floor area from that set aside for the commercial portion of the development may be used to create residential units.
- (4) Multifamily residential development within a mixed-use development shall be governed by objective standards with respect to lot, siting, architectural, and site design standards for portions of the development not located along the commercial street frontage, and with respect to provision of private and common open space and private storage, by the multifamily (R-3) residential district most similar in nature and function to the residential portion of the mixed-use development.

[All other subdivisions of this section remain unchanged]

SECTION 14. FMC TABLE 18.45.060-1, AMENDED

FMC Table 18.45.060-1 amended to update the “Residential” uses as follows:

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Table 18.45.060-1: Commercial and Mixed Uses

Use	2012 NAICS ²	Zones							Specific Use Requirements/ Notes
		C-O	C-N	C-G	C-R	MX	TC-P	TC-T	
Residential									
Emergency shelters ¹		<u>CP</u>	<u>CP</u>	C	--	<u>CP</u>	<u>CP</u>	<u>CP</u>	Not permitted in a special flood hazard area; Section 18.190.150
Live/work units ¹		--	--	--	--	Z(*)	Z(*)	Z	Section 18.190.290 (*) Not allowed along main street corridor frontages as shown in the community character element
Low-barrier navigation centers¹		<u>P</u>	<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	Section 18.190.295
Residential, as component of mixed-use project only		C	C	--	--	P	P	P	
Residential care facilities, special ¹		P	P	--	--	P	P	P	Within residential units only. Commercial building conversion not permitted. Section 18.190.465
Supportive ¹ and/or transitional housing ¹		P(*)	P(*)	--	--	P ³	P ³ (*)	P	(*) Allowed only as a component of a mixed-use project. Section 18.190.527

[All other portions of the table remain unchanged]

SECTION 15. FMC TABLE 18.47.050

FMC Table 18.47.050 is amended to update the “Residential” uses as follows:

**Table 18.47.050
Permitted, Conditionally Permitted, and Prohibited Uses in Place-Type Zones**

Use	2012 NAICS ²	Zones				Specific Use Requirements/ Notes
		D-CA	D-MD	D-E	D-CC	
Residential						
Emergency shelters¹		<u>P</u>	<u>P</u>	<u>P</u>	--	Section 18.190.150
Live/work units ¹		--	C	C	--	Section 18.190.290
Low-barrier navigation centers¹		<u>P</u>	<u>P</u>	<u>P</u>	--	Section 18.190.295
Multifamily, including units within mixed-use ¹ buildings		P-UFO	P	P	--	
Special Residential care facilities ¹		P-UFO	P	P	--	Section 18.190.465
Supportive ¹ and/or transitional housing ¹		P-UFO	P-UFO	<u>P--</u>	--	

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Use	2012 NAICS ²	Zones				Specific Use Requirements/ Notes
		D-CA	D-MD	D-E	D-CC	
Townhouse ¹		--	P	--	--	

[All other portions of the table remain unchanged]

SECTION 16. FMC TABLE 18.47.080, AMENDED

FMC Table 18.47.080 is amended to add a row for “Projects Near Transit-Oriented Development” under the “Parking and Circulation” category, as follows:

**Table 18.47.080
Required Site Development Standards for D District Place-Type Zones**

Required Site Development Standards	D-CA	D-MD	D-E	D-CC
Parking and Circulation				
Below-grade parking setback	None	None	None	None
At-grade parking setback	50' minimum from Capitol Avenue; 10' from shared lot line, landscaped and screened	5' minimum from street; 10' minimum side and rear, landscaped and screened	15' minimum front yard; 10' minimum side and rear	No parking along Capitol Avenue; 5' minimum from New Middle Road, landscaped and screened
	Parking access lanes/curb cuts or drop-off lanes are not permitted along Capitol Avenue frontage except as shown in DCP Exhibit 3.17a. Consistent with DCP Exhibit 3.17a, the northernmost permitted driveway shall be closed when the 39025-39051 State Street building is demolished or substantially remodeled. Parking only allowed behind buildings. See DCP Sections 2.3, Parking Plan, and 4.4, Development Guidelines, for additional parking requirements.			
Above-grade parking setback	15' minimum from Capitol Avenue; parking only allowed behind buildings	5' minimum from street; landscaped and screened	30' minimum from street wall; no setbacks from side and rear	5' minimum from street, landscaped and screened
Projects Near Transit-Oriented Development	See Chapter 18.183			

SECTION 17. FMC §18.47.090, AMENDED

FMC §18.47.090(e) is amended to read as follows:

- (e) Private Open Space. Each unit shall have at least one private open space area contiguous to the individual dwelling unit that allows the occupant of the unit private use of an outdoor

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space, except that no private open space area shall be required for an individual dwelling unit within the D-CA. Unless otherwise specified through the design review permit, private open space shall be provided as follows:

- (1) Balconies (above ground level): minimum 48 square feet, the least interior dimension of which is six feet; ~~or~~
- (2) Patios (at ground level): minimum 80 square feet, the least interior dimension of which is eight feet; or
- (3) Common open space may be substituted for the required private open space at a ratio of 2:1 (e.g., 160 square feet of common open space may be substituted for 80 square feet of required ground-level private open space).

SECTION 18. FMC TABLE 18.49.040(A), AMENDED

FMC Table 18.49.040(a) is amended to update the “Residential” uses, as follows:

**Table 18.49.040(a)
Permitted, Conditionally Permitted, and Prohibited Uses in WSI District Planning Areas**

WSI District Planning Area >	2012 NAICS ²	WSI-1	WSI-2	WSI-3	WSI-4	WSI-4A	WSI-5	WSI-6	WSI-7	WSI-8	WSI-9	WSI-10	Specific Use Regulations/Notes
RESIDENTIAL													
Day care homes, large and small		P	P	P	P	P	P	P	P	P	P	P	
Emergency shelters ¹ except when located within a special flood hazard area ¹		CP	P	CP	CP	P	P	P	P	CP	CP	P	Section 18.190.150
<u>Low-barrier navigation centers¹</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 18.190.295</u>
Live/work units ¹		P	P	P	P	P	P	P	P	P	P	P	Section 18.190.290
Multifamily including units within mixed-use ¹ buildings		P	P	P	P	P	P	P	P	P	P	P	
Special-Residential care facilities ¹		P	P	P	P	P	P	P	P	P	P	P	<u>Section 18.190.465</u>
Supportive and transitional housing ¹		P	P	P	P	P	P	P	P	P	P	P	

[All other portions of the table remain unchanged]

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SECTION 19. FMC §18.90.030, AMENDED

FMC §18.90.030 is amended to add subdivision (u) as follows:

- (u) A “housing development project,” as defined in Government Code Section 65905.5, as may be amended, shall not demolish any residential units unless it complies with the requirements specified in Government Code Section 66300, as may be amended.

SECTION 20. FMC TABLE 18.90.040, AMENDED

FMC Table 18.90.040 is amended as follows:

**Table 18.90.040
R-1 and R-2 District¹ Development Standards**

Zoning District ^{1,10} Development Standard (measurement)		R-1-6	R-1-6 Glenmoor Gardens ²	R-1-8	R-1-8 Mission Palms	R-1-8 Mission Ranch ³	R-1-10	R-1-20	R-1-40	R-2 ⁴	Exceptions, Adjustments and References	
Minimum lot area ¹ (square feet)	Single-family	6,000 ¹⁵	6,000 ¹⁵	8,000 ¹⁵	8,000 ¹⁵	8,000 ¹⁵	10,000 ¹⁵	20,000 ¹⁵	40,000 ¹⁵	6,000 ¹⁵		
	Duplex	8,000 ⁵	8,000 ⁵	10,000 ⁵	10,000 ⁵	10,000 ⁵	12,000 ⁵	20,000 ⁵	40,000 ⁵	8,000		
Minimum street frontage ¹ (feet)	Regular lot ¹	35										
	Flag lot ¹	26	–	26	–	–	26	26	26	–	18.190.165	
Minimum lot width ¹	Interior (feet)	55	55	70	70	75	80	100	150	70		
	Corner (feet)	65	65	80	80	80	90	110	160	80		
Minimum lot depth ¹ (feet)		100										
Minimum front yard ¹ depth (feet)		20	20	25	25	25	25	35	40	25	18.170.030	
Minimum rear yard ¹ depth	One story ¹ (feet)	25	25	25	25	25	30	40	50	25	18.170.050	
	Two story ¹ (feet)	25	–	30	30	30	35	40	50	25		
Minimum interior side yard ¹ depth ^{6,7}	First story ¹	Minimum (feet)	5	5	7	7	7	8	10	20	7	18.170.040
		Total (feet)	12	12	16	16	16	20	25	45	16	
	Second story ¹	Minimum (feet)	6	–	8	8	8	10	10	20	8	18.170.040
		Total (feet)	15	–	20	20	20	20	25	45	20	
Solar setback		Minimum (feet)	Varies	–	Varies						18.186	
Minimum street side yard ¹ depth on corner lots ¹ (feet)		10	10	12.5	12.5	12.5	12.5	17.5	20	12.5	18.170.040	
Maximum building height ¹	Principal structure ¹	One story ¹ (feet)	17	178	17	178	178	17	17	17	17	18.170.020
		Two story ¹ (feet)	30	–	30	278.9	278.9	30	30	30	30	
Maximum height above grade for finish floor level (first story ¹ over basement) ⁹ (inches)		28	28	28	28	28	28	28	28	28		

