

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FOSTER CITY ADOPTING VARIOUS TEXT AMENDMENTS TO TITLE 17, ZONING, OF THE FOSTER CITY MUNICIPAL CODE INCLUDING AMENDMENTS TO CHAPTER 17.04 DEFINITIONS, CHAPTER 17.32 PUBLIC FACILITIES DISTRICT, CHAPTER 17.55 REPLACEMENT UNITS, CHAPTER 17.62 OFF-STREET PARKING REGULATIONS, CHAPTER 17.68 GENERAL PERFORMANCE STANDARDS, CHAPTER 17.78 ACCESSORY DWELLING UNITS, CHAPTER 17.82 EMERGENCY SHELTERS, LOW BARRIER NAVIGATION CENTERS, AND SUPPORTIVE HOUSING, AND CHAPTER 17.84 REASONABLE ACCOMMODATION TO IMPLEMENT THE HOUSING ELEMENT 2023-2031 AND COMPLY WITH RECENT CHANGES IN STATE LAW AND FINDING THE AMENDMENTS WITHIN THE SCOPE OF THE EIR PREPARED FOR THE FOSTER CITY HOUSING AND SAFETY ELEMENTS UPDATE (SCH 2022010509) – RZ2024- 0001

CITY OF FOSTER CITY

WHEREAS, there is a shortage of affordable housing in the City of Foster City (City) as documented in the Housing Element for the 2023-2031 Planning Period; and

WHEREAS, California Government Code Section 65580(d) states that all cities have a responsibility to use the powers vested in them to facilitate the improvement and development of housing and to make adequate provision for the housing needs of all economic segments of the community; and

WHEREAS, the zoning amendments adopted by this Ordinance will encourage the development and availability of housing opportunities to a broad range of households with varying income levels within the City as mandated by State Law, and is essential for the public welfare; and

WHEREAS, the staff report dated March 20, 2024, incorporated herein by reference, explains the relevant requirements of State law and the Housing Element programs that require corresponding changes in the Foster City Municipal Code in order for the City's regulations to be compliant with State law and to implement the Housing Element; and

WHEREAS, provision of housing at a variety of income levels will reduce Vehicle Miles Traveled (VMT) and Greenhouse Gas (GHG) emissions by providing people at all income levels more opportunities to live near where they work; and

WHEREAS, provision of housing at a variety of income levels will support the local economy by making it easier for employers to attract and retain workers by providing people at all income levels more opportunities to live near where they work; and

WHEREAS, provision of housing at a variety of income levels will affirmatively further the policies and purposes of the Fair Housing Act, also known as Affirmatively Furthering Fair Housing by reducing segregation and concentration of poverty; and

WHEREAS, the City, as lead agency under the California Environmental Quality Act (CEQA), certified the Foster City Housing and Safety Elements Update Environmental Impact Report (EIR) (State Clearinghouse #2022010509); and

WHEREAS, the proposed zoning text amendments are necessary to implement the Housing Element Update 2023-2031; and

WHEREAS, the Planning Commission considered the proposed zoning text amendments to Title 17, Zoning, at a noticed Planning Commission public hearing on March 20, 2024 and adopted Resolution No. [REDACTED] and thereby recommended that the Council adopt an ordinance adopting the proposed amendments to Title 17; and

WHEREAS, a Notice of Public Hearing was duly posted, published, and mailed for consideration at the Joint Planning Commission and City Council meeting of March 20, 2024, including as required by Government Code Sections 65856 and 65090, the Notice contained the information required by Government Code Section 65094, and was published in compliance with Government Code Section 6061 on March 6, 2024 in the Foster City Islander, and, on said date, the Public Hearing was opened, held and closed; and

WHEREAS, the City Council of the City of Foster City carefully reviewed and considered the staff report and all attachments thereto presented as part of the agenda for the public hearing regarding the proposed ordinance to amend Title 17 of the Foster City Municipal Code, any and all timely submitted correspondence, all information submitted at or prior to the public hearing, and all public comment and testimony presented at the public hearing (collectively, the Record).

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES ORDAIN AS FOLLOWS:

Section 1. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Council does hereby find and determine based upon the aforementioned Record as follows:

- a) The Public Hearing was properly noticed and conducted in accordance with State law and the Foster City Municipal Code; and
- b) The provision of safe and stable housing for households at all income levels is essential for the public welfare of the City. Housing in Foster City, both rental and for-sale housing, has become steadily more expensive and housing costs have gone up faster than incomes. Federal and state government programs do not

provide enough affordable housing to satisfy the needs of very low, low, or moderate income households. As a result, there is a severe shortage of adequate, affordable housing for very low, lower, and moderate income households, as evidenced by the findings in the City's Housing Element; and

- c) The proposed amendments to Title 17, Zoning, of the Foster City Municipal Code are consistent with the General Plan, specifically the 2023-2031 Housing Element including Housing Programs H-F-1-I Community Care Facilities, H-D-4-j ADUs and JAUDs in Religious and Institutional Uses and School Sites, H-D-5-a School Sites, H-C-2-d Replacement Units, H-D-6-c Amend Parking Requirements, H-D-4-a ADUs, H-F-2-d Emergency Shelter Zoning, and H-F-1-d Reasonable Accommodation.

Section 3. The City Council does hereby amend Title 17, Zoning of the Foster City Municipal Code as presented in the attached Exhibits A through H, as listed below and attached hereto and incorporated herein:

- Exhibit A: Chapter 17.04 Definitions
- Exhibit B: Section 17.32.020 of Chapter 17.32 Public Facilities District
- Exhibit C: Section 17.55.020 of Chapter 17.55 Replacement Units
- Exhibit D: Section 17.62.060 of Chapter 17.62 Off-Street Parking Requirements
- Exhibit E: Section 17.68.120 of Chapter 17.68 General Performance Standards
- Exhibit F: Section 17.78.10 of Chapter 17.78 Accessory Dwelling Units
- Exhibit G: Section 17.82.040 of Chapter 17.82 Emergency Shelters, Low Barrier Navigation Centers, and Supportive Housing
- Exhibit H: Chapter 17.84 Reasonable Accommodation

Section 4. CEQA. The amendments to Title 17, Zoning of the Foster City Municipal Code have been analyzed in the certified Final EIR for the 2023-2031 Housing Element & Safety Element Updates (SCH # 2022010509) and that there are no new significant impacts or other triggers that would require additional CEQA review. No supplemental or subsequent EIR is required because none of the circumstances requiring a supplemental or subsequent EIR exist (CEQA Guidelines Section 15162):

- (a) No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The amendments to the Municipal Code do not create any additional environmental impacts.
- (b) No substantial changes have occurred with respect to the circumstances under which the project is undertaken. The EIR was certified on May 22, 2023, and no substantial evidence has been submitted showing any change in the circumstances applicable to the project.

