

# Update to Exhibit D: Revisions

November 18, 2015

Highlighted Text<sup>[C1]</sup>

Revisions made since [City Council Review Draft](#)

## Article 4 Non-Conforming Uses, Structures, Site Features, and Lots

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### Sections:

15-401	Purpose
15-402	Determination of Non-Conforming Status
15-403	Illegal Non-Conforming Uses, Structures, and Site Features
15-404	Legal Non-Conforming Uses
15-405	Legal Non-Conforming Structures and Site Features
15-406	Non-Conforming Lots

### 15-401 Purpose

The purpose of this article is to permit continued utility and economic viability of uses, structures, site features, and lots that were created lawfully prior to the adoption of this Code, but do not conform to its provisions, while preventing new non-conformities.

### 15-402 Determination of Non-Conforming Status

A use, structure, site feature, or lot shall be considered non-conforming if it was created prior to the adoption of this Code, or any amendment thereto, and does not conform to its provisions. The Director shall evaluate all available documentation to [C1] determine that non-conforming uses, structures, and site features shall have Legal Non-Conforming status or Illegal Non-Conforming status as follows:

- A. **Legal Non-Conforming Status.** A use, structure, or site feature shall be designated as having Legal Non-Conforming status if it was lawfully established under the regulations of the jurisdiction in which it was located at the time of its establishment and has continuously remained in compliance with all terms and conditions imposed upon the use, structure, or site feature upon its establishment or imposed upon it any time thereafter, based on evidence provided by the property owner, tenant, or applicant. Legal Non-Conforming status shall also be assigned if non-conformities were created by a public improvement, such as a street widening project.
- B. **Illegal Non-Conforming Status.** A use, structure, site feature, or lot shall be designated as having Illegal Non-Conforming status if it was not lawfully established under the regulations of the jurisdiction in which it was located at the time of its establishment or has not continuously remained in compliance with all terms and conditions imposed upon the use, structure, or site feature upon its establishment or imposed upon it any time thereafter.

### 15-403 Illegal Non-Conforming Uses, Structures, and Site Features

Nothing in this article shall be deemed to allow the use, change in use, repair, alteration, expansion, enlargement, or reconstruction of an Illegal Non-Conforming use, structure, or site feature. Any such

Illegal Non-Conforming use shall be discontinued and any such Illegal Non-Conforming structure or site feature shall be removed.

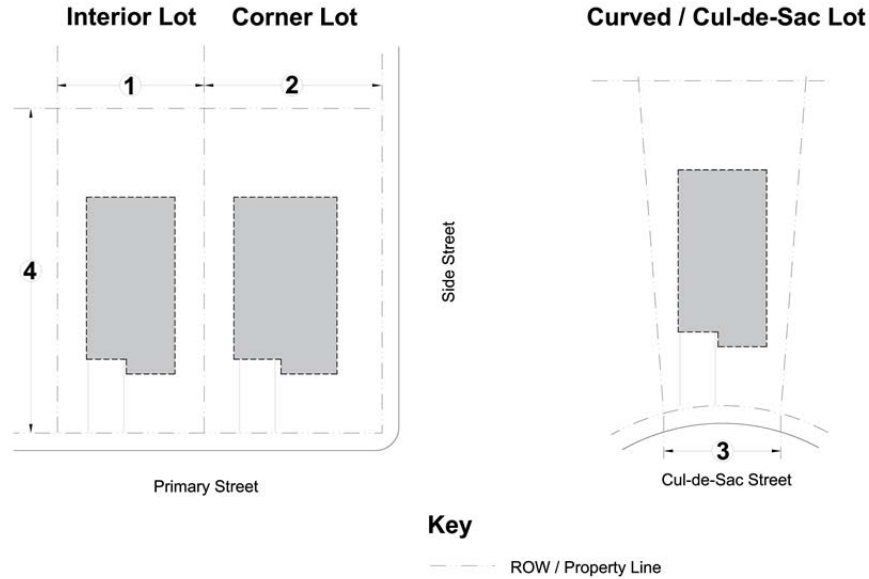
#### 15-404 Legal Non-Conforming Uses

- A. **Continuation of Legal Non-Conforming Uses.** Except as otherwise provided in this article, any Legal Non-Conforming use may be continued indefinitely. No Illegal Non-Conforming use shall be continued unless such use subsequently comes into conformity with the applicable provisions of this Code.
- B. **Expansion of Legal Non-Conforming Uses.** A Legal Non-Conforming use shall not be expanded unless a Conditional Use Permit is granted for such expansion. Prior to issuance of a Conditional Use Permit, it must be determined that at least one of the following three circumstances exists:
1. The resultant use and/or project design will reduce current adverse impacts on adjacent properties and/or on the general public;
  2. The resultant use and/or project design will aid in the preservation of a historic resource; or
  3. The expansion of the use or the enlargement of a structure housing a non-conforming use is necessary to comply with a requirement imposed by law for the operation of the particular use, including, but not limited to, regulations for disabled access or seismic retrofit.
- ~~C.~~ **Change of Legal Non-Conforming Use.** A Legal Non-Conforming use shall not be changed to, or substituted for, another non-conforming use unless a Conditional Use Permit is granted for such change or substitution. To grant such a Conditional Use Permit the Director must first find that, in addition to the findings required by Section 15-404-B, the resultant use will be more consistent with the uses permitted in the district than the former use.
- ~~C.D.~~ **Change of a Legal Non-Conforming Industrial Use.** A Legal Non-Conforming Industrial Use shall not be changed to, or substituted for, another use other than to come into compliance with this Code.<sup>[C2]</sup>
- ~~D.E.~~ **Change to a Conforming Use.** When a Legal Non-Conforming use has been changed to a conforming use, the non-conforming use shall not be re-established thereafter, with the following exception: Within Residential Multi-Family, Mixed-Use, or Commercial districts, structures which are determined by the Director to have been lawfully constructed as single-family dwellings may be returned to single-family use at any time. The Director shall base such a determination on evidence including building permits, County Assessor's data, building design and appearance, or other records which document that the building was originally constructed as a single-family home.
- ~~E.F.~~ **Abandonment of Legal Non-Conforming Uses.**
1. **Residential Districts.** A Legal Non-Conforming use shall not be re-established in any structure in a Residential District if such Legal Non-Conforming use has ceased for a consecutive six-month period.