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Zoning District ^{1,10} Development Standard (measurement)		R-1-6	R-1-6 Glenmoor Gardens ²	R-1-8	R-1-8 Mission Palms	R-1-8 Mission Ranch ³	R-1-10	R-1-20	R-1-40	R-2 ⁴	Exceptions, Adjustments and References
Roof pitch ^{9, 14} (rise: run)	Minimum	3:12	3:12	3:12	3:12	3:12	3:12	3:12	3:12	3:12	
	Maximum	7:12	5:12	7:12	5:12	5:12	7:12	7:12	7:12	7:12	
Maximum lot coverage ¹ for first story ¹ (includes garage area), as a percentage of lot area		40	40	40	[Footnote 11]	[Footnote 12]	40	40	40	40	
Maximum size of second story (or understory on a downhill lot) (as a percentage of first story area, not to exceed specified square footage) ¹³		50% or 1,000 s.f. max.	–	50% or 1,250 s.f. max.	[Footnote 11]	[Footnote 12]	50% or 1,500 s.f. max.	50% or 3,000 s.f. max.	50% or 6,000 s.f. max.	50% or 1,000 s.f. max.	
Accessory dwelling units		See Section 18.190.005									
Accessory structures ¹		See Chapter 18.153									
Fences ¹ and hedges ¹		See Chapter 18.171									

¹ Term is defined in Chapter 18.25.

² See [the Objective Design Standards in the](#) Glenmoor Gardens Design Guidelines.

³ See [the Objective Design Standards in the](#) Mission Ranch Design Guidelines.

⁴ Standards listed are for development of duplex units. Single-family residences may utilize R-1-6 standards; however, this may preclude subsequent duplex development.

⁵ Duplexes are only permitted on corner lots.

⁶ Rear and side yards may be substituted for one another, except that on a corner lot such substitution shall be made only between a rear yard and an interior side yard.

⁷ For combination one- and two-story structures, the one-story portion of the structure shall meet the one-story setback requirements and the two-story portion of the structure shall meet the two-story setback requirements. In no case shall the total side yard setback for combination one- and two-story structures be less than that required for a one-story structure only. The wider setback shall be on the two-story side.

⁸ For Glenmoor Gardens, Mission Ranch, and Mission Palms, height is measured from grade to the top of the roof ridge.

⁹ Does not apply when matching existing conditions.

¹⁰ Development standards for R-1-X districts were specified at the time of district establishment but are subject to the lot coverage and maximum second story size standards of the district closest in size to the actual lot size as well as the solar setback requirements. No new R-1-X zones are permitted.

¹¹ Lot coverage varies based upon the number of stories. A one-story home may have up to 40 percent lot coverage. The overall square footage of a two-story home is limited to 35 percent of the lot area. The square footage of the second story is limited to 60 percent of the square footage of the first story, or 1,000 square feet, whichever is less.

¹² Lot coverage varies based upon the number of stories. A one-story home may have up to 40 percent lot coverage. A two-story home is only possible if the first floor lot coverage first reaches 22 percent but does

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not exceed 30 percent. The overall square footage of a two-story home, however, then becomes limited to 30 percent of the lot area.

13 Second story may have an area up to the lesser of 50 percent of the first floor area and the floor area of any attached garages or 1,000 square feet in R-1-6 zoning district, 1,250 square feet in R-1-8 zoning district, 1,500 square feet in R-1-10 zoning district, 3,000 square feet in R-1-20 zoning district, 6,000 square feet in R-1-40 zoning district, and 1,000 square feet in R-2 zoning district. The second-story limitations shall not apply to a project that involves a second story that is converted from an attic or constructed in a way that the second-story floor area is located within the slope of the roof system over the first floor.

14 Roof pitch standard may be adjusted through a discretionary design review permit.

15 To allow for densities permitted by the General Plan, new residential development on lots that are less than 6,000 square feet may utilize the objective standards provided in the City's design guidelines for "Small-Lot Single-Family Residential Developments.

[All other portions of this table remain unchanged]

SECTION 21. FMC §18.90.050, AMENDED

FMC §18.90.050 is amended to read as follows:

[Subdivisions (a) through (c) remain unchanged]

(d) Lot Standards.

(1) Purpose and Intent. The minimum lot size, width, and frontage standards for new lots ensure that development on a lot will be able to comply with all site development standards. The standards also prevent the creation of very small lots that are difficult to develop at their full density potential.

(2) Pursuant to California Government Code Section 65913.11, as may be amended, minimum lot standards shall not apply for existing lots where a small-scale multifamily housing development project is proposed. See Section 18.190.522 for regulations pertaining to small-scale multifamily housing development projects.

[Subdivisions (e) through (f) remain unchanged]

(g) Open Space Areas.

(1) Purpose and Intent. Open space areas shall be provided for the use of all residents within the development. Open space is important to provide areas for use by residents outside of the private units, either outdoor or indoor, to provide a semi-private transition area between private residences and the public domain, and to ensure that adequate facilities exist for the use of residents outside of the private units. Open space areas are comprised of common and private open space.

(A) Common Open Space¹.

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- (i) Common open space may include, but is not limited to, rooftop gardens, indoor recreation facilities, landscaped spaces designed for active use, and other creative spaces.
 - (ii) Common open space shall be accessible to all residents within the development and provided with amenities or facilities likely to be utilized by anticipated residents, such as swings, pools, barbecues, tables and benches.
 - (iii) Common open space area shall have a minimum dimension of 15 feet.
 - (iv) Common open space areas shall not be located within any required setback.
 - (v) Small development sites of 12 units or less may be exempted from providing common open space when exceeding private open space area standards.
- (B) Private Open Space¹. Each dwelling unit should have at least one private open space area contiguous to the individual dwelling unit that allows the occupants of the unit the private use of an outdoor space. Common open space may be substituted for the required private space at a ratio of 2:1 (e.g., 120 square feet of common open space may be substituted for 60 square feet of required private open space).

[All subdivisions to follow remain unchanged]

SECTION 22. FMC TABLE 18.90.080, AMENDED

FMC Table 18.90.080 is amended as follows:

**Table 18.90.080
Allowed Land Uses and Permit Requirements for Residential Zoning Districts**

Land Use	2012 NAICS ²	R-1	R-2	R-3	R-G	Specific Use Regulations
Accessory or ancillary use ¹		A	A	A	A	
Agriculture ¹ , except for the raising of animals or fowl for commercial purposes, or for sale of any products at retail on premises		Z	Z	-	-	
Ambulance service ²	621910	C	C	C	C	
Children's nursery school ¹		C	C	C	C	18.190.400
Civic and social organizations ² , except those operated as a business for profit	813410	C	C	C	C	

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Land Use	2012 NAICS ²	R-1	R-2	R-3	R-G	Specific Use Regulations
Club, community ¹ , and other noncommercial recreation areas and facilities, such as country clubs and golf courses		C	C	C	C	18.190.050 18.190.090 18.190.530
Continuing care retirement communities ¹ and residential care facilities for the elderly ¹		C	C	P	P	18.190.026
Day care homes, family ¹ (small and large)		P	P	P	P	
Commercial uses		-	-	C ⁴	C ⁴	
Duet dwelling ¹		-	P	P/Z ³	P/Z ³	18.90.050(i) 18.90.070(c)
Duplex or two-family dwelling ¹		P on corner lots	P	P/Z ³	P/Z ³	18.90.050(i) 18.90.070(c)
Dwelling group ¹		Z	Z	-	-	18.190.130
Elementary and secondary schools ¹		C	C	C	C	
Emergency shelters ¹		CP	CP	CP	CP	18.190.150
Guesthouses ¹		A	-	-	-	18.190.205
Home occupation ^{1,7}		A	A	A	A	18.190.240
Junior accessory dwelling units		A	A	A ³	A ³	18.190.005
Live/work units ¹		-	-	C	-	18.190.290
<u>Low-barrier Navigation Centers¹</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 18.190.295</u>
Meal service facility ¹ accessory to a public or quasi-public use, except when located within a special flood hazard area ¹		C	C	C	C	
Multiple dwellings, including attached or detached townhome style units, and apartment efficiency or single room occupancy units ¹		-	-	P	P	
Nursing care facilities (skilled nursing facilities) ²	6231	-	C with less than 15 patient beds	C	C	18.190.410
Nursing homes or convalescent hospital, licensed ¹		-	C with less than 15 patient beds	C	C	18.190.410
Public or quasi-public use ¹ not including: corporation/contractor/fleet/service yards ¹ and warehouses ¹ or any use specifically listed in this table as a permitted, zoning administrator or prohibited use		C	C	C	C	18.190.025
Residential care facilities, special ¹		P	P	P	P	<u>18.190.465</u>
Rooming and boarding of not more than two persons per dwelling unit		A	A	A	A	
Rooming and boardinghouses ¹		-	C ⁵	C	C	
Single-family dwelling ¹		P	P	P/Z ³	P/Z ³	18.90.050(i) 18.90.070(c)
Skilled nursing health facilities ¹		-	C with less than 15 patient beds	Z	Z	18.190.026
Accessory dwelling units		A ⁶	A ⁶	A ^{3,6}	A ^{3,6}	18.190.005
Swimming pools, private (exclusively for use by residents and guests)		A	A	A	A	18.190.530