- (c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, has been submitted to the City.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this chapter is held to be invalid or unconstitutional including by any court with jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council declares that it would have passed this article, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

Section 6. Taking Effect. This ordinance shall take effect thirty (30) days following its final passage.

Section 7. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This ordinance was introduced and read on the 20<sup>th</sup> day of March, 2024, and passed and adopted on the \_\_ day of April, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
PATRICK SULLIVAN, MAYOR

ATTEST:

\_\_\_\_\_  
PRISCILLA SCHAUS, CITY CLERK

## EXHIBIT A

### CHAPTER 17.04 DEFINITIONS

Add or amend the following Definitions in Chapter 17.04 to read as follows:

#### **“Emergency Shelter.**

“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, established and operated in conformance with Chapter 17.82, because of an inability to pay.”

#### **“Residential care facility.**

“Residential care facility” means a facility located within a home for the elderly, foster home, alcohol and/or drug recovery, for the disabled, persons needing intermediate care facility or similar facility as determined by the community development director for twenty-four-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. Residential care facilities are permitted uses within a residential district and therefore do not require permitting by the city. Residential care facilities must meet the following standards:

- A. The residential care facility must be in compliance with all other applicable federal, state and city laws, ordinances or regulations including Section 17.58.020 of this code.
- B. No exterior signage, of any kind and no signage which is visible from adjacent properties public rights-of-way shall be displayed.
- C. The residential care facility is limited to six or fewer occupants, in addition to the caregiver’s family.
- D. ~~The facility shall be located so that it is a minimum of three hundred feet from another residential care facility.~~ “

#### **“Religious institution.**

“Religious institution” means an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110), or as a corporation sole pursuant to Part 6 (commencing with Section 10000), of Division 2 of Title 1 of the Corporations Code.”

#### **“School.**

PROPOSED CODE AMENDMENTS TO ACCOMPANY HOUSING ELEMENT AMENDMENT

“School” means a facility for primary or secondary education, including public school, charter school, and private and parochial school having curricula comparable to that required in the public schools of the State of California.”

## EXHIBIT B

### CHAPTER 17.32 PUBLIC FACILITIES DISTRICT

Section 17.32.020 of Chapter 17.32 is hereby amended to read as follows, all other provisions of Chapter 17.32 remain unchanged:

**“17.32.020 Permitted uses.**

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The following uses shall be permitted in the P-F districts:

- A. Buildings and facilities owned, leased or operated (whether in a governmental or proprietary capacity) by the city, the county, the state, or the federal government, any public school district or any other public district within the city.
  - B. Emergency shelters and low-barrier navigation centers for the homeless pursuant to Chapter [17.82](#).
  - C. Housing developments in conformance with Government Code Section 65913.16.
  - D. On properties owned or occupied by a religious institution or school use, up to four (4) accessory dwelling units (ADUs) and/or junior accessory dwelling units (JADUs) per lot.”
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## EXHIBIT C

### CHAPTER 17.55 REPLACEMENT UNITS

Section 17.55.020 of Chapter 17.55 is hereby amended to read as follows, all other provisions of Chapter 17.55 remain unchanged:

**“17.55.020 Requirements for replacement units.**

A. Development projects within the city shall not result in a net housing loss. If the community development director determines that a development project would result in a net housing loss, the developer shall replace residential units to be removed, whether the units to be removed are occupied or not. Residential units shall be replaced on a one-for-one basis and shall be applied for and built concurrently with the development project. Replacement units shall be located within the same neighborhood as the units removed but need not be located on the same site as previously existed.

B. Development projects shall meet the following standards, subject to the approval of the community development director:

1. Applicability.

a. Current or Past Residential Use. Replacement requirements shall be applicable for sites that currently have residential uses, or within the past five years (based on the date the application for development was submitted) have had residential uses that have been vacated or demolished, and:

i. Were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income; or

ii. Subject to any other form of rent or price control through a public entity's valid exercise of its police power; or

iii. Occupied by low- or very low-income households.

b. A housing development project shall not be approved if it will require the demolition of residential dwelling units, regardless of whether the parcel was listed in the inventory, unless:

i. The project will create at least as many residential dwelling units as will be demolished; and

ii. Certain affordability criteria are met, as further described by California Government Code Section [66300\(d\)](#).

2. Vacation of Unit. Each tenant shall have the right to remain no fewer than sixty days from the date of city approval of a development project application. The community development director may grant an extension to this right to remain for a period of time not to exceed an additional thirty days.

3. No Increase in Rent. A tenant's rent shall not be increased during the period provided in subsection (B)(2) of this section.



4. Affordability of Units. The development project shall include dwelling units affordable to very low- or low-income households, at rents or sales prices that meet the city's affordable housing standards. The number of dwellings to be rented or sold at affordable levels shall equal the maximum number of affordable dwellings that existed within the twenty-four-month period immediately prior to the application for the conversion permit, and according to the affordability guidelines described in California Government Code Sections [65583.2\(g\)\(3\)](#) and [65915\(c\)\(3\)\(B\)](#) for replacement units.

When a project is approved, for each unit merged, demolished or eliminated, the developer shall be required to provide an affordable designated unit in the new project to a qualifying household in perpetuity. The developer shall enter a regulatory agreement with the city to provide for the provision of any such units, and the regulatory agreement shall be recorded with the San Mateo County Recorder's Office.

5. Tenant Relocation Assistance. For very low- or low-income residents displaced by the development project, the developer shall provide relocation assistance, subject to the approval of the director. Such assistance shall at a minimum be consistent with Government Code Section 66300.5 and 66300.6 and may include, but is not limited to, giving tenants the first right of refusal to purchase or rent affordable replacement units, reimbursement of moving costs, and/or providing rental assistance.

6. No permit to demolish a residential building in any zoning district shall be issued until a building permit for the replacement structure is approved, consistent with Government Code Section 66300.5 and 66300.6 and the time for filing an appeal or court action has lapsed with no appeal or court action filed, unless the building is determined to pose a serious and imminent hazard as defined in the building code. In the event an appeal or court action is filed, a permit to demolish a residential building shall not be issued unless the appeal is resolved in favor of the demolition, or the court action upholds the demolition."

## EXHIBIT D

### CHAPTER 17.62 OFF-STREET PARKING REQUIREMENTS

Section 17.62.060 of Chapter 17.62 is hereby amended to read as follows, all other provisions of Chapter 17.62 remain unchanged:

#### **“17.62.060 Off-street parking requirements.**

The following subsections list the required amount of off-street parking for each category of uses, special requirements, and optional requirements.