<b>TABLE 15-1302: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS</b>						
<i>Use Classifications</i>	<i>O</i>	<i>BP</i>	<i>RBP</i>	<i>IL</i>	<i>IH</i>	<i>Additional Regulations</i>
<i>Walk-In Clientele</i>	P	P	P	P	–	
<b>Personal Services</b>						
<i>General Personal Services</i>	P	P	P	P	–	
<i>Tattoo or Body Modification Parlor</i>	–	–	–	P	–	§15-2758, Tattoo or Body Modification Parlor
<b>Retail Sales</b>						
<i>Building Materials and Services</i>	–	–	–	P	P	§15-2745, Outdoor Retail Sales
<i>Convenience Retail</i>	P(4)	P(4)	P(4)	P(4)	P(4)	§15-2745, Outdoor Retail Sales; 15-2761 Tobacco and Vapor Shops
<b>General Retail</b>	<b>P(4)</b>	<b>P(4)</b>	<b>P(4)</b>	<b>P(4)</b>	<b>P(4)</b>	<b>§15-2733, Hobby Stores; §15-2745, Outdoor Retail Sales</b>
<i>Large-Format Retail</i>	–	P(8)	P(8)	P(8)	P(8)	§15-2737, Large-Format Retail; §15-2745, Outdoor Retail Sales
<i>Nurseries and Garden Centers</i>	–	–	–	C	–	§15-2745, Outdoor Retail Sales
<i>Swap Meet / Flea Market</i>	–	–	–	C	–	§15-2731, Flea Markets
<b>Industrial Use Classifications</b>						
<i>Construction and Material Yards</i>	–	P(16)	P(16)	P(16)	P(16) C(17)	§15-2721, Concrete Batch Plants, Storage Yards, and Similar Uses
<i>Custom Manufacturing</i>	–	P(8)	P(8)	P	P	
<i>Limited Industrial</i>	–	P(8)	P(8)	P	P	
<i>General Industrial</i>	–	C	C	P	P	
<i>Intensive Industrial</i>	–	–	–	–	C	§15-2732, Hazardous Waste Management Facilities
<b>Recycling Facility</b>						
<i>Reverse Vending Machine</i>	P	P	P	P	P	§15-2750, Recycling Facilities
<i>CRV Recycling Center</i>	–	–	–	C	C	
<i>Recycling Processing Facility</i>	–	–	–	C	C	
<i>Research and Development</i>	P	P	P	P	P	
<i>Salvage and Wrecking</i>	–	–	–	–	C	§15-2768, Wrecking Yards and Auto Dismantling
<b>Warehousing, Storage, and Distribution</b>						
<i>Chemical and Mineral Storage</i>	–	–	–	C	C	§15-2732, Hazardous Waste Management Facilities
<i>Indoor Warehousing and Storage</i>	–	P	P	P	P	
<i>Outdoor Storage</i>	–	P(8) 16	P(8) 16	P(16)	P(16) C(18)	§15-2721, Concrete Batch Plants, Storage Yards, and Similar Uses
<i>Personal Storage</i>	C	P	P	P	P	§2747, Personal (Mini) Storage
<i>Wholesaling and Distribution</i>	–	P	P	P	P	
<b>Transportation, Communication, and Utilities Use Classifications</b>						
<i>Airports and Heliports</i>	–	C(9)	C(9)	C	C	
<b>Communication Facilities</b>						
<i>Antenna and Transmission Towers</i>	§15-2759, Telecommunications and Wireless Facilities					
<i>Facilities within Buildings</i>	P	P	P	P	P	

<b>TABLE 15-1302: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS</b>						
<i>Use Classifications</i>	<i>O</i>	<i>BP</i>	<i>RBP</i>	<i>IL</i>	<i>IH</i>	<i>Additional Regulations</i>
Freight/Truck Terminals and Warehouses	–	P	P	P	P	
Light Fleet-Based Services	C	P	P	P	P	
Utilities, Major	–	–	C	P	P	
Utilities, Minor	P	P	P	P	P	
Waste Transfer Facility	–	–	–	C	C	<a href="#">§15-2732, Hazardous Waste Management Facilities</a>
<b>Agricultural and Extractive Use Classifications</b>						
Agricultural Processing	–	C	C	P	P	§15-2732, Hazardous Waste Management Facilities
Agricultural Support Services	–	C	P	P	P	
Animal Raising	–	–	–	–	–	
Crop Cultivation	–	–	–	P	P	§15-2716, Crop Cultivation
Dairy	–	–	–	–	–	
Mining and Quarrying	–	–	–	–	C	
Rendering	–	–	–	–	C	
Sales Lot, Feed Lot, Stockyard	–	–	–	C	P	
Slaughterhouse	–	–	–	–	C	
Tasting Room	–	C	C	C	C	
<b>Other Applicable Types</b>						
Accessory Uses and Structures	§15-2703, Accessory Uses					
Home Gardens	§15-2734, Home Gardens and Edible Landscaping					
Animal Keeping	§15-2707, Animal Keeping					
Drive-In and Drive-Through Facilities				C	C	§15-2728, Drive-In and Drive-Through Facilities
Walk-Up Facilities	§15-2766, Walk-Up Facilities					
Non-Conforming Use	Article 4, Non-Conforming Uses, Structures, Site Features, and Lots					
Temporary Use	§15-2760, Temporary Uses					
<b>Specific Limitations:</b>						
<ol style="list-style-type: none"> <li>1. Permitted if existing, no new units are allowed.</li> <li>2. One caretaker dwelling is allowed where having a caretaker living on the site is necessary for the conduct of the on-site business.</li> <li>3. Not to include industrial training such as welding or automotive repair involving the use of tools and materials appropriate to an industrial use area.</li> <li>4. Limited to establishments with a gross floor area of 6,000 square feet or less.</li> <li>5. Not allowed on the ground floor.</li> <li>6. Permitted only as an accessory use that supports business and office parks, corporate offices, and industrial uses.</li> <li>7. Limited to membership club retailers and located on an arterial or higher classifications street.</li> <li>8. Outdoor storage shall be incidental to a primary use and screened from public view.</li> <li>9. Limited to heliports used as accessory to a hospital.</li> <li>10. Limited to upper stories unless at least 50 percent of ground floor street frontage is occupied by food service use.</li> <li>11. Building heights for hospitals shall not exceed 150 ft. There is no maximum Floor Area Ratio for hospitals.</li> <li>12. Must be closed between the hours of 10 p.m. and 6 a.m.</li> <li>13. Must include an indoor waiting area.</li> <li>14. <a href="#">When located within 300 of an Intensive Industrial use a Conditional Use Permit shall be required.</a></li> <li>15. <a href="#">Shall be required to comply with Master Environmental Impact Report mitigation measures MM AIR-2, MM AIR-3, and MM AIR-4 if applicable.</a></li> <li><del>13-16.</del> <a href="#">A courtesy notice will be provided to all properties within 1,000 feet of these uses when approved.</a> <span style="border: 1px solid black; padding: 2px;">C17</span></li> </ol>						