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Land Use	2012 NAICS ²	R-1	R-2	R-3	R-G	Specific Use Regulations
Supportive housing ¹		P ⁵	P ⁵	P	P	18.190.527
Supportive services for on-site supportive housing ¹		A	A	A	A	18.190.527
Transitional housing ¹		P ⁵	P ⁵	P	P	
<u>Two-Unit Developments and/or Urban Lot Splits</u>		<u>P</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>18.190.007</u>
Urban agriculture, low-impact ¹		P	P	P	P	18.190.015
Urban agriculture, high-impact ¹		Z	Z	Z	Z	18.190.015
Use determinations, land (See 18.250.030)		P/Z/C	P/Z/C	P/Z/C	P/Z/C	

[All other portions (e.g., footnotes) of the table remain unchanged]

SECTION 23. FMC §18.110.030, REPEALED

FMC §18.110.030 is repealed as follows:

~~18.110.030—Small lot residential developments.~~

~~For the purposes of this section, “small lot residential development” shall mean a subdivision containing six or more lots that are generally between 4,000 square feet and 6,000 square feet in size.~~

- ~~(a) — A small lot residential development shall be evaluated for consistency with the adopted “Design Guidelines for Small Lot Single Family Residential Developments” through a planned district rezoning process.~~
- ~~(b) — Minimum Lot Size. The minimum lot size for a small lot residential development shall be 4,000 square feet unless 100 percent of the units are available at an affordable housing cost to low and moderate income persons and households (as defined in Cal. Health & Safety Code § 50093 as amended from time to time).~~
- ~~(c) — The P district shall establish provisions for minimum private open space on each lot and shall identify the type of accessory structures, if any, allowed within this space.~~
- ~~(d) — The P district shall also establish if any additions to main buildings are permitted. If additions are not permitted, a deed restriction shall be recorded at the time of the final map as well as noted in the conditions of approval for said P district.~~
- ~~(e) — Maximum Height. The maximum building height for a small lot residential development shall not exceed 30 feet.~~
- ~~(f) — Land Uses. In the absence of specifically adopted P district land use and permit requirements, the allowed land uses and permit requirements for residential lots within~~

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~~small lot residential developments shall be as provided for R-1 districts in Table 18.90.080.~~

SECTION 24. FMC CHAPTER 18.137, ADDED

FMC Chapter 18.137, Housing Element Sites Inventory Overlay is added, as follows:

Chapter 18.130 (HESI) Housing Element Sites Inventory Overlay

18.137.010 Purpose.

The purpose of the Housing Element Sites Inventory (HESI) Overlay is to:

- (a) Implement the goals and policies of the general plan housing element and provide the opportunity and means for Fremont to meet its regional fair share allotment of affordable units.
- (b) Provide optional standards for the development of a wide variety of housing developments, which provide a minimum of 20-percent of all units dedicated to lower income households.

18.137.020 Definitions.

- (a) Affordable housing. “Affordable housing” shall mean housing capable of being purchased or rented by “very low,” “low,” or “moderate” income households at an “affordable ownership cost” or “affordable rent,” as those terms are defined in Chapter 18.155, Affordable Housing.
- (b) By Right Approval. “By Right Approval” shall mean that the City’s review of a housing development, which meets the provisions of this chapter, shall not require a discretionary design review permit, zoning administrator permit, conditional use permit, or other discretionary review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.
- (c) Housing Element Sites Inventory Overlay. “Housing Element Sites Inventory (HESI) Overlay” shall mean a zoning overlay for sites that meet the qualifying factors stated in Government Code Section 65583.2(c), as may be amended. The HESI Overlay encourages the provision of affordable housing units as described in this chapter.
- (d) Lower Income Households. “Lower income households” means “the same as the term is defined in the California Health and Safety Code.

18.138.030 Assurance of Affordability.

Affordable housing units developed under this chapter shall comply with the provisions specified in Chapter 18.155, Affordable Housing.

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18.138.040 Permitted Uses.

In addition to the uses permitted by the underlying zoning district, permitted uses for the R-3 zoning district may be approved in the HESI Overlay through the City's design review process.

18.138.050 Objective Standards.

- (a) Housing development projects shall be subject to the objective standards for the underlying zoning district.
- (b) In the absence of any specific design, development, or subdivision standard, objective standards of the most comparable, conventional zoning district (e.g., R-3; MX) and most consistent with the underlying general plan designation shall be utilized.
- (c) Notwithstanding subdivisions (a) and (b), flexibility and/or relief from the objective standards for the underlying zoning district shall be provided to allow for the maximum base density (i.e., excluding density bonus units) stated in the housing element for the respective housing element inventory site.

18.138.060 Permits Required.

- (a) **Ministerial Design Review Permit.** Housing development projects that include at least 20-percent of the project's total units as housing affordable to lower income households and do not involve subdivision of land, shall receive "by right approval," as the term is defined in this chapter. By right approval is subject to ministerial design review permit, pursuant to Chapter 18.235, Design Review Permits.
- (b) **Discretionary Design Review Permit.** Housing development projects that do not include at least 20 percent of the project's total units as housing affordable to lower income households or involve subdivision of land shall be subject to a discretionary design review permit, pursuant to Chapter 18.235, Design Review Permits. The application for a discretionary design review permit shall be processed concurrently with any other required application for a discretionary permit.

18.138.070 Permitted Density and Intensity.

Permitted density and intensity shall be established by the underlying zoning district or the general plan land-use designation, whichever allows for the greater density.

18.138.080 Relationship with State Density Bonus Law and Other State Laws.

- (a) The HESI Overlay allows a density increase for affordable housing developments as permitted by California Government Code Section 65915 et. seq.
- (b) In the event of any inconsistency or discrepancy between this chapter and State law, State law shall govern.

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SECTION 25. FMC §18.152.070, REPEALED AND REPLACED

FMC §18.52.070 is repealed and replaced to read as follows:

18.52.070 Parking.

(a) **Automobile Parking.**

- (1) Pursuant to California Government Code Section 65863.2, as may be amended, minimum automobile parking requirement on a residential, commercial, or other development “project” shall not be imposed or enforced if the project is within one-half mile of public transit, as defined in Public Resources Code 21155, as may be amended. Exceptions to this parking exemption and voluntary parking requirements are set forth in Chapter 18.183, Parking, Loading Areas and Vehicle Storage.
- (2) For the purposes of this subdivision, “project” shall have the same meaning as defined in California Government Code Section 65863.2, as may be amended, and printed here for reference:

“Project” does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of a housing development project is designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

- (b) **Bicycle Parking.** Notwithstanding subdivision (a) of this section, bicycle parking shall be provided, in spite of no minimum automobile parking requirements, based on the provisions of Section 18.183.135, Required bicycle parking, as may be amended.

SECTION 26. FMC §18.153.040, REPEALED AND REPLACED

FMC §18.153.040 is repealed and replaced as follows:

18.153.040 Standards for detached accessory structures.

- (a) **General Regulations.** Detached accessory structures may be allowed when the following standards are met:
- (1) Lot coverage shall not exceed 30 percent of the area of the minimum required rear or side yard in which the structure is placed. Swimming pools are exempt from the coverage limitation.
 - (2) At least six feet of separation shall be provided between the accessory structure and any other structure on the same property. Increased separation requirements may be applicable to habitable structures as provided in the building and fire

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codes. The separation shall be measured from the exterior surfaces of the walls or support members, with the following exceptions:

- (A) A lath-covered structure may be any distance from any other structure; and
 - (B) A structure not exceeding 120 square feet in floor area, which is not located in a required side yard, may be any distance from any other structure, provided it does not block any required means of egress, light or ventilation; and
 - (C) Structures may be connected by a breezeway or similar structure.
- (3) On reverse corner lots, structures within 25 feet of the common property line shall not be placed any closer to the side street property line than the required front yard of the adjoining lot, and in no case shall any part of such accessory structure be nearer to the side street lot line than the least width of the side yard required for the main building to which it is accessory.
- (4) Accessory structures located between the front yard setback and the principal structure shall conform to the minimum side yard setback requirements for the principal structure.
- (5) The exterior face of the accessory structure wall shall be set back five feet from any property line. Roof eaves or other similar architectural features may project into required yards, subject to Section 18.170.060 and building and fire code requirements, including fire-resistance rating.
- (b) **Exceptions.** Detached accessory structures that satisfy all of the following criteria shall be exempt from the requirements of subdivision (a):
- (1) Does not exceed the maximum lot coverage limitations specified in subdivision (a).
 - (2) Does not exceed a maximum gross floor area of 120 square feet.
 - (3) Does not exceed a maximum overall height of six feet, six inches.
 - (4) Does not include or propose utilities (e.g., electrical, plumbing).
 - (5) Provides a roof with a gutter or has a roof slope that is designed to shed water onto the earth at least one foot from the property line or into an approved drainage system.
 - (6) Is not located in the front yard or any street-facing side yard.
- (c) **Detached Accessory Structures on Nonresidential Projects and Historic Sites.** This section does not apply to nonresidential projects and historic sites. Accessory structures

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on nonresidential sites are subject to applicable building code requirements. Accessory structures on historic sites may be eligible to use historic building codes.