##### **A. Residential.**

1. Single-family dwellings (conventional), detached: two parking stalls per unit, at least two of which must be within a garage or carport;
2. Secondary residential units (“granny flats”): One off-street parking stall which may be uncovered or a part of the existing driveway serving the main residence;
3. Multifamily, cluster developments (condominium, townhouse), semidetached single-family (zero lot-line, patio homes, duplexes):
  - a. Studio/bachelor Units. One off-street parking stall per unit, which shall be in a garage or carport,
  - b. One-bedroom Units. One and one-half off-street parking stalls per unit, of which one stall shall be in a garage or carport,
  - c. Two-bedroom Units. Two, and not more than two, off-street parking stalls per unit, of which two parking stalls shall be in a garage or carport,
  - d. Three or More Bedroom Units. Two, and not more than two, off-street parking stalls per unit, of which two parking stalls shall be in a garage or carport,
  - e. Resident Parking. All off-street resident parking shall be located within two hundred feet of an entrance to the unit(s) it is designed to serve,
  - f. Guest/visitor Parking (Projects With Twenty-Five or more Dwelling Units). In addition to the required number of covered off-street parking stalls for each unit, .25 off-street uncovered parking stalls shall be provided for each unit for visitor parking.
  - g. Guest/visitor Parking (Projects With Less Than Twenty-five Dwelling Units). In addition to the required number of covered off-street parking stalls for each unit, .3 off-street uncovered parking stalls shall be provided for each unit for visitor parking,
  - h. All guest parking spaces should be well-distributed throughout a project and be clearly marked by signing and pavement markings. Directional signs to guest parking should be posted starting at each driveway entrance to a complex. Signing should also be used at each guest parking area indicating the addresses of the closest buildings served by that area;
4. For developments containing five or more units, up to thirty percent of the required uncovered parking stalls may be compact car size;
5. Senior Citizens Rental Housing.
  - a. A housing development designed and maintained as rental housing for senior citizens (persons aged sixty years or older) will be permitted a reduction in the required number of resident off-street parking stalls down to a ratio of .5 off-street parking stalls per bedroom.
  - b. Guest parking shall be provided at a ratio of .5 off-street parking stalls per unit.

**B. Commercial/Nonresidential Uses.** The following requirements will generally apply for all commercial/nonresidential uses in the city:

1. a. Commercial and Service Uses. One off-street parking stall for each two hundred fifty square feet of gross floor area for all buildings and/or uses in the center;
- b. General Office Uses. One off-street parking stall for each two hundred fifty square feet of gross floor area.

Whenever delineation of specific uses is required, the following standards shall apply:

- c. Automobile Washing and Cleaning Establishments, Except Self-Service. Two and one-half parking stalls per washing bay;
  - d. Self-service Automobile Washer. Two parking stalls for each washing stall;
  - e. Automobile Service and Gas Station. Three parking stalls plus two parking stalls for each service bay;
  - f. Barbershops or Beauty Parlors. One and one-half parking stalls for each barber chair or beautician station and one parking stall per employee;
  - g. Buildings Used Solely for Coin-operated Laundromats or Dry Cleaning Establishments. One parking stall for each three washing machines, or three plus one parking stalls for each five hundred square feet over one thousand square feet of gross floor area;
  - h. Commercial Banks, Savings and Loan Offices, and Other Financial Institutions. One parking stall for each three hundred thirty square feet of gross floor area;
  - i. Contractor's Storage Yards in Connection With Contractor's Business; Junkyard, Automobile Wrecking Yard; Storage Yard. Six parking stalls separated from the enclosed storage area;
  - j. Lumber and General Building Materials Yards. One parking stall for each three hundred square feet of gross floor area for retail sales, plus one parking stall for each one thousand square feet of open area devoted to display (partially covered, by roof, awning, etc.) or sales;
  - k. Mortuaries and Funeral Homes. One parking stall for every forty-five square feet or fraction thereof of assembly room or gross floor area, plus one parking stall for each vehicle used in the operation of the funeral home or mortuary;
  - l. Motels and Hotels. One parking stall for each guest unit and two parking stalls for resident manager or owner;
  - m. Motor Vehicle Sales and Automotive Repair, Painting, Body Work or Service. Minimum of five parking stalls, plus one parking stall per four hundred square feet of gross floor area;
  - n. Stores Solely for the Sale of Furniture and Appliances. One parking stall for each five hundred square feet of gross floor area;
  - o. General Retail Stores, Food Stores, Supermarkets, Drugstores. One parking stall for each two hundred fifty square feet of gross floor area.
2. Commercial Recreation Uses.
    - a. Bowling Establishments and/or Billiard Halls. Five parking stalls for each lane and/or two parking stalls for each billiard table and one parking stall for each two hundred fifty square feet of gross floor area containing amusement games or devices, plus one locking bicycle facility per two amusement games or devices. All bicycle facilities shall be located clear of public walkways and convenient to the main entrance of the use;
    - b. Driving Ranges (Golf). One parking stall per tee, plus the parking stalls required for additional uses on the site, and one parking stall per employee;
    - c. "Pitch and Putt" and Miniature Golf Courses. Three parking stalls per hole, plus the parking stalls required for accessory uses, and one parking stall per employee;