**TABLE 15-903-1: LOT AND DENSITY STANDARDS—RESIDENTIAL SINGLE-FAMILY DISTRICTS**



District	RE	RS-1	RS-2	RS-3	RS-4	RS-5	Additional Regulations	#
Minimum Lot Size (sq. ft.)	5 acres	36,000	20,000	9,000	5,000	4,000		
Minimum Lot Size, with Enhanced Streetscape (sq. ft.)	-	-	-	-	-	2,700-5,000 [C17]	§15-904-B, Enhanced Streetscape	
Maximum Lot Size [C2]	-	-	-	32,000	9,000	6,500		
Residential Density (dwelling units per lot)	1	1	1	1	1	1	§15-310, Determining Residential Density	
Minimum Lot Width (ft.)								
General Standard	110	110	110	70	50	35		①
Corner	110	110	110	80	55	40		②
Reversed Corner	110	110	110	90	60	50		
Where Side Property Line Abuts a Major Street, Freeway or Railroad	160	160	130	90	70	60		
Curved/Cul-de-Sac	80	80	80	60	40	30		③
Minimum Lot Depth (ft.)								
General Standard	130	130	130	100	85	70		④
Where Front or Rear Property Line Abuts a Major Street	200	200	130	110	100	90		④
Where a Front or Rear Property Line Abuts a Freeway or Railroad	200	200	150	150	120	120		④

1. Provided that the overall density of the development does not exceed the approved General Plan densities.  
 2. Maximum lot sizes may be exceeded in developments whose overall density does not fall below the approved General Plan density. [C3]

primary façade of the living area, then swing garages shall be subject to the minimum front setback and shall not be subject to garage setbacks.

- B. **Enhanced Streetscape.** When an Enhanced Streetscape is provided, the minimum lot size and minimum front setback shall be reduced as shown on Tables 15-903-1 and 15-903-2. Enhanced Streetscape shall mean that no fewer than five of the following qualities are present on the site or the adjacent public street:
1. A landscaped parkway strip of no less than four feet in width; or
  2. An elevated first floor which is at no less than three feet above the grade of the adjacent sidewalk or curb; or
  3. A front porch with a depth of no less than five feet and a width equal to no less than 20 percent of the building frontage; or
  4. A street-facing balcony with a depth of no less than five feet and a width equal to no less than 30 percent of the building frontage; or
  5. A bay window with a depth of no less than two feet; or
  6. An alley-loaded garage; or
  7. A front-loaded garage, the width of which occupies less than 50 percent of the ~~width~~ area of the front façade; or
  8. A design in which no exterior street-facing wall has a continuous plane of more than eight feet without an opening such as a window or door or a projection, offset, or recess at least one foot in depth; or
  9. Stone or brick cladding ~~covering accounts for~~ no less than ~~50-25~~ [C4] percent of ~~the cladding of ground floor~~ [C5] street-facing facades; or
  10. A two-story front elevation; or
  11. Shutters, lintels, sills, awnings, decorative trim or similar architectural treatments on all street-facing windows and doors; or
  12. Ornamental architectural elements such as medallions, keystones, or quatrefoils, Juliet balconies, [C6] and decorative vent covers; or
  13. Decorative eave treatments such as cornice moldings, modillions, corbels, and outlookers; or-
  14. 8-foot tall front door; or
  - ~~+0~~15. Juliet balcony [C7].
- C. **Pedestrian Access.** Where 50 percent or more of the single-family homes on the same blockface have a direct path from the main pedestrian entrance to the public sidewalk, new homes shall also provide such a path. In such circumstances the driveway shall not satisfy this requirement.
- D. **Driveway Design.** Where 50 percent or more of the lots on the same blockface have a driveway design with a landscaped strip in the center (commonly known as ribbon drives or Hollywood drives), new driveways shall also include a central landscape strip.



- i. The minimum dimension of any private open space shall be ~~five-four~~ C9 feet.
  - ii. The minimum area of any private open space shall be ~~4032~~ square feet.
  - iii. When located within 30 feet of a public street and located on the ground floor, private open spaces shall follow the requirements for Porches as put forth in Table 15-1005-F.
  - iv. When located within 30 feet of a public street and located above the ground floor, private open spaces shall follow the requirements for Balconies as put forth in Table 15-1005-F.
- b. *Common Open Space Requirements.* Common open spaces are those which are available for active or passive use by all tenants, but use by the general public may be restricted. To the extent that common open space is provided, the following standards shall apply:
- i. The minimum dimension of any common open space shall be 20 feet.
  - ii. The minimum area of any common open space shall be 1,000 square feet. The calculation of the common open space area shall exclude structures which are unusable as open space, but shall include structures that enhance its usability, such as swimming pools, changing facilities, fountains, planters, benches, and landscaping.
  - iii. Not less than 80 percent of common open space shall be unobstructed to the sky. Trellises, pergolas, and similar structures shall be considered open to the sky for the purposes of this measurement.

~~ii. Allowing the units to face away from the street would not be inconsistent with the pattern established by nearby existing uses.~~

2. **Internal Connections.** A system of pedestrian walkways shall connect buildings, parking areas, and on-site open space areas.
3. **External Connections.** A system of pedestrian walkways shall connect the project site to adjacent Commercial, Mixed-Use, and Office districts as follows:
  - a. If the adjacent Commercial, Mixed-Use, and Office districts are undeveloped, stub connections shall be provided at a frequency of no less than one per 600 feet. The exact locations may be adjusted at the discretion of the Review Authority based on site conditions, safety, and pedestrian convenience. Upon the development of the adjacent parcels, any fencing or gates at the stubs shall be opened.
  - b. If the adjacent Commercial, Mixed-Use, and Office districts are developed and provide connection points via breaks in the perimeter wall/fence, then the project shall provide pedestrian walkway connections at those locations.
  - c. If the adjacent Commercial, Mixed-Use, and Office districts are developed and there are no possible connection points via breaks in the perimeter wall/fence, then the project shall not be required to provide connections.
4. **Pedestrian Walkway Design.**
  - a. Walkways shall be a minimum of four feet wide, hard-surfaced, and paved with concrete, stone, tile, brick, or comparable material.
  - b. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable.
  - c. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four inches high or other physical barrier.
  - d. Lighting shall be provided per Section 15-2015, Outdoor Lighting and Illumination.

~~15-1005~~ Pedestrian access as described above shall only be required along the front façade of the building. [C10]

~~5.~~

## ~~15-1006~~ 15-1005 Façade Design Development Standards

- A. **Building Articulation.** All street-facing façades must include at least one projection or recess at least two feet in depth for every 25 horizontal feet of exterior wall. Such projections and recesses may be grouped rather than evenly spaced in 25 foot modules.
- B. **Building Materials and Finishes.**
  1. Each side of a building that is visible from a street or passenger rail line shall be designed with a complementary level of detailing and quality of materials.

2. **Internal Connections.** A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.
3. **External Connections.** A system of pedestrian walkways shall connect the project site to adjacent Residential, Commercial, Mixed Use, Office districts as follows:
  - a. If the adjacent Residential, Commercial, Mixed-Use, and Office districts are undeveloped, stub connections shall be provided at a frequency of no less than one per 600 feet. The exact locations may be adjusted at the discretion of the Review Authority based on site conditions, safety, and pedestrian convenience. Upon the development of the adjacent parcels, any fencing or gates at the stubs shall be opened.
  - b. If the adjacent Residential, Commercial, Mixed-Use, and Office districts are developed and provide connection points via breaks in the perimeter wall/fence or stub streets, then the project shall provide pedestrian walkway connections at those locations.
  - c. If the adjacent Residential, Commercial, Mixed-Use, and Office districts are developed and there are no possible connection points via breaks in the perimeter wall/fence, then the project shall not be required to provide connections.
4. **Pedestrian Walkway Design.**
  - a. Walkways shall be a minimum of four feet wide, be hard-surfaced, and paved with concrete, stone, tile, brick, or comparable material.
  - b. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
  - c. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least six inches high, bollards, or other physical barrier.
  - d. Lighting shall be provided per 15-2015, Outdoor Lighting and Illumination.
- ~~4.5.~~ Pedestrian access as described above shall only be required along the front façade of the building. [C13]

#### G. Sidewalk Standards.

1. **Applicability.** All projects shall be required to bring adjacent sidewalk conditions into conformance with the standards of this ~~s~~Section, subject to the following exceptions:
  - a. Applications for signs only.
  - b. Tenant improvements for new establishments occupying 20,000 square feet of gross floor area or less.
  - c. Building expansions of 2,000 square feet of net new floor area or less.

3. **Height Limit, Freestanding Signs.** Five feet when located within a required front or street-side setback, eight feet otherwise.
  4. **Illumination.** Signs may be internally illuminated.
- C. **Residential Subdivisions.** Permanent entrance signs for residential areas with more than 10 residential parcels shall be permitted for the purpose of identifying a development subject to the following standards:
1. **Maximum Number of Signs.** Two signs per entrance from a public street plus one sign per street frontage with no entrance from a public street.
  2. **Maximum Sign Area per Sign.** 32 square feet. In the case of a master planned development with a CUP, this area can be increased at the discretion of the Review Authority.<sup>[C8]</sup>
  3. **Height Limit.** Five feet when located within a required front or street side setback, 10 feet otherwise.
  4. **Illumination.** Signs shall not be internally illuminated.
- D. **Menu Display Boards.**
1. Menu displays, not exceeding two square feet in area mounted on a wall or in a window near the main entrance of establishments serving food to customers who eat on the premises. For free standing menu display boards, refer to Section 15-2728, Drive-In and Drive-Through Facilities.
- E. **Service Stations.**
1. Signs on service station canopies are not to exceed 50 square feet on each side.
  2. Freestanding or monument signs may provide electronic fuel prices. A freestanding and/or monument sign that is to be converted to an electronic fuel price sign shall comply with the size requirements and setbacks required by the Development Code.
  3. Fuel prices shall be static and shall not be blinking, flashing, continuously changing colors, etc.
  4. Prices shall not change more than once in a 24 hour period.
  5. Only one electronic fuel price sign is permitted per site.
  6. Electronic numbers shall not exceed 24 inches in height.
- F. **Theaters.**
1. Developments containing theaters are allowed one additional pole or monument sign with changeable copy. The maximum height is 20 feet and the maximum size is 80 square feet.
  2. Theatres may provide additional walls signs. Said signs shall not exceed 200 square feet. Show times may be displayed electronically.
- G. **Outdoor Scoreboards.** Outdoor scoreboards are allowed in public or private athletic complexes. Size and location shall consider safety and sensitivity to nearby uses (e.g. residential).

- ii. The restaurant and the Vendor are operated by the same entity.
- b. Residential uses, with the following exceptions:
  - i. Caretaker's Residence
  - ii. Residential units that are part of a vertical mixed-use development.
  - iii. Vendors operating as part of a Farmer's Market per Section 15-2730 or a Special Event per Section 15-2760-B.
- c. Schools, with the following exceptions:
  - i. Vendors which sell only fresh produce.
  - ii. Vendors operating as part of a Farmer's Market per Section 15-2730 or a Special Event per Section 15-2760-B.
  - iii. Any motorized food vendor may not operate within 1,000 feet of a school during regular school hours unless authorized by the school.<sup>[C11]</sup>

**B. Off-Street Locations and Time Limits.** The following restrictions shall apply except for Vendors operating as part of a Farmer's Market per Section 15-2730 or a Special Event per Section 15-2760-B.

1. **Residential Districts.** Vendors may not operate within residential districts, with the exception of properties for non-residential uses, such as schools and religious assembly facilities. Vendors shall have prior written authorization from the property owner.
  - a. *Time Limit.* Two hours, after which the Vendor must move to a new location that is no less than 500 feet away.
2. **Non-Residential Districts.** Vendors may operate within non-residential districts. Vendors shall have prior written authorization from the property owner.
  - a. *Time Limit.* Four hours, after which the Vendor must move to a new location that is no less than 500 feet away.
3. **City-Owned Property.** Vendors may not operate on City-owned property, such as parks, without prior written authorization from the City.
  - a. *Time Limit.* At the discretion of the City Manager or his/her designee.

~~C.~~ **On-Street Locations and Time Limits.**

~~C.~~ Vendors may operate on the public right-of-way subject to the following restrictions: Vendors operating as part of a Farmer's Market per Section 15-2730 or a Special Event per Section 15-2760-B are excepted.

1. **Residential Districts.**

2. **Backyard Cottage.** May provide separate, independent living quarters for one household. Units may be attached, detached, or located within the living areas of the primary dwelling unit on the lot, subject to the standards of this subsection. Kitchens, including cooking devices are permitted. Backyard Cottages shall be located behind the primary dwelling unit, unless attached and integral to the primary dwelling unit.

a. A Tiny House may be considered a Backyard Cottage if it meets all the requirements of this section.

a.b. The Director shall review the design of the Tiny House to insure that the structure is compatible with the main home and the neighborhood. [C12]

3. **Accessory Living Quarters.** Accessory Living Quarters provide dependent living quarters. They may be attached, detached, or located within the living areas of the primary dwelling unit on the lot, subject to the standards of this subsection. Accessory Living Quarters may not provide kitchen facilities, however a bar sink and an under-counter refrigerator are allowed, but no cooking devices or other food storage facilities are permitted. Accessory Living Quarters shall not be located in front of the primary single-family dwelling.

F. **Maximum Floor Area.** The following are the maximum square footages of habitable area. The following calculations only include habitable floor space. Minor Deviations and/or Variances are not permitted to increase the maximum floor areas.

1. **Second Dwelling Units.** 1,250 square feet.
2. **Backyard Cottages.** 440 square feet.
3. **Accessory Living Quarters.** 500 square feet or 30 percent of the primary single-family dwelling, whichever is less.

G. **Development Standards.** Units shall conform to the height, setbacks, lot coverage and other zoning requirements of the zoning district in which the site is located, the development standards as may be modified per this subsection, other requirements of the zoning ordinance, and other applicable City codes.

H. **Lot Coverage.** Per the underlying zone district.

I. **Setbacks.**

1. **Front Yards.** Per the underlying zone district.
2. **Side Yards/Street Side Yards.** Per the underlying district.
3. **Rear Yards.** Shall be separated from the main home by a minimum of six feet.
  - a. **Second Dwelling Unit.** Per the underlying zone district.
  - b. **Backyard Cottage and Accessory Living Quarters.**
    - i. Alley Present. Three feet.
    - ii. No Alley Present.
      - (1) Abutting an RS. 10 feet.

- c. A tandem parking space may also be used to meet the parking requirement for the Second Dwelling Unit, providing such space will not encumber access to a required parking space for the primary single-unit dwelling.
    - d. An existing two vehicle garage and/or carport may not be provided in-lieu of these parking requirements unless the parking spaces are accessed from different garage doors.
  3. **Backyard Cottage.** No additional parking required.
  4. **Accessory Living Quarters.** No additional parking required.
- O. **Access.** Vehicular access shall be provided in the following manner:
  1. **Driveways.** Shall be provided per the underlying district.
  2. **Pedestrian ~~access~~ Access.** An all-weather surface path to the Second Dwelling Unit, Backyard Cottage, or Accessory Living Quarters shall be provided from the street frontage.
- P. **Mechanical Equipment.** Mechanical equipment shall be located on the ground or, in the case of a tiny house on wheels, incorporated into the structure, but shall in no case be located on the roof. [C13]
- Q. **Utility Meters/Addresses.**
  1. **Second Dwelling Units.** Separate gas and electric meters may be permitted if approved by the Building Official and Pacific Gas & Electric.
  2. **Backyard Cottage and Accessory Living Quarters.** Separate utility meters and/or addresses es are not permitted.
- R. **Home Occupations.** Home occupations are permitted pursuant to Section 15-2735, Home Occupations.
- S. **Airports.** All applications shall comply with operative airports plans.
- T. **Owner Occupancy Requirements.** The following shall apply prior to the issuance of a building permit.
  1. **Second Dwelling Unit and Backyard Cottage.**
    - a. Either the primary dwelling unit, the Second Dwelling Unit, or the Backyard Cottage shall be owner-occupied.
    - b. The property owner shall enter into a restrictive covenant with the City, which shall be recorded against the property.
    - c. The covenant shall confirm that either the primary dwelling unit, the Second Dwelling Unit, or the Backyard Cottage shall be owner-occupied and prohibit rental of both units at the same time.
    - ~~d.~~ It shall further provide that the Second Dwelling Unit or Backyard Cottage shall not be sold, or title thereto transferred separate and apart from the rest of the property.

2. Where two alleys intersect or where an alley deflects with an interior angle of less than 135 degrees, corner cut-offs of 15 feet measured from the point of any interior angle shall be required.

J. **Traffic Calming.** Traffic calming street design or devices such as bulb-outs, chokers, center islands / raised medians, traffic circles, textured pavement, and painted intersections, shall be included, if required by an operative plan, or when determined to be necessary by the City Engineer, to ensure safe conditions for all users.

K. **Cul-de-Sacs and Dead-End Streets.**

1. The combined length of all cul-de-sacs and other dead-end streets in any subdivision shall not exceed ~~20~~30 percent of the combined total length of all local residential streets within the subdivision. Cul-de-sacs that are connected by a trail shall be exempt from this calculation. Additional exceptions [C3] may be made at the discretion of the Review Authority if any of the following circumstances apply:

a. ~~Exception. The limit on combined cul-de-sac length shall not apply if~~  
~~the average block length of all blocks in the proposed subdivision is~~  
~~400 feet or less;~~

b. The applicant can demonstrate, to the satisfaction of the City Engineer, that the subdivision design will result in a rate of Vehicle Miles Travelled which is equal to or less than a subdivision which follows the cul-de-sac limit in item K-1 above;

c. The site is 6 acres or less in gross area;

d. The site is surrounded by developed properties which lack stubs to connect to; or

~~a.e.~~ The site is blocked by canals and expressways.

2. Cul-de-sacs and dead-end streets may not exceed ~~500-600~~ feet unless there are unforeseen issues or topographical challenges and shall not be designed with blind curves or elbows. The end of the street must be visible from the center of the nearest intersection. [C4]

3. All cul-de-sacs and dead-end streets shall have a turnaround per Public Works Standards.

4. A cul-de-sacs and or dead end street may be approved as a temporary facility, without a turnaround, provided the street is designed to provide access to adjoining land that is not yet subdivided or developed. A temporary turnaround or access may be required.

5. Cul-de-sacs and dead-end streets shall provide pedestrian and bike connections to neighboring streets, trails, commercial centers, etc.

L. **Street Names.** Refer to Article 62, Street Names & Addressing.

M. Sidewalks.

1. All public streets shall have sidewalks constructed to City standards on at least one side of the street if there is connectivity to one of the following:

a. An adjacent major street;



- b. An adjacent trail; or
- c. An adjacent alley.
- 2. Streets with a sidewalk on only one side shall have two 15-gallon street trees in the front of the lot on both sides of the street.
- 3. Streets that do not provide any of the connections set forth in Subsection 1.a-c above shall have sidewalks constructed to City standards on both sides of the street. All streets shall have sidewalks constructed to City standards on both sides of the street, unless an alternative pedestrian plan is approved by the Review Authority.
- M.4. Private streets are exempt from this section. [C5]

N. **Street Trees.**

- 1. Street tree species shall be selected from the Fresno Street Tree Palette.
- 2. Street trees shall be planted at a minimum spacing of 40 feet on-center
- 3. Street trees shall be located within a landscaped park strip of no less than four4 feet in width between the curb and sidewalk.
- 4. Trees within the front yard of adjacent parcels may be counted toward the satisfaction of this requirement at the discretion of the Review Authority, in which case the landscape strip between the curb and sidewalk will not be required and the spacing shall be one tree per lot.

O. **Street Lighting.**

- 1. ***Installation Required.*** The subdivider shall cause the installation of street lighting on all streets within the subdivision and on all streets adjacent to the subdivision unless existing lighting conforms to City standards.
- 2. ***Specifications.*** The type, location, and mounting heights of the luminaries shall be determined by the Public Works Director based upon the Standard Specifications and sound engineering practices consistent with the City policy for street lighting.

**15-4109 Incorporation of Site Constraints**

Areas with development constraints shall be incorporated into the overall subdivision design and layout to support and enhance park and open space amenities.

- A. **Major Utility Easements.** Easements for major utilities such as high-tension lines and utility trunk lines shall be integrated into the proposed subdivisions such they are incorporated as open space or recreation use and shall be developed as a regional trail system. Such easements shall be designed as part of an overall open space or recreation element. Said easements shall not be blocked by fences, yards, gates, and other similar barriers. The use and treatment of such easements is subject to the policies and restrictions of the utility provider and City.
- B. **Trails and Natural Features.** Proposed subdivisions that are adjacent to a trail or a canal shall incorporate them into the subdivision plan as a design feature in conformance with the City's trails plan and the following:

1. **Dual Notice.** When two hearings for the same project will occur within 20 days of one another, a single notice for both hearings is permitted.
- B. **Mailed Notice.** The Director shall provide notice by First Class mail delivery to:
1. The applicant and the property owner; and
  2. All property owners of record within a minimum ~~1,000-foot~~ radius of the subject property as shown on the latest available assessment role; ~~and: For Plan Amendments and Text Amendments, the distance shall be increased to 500 feet; and~~ [C2]
  3. Any person or group who has filed a written request with the Director for notice regarding the specific application.
  4. **Additional Notices.** The Director, at ~~his or her~~their discretion, may increase the public notice distance requirements if, in their opinion, the project has the potential to impact properties outside of the standard mailing radius.
  5. **Conditions of Zoning.** For modifications to Conditions of Zoning that were placed on a property that was also subject to a Plan Amendment, the rezone public notice distance shall be increased to a minimum 500-foot radius of the subject property while a public notice shall also be posted on the site per Subsection C below.
- C. **Posting of the Site.** For Plan Amendments and other instances where the posting of a site may be required by this Code, the applicant shall post a public notice on the subject property per the following:
1. The public notice shall be posted at least 10 days prior to the public hearing or action;
  2. At least one notice per street frontage shall be posted;
  3. There shall be at least one notice per 500 feet of street frontage;
  4. The City shall prepare the notice;
  5. The applicant shall submit a signed letter stating that they posted or caused the posting of the notice;
  6. The notice shall contain the information per Subsection E below;
  7. The notice shall be a minimum of 11x17 inches;
  8. The applicant shall, at a minimum, laminate the public notice to offer some protection from inclement weather; and
  9. Should the site be developed, a notice shall be posted in a conspicuous location proximate to the entrance(s) of the ~~tenant space(s) that applied for a Plan Amendment~~ subject property. This notice shall be in addition to the notices that are required to be posted along the street frontage(s).
- D. **Alternative Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the city at least 10 days prior to the hearing.
- E. **Contents of Notice.** The notice shall include the following information:

1. The location of the real property, if any, that is the subject of the application;
2. A general description of the proposed project or action;
3. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;
4. The identity of the hearing body or officer;
5. The names of the applicant and the owner of the property that is the subject of the application;
6. The location and times at which the complete application and project file, including any environmental assessment or determination of exemption from CEQA prepared in connection with the application, may be viewed by the public;
7. A statement that any interested person or authorized agent may appear and be heard and that failure to object to the approval and state said reasons prior to or at the hearing on the decision shall potentially bar any later court challenge to the project approval;
8. A statement describing how to submit written comments;
9. A statement describing how to obtain additional information; and
10. For Council hearings, the Commission's recommendation.

**F. Posting to City Website.** When public noticing is required, the notice shall be posted to a designated, central location on the City's website at least 10 days before the public hearing. However a failure to post to the website due to technical difficulties shall not constitute grounds to postpone the hearing or invalidate the decision made at the hearing.

**F.G. Failure to Notify Does Not Affect Validity.** The validity of the proceedings shall not be affected by typographical errors in the notice [C2] or the failure of any property owner, resident, neighborhood, or interested party to receive a ~~mailed~~ notice.

### **15-5008 Conduct of Public Hearings**

Whenever the provisions of this Code require a public hearing, the hearing shall be conducted in compliance with the bylaws and meeting procedures for said decision-making body and/or review authority.

### **15-5009 Notice of Action**

- A. After the Director or Planning Commission takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Code, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision.
- B. The Director shall mail the Notice of Action within 10 days from the date of taking the action to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies and design guidelines adopted by the City Council;
- B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings for a Conditional Use Permit listed in Section 15-5306, Required Findings; or
- D. Mitigate any potential impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

### **15-5308 Expiration**

An expiration date of seven years from the date of approval shall be established by the Review Authority, except as follows:

- A. Uses which may have a substantial public interest may be given an expiration date of less than seven years.
- B. Conditional Use Permits for permanent physical property improvements, such as building height, shall not have an expiration date if deemed appropriate by the Review Authority.

### **15-5309 Appeals**

Conditional Use Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

### **15-5310 Modifications**

Conditional Use Permits may only be modified as provided for in Article 50, Common Procedures. Conditional Use Permits for projects that are anticipated to develop over the course of six years or more may require reallocation or adjustment to residential densities. Such adjustments may be processed through the modification procedures set forth in section 15-5015. [C4]

## Article 61 Concept Plans, Pre-Zoning, and Annexations

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### Sections:

- 15-6101 Purpose
- 15-6102 Concept Plans
- 15-6103 Pre-Zoning
- 15-6104 Annexation Criteria
- 15-6105 Effective Date of Zoning and Time Limit

### 15-6101 Purpose

The purpose of this article is to establish a procedure for annexation of adjoining unincorporated territory.

### 15-6102 Concept Plans

- A. **Purpose.** To facilitate the orderly expansion of the city by shaping new growth areas into a series of complete neighborhoods which feature a connected mix of houses, apartments, stores offices, open space, and public facilities.
- B. **Applicability.**
  - 1. ***Annexation of Certain Land Uses.*** A Concept Plan shall be prepared by the applicant when land with one of the following General Plan land use designations is proposed to be annexed:
    - a. Residential, Low Density
    - b. Residential, Medium Low Density
    - c. Residential, Medium Density
  - 2. ***Exceptions.*** Applications with the following circumstances shall not be required to prepare a Concept Plan:
    - a. With the exception of the proposed project, there is no more undeveloped land within the Concept Plan Area with a residential land use designation.
    - b. The site is already part of an adopted Concept Plan.
    - c. ~~The site is already part of a Specific Plan which was adopted after December 18, 2014. Sites within the boundaries of specific plan which is substantially complete may not be required to prepare a Concept Plan at the discretion of the Review Authority.~~
    - e. ~~Exception—If the Director determines that the subject quarter section and/or adjacent quarter sections provide a sufficient amount of land with commercial and multifamily land use designations, the project shall not be required to submit a Land Use Map as part of their Concept Plan.~~<sup>[C5]</sup>
    - d.

- i. Commercial designations (Main Street, Community, or General) shall be located at the intersections of Major Streets.
- ii. Mixed-Use designations (Neighborhood or Corridor) shall be located at the intersections of Major Streets. Additional Mixed-Use designations may also be located along Major Streets between major intersections.
- iii. Office designations shall be located along Major Streets between major intersections.
- iv. Multi-Family residential designations (Medium High Density, Urban Neighborhood, or High Density) shall be located along Major Streets between major intersections.
- v. Single-Family residential designations (Low Density, Medium Low Density, or Medium Density) shall be located within the Concept Plan Area, not abutting Major Streets.
- vi. Public Facilities and Open Space designations shall be located along Major Streets between major intersections.

~~vi.d. *Exception.* If the Director determines that the subject quarter section and/or adjacent quarter sections provide a sufficient amount of land with commercial and multifamily land use designations, the project shall not be required to submit a Land Use Map as part of their Concept Plan.~~ [C6]

- 2. **Connectivity Map.** The Concept Plan shall feature a Connectivity Map which identifies a potential street and trail system for the entire Concept Plan Area. The Connectivity Map shall feature a street, path, and trail system for the entire Concept Plan Area which complies with all applicable provisions of Article 41, Subdivision Design Standards, including, but not limited to, the following:
  - a. Connections between the proposed subdivision and adjacent subdivisions or potential future subdivisions shall be identified in conformance with Section 15-4107-D.
  - b. Connections between single-family subdivisions and non-single-family uses shall be identified in conformance with Section 15-4107-G.3.

## F. **Adoption.**

- 1. **Planning Commission Recommendation.** Prior to City Council Action, the Planning Commission shall review the proposed Concept Plan and make a recommendation to the City Council.
- 2. **Public Notice.** Public Notice shall be provided prior to the date of Planning Commission and City Council hearings pursuant to Section 15-5007, with the exception that notice shall be provided to all owners and residents within the Concept Plan Area, as well as those within 500 feet.
- 3. **General Plan Amendment.** Concurrent with the adoption of the Concept Plan, a corresponding amendment to the General Plan shall be presented for adoption in order to maintain consistency.

B. **Plan Consistency.** The proposed annexation and parcel configuration is consistent with the General Plan, Concept Plan, and any applicable operative plan; and

**C. Revenue Neutrality.**

~~C~~.1. ***Public Services, Facilities, and Utilities.*** Adequate public services, facilities, and utilities meeting City standards are available to the lands proposed for annexation or will be provided within a specific period of time, with financial guarantees and performance requirements, to ensure this will occur.

~~D~~.2. ***Fair and Proportional Payments.*** Projects requiring annexation will not negatively impact City finances.

~~a~~.a. No City revenue will be used to replace or provide developer funding that has or would have been committed to any mitigation project.

~~a~~.b. The development project will fully fund public facilities and infrastructure as necessary to mitigate any impacts arising from the new development.

~~a~~.c. The development project will pay for public facilities and infrastructure improvements in proportion to the development's neighborhood and citywide impacts.

d. The development will fund its proportionate share of public facility infrastructure, maintenance and public service costs according to the City Council approved Development Impact Fee Schedule and through a uniform application of community facilities district fees.

~~— The development will fully fund ongoing public facility and infrastructure maintenance and public service costs.~~[C7]

~~4.~~ ***Disadvantaged Unincorporated Communities.*** The City will partner with the community, if there is wide support for annexation, to coordinate terms to initiate and support the annexation process.

~~E~~.D. **LAFCO Approval.** The annexation shall be approved by the Local Agency Formation Commission (LAFCO) of Fresno.

**15-6105 Effective Date of Zoning and Time Limit**

The zoning accomplished by pre-zoning of the property shall become effective at the time that annexation to the city becomes effective. If the subject area has not been annexed to the city within six years of the date of City Council approval, the pre-zoning approval shall be brought before the Planning Commission and the Council for reconsideration.

**Custom Manufacturing.** Establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.

**Limited Industrial.** Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. This classification includes manufacturing finished parts or products primarily from previously prepared materials; micro-breweries where retail sales are clearly incidental and no alcoholic beverages are consumed on-site; commercial laundries and dry cleaning plants; monument works; printing, engraving and publishing; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services.

**General Industrial.** Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes operations such as ~~as biomass energy conversion;~~ food and beverage processing ~~(excluding animal food manufacturing)~~; production apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; ~~chemical manufacturing~~; [C1]plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing. This classification does not include recycling or rendering.

*Food and Beverage Processing.* A facility combining raw food ingredients to produce packaged food products that can be easily prepared and served by the consumer. Examples include: parboiling, cooking, canning, bottling, freezing, or other methods to provide shelf-stable or freezer commodities for sale for human consumption. Additionally, this classification does not include the processing of animals.[C2]

**Intensive Industrial.** Industrial uses that regularly use hazardous chemicals or procedures or produce hazardous byproducts, including the following: manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, and radioactive materials. This subcategory also includes ~~biomass energy conversion, chemical manufacturing, animal food manufacturing.~~ [C3]petrochemical tank farms, gasification plants, smelting, animal slaughtering, oil refining, asphalt and concrete plants, and tanneries. Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic. This classification does not include rendering.

**Recycling Facility.** A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include facilities that deal with animal matter nor does it include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations, which are classified as utilities.

*Reverse Vending Machine.* An automated mechanical device that accepts, sorts, and processes recyclable materials and issues a cash refund or a redeemable credit slip.

*CRV Recycling Center.* A facility available for the general public for the recycling of California Redemption Value (CRV) products such as glass, aluminum cans, and plastic beverage



towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

**Wireless Communications Facility.** Personal wireless service facilities as defined by the federal Telecommunications Act of 1996 including, but not limited to, facilities that transmit and/or receive electromagnetic signals for cellular radio telephone service, personal communications services, enhanced specialized mobile services, paging systems, and related technologies. Such facilities include antennas, microwave dishes, parabolic antennas, and all other types of equipment used in the transmission or reception of such signals; telecommunication towers or similar structures supporting said equipment; associated equipment cabinets and/or buildings; and all other accessory development used for the provision of personal wireless services. These facilities do not include radio towers, television towers, and government-operated public safety networks.

**Temporary Structure.** See Structure, Temporary.

**Temporary Use.** A use that is intended to be of a limited duration of time and that will not permanently alter the character or physical facilities of the property where it occurs.

**Tenant.** A person who rents, leases, or subleases, through either a written or oral agreement, ~~residential~~ real property from another.

**Tiny House.** A structure intended for separate, independent living quarters for one household that meets these six conditions:

1. Is licensed and registered with the California Department of Motor Vehicles and meets ANSI 119.2 or 119.5 requirements;
2. Is licensed and registered with the California Department of Motor Vehicles and meets ANSI 119.2 or 119.5 requirements;
3. Is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection. Cannot (and is designed not to) move under its own power. When sited on a parcel per requirements of this Code, the wheels and undercarriage shall be skirted;
4. Is no larger than allowed by California State Law for movement on public highways;
5. Has at least 100 square feet of first floor interior living space;
6. Is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry; and
7. Is designed and built to look like a conventional building structure. [C4]

**Trailer.** A vehicle without motor power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons or property, including a mobile home, trailer coach or house trailer.