SECTION 27. FMC §18.165.020, AMENDED

FMC §18.165.020 is amended to read as follows:

Whenever the following terms are used in this chapter, they shall have the meaning established by this section, which are intended to be compliant with the definitions within Section 65915 through 65918 of the California Government Code, as it may be amended from time to time:

“Affordable ownership cost” means a sales price resulting in projected average monthly housing payments during the first calendar year of a household’s occupancy, including interest, principal, mortgage insurance, property taxes, homeowners’ insurance, homeowners’ association dues, if any, and a reasonable allowance for utilities, property maintenance and repairs, not exceeding the following:

- (1) Moderate income units: 110 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 35 percent and divided by 12.
- (2) Lower income units: 70 percent of the area median income for households whose income exceeds the maximum limit for very low income households, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.
- (3) Very low income units: 50 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.

The city may determine sales prices of target units by any reasonable method so long as average monthly housing payments of eligible households do not exceed those permitted by this definition.

“Affordable rent” means monthly housing expenses, including all fees for housing services and a reasonable allowance for utilities, not exceeding the following:

- (1) Very low income units: 50 percent of the area median income, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.
- (2) Lower income units: 60 percent of the area median income for households whose income exceeds the maximum limit for very low income households, adjusted for assumed household size based on unit size, multiplied by 30 percent and divided by 12.

“Area median income” means area median income for Alameda County as published pursuant to California Code of Regulations Title 25, § 6932, or successor provision.

“Assumed household size” means one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom.

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“Child care facility” means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

“Commercial development” means a construction project for nonresidential uses.

“Commercial development bonus” means a modification of development standards mutually agreed upon by the city and a commercial developer that is provided to a commercial development eligible for such a bonus pursuant to Section 18.165.045. Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.

“Common interest development” is as defined in Cal. Civ. Code § 4100.

“Density bonus” means a density increase over the otherwise allowable maximum residential density for a housing development or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.

“Density bonus housing agreement” means a recorded agreement between a developer and the city as described in Section 18.165.100 to ensure that the requirements of this chapter are satisfied. The agreement, among other things, shall establish the number of target units, their size, location, terms and conditions of affordability, and production schedule.

“Density bonus units” means those residential units granted pursuant to the provisions of this chapter that exceed the otherwise allowable maximum residential density for the development site.

“Development standard” means a site or construction condition that applies to a housing development pursuant to any ordinance, general plan element, specific plan, or other city condition, law, policy, resolution, or regulation. A “site and construction condition” is a development regulation or law that specifies the physical development of a site and buildings on the site in a housing development, including but not limited to a height limitation, [a minimum lot area per unit requirement](#), a setback requirement, a floor area ratio, an on-site open space requirement, or a parking ratio.

~~“Housing development” means a construction project on contiguous lots that are the subject of one development application, consisting of five or more residential units, including single family and multifamily units, for sale or for rent. For the purposes of this chapter, “housing development” also includes a subdivision or a common interest development consisting of five or more residential units or unimproved residential lots, a mixed-use development that includes five or more residential units or unimproved residential lots, the substantial rehabilitation and conversion of an existing commercial building to residential use, and the substantial rehabilitation of an existing multifamily dwelling, where the rehabilitation or conversion would create a net increase of at least five residential units.~~

“Housing development,” as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, “housing development” also includes a subdivision or common interest development, as defined in Section

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4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located. This definition includes a “shared housing” project as defined in California Government Code Section 65915.

“Incentives or concessions” means such regulatory concessions as listed in Section 18.165.080.

“Lower income household” means households whose income does not exceed the low income limits applicable to Alameda County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Cal. Health & Safety Code § 50079.5.

“Major transit stop” is as defined in Public Resources Code Section 21155, and means an existing site, or a site included in the regional transportation plan, that contains a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes each with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. A housing development is considered to be within one-half mile of a major transit stop if all parcels within the housing development have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the residential units or 100 units, whichever is less, in the housing development are farther than one-half mile from the stop.

“Market-rate units” means all units within a housing development except target units.

“Maximum residential density” means the maximum number of residential units allowed in a housing development by the city’s zoning ordinance and by the land use element of the general plan on the date that the application for the housing development is deemed complete. If the maximum density allowed by the zoning ordinance is inconsistent with the density allowed by the land use element of the general plan, the ~~land use element~~greater density shall prevail.

[All other following definitions/text to remain unchanged]

SECTION 28. FMC §18.165.030, AMENDED

FMC §18.165.030 is amended to read as follows:

- (a) Subject to the findings included in Section 18.165.090, the city shall grant a 20 percent density bonus to a developer of a housing development who seeks a density bonus and agrees to construct at least one of the following and any additional replacement housing units required by subsection (d) of this section:

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- (1) Ten percent of the total units of the housing development as target units affordable to lower income households; or
 - (2) Five percent of the total units of the housing development as target units affordable to very low income households; or
 - (3) A senior citizen housing development. The density bonus for a senior citizen housing development is limited to 20 percent of the number of senior housing units.
- (b) Subject to the findings included in Section 18.165.090, the city shall grant a five percent density bonus to a developer of a housing development who seeks a density bonus and agrees to provide all of the following and any additional replacement housing units required by subsection (d) of this section:
- (1) Ten percent of the total units in the housing development as target units for sale to moderate income households at an affordable sales price; and
 - ~~(2) The housing development is a common interest development; and~~
 - ~~(3)~~(2) All of the dwelling units in the housing development are offered to the public for sale.

[Subdivisions (c) through (j) remained unchanged]

- (k) The following tables summarize this information, and is intended to be compliant with California Government Code Section 65915 et seq., as may be amended:

Density Bonus Summary Table

Target Group	Percentage Target Units	Bonus Granted	% Target Units Required for Maximum 50% Bonus
Very Low Income	5%	20%	15%
	6%	22.5%	
	7%	25%	
	8%	27.5%	
	9%	30%	
	10%	32.5%	
	11%	35%	
	12%	38.75%	
	13%	42.5%	
	14%	46.25%	
Low Income	15+%	50%	24%
	10%	20%	
	11%	21.5%	

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Density Bonus Summary Table

Target Group	Percentage Target Units	Bonus Granted	% Target Units Required for Maximum 50% Bonus
	12%	23%	
	13%	24.5%	
	14%	26%	
	15%	27.5%	
	16%	29%	
	17%	30.5%	
	18%	32%	
	19%	33.5%	
	20%	35%	
	21%	38.75%	
	22%	42.5%	
	23%	46.25%	
	24+%	50%	
<u>Very Low or Low Income</u>	<u>100%</u>	<u>80%</u>	<u>80%¹</u>
Moderate Income (for-sale common interest development only)	10%	5%	44%
	11%	6%	
	12%	7%	
	13%	8%	
	14%	9%	
	15%	10%	
	16%	11%	
	17%	12%	
	18%	13%	
	19%	14%	
	20%	15%	
	21%	16%	
	22%	17%	
	23%	18%	
	24%	19%	
	25%	20%	
	26%	21%	
	27%	22%	
28%	23%		
29%	24%		
30%	25%		
31%	26%		

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Density Bonus Summary Table

Target Group	Percentage Target Units	Bonus Granted	% Target Units Required for Maximum 50% Bonus
	32%	27%	
	33%	28%	
	34%	29%	
	35%	30%	
	36%	31%	
	37%	32%	
	38%	33%	
	39%	34%	
	40%	35%	
	41%	38.75%	
	42%	42.5%	
	43%	46.25%	
	44+%	50%	
Senior Citizen Housing Development	100%	20% of senior units only	–
Units Designated for Transitional Foster Youth, Disabled Veterans, or Homeless Persons	10% (Designated units must also be affordable to very low income households)	20% of designated units only	–
<p>Note: No density bonus may be granted unless replacement affordable units are provided as required in subsection (d) of this section.</p> <p>¹ <u>No maximum density shall be required for a housing development project that meets 100% affordability requirements of Section 65915(b)(1)(G) and that is built within one half mile of a major transit stop as defined by subdivision (b) of Section 21155 of the Public Resources Code or is located in a very low vehicle travel area as defined by subdivision (o) of Section 65915 of the California Government Code. The applicant shall also receive a height increase of up to three additional stories, or 33 feet.</u></p>			

Incentives/Concessions Summary Table

Target Group	Target Units			
Very Low Income	<u>5</u>	<u>10%</u>	<u>15%</u>	<u>Projects with at least 80% low income and no more than 20% moderate income</u>
Low Income	<u>10</u>	<u>17%</u>	<u>24%</u>	
Moderate Income (for-sale common interest development only)	<u>10</u>	<u>20%</u>	<u>30%</u>	
Lower income students in a student housing development	<u>20%</u>			
Maximum Incentive(s)/Concession(s)	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<p>Notes:</p> <ol style="list-style-type: none"> Incentives may be selected from only one category (very low, low, or moderate). No incentives are available for land donation or for a senior citizen housing development (if not affordable). Condominium conversions and day care centers may have one incentive or a density bonus at the city's option, but not both. No incentives or concessions may be granted unless replacement affordable units are provided as required in subsection (d) of this section. 				