- d. Skating Rinks, Ice or Roller. One parking stall for each one hundred square feet of gross floor area, plus the parking stalls required for additional uses on the site, and one parking stall per employee;
  - e. Swimming Pool (Commercial). One parking stall for each one hundred square feet of water surface, plus one parking stall for each employee, but not less than ten parking stalls for any such use;
  - f. Tennis, Handball and Racquetball Facilities. Three parking stalls for each court, plus the parking stalls required for additional uses on the site, and one parking stall per employee;
  - g. Amusement Arcades. One parking stall for each two hundred fifty square feet of gross floor area, plus one locking bicycle facility per two amusement games or devices, with a minimum of ten locking bicycle facilities. All bicycle facilities shall be located clear of public walkways and within fifty feet of the main entrance.
3. Educational Uses.
- a. Elementary and Junior High Schools. One parking stall for each employee (excluding auditoriums and stadiums which must be parked according to subsection B6c of this section);
  - b. Senior High Schools. One parking stall for each member of the faculty and each employee, plus one parking stall for each six students regularly enrolled (excluding auditoriums and stadiums which must be parked according to subsection B6c of this section);
  - c. Colleges, Universities and Institutions of Higher Learning, Parochial and Private. One parking stall for each three students, plus one parking stall for each two members of the faculty and employees (excluding auditoriums and stadiums which must be parked according to subsection B6c of this section);
  - d. Trade Schools, Business Colleges and Commercial Schools. One parking stall for each two student seating or study areas in each classroom, plus one parking stall for each faculty member or employee (excluding auditoriums and stadiums which must be additionally parked according to subsection B6c of this section).
4. Health Uses.
- a. Dental Clinics or Offices; Medical Clinics or Offices, Veterinary Hospitals and Clinics. One parking stall for every two hundred square feet of gross floor area, plus one parking stall per employee;
  - b. Hospitals. One parking stall for each two patient beds.
  - c. Health Studios and Spas. One parking stall for each two hundred thirty square feet of gross floor area and one parking stall per employee. (For the purpose of this subsection, swimming pool area shall be counted as floor area).
5. Industrial, Wholesale, Manufacturing and Like Uses.
- a. Heavy manufacturing and processing factories or plants. One parking stall for each employee on the largest shift or one parking stall for each five hundred square feet of gross floor area, whichever is greater;
  - b. Light Manufacturing, Warehouse, Wholesale and Assembly Plants. One parking stall for each employee on the largest shift, or one parking stall for each five hundred square feet of gross floor area, whichever is greater;
  - c. Research and Development Facilities. One parking stall for each three hundred square feet of gross floor area;
  - d. Unspecified Use Buildings. One parking stall for each three hundred square feet of gross floor area;
  - e. Public Utility Facilities, Including, But Not Limited to Electric, Gas, Water, Telephone and Telegraph Facilities Not Having Business Offices on the Premises.

One parking stall for each employee on the largest shift, plus one parking stall for each vehicle used in connection with the use. A minimum of ten parking stalls shall be provided for each such use, regardless of building space or number of employees.

f. Biopharmaceutical campus developments consisting of office buildings, research and development buildings, laboratory buildings/facilities, and supporting ancillary facilities that are developed and continue to meet the below criteria may be allowed to use a reduced parking ratio for laboratory buildings. The actual parking ratio to be used for laboratory buildings, including ancillary office space and related support space within laboratory buildings used by laboratory scientists and staff, throughout the campus shall be established by the city at the time the general development plan (or an amendment to the general development plan) for the biopharmaceutical campus is approved by the city council. All of the laboratory buildings within the campus shall be subject to the requirements of subsection (D)(1) of this section, with the exception of subsection (D)(1)(c) of this section. The following criteria apply:

- i. The entire land area encompassing the biopharmaceutical campus shall be owned or leased and occupied by one biopharmaceutical company, unless the city, in its sole discretion and based on the factors set forth in subsection (B)(5)(f)(vi) of this section, approves the lease or sale of a portion of the biopharmaceutical campus to another entity or entities.
- ii. The biopharmaceutical campus shall consist of a minimum of thirty acres, contiguous or across the street.
- iii. The biopharmaceutical campus shall contain sufficient land area so that at build-out it can support all required parking in either at-grade parking lots or within parking structures.
- iv. Once approved by the city as a part of the initial use permit, the use(s) housed within buildings in the biopharmaceutical campus shall not be changed without the prior review, evaluation of parking available to serve the changed use(s), and approval by the city.
- v. If the city allows a parking ratio for laboratory buildings within a biopharmaceutical campus that is less stringent than would be required for the same type of buildings not located within the subject biopharmaceutical campus, such parking ratio shall be recorded with the San Mateo County recorder's office along with the general development plan approved by the city. The recorded document shall make clear that the reduced parking ratio applies to laboratory buildings in the subject biopharmaceutical campus only and that if removed from the bio-pharmaceutical campus or if title is transferred to another entity, at the discretion of the city, the laboratory buildings may be subject to the parking requirements then in effect for similar buildings in the city that are not located within the subject biopharmaceutical campus. The documents shall be recorded with the San Mateo County recorder's office such that this information shall be easily detected and routinely included in a standard preliminary title report.
- vi. No proposed sale or lease of any portion of the biopharmaceutical campus shall close escrow or otherwise be finalized without the prior review and approval of the city, which shall limit its review and approval to the impact of the proposed sale or lease on the ability of the existing and new occupants to meet their off-street parking requirements, both individually and in the aggregate. Any purchase and sale agreement or lease with respect to any portion of the biopharmaceutical campus shall be conditioned upon such city approval; shall specifically identify all land use approvals for the biopharmaceutical campus,

including, without limitation, any environmental impact report, mitigation monitoring plan, general development plan, specific development plan or other approval applicable to the biopharmaceutical campus; and shall include an express obligation on the part of the transferee or lessee to abide by all conditions and requirements set forth in such existing land use approvals, including, without limitation, the conditions set forth in any environmental impact report, mitigation monitoring plan, general development plan, specific development plan or other approval applicable to the biopharmaceutical campus.

6. Places of Assembly.

- a. Restaurants, Taverns, Lounges and Other Establishments for the Sale and Consumption on the Premises of Food and Beverages. One parking stall for every forty square feet of public accommodation area, plus one stall per two hundred fifty square feet of remaining area, or one stall per employee, whichever is greater;
- b. Fast-food Restaurants (With or Without Drive-through). One parking stall for each seventy-five square feet of gross floor area, with a minimum requirement of ten parking stalls, plus a minimum requirement of ten locking bicycle facilities. All bicycle facilities shall be located clear of public walkways and convenient to the main entrance of the use;
- c. Auditoriums, Sports Arenas, Stadiums. One parking stall for each three seats, or one parking stall for each thirty-five square feet of gross floor area where there are no fixed seats;
- d. Theaters, Movies.
  - i. Single Screen. One parking stall per three seats, plus one parking stall per employee,
  - ii. Multi-screen. One parking stall per three seats, plus one parking stall per employee;
- e. Libraries. One parking stall for each four hundred square feet of gross floor area;
- f. Private Clubs, Residential Recreation Buildings, Lodge Halls, Union Headquarters (No Sleeping Facilities). One parking stall for each seventy-five square feet of gross floor area, or one parking stall for each five fixed seats, whichever is greater;
- g. Churches and Other Places of Assembly Not Specified Above. One parking stall for each four fixed seats within the main auditorium, or one parking stall for each thirty-five square feet of seating area within the main auditorium where there are no fixed seats; eighteen linear inches of bench shall be considered a fixed seat.

7. Other Uses.

- a. Day Nurseries, Including Preschools and Nursery Schools. One parking stall for each staff member, plus one parking stall for each five children.

8. Unlisted Uses. For uses not specifically listed the public works and community development department shall recommend off-street parking requirements subject to planning commission review and approval.

C. Special Requirements. The following parking requirements are applicable to all uses. Special parking stalls (handicapped, motorcycle, bicycle) shall be closest to the facility for which they are designated in order to encourage their use.

1. Handicapped. The required number of parking spaces for the physically handicapped shall be as set forth in Part 2, Title 24 of the California Administrative Code and Division 11, Chapter 9 of the California State Vehicle Code.

2. Motorcycle. Parking facilities with twenty-five or more parking stalls shall provide at least one parking stall as a designated parking area for use by motorcycles. Parking facilities with over one hundred parking stalls shall provide motorcycle parking at the rate

of one percent of the total number of parking stalls provided. Areas delineated for use by motorcycles shall meet standards set forth in subsection C1 of Section 17.62.050.

3. Bicycle parking.

a. Bicycle parking shall be provided, at a minimum, in an amount equal to:

BUILDING USE	SHORT-TERM BICYCLE PARKING REQUIREMENTS	LONG-TERM BICYCLE PARKING REQUIREMENTS
Residential with private garage for each unit	One (1) parking space per ten (10) units for developments of ten (10) or more units	None
All other residential	One (1) parking space per ten (10) units for developments of ten (10) or more units	1 per unit
Retail and recreation	1 space per 3,000 square feet of building area within 50 feet of primary building entrance	1 space per 10,000 square feet of building area
Office, R&D, and Other Nonresidential uses	1 space per 8,000 square feet of building area within 75 feet of primary building entrance	1 space per 10,000 square feet of building area

b. The long-term bicycle parking requirement may be reduced by up to fifty percent (50%) with a Transportation Demand Management (TDM) program that includes bicycle sharing, subject to approval of the Community Development Director.

4. **Stall Sizes.** All new parking facilities shall consist of the universal parking stall size or larger, with up to five percent compact stalls allowed where necessary to accommodate existing curves, obstructions, or other site or lot configuration problems. For unusual circumstances, including but not limited to existing utility installations, lot shape or dimensions, commercial non-residential facilities with ten or more parking stalls may provide up to thirty percent of their parking for use by compact cars, if determined necessary by the community development director.

5. **Drive-through Facilities.** Drive-through facilities require special consideration as their design can significantly impact the vehicular circulation on a site. The following requirements apply to any use with drive-through facilities.

a. Each drive-through lane shall be separated from the circulation routes necessary for ingress or egress from the property, or access to any parking stall.

b. Each drive-through lane shall be striped, marked, or otherwise distinctly delineated.

c. The vehicle-stacking capacity of the drive-through facility and the design and location of the ordering and pickup facilities will be determined by the city, based on appropriate traffic engineering and planning data. The applicant shall submit to the city a traffic study addressing the following issues:

- i. Nature of the product or service being offered;
- ii. Method by which the order is processed;
- iii. Time required to serve a typical customer;
- iv. Arrival rate of customers;
- v. Peak demand hour;
- vi. Anticipated vehicular stacking required.

6. **Signs, Markings.** Spaces provided for the specific uses as listed above shall be clearly designated through signs, colored lines, etc., all of which must be approved by the city.

D. **Optional Provisions.** The following may be provided at the option of the developer when applicable to commercial, residential or office off-street parking uses, subject to city approval:

1. Shared Parking Facilities. The city shall allow shared parking agreements in conformance with Government Code Section 65863.1 as it currently exists or may hereinafter be amended. In addition, tThe city, through the use permit procedure, may allow the parking requirements of this chapter to be satisfied by the sharing of parking stalls by more than one use, provided:
  - a. The proposal is in the best interests of the city and does not inhibit the implementation of other city ordinances, policies or plans; and
  - b. The applicant is able to show that peak hours of use will not overlap or coincide to the degree that peak demand for parking stalls from all uses is greater than the total supply of parking stalls; and
  - c. The shared parking facility is within three hundred feet of the principal entrance containing the use(s) for which the parking is required; and
  - d. A written agreement between landowner(s) and the city, satisfactory in form and content to the city attorney, is approved by the city. This agreement concerning use and access to parking stalls shall be in the form capable of and subject to being recorded to constitute a covenant running with the land. The agreement shall include:
    - i. A guarantee that there will be no substantial change in the uses that will create a greater demand for parking,
    - ii. A guarantee among the landowners for access to and use of the shared parking facilities,
    - iii. A provision that the city may require parking facilities in addition to those originally approved upon finding by the city council that adequate parking to serve the use(s) has not been provided, and
    - iv. A provision stating that the city may, with due cause, notice and hearing, unilaterally modify, amend or terminate the agreement at any time.
2. Off-Site Parking Facilities. The city may allow the parking requirements of this chapter to be satisfied through the provision of off-site parking facilities.
  - a. The proposal is in the best interests of the city and does not inhibit the implementation of other city ordinances, policies or plans;
  - b. The off-site parking facility is within three hundred feet of the principal entrance(s) containing the use(s) for which the parking is required or the off-site parking facility containing the use(s) for which the parking is required is served by a shuttle bus system the operations of which are approved by the City and guaranteed by an agreement which is subject to the provisions of subsection "d" below;
  - c. Off-site parking facilities may be shared by more than one use by meeting the shared parking requirements;
  - d. A written agreement between landowner(s) and the city satisfactory in form and content to the city attorney is approved by the city. This agreement concerning use and access to parking stalls shall be in a form capable of and subject to being recorded to constitute a covenant running with the land. The agreement shall include:
    - i. A guarantee that there will be no substantial change in the uses that will create a greater demand for parking.
    - ii. A guarantee among the landowners for access to and use of the shared parking facilities for the period of time that the off-site parking facilities are needed in order to serve the subject uses.
    - iii. A provision that the city may require parking facilities in addition to those originally approved upon the making of a finding by the city council that



adequate parking to serve the use(s) has not been provided or has not been maintained, and

iv. A provision stating that the city may, with due cause, notice and hearing, unilaterally modify, amend or terminate the agreement at any time.

3. Transportation Systems Management Plans. Off-street parking facilities and/or the number of required off-street parking stalls may be decreased up to a maximum of fifteen percent, subject to the approval of the city planning commission, based upon a detailed transportation systems management plan supplied by the applicant which may include, but is not limited to, provisions for assisting employees to use public transit, carpooling, vanpooling, preferential parking arrangements, charter buses, club buses, employer's contribution to bus service costs, staggered or variable work hours. Plans which employ the use of mass transit as a means of reducing the demand for employee and customer parking shall provide loading/unloading areas and facilities within a reasonable walking distance to and from the site and buildings for which they are provided. In evaluating the request, the city shall consider, among other factors:

a. Projected effectiveness of carpool, vanpool, staggered work hours or similar transportation programs;

b. Proximity to public transportation facilities serving a significant portion of employees and/or customers;

c. Evidence that employees and/or customers utilize, on a regular basis, transportation alternatives to the automobile.

d. Where transportation systems management techniques are employed and plans approved which reduce the number of required off-street parking stalls for a development, employment site, commercial or office complex, a written agreement between the landowner(s) and the city must be approved. Such written agreement must be satisfactory in form and content to the city attorney, and is subject to planning commission and city council approval. This agreement shall be in a form capable of and subject to being recorded to constitute a covenant running with the land. The agreement shall include:

i. A provision to identify that the position of transportation coordinator is created by the agreement, whose purpose is to insure that the transportation systems management plan is successful. The city will be kept informed regarding who the transportation coordinator is and how he/she may be contacted;

ii. A guarantee that the transportation systems management techniques will not be diminished, suspended, eliminated or in any way be operated at a lower level of effort on the part of the parties identified as responsible for the implementation of these techniques in the transportation systems management plan without prior city approval;

iii. Provision for an annual report to the city reviewing the past year's efforts to encourage employees and customers to use transportation systems management techniques, and an accounting of the number of employees and customers actually and regularly employing the techniques to and from the site. Such report will also update that section of the plan outlining efforts to increase employee and customer participation in the transportation systems management program during the coming year;

iv. A provision that the city, acting with due cause, notice, and at a public hearing, may unilaterally amend or terminate the agreement at any time, thereby requiring the landowner to construct an adequate amount of off-street parking that meets the requirements of the existing parking ordinance at the time the project was constructed.

4. Credit for Bicycle and Motorcycle Parking in Commercial and Industrial Districts. Where bicycle spaces or motorcycle spaces are provided for uses in commercial and industrial districts in excess of the amount of bicycle and/or motorcycle parking otherwise required, parking stalls otherwise required pursuant to this chapter may be omitted in accordance with the following provisions and subject to the following limitations:
  - a. One parking stall may be omitted for each eight bicycle spaces provided (see Sections [17.62.050](#) C2 and 17.62.060 C3 for requirements);
  - b. One parking stall may be omitted for each two motorcycle spaces provided (see Sections [17.62.050](#) C1 and 17.62.060 C2 for requirements);
  - c. In no instance shall credit for motorcycle or bicycle parking or combination thereof exceed five percent of the total required parking stalls.
5. Parking In-lieu Fees. The city may allow the parking requirements of this chapter to be satisfied through the payment of parking in-lieu fees.
  - a. In commercial, service and office districts where it can be demonstrated that the reasonable and practical development of property precludes the provision of required off-street parking, the city council, upon recommendation of the planning commission, may permit the off-street parking requirements for the use to be satisfied by the payment to the city of a sum equivalent to the estimated, normal, current cost of providing required off-street parking to serve the contemplated use. Any off-street parking satisfied in this manner shall run with the land, and any subsequent change of use which requires more parking shall require subsequent action to satisfy the additional parking requirement. No refund of such payments shall be made when there is a change to a use requiring less parking. Such payment shall be made to the city in one lump sum prior to the issuance of a building permit and/or business license.
  - b. The amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the city council. Funds derived from such payments shall be deposited by the city in a special fund, and shall be used and expended exclusively for the purpose of planning, designing, acquiring and developing off-street parking facilities located, insofar as practical, in the general vicinity of the property for which the in-lieu payments were made.

## EXHIBIT E

### SECTION 17.68.120 OF CHAPTER 17.68 GENERAL PERFORMANCE STANDARDS

A new Section 17.68.120 of Chapter 17.68 is hereby added to read as follows:

**“17.68.120 Airport Land Use Compatibility Plan Consistency.**

This section establishes standards and requirements related to consistency with both the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport (SFO ALUCP) and the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport (San Carlos ALUCP) established by the San Mateo County Airport Land Use Commission (ALUC). The following requirements and criteria shall be incorporated into all applicable projects.

**A. Overflight Notification.**

1. Airport Real Estate Disclosure Notices. All new development is required to comply with the real estate disclosure requirements of state law (California Business and Professions Code Section 11010(b)(13). The following statement must be included in the notice of intention to offer the property for sale or lease:

“Notice of Airport in Vicinity. This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.”

2. New Residential Development. All new residential development projects, other than additions and accessory dwelling units (ADUs), within the Overflight Notification Zone 2 as determined by the San Carlos ALUCP shall incorporate a recorded overflight notification requirement as a condition of approval to provide a permanent form of overflight notification to all future property owners. A Sample Overflight Notification is provided in the San Carlos ALUCP (Exhibit E-4) and this statement or similar shall be utilized this purpose. Such notice shall be notarized and recorded by the county of San Mateo.

- B. Airspace Protection Evaluation.** Foster City lies within the Airport Influence Area of both the SFO ALUCP and the San Carlos ALUCP. The ALUCPs identify airspace

protection policies to protect the navigable airspace around the airport for the safe and efficient operation of aircraft in flight that are applicable to Foster City.

1. Notice of Proposed Construction or Alteration. Project applicants shall be required to file Form 7460-1, Notice of Proposed Construction or Alteration, with the Federal Aviation Administration (FAA) for any proposed new structure and/or alterations to existing structures (including ancillary antennae, mechanical equipment, and other appurtenances) that would exceed a height of 200 feet above ground level, or exceed the FAA notification heights as depicted in San Carlos ALUCP Exhibit 4-4a. Any project that would exceed the FAA notification heights shall submit a copy of the findings of the FAA's aeronautical study, or evidence demonstrating exemption from having to file FAA Form 7460-1, as part of the development permit application.
2. Maximum Compatible Building Height. Building heights, including related roof-mounted equipment, stair/elevator towers, antennae, exhaust stacks, and other appurtenances, shall not the maximum height limits permissible under either FAA regulations or the Critical Aeronautical Surfaces identified in SFO ALUCP Exhibit IV-18. For avoidance of doubt, the lower of the two heights identified by the ALUCP and the FAA shall be the controlling maximum height.
3. Other Flight Hazards. Within Airport Influence Area (AIA) B, certain land use characteristics are recognized as hazards to air navigation and need to be evaluated to ensure compatibility with FAA rules and regulations. These characteristics include the following:
  - a. Sources of glare, such as highly reflective buildings, building features, or blight lights including search lights, or laser displays, which would interfere with the vision of pilots in command of an aircraft in flight.
  - b. Distracting lights that could be mistaken for airport identification lightings, runway edge lighting, runway end identification lighting, or runway approach lighting.
  - c. Sources of dust, smoke, water vapor, or steam that may impair the visibility of a pilot in command of and aircraft in flight.
  - d. Sources of electrical/electronic interference with aircraft communications/navigation equipment.
  - e. Any use that creates an increased attraction for wildlife, particularly large flocks of birds, that is inconsistent with FAA rules and regulations, including

but not limited to FAA Order 5200.5A, Waste Disposal Site On or Near Airports and FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports and any successor or replacement orders or advisory circulars.”

## EXHIBIT F

### CHAPTER 17.78 ACCESSORY DWELLING UNITS

Section 17.78.100 of Chapter 17.78 is hereby amended to read as follows, all other provisions of Chapter 17.78 remain unchanged:

#### **“17.78.100 OTHER PROVISIONS.**

- A. Unless exempt from the owner-occupancy requirement per subsection B of this section, prior to obtaining a building permit for an ADU, ~~an owner-occupancy deed restriction~~, approved by the city attorney, shall be recorded with the county recorder's office, which shall include the pertinent restrictions and limitations of an ADU identified in this section including but not limited to: prohibition of the sale of the ADU separate from the sale of the single-family residence; restrictions on the size and attributes of the ADU; and prohibitions on rentals less than thirty consecutive days. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns.
- B. Owner Occupancy. Notwithstanding the foregoing or any other provision of this chapter, no owner-occupancy requirement shall be enforced and no deed restriction shall be required for ADU permit applications ~~submitted between January 1, 2020, and December 31, 2024.~~
- C. Delay in Enforcement of Unpermitted ADUs. For any unpermitted or substandard ADU built before January 1, 2020, upon an owner's request, the city's chief building official shall delay enforcing any building standards if the building official determines that the unpermitted ADU meets health and safety standards. This provision shall sunset on January 1, 2030; however, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay.
- D. Any ADU may be leased for a period not fewer than thirty consecutive days.
- E. Fire flow and fire department access must comply with the California Fire Code as amended by the San Mateo consolidated fire department, or an alternate means shall be proposed.
- F. Fire Sprinklers.
1. An ADU shall not be required to provide fire sprinklers if they are not required for the primary residence and may employ alternative methods for fire protection.
  2. The construction of an ADU shall not trigger a requirement of fire sprinklers to be installed in the existing primary dwelling.
- G. ADUs that are seven hundred fifty square feet or smaller are exempt from impact fees.
- H. Notwithstanding the provisions of this section, the requirements for newly constructed ADUs shall not preclude constructing one ADU of at least eight hundred square feet, which is not more than sixteen feet in height, and set back at least four feet from the side and rear property lines.

I. Notwithstanding any other provision of this code, an applicant shall not be required to correct nonconforming conditions on the subject property as a condition of obtaining permits to construct an ADU or JADU.

J. Any properties with ADUs built or developed by a nonprofit corporation may qualify to be sold or conveyed separately from the primary residence, pursuant to California Government Code Section [65852.26](#). A qualified nonprofit corporation is a nonprofit corporation which is organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section [214.15](#) of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

K. All JADUs and ADUs shall comply with the current Title 24 California Code of Regulations, as adopted by the city and all related safety codes.”

## EXHIBIT G

### CHAPTER 17.82 EMERGENCY SHELTERS, LOW BARRIER NAVIGATION CENTERS AND SUPPORTIVE HOUSING

Section 17.82.040 of Chapter 17.82 is hereby amended to read as follows, all other provisions of Chapter 17.78 remain unchanged:

#### **“17.82.040 PERFORMANCE STANDARDS.**

A. Emergency shelters, as defined in Section [17.04.203](#), shall be allowed in any district where they are listed as a permitted use without discretionary permits or approvals, provided they comply with the following standards:

1. Maximum Number of Persons/Beds. An emergency shelter shall contain a maximum of twenty-five beds and shall serve no more than twenty homeless persons.
2. Minimum Parking Requirements. Emergency shelters shall provide one parking space for each employee or volunteer on duty when the shelter is fully open to clients, plus one parking space for every family (as defined in Section [17.04.210](#)) sheltered and 0.35 parking spaces for each nonfamily bed; provided, that these standards do not require more parking than other residential or commercial uses within the same zone. The community development director shall reduce the parking requirements if the shelter can demonstrate a lower need. The shelter shall also provide bicycle parking of at least one-half space for each bed.
3. Size and Location of Interior On-Site Waiting and Client Intake Areas. Emergency shelters shall provide at least ten square feet of interior waiting and client intake space per bed. In addition, there shall be a minimum of one private office. Waiting and intake areas may be used for other purposes as needed during operations of the shelter, including communal space.
4. Provisions of On-Site Management and Security. On-site management shall be present at all times that the emergency shelter is in operation. Before opening, shelters shall develop and implement a management plan that addresses all points that pertain to emergency shelters in the latest quality assurance standards developed by the San Mateo County HOPE quality improvement project and meets at least the minimum standards, except where other standards are provided by this chapter. Shelters must prepare and implement a security and emergency plan as part of the management plan and train staff about the plan. A copy of the management plan shall be provided to the community development director for approval. The community development director shall approve the management plan if it meets the minimum requirements in the latest quality assurance standards developed by the San Mateo County HOPE quality improvement project.



5. Proximity to Other Shelters. No emergency shelter shall be located within three hundred feet of another emergency shelter.

~~6. Length of Client Stay. The maximum length of stay in any emergency shelter shall be limited to no more than sixty total days within one calendar year unless an extension is granted. Extensions up to a total stay of one hundred eighty total days within one calendar year may be provided if no alternative housing is available. Information on length of client stays shall be provided to the community development director upon request.~~

76. Lighting. There shall be a minimum of ten candlefoot power at the door of the emergency shelter and extending in an unobstructed direction outward five feet. There shall be a minimum of two candlefoot power in other areas accessible from the street. The lighting shall be stationary and directed away from adjacent properties and public rights-of-way. These lighting requirements shall be in effect from thirty minutes after sunset until thirty minutes before sunrise. Shelters may propose an alternate lighting plan, which must be agreed to by the community development director. The alternate lighting plan must provide adequate external lighting for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the neighborhood.

B. A low-barrier navigation center development is a use by right in certain zones, if it meets the following requirements:

1. Connected Services. It offers services to connect people to permanent housing through a services plan that identifies services staffing.

2. Coordinated Entry System. It 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 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. Code Compliant. It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.

4. Homeless Management Information System. It 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.

C. Supportive housing projects shall comply with all the following standards:

1. The project may be required to comply with any written objective standards or policies also required of multifamily developments in the same zone.

2. The applicant shall submit a plan for providing supportive services, to include all the following items:

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- a. Documentation that supportive services will be provided on site.
  - b. The name of the proposed entities that will provide supportive services.
  - c. The proposed funding sources for the services provided.
  - d. Proposed staffing levels.
3. No minimum parking requirements shall be required for the units occupied by supportive housing residents for projects located within one-half mile of a public transit stop."

## EXHIBIT H

### Chapter 17.84 REASONABLE ACCOMMODATION

Chapter 17.84 is hereby amended to be repealed and replaced in its entirety to read as follows:

#### **“17.84.010 Purpose.**

The purpose of this chapter is to provide a formal procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

#### **17.84.020 Applicability.**

- A. A request for reasonable accommodation may be made by any person with a disability, their representative or any developer or provider of housing for persons with disabilities, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities for persons with disabilities.
- B. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
- C. A request for reasonable accommodation may include a modification or exception to the land use or zoning regulations, policies, practices or procedures for the siting, development and use of housing or housing- related facilities that would eliminate regulatory barriers to housing opportunities for a person with a disability. Requests for reasonable accommodation shall be made in the manner prescribed by Section [17.84.040](#) (Application requirements).

#### **17.84.030 Definitions.**

"Fair housing laws" shall mean the "Fair Housing Amendments Act of 1988" (42 U.S.C. Section 3601 et seq.), including reasonable accommodation required by 42 U.S.C. Section 3604(f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900 et seq.), including reasonable accommodations required specifically by California Government Code Sections 12927(c)(1) and 12955(l), as any of these statutory provisions now exist or may be amended.

"Director" shall mean the Director of Community Development or their designee.

"Disability" shall include physical disability, medical disability, and medical condition as defined in California Government Code Section 12926.

"Reasonable accommodation" shall mean a modification in the application of land use or zoning regulations, policies, procedures, or practices when necessary to eliminate barriers to housing opportunities for a person with a disability to have an equal opportunity to access a dwelling, including public and common use spaces.

"Reviewing authority" shall mean the appropriate decision making body as described in Section 17.84.060.

**17.84.030 17.84.040 Availability of information.**

Notice of the availability of reasonable accommodation shall be prominently displayed at the public information counter in the community development department, advising the public of the availability of the procedure for eligible individuals.

**17.84.040 17.84.050 Application requirements.**

A. Application. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities. Requests for reasonable accommodation by any eligible person or entity described in Section 17.84.020(A) shall be submitted on an application form provided by the community development department, or in the form of a letter, to the director of community development and shall contain the following information:

1. The applicant's name, address and telephone number.
2. Address of the property for which the request is being made.
3. The property owner's name, address and telephone number and the owner's written consent to implement the reasonable accommodation.
4. The current actual use of the property.
5. ~~The basis for the claim that the individual that resides or will reside at the property is considered disabled under the Acts.~~
65. Description of the requested accommodation and the ~~The~~ zoning code provision, regulation, procedure or policy from which reasonable accommodation is being requested.
76. The reason that the ~~Why the~~ reasonable accommodation may be ~~is~~ necessary for the individual with the disability to use and enjoy the dwelling to make the specific property accessible to the individual.
8. ~~Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation.~~
7. Where applicable, documentation that the requested modification is designed and constructed pursuant to Title 24 of the California Code of Regulations to allow access, circulations and full use of the building and facilities by persons with disabilities.

8. Any other information that the Director reasonably determines is necessary for evaluating the request for reasonable accommodation.

B. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection, unless required by law. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the ~~thirty-fourty-five~~ day period to issue a decision set forth in Section 17.84.060 is stayed until the applicant responds to the request.

**BC.** Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to conditional use permit, design review, general plan amendment, zone change, annexation, etc.), then the applicant shall file the information required by subsection A of this section together for concurrent review with the application for discretionary approval.

D. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation

E. If an individual needs assistance in making the request for reasonable accommodation, the city will provide assistance to ensure that the process is accessible.

**17.84.050 17.84.060 Review authority.**

A. Director of Community Development. Requests for reasonable accommodation shall be reviewed by the director of community development (director), or his designee if no approval is sought other than the request for reasonable accommodation.

B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

**17.84.060 17.84.070 Review procedure.**

A. Director Review. If no approval is sought other than the request for reasonable accommodation, the director, or his designee, shall make a written determination within ~~thirty forty-five~~ days of the date of the request and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 17.84.080 (Findings and decision).

B. Other Reviewing Authority. If the reasonable accommodation is submitted for concurrent review with another land use application, the written determination on whether to grant or deny the request for reasonable accommodation shall be made by

the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section [17.84.080](#) (Findings and decision).

**~~17.84.070 Limitations.~~**

~~A reasonable accommodation request granted pursuant to Section [17.84.080](#) shall be limited to any, or all, of the following:~~

~~A.—Paved area coverage not greater than two hundred fifty square feet in excess of allowable limits for the site;~~

~~B.—Lot coverage not greater than one hundred fifty square feet in excess of allowable limits for the site;~~

~~C.—Encroachment into setbacks not greater than ten percent of the allowable setback;~~

~~D.—Height increase not more than ten percent of the allowed height.~~

**17.84.080 Findings and decision.**

A. Findings. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

1. Whether the housing which is the subject of the request for reasonable accommodation will be used by an individual disabled with disabilities protected under the Acts.

2. Whether the request for ~~reasonable~~ accommodation is necessary to make specific housing available to an individual with a disability under the Acts.

3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the city.

4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city's program or law, including but not limited to land use and zoning or building program.

~~5.—Whether the request will have a significant adverse impact on surrounding uses.~~

~~6.—Whether there are reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the city's applicable rules, standards and practices.~~

**B. Written Decision.**

1. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings on the criteria set forth in Section 17.84.080. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.

2. The written decision of the reviewing authority shall be final unless an applicant appeals it pursuant to Section 17.84.090 it to the planning commission.

3. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by Section 17.84.060, the request shall be deemed granted.

4. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

5. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection A of this section. Such conditions may include, but are not limited to:

(a) That the reasonable accommodation shall only be applicable to the specific use for which the application is made.

(b) That a reasonable accommodation involving an exterior physical improvement or structure is designed to be substantially similar to the architectural character, colors, and texture of materials of the existing structures on site.

(c) That the reasonable accommodation shall be designed in accordance with the currently adopted California Building Code, and subject to any and all permit and inspection requirements of the Foster City Municipal Code.

#### **17.84.090 Appeal of determination.**

A. A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed in compliance with Section 17.06.150 within ten calendar days of the decision.

B. If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible.

C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

#### **17.84.100 Rescission of grants of reasonable accommodation.**

Any approval or conditional approval of an application under this chapter may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.

#### 17.84.110 Fees.

A fee shall not be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the applicant shall pay the prescribed

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| fee shall be paid for the other discretionary permit(s) in compliance with the City's fee schedule adopted by resolution."