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SECTION 29. FMC §18.165.075, AMENDED

FMC §18.165.075 is amended to read as follows:

- (a) If a housing development is eligible for a density bonus, upon the request of the developer, the city shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds the following ratios:
 - (1) Zero to one bedroom: one on-site parking space.
 - (2) Two to three bedrooms: one and one-half on-site parking spaces.
 - (3) Four and more bedrooms: two and one-half parking spaces.

- (b) For certain other housing developments that are eligible for a density bonus, upon the request of the developer, the city shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds the ratios shown in the following table. However, if the city, at its cost, has conducted an areawide or citywide parking study in the last seven years, then the city may find, based on substantial evidence, that a higher parking ratio is required than shown in the following table. In no event may the required parking be greater than the ratio provided in subsection (a) of this section. The parking study must conform to the requirements of Cal. Gov’t Code § 65915(p)(7).

Type of Development	Maximum Number of Required Off-Street Parking Spaces
Rental or ownership housing development with: 1. At least 11 percent very low income or 20 percent lower income units <u>OR at least 40% moderate income units</u> ; and *SB290 2. Within one-half mile of a major transit stop; and 3. Unobstructed access to the major transit stop.	0.5 per bedroom unit
Rental housing development with: 1. All units affordable to lower income households except manager’s unit(s); and 2. Within one-half mile of a major transit stop; and 3. Unobstructed access to the major transit stop.	0 per unit
Senior citizen rental housing development with: 1. All units affordable to lower income households except manager’s unit(s); and either 2. Has paratransit service; or 3. Is within one-half mile of fixed <u>bus</u> route service that operates eight times per day, with unobstructed access to that service.	0 per unit
Special needs rental housing development <u>as defined in Section 51312 of the Health and Safety Code</u> with: 1. All units affordable to lower income households except manager’s unit(s); and either 2. Has paratransit service; or 3. Is within one-half mile of fixed <u>bus</u> route service that operates eight times per day, with unobstructed access to that service.	0.3 per unit

- (c) If the total number of parking spaces required for a development by this section is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a development may provide “on-site parking” through tandem parking or uncovered parking, but not through on-street parking.

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(d) Religious Institution Affiliated Housing Project. Parking requirements for a religious institution affiliated housing development projects are as provided in California Government Code Section 65913.6. Religious institution/assembly parking may count towards religious institution/assembly affiliated housing parking requirements. Up to 50% of proposed religious institution/assembly parking spaces may be eliminated as a part of a religious institution/assembly affiliated housing development project. The elimination of religious use parking spaces pursuant to a religious institution affiliated housing development project that has been approved does not constitute a concession pursuant to California Government Code Section 65915. The reduction in parking spaces shall not reduce the minimum parking standards of a religious institution affiliated housing development project below one space per unit. The request to share parking is exempt from discretionary permit review or modification, and exempt from non-conforming regulations.

This shall not apply to a religious institution affiliated housing development project if either of the following is true:

- (1) The parcel is located within one half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.
- (2) There is a car share vehicle located within one block of the parcel.

SECTION 30. FMC §18.165.090, AMENDED

FMC §18.165.090 is amended to read as follows:

[Subdivisions (a) through (c) remained unchanged]

- (d) If a request for a concession or incentive is otherwise consistent with this chapter, the approval body may deny a concession or incentive only if it makes a written finding, based upon substantial evidence, of one of the following:
- (1) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable rents or affordable ownership costs.
 - (2) The concession or incentive would have a specific adverse impact ~~upon public health or safety or the physical environment or~~ on any real property that is listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower and moderate income households.
 - (3) The concession or incentive is contrary to state or federal law.

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- (e) If a request for a waiver or modification is otherwise consistent with this chapter, the approval body may deny a waiver or modification only if it makes a written finding, based upon substantial evidence, of one of the following:
- ~~(1) — The waiver or modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower and moderate income households.~~
 - ~~(2)~~(1) The waiver or modification would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
 - ~~(3)~~(2) The waiver or modification is contrary to state or federal law, which may include a finding that the development standards for which the waiver is requested would not have the effect of physically precluding the construction of the housing development with the density bonus and incentives permitted.

[All following subdivisions remained unchanged]

SECTION 31. FMC §18.183.020, AMENDED

FMC §18.183.020 is amended to read as follows:

18.183.020 When off-street parking is required.

In connection with every use, there shall be provided at the time any building or structure is erected, or is enlarged, or whenever a change in use creates an increase in the number of parking spaces required, off-street parking spaces for vehicles in accordance with the requirements herein.

- (a) Where a change of use is involved for any lot, structure or building for which parking was not required by ordinance upon the commencement of use of such lot, structure or building, parking shall be provided for the new use based on the difference between the parking requirements for the new use as set forth in Section 18.183.030 and that which would have been required for the previous use if that use would have been subject to the requirements of Section 18.183.030 at the time of its commencement.
- (b) Where a building addition is proposed for an existing building for which parking was not required at the time of construction, the required parking for the addition shall be based on the floor area or other basis of measurement prescribed by Section 18.183.030 for the proposed addition.
- (c) Where off-street parking was provided in the absence of any ordinance requirement, such parking shall remain and additional off-street parking shall be provided as required by subsections (a) and (b) of this section. In such instances the overall off-street parking requirements shall not exceed the number of spaces prescribed by Section 18.183.030.

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(d) **Exemptions.**

- (1) **Single-Family Dwellings.** Additions to existing single-family dwellings shall not be required to comply with subdivision (b) of this section.
- (2) **Projects Near Transit-Oriented Development.** Pursuant to California Government Code Section 65863.2, as may be amended, minimum automobile parking requirement on a residential, commercial, or other development project shall not be imposed or enforced if the project is within one-half mile of public transit, as defined in Public Resources Code 21155, as may be amended. Any residential parking voluntarily provided within one-half mile of a public transit may be “unbundled,” in that the parking shall not be required by the City to be included in the purchase price of the residential unit.

(e) **Exceptions to Projects Near Transit-Oriented Development.**

- (1) The City may impose or enforce minimum automobile parking requirements on a project that is located within one-half mile of qualified public transit, as defined in California Public Resources Code 21155, as may be amended, if the City makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on any of the following:
 - (A) The City’s ability to meet its share of the regional housing need in accordance with Government Code Section 65584, as may be amended, for low and very low income households.
 - (B) The City’s ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of California Government Code Section 65583, as may be amended; or
 - (C) Existing residential or commercial parking within one-half mile of the housing development project.
- (2) Notwithstanding subparagraph (1) of this subdivision, there shall be no requirement or enforcement of any minimum automobile parking for a housing development project, as defined in California Government Code Section 65589.5, that is located within one-half mile of public transit, as defined in California Public Resources Code 21155, as may be amended, and satisfies any of the following:
 - (A) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.
 - (B) The development contains fewer than 20 housing units.

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(C) The development is subject to parking reductions based on the provisions of any other applicable law.

(3) An exhibition or conference hall (event center) shall provide parking, as required by Chapter 18.183, for employees and other workers.

SECTION 32. FMC TABLE 18.183.030, AMENDED

FMC Table 18.183.030 is amended to amended to clarify the parking requirement for “exhibition or conference without fixed seats” as follows:

**Table 18.183.030
Required Parking Spaces**

Recreation, Community, Entertainment, and Public/Quasi-Public Uses	
Use	Required Parking Spaces
Exhibition or conference halls ¹ without fixed seats	10 per KSF area devoted to public assembly or principal activity, <u>unless the use is within one-half mile of public transit, as defined in California Public Resources Code 21155, then 0.85 per employee and other worker.</u>

[All other portions of this table remain unchanged]

SECTION 33. FMC §18.190.007, ADDED

FMC §18.190.007 is added, in numerical order, to FMC Chapter 18.190, Special Provisions Applying to Miscellaneous Uses, as follows:

18.190.07 Two Unit Developments and Urban Lot Splits

- (a) **Purpose.** The purpose of this section is to:
- (1) Provide objective zoning standards for Two-Unit Developments and Urban Lot Splits within single-family residential zones;
 - (2) Implement the provisions of state law as reflected in Government Code Sections 65852.21 *et seq.* and Section 66411.7 *et seq.*, as may be amended; and
 - (3) Facilitate the development of new residential housing units consistent with the City’s General Plan and ensure standards of public health and safety.
- (b) **Definitions.** Wherever the following terms are used in this section, they shall have the meaning established by this subdivision:

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- (1) “Acting in concert with the owner,” as used in this section, shall mean a person that has common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.
- (2) “Adjacent parcel” shall mean any parcel of land that is:
 - (A) Touching the project parcel at any point;
 - (B) Separated from the project parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or
 - (C) Separated from the project parcel only by other real property which is in common ownership or control of the applicant.
- (3) “Car share vehicle” shall mean a motor vehicle that is operated as part of a regional fleet by a public or private care sharing company or organization and provides hourly or daily service.
- (4) “Common ownership or control” shall mean property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.
- (5) “Lower income household” shall have the meaning set forth in Chapter 18.155, as may be amended.
- (6) “Moderate income household” shall have the meaning set forth in Chapter 18.155, as may be amended.
- (7) “Specific adverse impact” shall mean a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.
- (8) “Sufficient for separate conveyance” shall mean that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

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- (9) “Two Unit Development” shall mean a development that proposes no more than two new units or proposes to add one new unit to one existing unit.
- (10) “Urban Lot Split” shall mean a subdivision of an existing parcel into no more than two separate parcels that meets all the criteria and standards set forth in this section.
- (11) “Very low income household” shall have the meaning set forth in Chapter 18.155, as may be amended.
- (c) **Findings for Denial.** In addition to the requirements specified in this section, a proposed Two-Unit Development and/or Urban Lot Split may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that the proposed Two-Unit Development and/or Urban Lot Split would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- (d) **General Regulations.** The following regulations apply to both Two Unit Developments and Urban Lot Splits:
- (1) **Affidavit – Prior Tenancies.** If any existing housing is proposed to be altered or demolished, the property owner of the parcel where a Two-Unit Development and/or an Urban Lot Split is proposed shall sign an affidavit, in the form approved by the City, stating that none of the following exist:
- (A) Housing that is subject to recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low-, or very low-income;
 - (B) Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power;
 - (C) Housing that has been occupied by a tenant in the last three years; or
 - (D) The parcel subject to the Two Unit Development and/or an Urban Lot Split is not a parcel on which an owner of residential real property has exercised the owner’s right under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within the last 15 years before the date that the development proponent submits an application.
- (2) **Historic District and Properties.** Two-Unit Developments and Urban Lot Splits shall not be located within a historic district or property included on the State

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Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a City landmark or historic property or historic district pursuant to a City ordinance.

- (3) **Location Criteria.** Two Unit Developments and Urban Lot Splits shall be located within in a single-family residential zone or a planned district that allows single-family residential units.
- (4) **Maximum Number of Units.**
 - (A) **No Urban Lot Split.** For a parcel where an Urban Lot Split is not proposed or approved, no more than a total of four units of any kind, including accessory dwelling units and junior accessory dwelling units, shall be constructed or maintained.
 - (B) **Urban Lot Split.** For a parcel where an Urban Lot Split is proposed or approved, no more than a total of two units of any kind, including accessory dwelling units and junior accessory dwelling units, shall be constructed or maintained on each parcel created by the Urban Lot Split. If there are two existing units of any kind on a lot created by an Urban Lot Split, no additional units of any kind shall be permitted on that lot.
- (5) **Objective Standards.** The development proposed on a parcel for a Two-Unit Development or Urban Lot Split shall comply with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located; provided, however, that:
 - (A) The Zoning Administrator, or their designee, shall modify or waive any standard if the standard would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this section or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of 800 square feet each on each parcel.
 - (B) Notwithstanding subparagraph (A), the required rear and side yard setbacks shall be a maximum of four feet, except that no setback shall be required for an existing, legally-created structure or a structure constructed in the same location and to the same dimensions as an existing, legally-created structure.

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- (6) **Parking.** One parking space shall be required per unit constructed via the procedures set forth in this section, except that the City shall not require any parking where:
 - (A) The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
 - (B) There is a designated parking area for one or more car-share vehicles within one block of the parcel.
- (7) **Replacement Housing.** If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d).
- (8) **Restricted Areas.** Two Unit Developments and Urban Lot Splits shall not be located on a site that is specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Government Code Section 65913.4, as may be amended.
- (9) **Separate Conveyance and Utilities.** Proposed adjacent or connected dwelling units, resulting from a Two Unit Development and/or an Urban Lot Split, shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. The proposed dwelling units shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.
- (10) **Use and Rental Limitations.** Dwelling unit(s) created by a Two-Unit Development or parcels created by an Urban Lot Split shall be for residential use(s) only and shall not be used for rentals of less than 30 days.
- (e) **Two Unit Developments.** Two Unit Developments shall be subject to the following:
 - (1) **Affordable Housing.** Two Unit Developments that comprise a “residential project,” as defined in Chapter 18.155, shall be subject to the City’s Affordable Housing Ordinance (Chapter 18.155), as may be amended.
 - (2) **Demolition of Existing Unit(s).** If the parcel on which the Two Unit Development is proposed has been occupied by a tenant in the last three years, the Two Unit Development shall not include the demolition of more than 25 percent of the existing exterior structural walls.

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- (3) **Design Rules.** Two Unit Development shall be subject to the objective design rules provided in the Citywide Design Guidelines, as may be amended.
- (4) **Development Limitations.** A Two Unit Development that exceeds the minimum size allowed under Government Code Section 65852.21, as may be amended, shall be subject to the development standards, including but not limited to setbacks, height, size, and second-story square footage, applicable to the parcel as provided in the zoning district in which the parcel is located.
- (5) **Impact Fees.** Two Unit Developments are subject to the City's Impact Fee Ordinance, Chapter 18.290, as may be amended.
- (6) **Ministerial Review.** An application for a Two Unit Development shall be reviewed ministerially, without a hearing, and shall be approved if all the criteria in Government Code Section 65852.21, as may be amended, and this section are satisfied.
- (7) **Recorded Covenant.** Prior to the Final Building Inspection, the applicant shall record a restrictive covenant and agreement in the form prescribed by the City, which shall run with the land and provide for the following:
 - (A) A limitation restricting the property to residential uses only; and
 - (B) A requirement that any dwelling units on the property shall not be rented or leased for a period of less than thirty (30) days.
- (f) **Urban Lot Splits.** Urban Lot Splits shall be subject to the following:
 - (1) **Compliance with Subdivision Map Act.** The Urban Lot Split shall conform to all applicable objective requirements of the Subdivision Map Act, commencing with Government Code Section 66410, except as otherwise expressly provided in Government Code Section 66411.7, as may be amended. Notwithstanding Government Code Section 66411.1, no dedications of rights-of-way or the construction of offsite improvements may be required as a condition of approval for an Urban Lot Split; however, easements may be required for the provision of public services and facilities.
 - (2) **Criteria.** Within the time required by the Subdivision Map Act, the Planning Manager, or their designee, shall determine if the parcel map for the Urban Lot Split meets all the following criteria:
 - (A) Both resulting parcels are no smaller than 1,200 square feet each.

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- (B) Neither resulting parcel shall be smaller than 40 percent of the lot area of the parcel proposed for the subdivision.
 - (C) The parcel being subdivided was not created by an Urban Lot Split as provided in this section.
 - (D) Neither the owner of the parcel that is being subdivided, nor any person acting in concert with the owner, has previously subdivided an adjacent parcel under the authority of this section or Government Code Section 66411.7, as may be amended.
 - (E) Each resulting parcel shall have access to, provide access to, or adjoin the public right-of-way.
- (3) **Ministerial Review.** The Planning Manager, or their designee, shall ministerially review an application for a parcel map that subdivides an existing parcel to create no more than two new parcels in an Urban Lot Split, and shall approve the application if the criteria in Government Code Section 66411.7, as may be amended, and this section are satisfied.
- (4) **Nonconformity.** The correction of nonconforming zoning conditions may not be required as a condition of approval.
- (5) **Affidavit – Intent to Occupy.** The owner of the property proposed for an Urban Lot Split shall sign an affidavit, in the form approved by the City, stating that they intend to occupy one of the housing units on the newly created parcel(s) as their principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. This requirement shall not apply to an applicant that is:
- (A) A “community land trust,” as defined in Revenue and Taxation Code Section 402.1, as may be amended; or
 - (B) A “qualified nonprofit corporation” as described in Revenue and Taxation Code Section 214.15, as may be amended.
- (6) **Affidavit – No Prior Urban Lot Split.** The owner and/or applicant of the property proposed for an Urban Lot Split shall sign an affidavit stating that neither the owner and/or applicant, nor any person acting in concert with the owner and/or applicant, has previously subdivided an adjacent parcel using an Urban Lot Split.

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- (7) **Recorded Covenant.** Prior to the recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the City, which shall run with the land and provide for the following:
- (A) A prohibition against further subdivision of the parcel using the Urban Lot Split procedures as provided for in this section;
 - (B) A limitation restricting the property to residential uses only; and
 - (C) A requirement that any dwelling units on the property shall not be rented or leased for a period of less than thirty (30) days.

SECTION 34. FMC §18.190.150, REPEALED AND REPLACED

FMC §18.190.150 is repealed and replaced as follows:

18.190.150 Emergency shelters.

- (a) **Purpose.** The purpose of this section is to establish development standards for emergency shelters and to ensure this use is constructed and operated in a manner that is consistent with the requirements and allowances of state law, specifically, California Government Code Section 65583, as may be amended.
- (b) **Permitted Locations.**
 - (1) Emergency shelters shall be allowed as a permitted use, without a conditional use permit or other discretionary permit, in areas that are zoned for residential, mixed-use, or nonresidential zones permitting multifamily uses. Emergency shelters are also permitted within the I-S district.
 - (2) Temporary emergency shelters that are operated by a public or quasi-public organization on a given site for no more than one month at a time and no more than four times during a 12-month period may be considered in the R-1 and R-2 districts, subject to a conditional use permit.
- (c) **Permit Requirements and Procedures.**
 - (1) **Ministerial Design Review Permit.** Approval of a ministerial design review permit shall be required prior to the establishment of any emergency shelter, including a temporary emergency shelter.
 - (2) **Discretionary Design Review Permit.** Approval of a discretionary design review permit shall be required for an emergency shelter that proposes a new structure, site improvements, and/or exterior remodeling of an existing structure.

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- (3) **Conditional Use Permit Application.** When a conditional use is required by this section, said use shall not be established or maintained prior to issuance of a conditional use permit. The application for a conditional use permit shall be in writing and include the requirements specified in Chapter 18.230, Conditional Use Permits, as well as the following information:
- (A) Emergency shelter facility and operation description (size, number, and type of accommodations);
 - (B) The maximum number of occupants/individuals to be served on the site;
 - (C) The amount of open space per occupant proposed, plus total square footage of open space; and
 - (D) Description and qualifications of the facility operator.
- (d) **Objective Development and Management Standards.** In addition to the development standards in the underlying zoning district, emergency shelters and temporary emergency shelters shall comply with the standards set forth in this subdivision. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this subdivision shall apply.
- (1) **Emergency Shelters.**
- (A) **Client Waiting/Intake Area.** The emergency shelter shall provide an on-site client waiting/intake area that is a minimum of 100 square feet.
 - (B) **Length of Stay.** The emergency shelter shall not allow the length of stay to exceed six (6) months.
 - (C) **Life Safety.** The emergency shelter shall comply with applicable State and local uniform housing and building code requirements and regulations.
 - (D) **Lighting.** The emergency shelter shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. The exterior lighting shall reflect away from residential areas and public streets.
 - (E) **Number of Beds.** The emergency shelter shall not exceed 100 beds.
 - (F) **On-Site Management.** The emergency shelter shall provide on-site management personnel at all times.
 - (G) **Parking.** The emergency shelter shall provide on-site parking at a rate of at least one space per employee, provided that this standard does not require more parking for the emergency shelters than other residential or commercial uses within the same zone.

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- (H) **Proximity to Other Emergency Shelters.** The emergency shelter shall be a minimum of 300 feet away from any other emergency shelter.
 - (I) **Secure Areas.** The emergency facility shall provide secure areas for its client to store their personal property.
 - (J) **Security.** The facility shall have on-site security during all hours when the shelter is in operation.
- (2) **Temporary Emergency Shelters.** In addition to the provisions of paragraph (1) of this subdivision, temporary emergency shelters that are operated by a public or quasi-public organization are subject to the following requirements:
- (A) **Accessory Use.** The activities of the temporary emergency shelter shall be accessory to and shall not interfere with the principal use of the site.
 - (B) **Inspection Required.** The temporary emergency shelter shall contact the fire department for inspections before the start of operations to ensure existing emergency equipment is in working condition and to review proposed emergency action plans.
 - (C) **Minimum Site Area.** The temporary emergency shelter shall be located on a site is a minimum of one acre.
 - (D) **Number of Beds.** The temporary emergency shelter shall not exceed 40 beds.
 - (E) **Minimum Indoor Living Area.** The temporary emergency shelter shall provide a minimum of 120 square feet of indoor living area, plus an additional 50 square feet of living area for each additional person over two persons, excluding staff.

SECTION 35. FMC §18.190.295, ADDED

FMC §18.190.295 is added, in numerical order, to Chapter 18.190, Special Provisions Applying to Miscellaneous Uses, as follows:

18.190.295 Low-Barrier Navigation Centers (LBNC)

- (a) **Purpose.** The purpose of this section is to establish development standards for low-barrier navigation centers (LBNC) and to ensure this use is constructed and operated in a manner that is consistent with the requirements and allowances of state law, specifically, California Government Code Section 65660 et seq., as may be amended.
- (b) **Permits Requirements and Procedures.** Approval of a ministerial design review permit is required prior to the establishment of any LBNC. Pursuant to California Government Code Section 65943, as may be amended, the City shall notify the applicant for a LBNC

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whether the planning application for a ministerial design review permit is complete within 30 days from the date the application was filed. The City shall take action within 60 days of a complete application being filed.

- (c) **Development and Operational Standards.** A LBNC development shall be a “use by-right,” as defined in California Government Code Section 65583.2., in areas zoned for mixed-use and nonresidential zones permitting multifamily uses, if the LBNC satisfies all of the following requirements:
- (1) **Offers Connected Services.** The LBNC offers services to connect people to permanent housing through a services plan that identifies services staffing.
 - (2) **Links to a Coordinated Entry System.** The LBNC is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
 - (3) **Complies with Welfare and Institutions Code.** The LBNC complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
 - (4) **Implements a Homeless Management Information System.** The LBNC has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

SECTION 36. FMC §18.190.465, ADDED

FMC §18.190.465 is added, in numerical order, to Chapter 18.190, Special Provisions Applying to Miscellaneous Uses, as follows:

18.190.465 Residential care facilities.

- (a) **Purpose.** The purpose of this section is to establish standards for review of residential care facilities, in compliance with state law, including, but not limited to California Government Code Section 65580 et seq. and California Health and Safety Code Section 1500 et seq., as may be amended. As used in this section, “residential care facilities” do not include, and this section does not apply to, any independent living arrangement, supportive housing, or transitional housing.

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- (b) **Use Parameters.** Residential care facilities shall be considered a residential use of property, and except as otherwise set forth in this section, shall be subject only to those restrictions and standards that apply to other residential dwellings of the same type in the same zoning district.
- (c) **Permit Requirements and Procedures.** Residential care facilities shall be permitted and processed in the same manner as a residential use for the underlying zoning district.
- (d) **Development Standards.** In addition to the development standards of the underlying zoning district, residential care facilities shall comply with the following standards:
 - (1) **License.** As applicable, residential care facilities shall be licensed by the appropriate state or county agency and shall comply with all licensing requirements thereof.
 - (2) **Parking.** Residential care facilities shall not require parking that is beyond the requirement for other residential uses within the same zoning district. Except as otherwise required or allowed by this subsection, the parking requirements of Chapter 18.183, Parking, Loading Areas and Vehicle Storage, shall also apply.
 - (3) **Signs.** Signs for residential care facilities shall comply with the provisions of Chapter 18.193, Regulations of Signs on Private Property.

SECTION 37. FMC §18.190.522, ADDED

FMC §18.190.522 is added, in numerical order, to FMC Chapter 18.190, Special Provisions Applying to Miscellaneous Uses, as follows:

18.190.522 Small-scale multifamily housing developments.

- (a) **Purpose.** The purpose of this section is to implement California Government Code Section 65913.11, as may be amended, to allow for the creation of “small-scale multifamily housing developments,” as defined in this section.
- (b) **Applicability.**
 - (1) **Three to Seven Units.** For small-scale multifamily housing development projects comprising three to seven units, a FAR standard that is less than 1.0 shall not be imposed.
 - (2) **Eight to Ten Units.** For small-scale multifamily housing development projects comprising eight to ten units, a FAR standard that is less than 1.25 shall not be imposed.
 - (3) Other than zoning or design standards that establish floor area ratios, lot coverage, or lot size requirements that expressly conflict with the California Government Code Section 65913.11, this section shall not be construed to prohibit the City

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from imposing any zoning or design standards, including, but not limited to, building height and setbacks, on small-scale multifamily housing development projects that meet the eligibility requirements provided in this section.

- (c) **Definitions.** For the purposes of this section, the following terms shall carry the definitions provided in this subdivision, unless specified otherwise:
- (1) “Housing development project” means a housing development project as defined in California Government Code Section 65589.5, as may be amended.
 - (2) “Small-scale multifamily housing development” means a housing development project that meets the eligibility criteria specified in California Government Code Section 65913.11, as may be amended.
 - (3) “Unit” means a unit of housing, but shall not include an accessory dwelling unit or a junior accessory dwelling unit.
- (d) **Eligibility Criteria.** To be eligible under the provisions of this section, a small-scale multifamily housing development project shall meet all of the following eligibility criteria:
- (1) The project is located on an existing, legal parcel;
 - (2) The project is located in a multifamily residential zone or a mixed-use zone and is not located in any of the following:
 - (A) A single-family zoning district.
 - (B) A historic district or property included on the State Historic Resources Inventory, as defined in California Public Resources Code Section 5020.1, or within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance; and
 - (3) The project consists of at least three, but not more than ten, units.

SECTION 38. FMC §18.190.527, REPEALED AND REPLACED

FMC Section 18.190.527 is repealed and replaced, as follows:

18.190.527 Supportive and transitional housing.

- (a) **Purpose.** The purpose of this section is to establish standards for supportive housing and to ensure that support housing is constructed and operated in a manner that is consistent with the requirements and allowances of California Government Code Section 65650 et seq., as may be amended.

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- (b) **Definitions.** Wherever the following terms are used in this section, they shall have the meaning established by this subdivision:
- (1) “Lower income households” shall have the same meaning as defined in California Health and Safety Code Section 50079.5, as may be amended.
 - (2) “Supportive services” shall have the same meaning as defined in California Government Code Section 65582, as may be amended.
 - (3) “Target population” shall have the same meaning as defined in Chapter 18.25, Definitions.
 - (4) “Use by right” shall have the same meaning as defined in California Government Code Section 65583.2(i), as may be amended.
- (c) **Use by Right.** Supportive housing shall be a “use by right” in zones where residential and mixed uses are permitted, including nonresidential zones where multifamily uses are permitted.
- (d) **Permit Requirements and Procedures.**
- (1) **Ministerial Design Review Permit.** Approval of a ministerial design review permit shall be required prior to the establishment of any supportive housing project.
 - (2) **Completeness Determination and Action.** The developer of the eligible housing development shall be notified whether the development application is deemed complete within 30 days of the City’s receipt of an application to develop supportive housing. The review of the development application shall be completed within 60 days after the application is deemed complete for a project with 50 or fewer units, or within 120 days after the application is deemed complete for a project with more than 50 units.
- (e) **Criteria.** A supportive housing project shall satisfy all of the following criteria:
- (1) **Affordability Period.** Units within the housing development shall be subject to a recorded affordability restriction for 55 years.
 - (2) **Affordability Requirements.** One hundred percent of the units, excluding managers’ units, within the housing development shall be restricted to “lower income households” and shall receive public funding to ensure affordability of the housing to lower income Californians. The rents in the housing development shall be set at an amount consistent with the rent limits stipulated by the public program providing financing for the development.
 - (3) **Target Population.** At least 25 percent of the units in the housing development or 12 units, whichever is greater, shall be restricted to residents in supportive housing who meet criteria of the “target population.” If the housing development

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consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the housing development shall be restricted to residents in supportive housing.

- (4) **Required Documentation.** The developer or applicant of the housing development shall provide the City with the information required by Government Code Section 65652, as may be amended.
- (5) **Nonresidential Floor Area.** Nonresidential floor area shall be used for onsite "supportive services" in the following amounts:
 - (A) **Twenty Units or Less.** For a housing development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services.
 - (B) **Twenty-one Units or More.** For a development with more than 20 units, at least three percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.
- (6) **Replacement Units.** The developer or applicant of the housing development shall replace any dwelling units on the site of the supportive housing development in the manner provided in Government Code Section 65915, as may be amended.
- (7) **Unit Requirements.** Units within the housing development, excluding managers' units, shall include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- (f) **Objective Standards.** Supportive housing projects shall comply with the written objective standards or policies that apply to other housing development projects within the same zone.
- (g) **Parking.** No minimum parking requirements shall be required for the units occupied by supportive housing residents for housing development projects that are located within one-half mile of a public transit stop.

SECTION 39. FMC §18.235.020, AMENDED

FMC §18.235.020 is amended to read as follows:

- (a) Ministerial design review shall be required for the following development projects and uses unless the district regulations require discretionary review, the project requires another discretionary permit from the planning commission, the project is inconsistent with adopted design rules, or the project may affect a potential or designated historic register resource requiring review by the historical architectural review board:

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- (1) Single-family homes that would not cause the primary building to exceed 7,500 square feet in area and additions to single-family homes that meet the development standards for the zoning district where they are located and design rules contained in the citywide design guidelines.
- (2) Development of industrial buildings and additions within industrial districts.
- (3) Exterior remodeling (e.g., new windows or doors) and minor additions equal to or less than 10 percent of the existing gross floor area of all other nonresidential buildings.
- (4) Other:
 - (A) Accessory structures.
 - (B) Accessory dwelling units when consistent with Section 18.190.005.
 - (C) Trash enclosures, recycling and waste collection areas, and compactors.
 - (D) New and reconfigured parking lots, not including routine pavement repair and maintenance involving no alterations to striping, landscaping, or circulation.
 - (E) Housing developments located within the Housing Element Sites Inventory (HESI) Overlay that provide a minimum of 20-percent of the total project units to lower income households and that do not include a subdivision.
 - (F) Supportive housing that meets the criteria specified in Section 18.190.527.

[All other subdivisions of this section remain unchanged]

SECTION 40. FMC §18.235.060, AMENDED

FMC §18.235.060 is amended to read as follows:

18.235.060 Action and findings by approval authority – Discretionary design review.

The approval authority may approve, conditionally approve, or deny an application for discretionary design review. The approval authority shall approve or conditionally approve an application for discretionary design review only when all of the following findings can be made:

- (a) The proposed project is consistent with the general plan, any applicable community or specific plan, planning and zoning regulations, and any adopted design rules and guidelines;

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- (b) When a proposed project is inconsistent with an adopted design rule, the purpose and intent of the design rule is met through alternative means;
- (c) The multifamily residential¹ project's architectural, site, and landscape design will not be detrimental to the public health or safety; or a nonmultifamily project's architectural, site, and landscape design will not unreasonably interfere with the use and enjoyment of adjacent development nor be detrimental to the public health, safety, or welfare; and
- (d) Where HARB review is required, the proposed project is consistent with the applicable standards and findings required in Chapters 18.135 and 18.175.
- (e) The multifamily residential¹ project does not involve the demolition of any residential units unless the project complies with the requirements specified in California Government Code 66300, as may be amended.
- (f) The multifamily residential project as defined in California Government Code Section 65905.5, as may be amended, complies with all applicable objective, as defined in California Government Code Sections 65913.4 and 66300, general plan, zoning, and subdivision standards.

SECTION 41. FMC §18.265.070, AMENDED

FMC §18.265.070 is amended to read as follows:

- (a) The community development director may approve or conditionally approve a request for reasonable accommodation if all of the following findings can be made:
 - (1) The housing will be used by a disabled person;
 - (2) The requested accommodation is necessary to make specific housing available to a disabled person;
 - (3) The requested accommodation would not impose an undue financial or administrative burden on the city;
 - (4) The requested accommodation would not require a fundamental alteration in the nature of a city program or law, including land use and zoning; and
 - (5) The requested accommodation would not result in a concentration of uses ~~otherwise not allowed in a residential neighborhood to the substantial detriment of the residential character of that neighborhood~~beyond those specified in California Health and Safety Code Section 1267.9.

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SECTION 42. CEQA

The City Council finds that the proposed amendments to the Fremont Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to, without limitation, each on a separate and independent basis, CEQA Guidelines:

- (1) §15061(b)(3) [Review for Exemption] in that it can be seen with certainty that there is no possibility that the proposed text amendments would have the potential for causing a significant effect on the environment, and because the proposed amendments would only modify certain zoning procedures to implement the City's 2023-2031 Housing Element and would not approve any development.
- (2) §15183 [Projects Consistent with a Community Plan, General Plan, or Zoning] and/or §15162 [Subsequent EIRs and Negative Declarations] in that the proposed text amendments are consistent with the development densities and policies in Fremont's General Plan, for which an Environmental Impact Report (EIR) [SCH #2010082060] was previously prepared and certified, and none of the circumstances necessitating further environmental review are present. The proposed amendments do not involve peculiar impacts that were not previously analyzed or discussed as significant effects in prior EIR(s) on the general plan and zoning with which the project is consistent, there are no previously identified significant effects which are substantially more severe than analyzed in the prior EIR(s) or cannot be substantially mitigated by the imposition of uniformly applied development policies or standards applied on a citywide basis, and many of the proposed amendments are necessary to conform with state law. Any conceivable impact of the proposed amendments would be too speculative for reasoned analysis in the absence of specific development proposals.
- (3) §15262 [Feasibility and Planning Studies] in that the proposed amendments may lead to possible future actions, but the City has not yet approved, adopted, or funded those possible future actions.
- (4) §15268 [Ministerial Projects] in that the proposed amendments are necessary to implement the provisions of Government Code §§ 65852.21 and 66411.7 and are statutorily exempt from the requirements of CEQA.
- (5) §15305 [Minor Alterations in Land Use Limitations] in that proposed text amendments potentially initiate minor alterations in the City's land use regulations, but that do not result in any changes in land use or density. Additionally, the proposed amendments include changing local City land use regulations as needed to comply with State law.
- (6) §15311 [Accessory Structures] in that proposed text amendments potentially initiate construction or conversion of small structures in a residential zone.
- (7) §15378 [Project] in that the proposed amendments are an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

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SECTION 43. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fremont hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 44. EFFECTIVE DATE

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 45. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption a summary of this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on _____, and finally adopted at a regular meeting of the City Council held on _____, by the following vote:

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AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney