



AGENDA REPORT

Regular Meeting of the San Marcos Planning Commission

MEETING DATE: May 15, 2017

SUBJECT: Consideration of Existing and Proposed Land Use Regulations Governing Accessory Dwelling Units; Density Bonuses; Noise Performance Standards; Walls and Fences; Hearing Procedures to Amend the Zoning Ordinance or the San Marcos General Plan
Resolution PC 17-4625, Case No. P17-0026 (Text Amendment TA 17-003/EX 17-015, Title 20 of the San Marcos Municipal Code Amendments)

Recommendation

Approve the attached Resolution recommending that the City Council adopt an ordinance amending Title 20 (Zoning Ordinance) of the San Marcos Municipal Code (SMMC) to regulate land use provisions relating to accessory dwelling units; density bonuses; walls and fences; noise performance standards; and hearing procedures to amend the Zoning Ordinance or the San Marcos General Plan (General Plan). It has been determined that the proposed Resolution is exempt from the California Environmental Quality Act (CEQA) per Section 15378 and/or Section 15061(b)(3) of the CEQA Guidelines because there is no potential for the Text Amendment to result in a physical change in the environment, either directly or indirectly and it can be seen with certainty that there is no possibility of a significant effect on the environment.

Introduction

In 2012, the City Council adopted an ordinance to comprehensively update the City's Zoning Ordinance, including, but not limited to, modifying certain provisions relating to second dwelling units, density bonuses, noise performance standards, walls and fences, and the procedures for amending the text, regulations or maps under the Zoning Ordinance or the General Plan. At the time of adoption, the City Council stated staff should revisit the Zoning Ordinance after implementation to recommend any modifications deemed necessary. Reviewing the Zoning Ordinance on a regular basis is also important to ensure consistency with State legislative changes.



Staff has initiated this process and will continue to bring forward additional recommendations in the forthcoming months.

City staff has determined that certain provisions of the Zoning Ordinance should be modified to clarify the City's desired land use practices and/or consistent with new State laws that went into effect following the adoption of the 2012 Zoning Ordinance update. The proposed Resolution recommends that the City Council adopt an ordinance amending the Zoning Ordinance to include updated provisions. Regulating these land use provisions to clarify the City's desired procedures and reflect updated State laws is necessary to protect and preserve the health, safety and welfare of the community.

The proposed Resolution recommends that the City Council adopt an ordinance amending the Zoning Ordinance to include reasonable land use regulations relating to density bonus and accessory dwelling units (ADUs) consistent with updated State laws. Currently, the City regulates density bonus under Chapter 20.305 and ADUs as second dwelling units under Chapter 20.410 of the Zoning Ordinance. However, some of the provisions contained in those chapters are inconsistent with new State laws, effective January 1, 2017. Regulating these land uses within the City to reflect updated State laws is necessary to protect and preserve the health, safety and welfare of the community. Additionally, any local ordinance adopted prior to January 1, 2017 that does not fully comply with the new State laws governing ADUs is null and void. The proposed Resolution recommends that the City Council adopt an ordinance amending SMMC Chapter 20.305 to regulate density bonuses, and repealing and replacing SMMC Chapter 20.410 governing second dwelling units, as well as amending associated references throughout Title 20 from "second dwelling units" to ADUs, consistent with State law.

The proposed Resolution also recommends that the City Council adopt an ordinance amending the Zoning Ordinance to include revised performance standards related to noise generation. When the comprehensive update to the Zoning Ordinance was adopted in 2012, the maximum limit for daytime noise in the commercial zone was identified as 60 dBA instead of 65 dBA, which resulted in a conflict with the General Plan standards. The proposed Text Amendment corrects this inconsistency and also specifies the maximum limits for noise within respective zones relating to on-site exterior noise. Additionally, the existing noise standards under the Zoning Ordinance lack clarity regarding what "exterior noise" means and do not provide the methodology of how to measure noise. The Text Amendment addresses these issues to provide consistency with industry standards.



The proposed Resolution also recommends increasing the front yard fence height for agricultural properties of one acre or more. The Text Amendment would increase the maximum height from three and one-half feet to five feet when it is an open-style fence (such as wrought iron, rail, etc.). Some existing agricultural properties are developed as single family neighborhoods on one-plus acre(s) and have open rail style fences that surround the front and corner side yards which exceed the maximum three and one-half feet. In rural areas, permitting a higher fence would provide opportunities to retain the community character, additional security or fencing that is in scale with larger lots, and would still allow visibility into the property from the street.

In the 2012 Zoning Ordinance update, subsection (A) under Section 20.530.040 (Notice and Hearings) was amended to require a minimum 4/5 vote of the City Council to approve any decision regarding amendments to the Zoning Ordinance or the General Plan. City staff determined that the language requiring a 4/5 vote was inadvertently included in the update, and is inconsistent with the City's prior approach of only requiring a supermajority vote when protest is received on the amendment from a percentage of affected or adjacent property owners. The proposed Resolution recommends that the City Council adopt an ordinance amending SMMC section 20.530.040(A) to correct the inadvertent error and revert back to the City's former approach of only requiring a 4/5 vote of the City Council for amendments in which protest is received by a percentage of affected or adjacent property owners.

Discussion

The City has a compelling interest in regulating accessory (second) dwelling units, density bonuses, noise performance standards, walls and fences, and the procedures for amending the text, regulations or maps under the Zoning Ordinance or General Plan to clarify the City's desired land use practices, update the existing provisions consistent with new State laws, and continue protecting the health, safety and welfare of the City's residents and businesses.

ADUs – Chapter 20.410 & Associated Title 20 References to Second Dwelling Units

According to the California Department of Housing and Community Development (HDC), ADUs (also referred to as second units, granny flats or in-law units) are secondary dwelling units with complete independent living facilities for one or more persons. The Legislature has declared that ADUs are an essential component of California's housing supply during the current housing crisis because they serve as a low cost form of housing for family members, students, elderly,



the disabled, in-home health care providers, and others. State law governing ADUs, which is codified under Government Code (GC) section 65852.2, expressly applies to all local agencies, including charter cities. (GC 65852.2(i)(2)).

In 2003, the California Legislature adopted Assembly Bill (AB) 1866, which authorized local agencies to provide for the creation of second units on parcels located in single-family zones, and also required the City to process said requests as a ministerial action (through the issuance of a building permit, for example), instead of requiring a Conditional Use Permit. The City amended its regulations and established development standards that included, but were not limited to, maximum unit size, which were established based on lot size; parking, and setbacks. When the City updated adopted the 2012 Zoning Ordinance, the City evaluated second dwelling unit development standards and made minor modifications to those standards.

In September, 2016, the Governor signed AB 2299 and Senate Bill (SB) 1069, which amended the State's existing laws governing ADUs. The new laws went into effect on January 1, 2017, and impose additional limitations on the ability of local agencies to regulate the development of ADUs, including, but not limited to, restrictions relating to unit size, parking requirements, setbacks, fire sprinklers, garage conversions, and utility connections. The new legislation further provides that if a local ordinance does not fully comply with the new State laws governing ADUs, it is null and void. Until a new ordinance is adopted, local agencies must apply State requirements and cannot include additional requirements contained in a local agency's existing ordinance.

The City's existing provisions governing ADUs do not fully conform to the new State law, and therefore, are overridden by State law. As the current ordinance is no longer enforceable, the City's regulations must be updated to comply with State law. However, the Planning Division receives frequent inquiries regarding ADUs, and City staff believes the minimal standards set forth under the new State law are insufficient to protect the character and quality of the City. The proposed Resolution recommends that the City Council adopt an ordinance to update the City's land use regulations consistent with the new State law, in addition to including the previous provisions regulating the development of ADUs that local agencies are still permitted to adopt under State law.

The Text Amendment repeals and replaces the existing Chapter 20.410 in its entirety to bring the provisions which currently govern second dwelling unit into compliance with the new State law. Although Chapter 20.410 is being repealed and replaced in its entirety, a blacklined version is attached to the proposed Resolution so it is clear what provisions would mirror



language included under the existing ordinance, and what provisions are proposed consistent with the new State laws.

- General – Replaces the term “second dwelling unit” with the term “accessory dwelling unit”. All references to that term used throughout the Zoning Ordinance would be replaced to accessory dwelling unit.
- Applicability – Provides that ADUs may either be (i) created within the living area of an existing dwelling unit or accessory structure; (ii) attached to an existing dwelling unit; or (iii) detached from an existing dwelling unit, but located on the same parcel as the existing dwelling unit. The recommended changes specify that ADUs are permitted within an existing structure (primary residence, attached or detached garage, other accessory structure as long as there is independent exterior access, which expands where ADUs can be located. The existing ordinance requires the same setback standards as the primary residence. Accessory structures (such as cabanas, pool houses, detached garages, etc. do not have the same rear/side setbacks as primary structures and the new State law allows conversion of those structures to ADUs. Detached ADUs are required to comply with the same setbacks as the primary structure in the existing and proposed ordinance.
- Applications – Expressly requires ministerial approval or denial of an ADU building permit application within 120 days after receiving the application. Requires the approval of an ADU building permit application if the ADU is contained within the existing space of a single-family dwelling unit, has independent exterior access from the existing space, and the side and rear setbacks are sufficient for fire safety. The existing standards specify a ministerial review process; the processing time standard is required per the new State law.
- ADU Requirements
 - Provides that no setbacks are required for an existing garage that is converted to an ADU, but that a setback of five feet from side and rear lot lines is required for an ADU constructed above a garage. This differs from existing standards, which require all ADUs to comply with the same setbacks as primary residential structure.



- Provides that ADUs are not considered new residential uses for the purpose of calculating connection fees or capacity charges for public facilities and utilities. Prohibits the City from requiring any new or separate utility connection to be installed or imposing any connection fee or capacity charge for ADUs constructed within an existing space. This language provides clarification of how public facility/utility connection fees are calculated. The existing ordinance has provisions for payment of public facilities fees, utility connections, and annexation to Community Facility Districts.
- Permits off-street parking in setback areas or through tandem parking unless specific findings are made that parking is not feasible based upon fire or life safety conditions. Allows replacement parking spaces to be located in any configuration. Provides that no parking standards shall be imposed if the ADU is located within one-half mile of public transit; the ADU is located within an architecturally and historically significant historic district; the ADU is located within an existing space; on-street parking permits are required but not offered to the ADU; or there is a car share vehicle located within one block of the ADU. The existing ordinance requires one on-site paved parking space per ADU and does not allow tandem parking. Under the proposed Text Amendment, City staff recommends that one paved space per ADU be retained. Additional standards are also proposed that specify the maximum amount of front yard setback that can accommodate parking (no more than 30%); require the parking space be at least 9' x 18'; and specify the parking space may be provided in the existing driveway.
- Size and Height Limitations of the ADU
 - Attached ADUs – The existing ordinance allows up to thirty (30) percent of the habitable square footage. In accordance with the new State law, the ordinance includes basements and attics as habitable space.
 - Detached ADUs – No changes are proposed to the maximum size of ADUs, which are based on lot square footage (SF). The existing ordinance specifies the minimum lot size to allow an ADU is 10,000 SF. On lots less than three-quarter



(3/4) acre, maximum size is 750 SF; lots 3/4 acre to less than one (1) acre: maximum 850 SF; lots one (1) acre or greater: 1,000 SF.

- Staff proposes to eliminate the two-bedroom maximum standard in order to comply with State law.
- No proposed changes to height regulations.
- Design Standards: No changes are proposed to design standards.
- Accessory Structures – The Text Amendment does not alter the provisions solely governing accessory structures, which are not affected by the new State laws. No changes are proposed to the development standards within Chapter 20.410 regarding accessory structures.
- Junior ADUs – State law regulates junior ADUs, which are units that do not exceed 500 square feet and which are completely contained within the space of an existing residential structure. At this time, junior ADUs are not regulated under the Zoning Ordinance, and the City does not intend to adopt any regulations governing junior ADUs under the proposed Text Amendment.

The proposed Text Amendment also amends Tables 20.210-2 (Agricultural Zone Permitted Uses), 20.215-2 (Residential District Use Classifications) and 20.340-1 (Parking Requirements by Land Use); and Sections 20.215.050 (Residential Development Standards: Other Site Features), 20.260.050 (Development Regulations within the Ridgeline Overlay Zone: Accessory Structures), 20.310.030 (Inclusionary Housing: Exemptions), 20.400.220 (Specific Use Standards: Utility Service-Amateur/Non-Public Antennas), 20.600.030 (Definition of “Accessory Structure” and adding the definition of “Accessory Dwelling Unit”), and 20.600.210 (Definition of “Second Dwelling Unit”) to modify all references to “second dwelling unit” to “accessory dwelling unit” consistent with the updated term under State law.

Density Bonus – Chapter 20.305

In 1979, the State density bonus law was adopted, which is codified under GC sections 65915 through 65918, and expressly applies to all local agencies, including charter cities. (GC 65918). The State law requires local agencies to grant a density bonus and additional incentives to a



developer who requests a density bonus and agrees to construct or donate land for certain percentages of affordable housing units and/or that serve certain percentages of the target populations. A developer may receive a density bonus up to 35 percent based on the percentage of affordable units provided within a project. According to the intent of the California Legislature, density bonuses or other incentives offered by local agencies should contribute significantly to the economic feasibility of lower income housing in proposed housing developments.

In September, 2016, the Governor of California signed AB 1934, 2442, 2501 and 2556 to amend the density bonus laws, which went into effect on January 1, 2017. The City's existing provisions governing density bonuses do not fully conform to the new State laws, or the updates to the State density bonus law that were adopted after the City's latest updates to the density bonus ordinance in 2012.

The proposed Resolution recommends that the City Council adopt an ordinance to update the City's land use regulations consistent with the new State law. The Text Amendment modifies the existing Chapter 20.305 to bring the following provisions into compliance with the new State laws:

- Purpose – Limits the application of the chapter to incentives for the production of very low, low and moderate income households.
- Definitions – Adds definitions for the terms “density bonus” and “housing development”.
- State Density Bonus Incentive Grant – Requires the City to grant a density bonus for the donation of land, for the construction of a child care facility, for the conversion of apartments to a condominium project, and additional incentives.
- Affordability Tenure – Updates the rental affordability and ownership affordability restrictions to 55 years from 30 years. Expressly requires the City to enforce an equity-sharing agreement at the resale of low, very low or moderate income housing.
- Ineligibility Restrictions – Provides that an applicant is ineligible for a density bonus or other incentives subject to certain rent control circumstances.



- Additional Incentives – Expressly provides for additional incentives in addition to or in lieu of requesting a density bonus, including concessions or incentives; waivers or reductions of development standards; and decreased parking ratios. The City must grant the request for additional incentives, subject to certain standards and bears the burden of proof for the denial of any such additional incentives.
- Density Bonus Application – States that the City must provide a list of required documents and information to the applicant, must process the application within 30 days, and must notify the applicant in writing whether or not the application is deemed complete.
- Commercial Development Bonus – Through January 1, 2022, requires the City to grant a commercial development bonus to a commercial developer that enters into an agreement for partnered housing with a housing developer. The agreement must be reviewed and approved by the City Council.
- Appeal Process – Provides an appeals provision, which allows an applicant who is denied a requested density bonus, incentive or concession to request an administrative appeal of the City's denial of such a request to the Planning Commission, which shall be the final decision of the City. All other appeals of decisions of the Director relating to the overall approval of the project shall be filed pursuant to the appeal procedures under Chapter 20.545 (Appeals and Revocation) of the Zoning Ordinance. The applicant may also initiate judicial proceedings to contest the City's denial as authorized under State law.
- Severability – Provides a severability provision for the proposed Text Amendment.

Performance Standards (Noise) – Section 20.300.070(F), 20.400.020(D) & 20.450.040 and Table 20.300-4

City staff recommends the following minor amendments to noise-related regulations under the Zoning Ordinance to bring these standards into compliance with the General Plan – Noise Element and to provide clarification to methods of noise measurements, including the following:



- Update the noise measurement methods to a height of five (5) feet and a setback of ten (10) feet from structures or reflective surfaces to reflect best management practices (Section 20.300.070(F))
- Clarify that the standards are to be measured in Leq (equivalent sound level) (Section 20.300.070(F)) since this is the appropriate method and results in consistency with the rest of the ordinance references
- Amend the maximum exterior noise level for commercial land uses to 65 dBA during the day time, to be consistent with the General Plan Noise Element and to reflect the same standard which is applicable to other non-single family residential land uses (Section 20.300.070(F))
- Provide clarification to how exterior noise level is defined and where it is measured on-site (Section 20.300.070(F); Table 20.300-4). This is an industry standard designed to provide more accurate and reliable measurements, specifically to avoid false readings as a result of reflection off nearby buildings
- Incorporate cross-references in Chapter 20.300 (Site Planning and General Development Standards), Chapter 20.400 (Specific Use Standards) and Chapter 20.450 (Renewable Energy)
- Other minor non-substantive edits (such as clean up of typographical errors).

The proposed Text Amendments are minor in nature and will not result in any substantive changes in the review process of projects. The updated exterior daytime noise standard for commercial uses will now be consistent with the noise standards for multi-family and industrial uses.

Although not under the purview of the Planning Commission, Title 10 of the San Marcos Municipal Code, which regulates loud, annoying and unnecessary excessive noise, is also proposed to be updated to incorporate the noise limits referenced in SMMC section 20.300.070(F). There currently is no reference within Section 20.300.070(F) to the noise limits regulated in every zone, so including a reference would allow for better enforcement of noise complaints.



Walls and Fences – Chapter 20.335

The existing ordinance regulates wall and fence heights for all residential and non-residential zones. In accordance with Section 20.335.030(F) and Table 20.335-1, the maximum height for all fences or walls located within the front yard setback for all residential zones is three and a half feet (referenced as 42” in the table) regardless of the lot size. Fences are permitted up to six feet in height if located outside of the front setback. Staff recommends increasing the maximum height of fences located on large lot properties (one acre or larger) within the agricultural zones to a maximum of five feet, however, the fence must be open in style, such as a ranch-style rail, wrought iron/tubular steel, or pipe corral to allow for maximum visibility into the site. “Open fence” means any fence which is ninety (90) percent open/transparent. Additionally, height, width, spacing, and setback standards have been established for pilasters and entry gates in the agricultural zones. The proposed standards for pilasters are: maximum height (sixty-six (66) inches), width (twenty-four (24) inches), and minimum spacing (eight (8) feet) apart. Gates are allowed up to seventy-two (72) inches with maximum pilaster height of seventy-eight (78) inches and must include a twenty-foot setback if located adjacent to a street in order to allow a vehicle entering to stop in the driveway during the operation of the gate without impacting the traffic on the street. The proposed fence standards would allow greater fence height on large lot properties that are zoned agricultural. The increase in height, along with the open style design, would allow greater security opportunities while retaining visibility and community character.

Amendments (Notice and Hearings) – Section 20.530.040

Section 20.530.040(A) under the existing Zoning Ordinance states that all decisions regarding amendments to the Zoning Ordinance or the General Plan require a minimum 4/5 vote for adoption by the City Council. [Emphasis added.] However, language under SMMC Section 20.530.040(A)(1) provides that a 4/5 vote of the City Council is only required if protests are presented during the public hearing relating to the amendment, including, when a protest is signed by 20 percent or more of real property owners of (i) the affected property for which the amendment is proposed, or (ii) the property immediately adjacent to and within 500 feet of the affected property for which the amendment is proposed.

SMMC Figure 20.530-1, which was included in the Zoning Ordinance prior to the 2012 Zoning Ordinance update, depicts the Zoning Ordinance/General Plan amendment process by way of a



flow chart. Figure 20.530-1 shows that if a proposed amendment receives protest, the City Council may either deny the application or approve the amendment subject to a 4/5 vote. Alternatively, if an amendment does not receive any protest, Figure 20.530-1 shows that the City Council may either approve the amendment or deny the application. Figure 20.530-1 does not expressly require a 4/5 vote of the City Council to approve an amendment if the amendment does not receive any protest.

There was no direction or intent expressed relative to amending this process during the 2012 Zoning Ordinance update, and the language adopted requiring that all decisions regarding amendments to the Zoning Ordinance or the General Plan require a minimum 4/5 vote for adoption by the City Council is an inadvertent error. Additionally, inconsistencies appear throughout Chapter 20.530 with respect to whether or not an amendment to the Zoning Ordinance or the General Plan requires a supermajority vote of the City Council. As a result, the required approach to adopt an amendment to the Zoning Ordinance or the General Plan is somewhat ambiguous, but has conservatively been read to require such a supermajority vote of the City Council irrespective of any objection by landowners within the affected area or abutting the same. The language should be modified consistent with the City's former procedure, which clearly required a 4/5 vote only in the event of an objection by those landowners of 20% of the area in question, or 20% of the abutting landowners.

The proposed Resolution recommends that the City Council adopt an ordinance to amend Section 20.530.040(A) to correct the inadvertent error. The correction of this minor error would be consistent with the City's intent pursuant to subsection (1) under SMMC Section 20.530.040(A) and SMMC Figure 20.530-1 to allow the City Council to approve an amendment to the Zoning Ordinance or the General Plan without requiring a supermajority vote of the Council, unless the amendment receives public protest from a percentage of the affected or adjacent property during the public hearing.

Environmental Determination

The proposed Resolution has been reviewed for compliance with the California Environmental Quality Act (CEQA), and it has been determined that this is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Even if the proposed Resolution was considered a project subject to CEQA, it would be exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no



possibility that the proposed Text Amendment to the Zoning Code would have a significant effect on the environment.

Attachment(s)

A PC RESOLUTION 17-4625: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 20.410; AND AMEND CHAPTERS 20.305 AND 20.335, SECTIONS 20.215.050.C, 20.260.050.G.2, 20.050.G.4, 20.300.070.F, 20.310.030.D, 20.400.020.D, 20.400.220.C, 20.450.040.A, 20.450.040.B, 20.530.040, 20.600.030 AND 20.600.210, AND TABLES 20.210-2, 20.215-2, 20.300-4, 20.340-1 TO TITLE 20 OF THE SAN MARCOS MUNICIPAL CODE TO REGULATE VARIOUS LAND USES

B SMMC Chapter 10.24: NOISE proposed revisions (reference only)

Prepared by:

Wendy L. House

Wendy L. House, Deputy City Attorney

Approved and Submitted by:

Karen Brindley

Karen Brindley, Planning Division Manager



ATTACHMENT A
PC RESOLUTION 17-4625

RESOLUTION PC 17-4625

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 20.410; AND AMEND CHAPTERS 20.305 AND 20.335, SECTIONS 20.215.050.C, 20.260.050.G.2, 20.050.G.4, 20.300.070.F, 20.310.030.D, 20.400.020.D, 20.400.220.C, 20.450.040.A, 20.450.040.B, 20.530.040, 20.600.030 AND 20.600.210, AND TABLES 20.210-2, 20.215-2, 20.300-4, 20.340-1 TO TITLE 20 OF THE SAN MARCOS MUNICIPAL CODE TO REGULATE VARIOUS LAND USES

Case No. P17-0026
TA 17-003
City of San Marcos

WHEREAS, the City desires to amend certain provisions under Title 20 of the San Marcos Municipal Code (SMMC) (Zoning Ordinance) current with updated State laws and to clarify the City's desired land use practices; and

WHEREAS, the City currently regulates accessory dwelling units (ADUs), which are presently referred to as "second dwelling units" under Chapter 20.410, Section 20.600.210 and Tables 20.210-2 and 20.215-2 under the Zoning Ordinance. Effective January 1, 2017, State laws governing ADUs were modified with the adoption of AB 2299 and Senate Bill 1069, and impose additional limitations on the ability of local agencies to regulate the development of ADUs. The City's existing ADU provisions under the Zoning Ordinance do not fully conform to the new State laws, and therefore are deemed to be null and void by State law. The City desires to repeal and replace Chapter 20.410 in its entirety and amend the other Zoning Ordinance provisions regulating second dwelling units to bring those provisions in compliance with the new State laws governing ADUs; and

WHEREAS, the City currently regulates density bonuses under Chapter 20.305 of the Zoning Ordinance to grant a density bonus and other incentives or concessions, waivers or reductions of development standards and decreased parking ratios to developers who agree to construct or donate land for certain percentages of affordable housing units and/or that serve specified percentages of the target populations. The City's existing density bonus provisions under the Zoning Ordinance are outdated and do not reflect current State laws and requirements consistent with the adoption of Assembly Bills (AB) 1934, 2442, 2501 and 2556, which went into effect on January 1, 2017. The City desires to amend certain provisions under Chapter 20.305 to update the City's density bonus ordinance consistent with the new State laws; and

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WHEREAS, the City currently regulates various site planning and general development standards under Chapter 20.300 of the Zoning Ordinance, including noise performance standards, which are regulated under Section 20.300.070(F) and also under Title 10 of the SMMC. The City desires to clarify these provisions to regulate noise consistent with the General Plan Noise Element; and

WHEREAS, the City currently regulates the development, installation and maintenance of private walls and fences within the community under Chapter 20.335 of the Zoning Ordinance. The City desires to clarify those provisions to allow flexibility in front yard fence heights on large lot parcels; and

WHEREAS, the City currently regulates amendments to the Zoning Ordinance and the San Marcos General Plan (General Plan) under Chapter 20.530 of the Zoning Ordinance. City staff recently determined that the language included under Section 20.530.040(A) requiring a 4/5 vote of the City Council for approval of all amendments is inconsistent with language included in subsequent provisions of Chapter 20.530. The City desires to correct the inadvertent error under Section 20.530.040(A) to only require a supermajority vote of the City Council if the proposed amendment receives public protest from a specified percentage of the affected property owners or adjacent property owners during a public hearing, which is consistent with the City's prior approach of approving such amendments; and

WHEREAS, regulating land use provisions governing ADUs, density bonuses, noise performance standards, walls and fences, and Zoning Ordinance/General Plan amendment procedures is necessary to protect and preserve the health, safety and welfare of the community; and

WHEREAS, the Development Services Department did study said request and recommends approval of said request; and

WHEREAS, the required public hearing held on May 15, 2017 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider this request as exempt from the California Environmental Quality Act (CEQA) because this is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Resolution is found to be

subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment; and

WHEREAS, the Planning Commission's decision is based on the following findings and determinations:

1. The proposed Text Amendment to Title 20 (Zoning Ordinance) of the San Marcos Municipal Code will not adversely affect the implementation of the General Plan in that it does not conflict with any goal, objective, or policy of the General Plan.
2. The proposed Text Amendment to Title 20 (Zoning Ordinance) of the San Marcos Municipal Code will not be detrimental to the public health, safety, morals, and welfare in that the Text Amendment will establish standards and requirements to regulate the business of massage in compliance with State law.

NOW, THEREFORE, the Planning Commission resolves as follows:

1. The foregoing recitals are true and correct.
2. The Text Amendment repealing and replacing Chapter 20.410, and amending Section 20.600.210, Tables 20.210-2 and 20.215-2, 20.215.050.C, 20.260.050.G.2, 20.260.050.G.4, 20.310.030.D, Table 20.340-1, 20.400.220.C, and 20.600.030 to the Zoning Ordinance as specified in blacklined, underlined additions and strikeouts in the attached Exhibit A, is hereby recommended to the City Council for approval.
3. The Text Amendment amending Chapter 20.305 to the Zoning Ordinance as specified in blacklined, underlined additions and strikeouts in the attached Exhibit B, is hereby recommended to the City Council for approval.
4. The Text Amendment amending Section 20.300.070(F), Table 20.300-4, 20.400.020.D, 20.450.040.A and 20.450.040.B to the Zoning Ordinance as specified in blacklined, underlined additions and strikeouts in the attached Exhibit C, is hereby recommended to the City Council for approval.
5. The Text Amendment amending Chapter 20.335 to the Zoning Ordinance as specified in blacklined, underlined additions and strikeouts in the attached Exhibit D, is hereby recommended to the City Council for approval.

6. The Text Amendment amending Section 20.530.040 to the Zoning Ordinance as specified in blacklined, underlined additions and strikeouts in the attached Exhibit E, is hereby recommended to the City Council for approval.
7. This project exemption (EX 17-015) from CEQA pursuant to Section 15378 of the CEQA Guidelines and/or Section 15061(b)(3) is hereby recommended to the City Council for approval.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, at a regular meeting held on this 15th day of May, 2017, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman

ATTEST:

Lisa Kiss, Office Specialist III

List of Exhibits

- A: Text Amendment repealing and replacing Chapter 20.410 and amending Section 20.600.210 and Tables 20.210-2 and 20.215-2, 20.215.050.C, 20.260.050.G.2, 20.260.050.G.4, 20.310.030.D, Table 20.340-1, 20.400.220.C, and 20.600.030 governing accessory dwelling units
- B: Text Amendment amending Chapter 20.305 governing density bonuses
- C: Text Amendment amending Section 20.300.070(F), Table 20.300-4, 20.400.020.D, 20.450.040.A and 20.450.040.B governing noise performance standards
- D: Text Amendment amending Chapter 20.335 governing walls and fences
- E: Text Amendment amending Section 20.530.040 governing amendments to the Zoning Ordinance or the San Marcos General Plan

EXHIBIT A

Text Amendment repealing and replacing Chapter 20.410 and amending Section 20.600.210 and Tables 20.210-2 and 20.215-2, 20.215.050.C, 20.260.050.G.2, 20.260.050.G.4, 20.310.030.D, Table 20.340-1, 20.400.220.C, and 20.600.030 governing accessory dwelling units

EXHIBIT A

Additions are shown as underlines and deletions are shown as ~~striketrough~~

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ARTICLE 4 SPECIFIC USE STANDARDS

Chapter 20.410 Second Dwelling Unit and Accessory Structures

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Section 20.410.050	Accessory Structure and ~~Second~~ <u>Accessory</u> Dwelling Unit Design
Section 20.410.060	~~Second~~ <u>Accessory</u> Dwelling Unit Requirements

EXHIBIT A

CHAPTER 20.410 ~~SECOND~~ ACCESSORY DWELLING UNITS AND ACCESSORY STRUCTURES

Sections:

Section 20.410.010	Purpose of Chapter
Section 20.410.020	Applicability
Section 20.410.030	Applications
Section 20.410.040	Development Standards
Section 20.410.050	Accessory Structure and ~~Second~~ <u>Accessory</u> Dwelling Unit Design
Section 20.410.060	~~Second~~ <u>Accessory</u> Dwelling Unit Requirements

Section 20.410.010 Purpose of Chapter

The purpose of this chapter is to establish standards for permitting ~~second~~ accessory dwelling units and accessory buildings or structures (accessory structures) on Agricultural and Residential Zone properties to ensure compatibility with the property and the adjacent neighborhood. This chapter is in compliance with California Government Code Sections 65852.150 and 65852.2, which establish regulations for ~~second~~ accessory dwelling units.

Section 20.410.020 Applicability

The provisions of this chapter shall apply to new construction, modifications, and legal conversions of all accessory structures and ~~second~~ accessory dwelling units in the Agricultural (A-1, A-2, A-3) and Residential Zones (R-1-20, R-1-10, R-1-7.5, R-2, R-3-6, R-3-10), subject to the permit requirements of the applicable Zone.

- A. **Zones Accessory Structures.** Accessory structures shall be limited to Agricultural (A) Zones and Residential (R) Zones under this chapter. Similar structures in non-residential Zones shall comply with the standards of the applicable Zone.
- B. **Second Accessory Dwelling Units.** Construction of one (1) ~~second~~ accessory dwelling unit shall be permitted on all A Zone and R-1 Zone parcels, subject to the following minimum parcel standards:
1. Parcel is zoned for single-family use, and has an existing single-family detached dwelling
 2. Parcel size is a minimum size of 10,000 square feet
 3. An ~~second~~ accessory dwelling unit does not already exist on the parcel
 4. Accessory dwelling unit would be (i) created within the living area of an existing dwelling unit or accessory structure located on the parcel; (ii) attached to an existing dwelling unit located on the parcel; or (iii) detached from an existing dwelling unit located on the parcel, but located on the same parcel as the existing dwelling unit.

Section 20.410.030 Applications

- A. **Building Permit.** A building permit shall be required for ~~second~~ accessory dwelling units, pursuant to compliance with the minimum requirements described below. The approval process shall be ministerial in nature, and the City shall approve or disapprove an application for a building permit to construct an accessory dwelling unit within 120 days after receiving the application.
- B. **Accessory Dwelling Units Within an Existing Space.** The City shall approve an application for a building permit to construct an accessory dwelling unit within a single-family residential zone if all of the following conditions are met: (i) the accessory dwelling unit is contained within the existing space of a single family dwelling unit, including the primary dwelling unit, attached or detached garage or other accessory structure; (ii) the accessory dwelling unit has independent exterior access from the existing space; and (iii) the side and rear setbacks are sufficient for fire safety. No additional requirements or development standards may be imposed on such accessory dwelling units.

Section 20.410.040 Development Standards

- A. **Accessory Structures.** The following standards shall apply to all accessory structures that require a building permit and that represent a modification of the development standards of the applicable Zone. Where the provisions of this section do not offer guidance, the development standards of the applicable Zone shall prevail. Accessory structures shall adhere to the following:
1. Meet the design standards of section 20.410.050 (Accessory Structure and ~~Second~~ Accessory Dwelling Unit Design).
 2. Shall be limited to uses that are accessory to the main use, including a cabana, garage or carport, gazebo, greenhouse, pergola, pool and/or spa and related equipment, or workshop. An accessory structure shall not be used for dwelling purposes. Bathtub(s), fireplace(s), and/or kitchen (full or partial) facilities are prohibited in accessory structures. Air conditioning, heating, shower, toilet, washtub, and/or washer and dryer facilities are allowed within an accessory structure; however, a deed restriction shall be required and shall state that the accessory structure shall be maintained as an accessory structure and shall not be used for sleeping quarters or be converted to a residential use.
 3. Prohibited accessory structures are freight containers, railroad cars, intermodal containers, and similar storage-type structures, unless they are altered to be similar and compatible with the ~~primary residence~~ primary dwelling unit.
- B. **Accessory Structure(s) Size.** The maximum allowable gross floor area for all completely enclosed accessory structures in conjunction with an existing single-family residence shall be equal to forty percent (40%) of the living area of the ~~primary residence~~ primary dwelling unit, or eight hundred (800) square feet of gross floor area, whichever is less. The total gross floor area shall include all accessory structures, including those that do not require a building permit, with the exception of those that are completely open on at least three (3) sides, exclusive of any supporting columns.

- C. **Height.** Height of the accessory structure(s) shall be one (1) story maximum, fifteen (15) feet at peak of roof, and shall not exceed the height of the ~~primary residence~~ primary dwelling unit.
- D. **Location.** The setback requirements of the applicable Zone for the primary structure shall apply to all accessory structures, except as modified below:
1. If detached, a minimum of five (5) feet separation from the ~~primary residence~~ primary dwelling unit or any other accessory structure. A breezeway may span the space between the two (2) structures.
 2. Accessory structures shall not be permitted within the required rear yard in the Agricultural Zones (A-1, A-2, or A-3), except for permitted fences and walls.
 3. Rear property line setback: minimum five (5)-foot setback required.
 4. Interior property line setback:
 - a. Consistent with the interior property line setback of the applicable Zone OR
 - b. Equal to the interior property line setback of the existing primary building, whichever is less.
 - c. If located behind the primary building, minimum of five (5)-foot setback to interior property line shall be permitted in the rear yard area.
 - d. Unenclosed patios (i.e., patio covers) attached to the main building shall meet the minimum interior property line setback of the base Zone.
 5. Front or Street Property Line Setback: Accessory structures shall not occupy any portion of a required setback from the front property line or any street property line.

Section 20.410.050 Accessory Structure and ~~Second~~ Accessory Dwelling Unit Design

All accessory structures and ~~second~~ accessory dwelling units shall be architecturally compatible with ~~the~~ any existing ~~residence(s)~~ dwelling unit on the same lot.

1. All accessory structures and ~~second~~ accessory dwelling units shall blend with the existing ~~residence~~ primary dwelling unit on the lot and neighborhood residences by incorporating the same or similar architectural features, building materials, and color as the primary dwelling unit on the property. These features shall include roofing material, roof design, fascia, exterior building finish, color, exterior doors and windows (including ratios of window dimensions [i.e., width to height] and window area to wall area), garage door, and architectural enhancements.
2. The exterior design of all accessory structures and ~~second~~ accessory dwelling units shall be in harmony with and maintain the scale of the neighborhood. The design of the ~~second~~ accessory dwelling unit shall relate to the design of the ~~primary residence~~ primary dwelling unit and shall not visually dominate it or the surrounding properties.
3. In no case shall the ~~second~~ accessory dwelling unit or accessory structure be located within the required front property line setback, and shall not be closer to the ROW than the ~~main~~ primary dwelling, except as expressly permitted under Section 20.410.060(F) of this Zoning Ordinance.

Section 20.410.060 ~~Second~~ Accessory Dwelling Unit Requirements

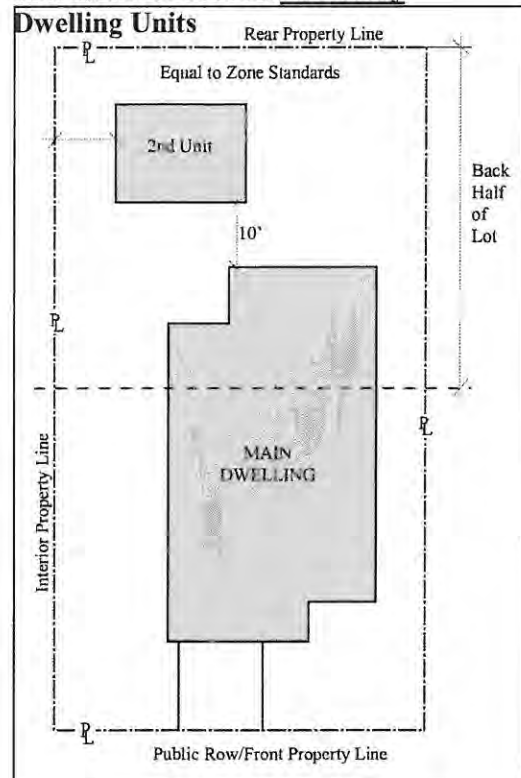
Each A Zone and R-1 Zone parcel meeting the requirements of section 20.410.020(B) (Applicability) shall be permitted the maximum construction of one (1) ~~second~~ accessory dwelling unit on the parcel, subject to the following requirements:

- A. **Density.** The state considers ~~second~~ accessory dwelling units as a residential use that is consistent with the General Plan density and Zone for the lot.
- B. **Zoning Compliance.** The ~~second~~ accessory dwelling unit shall conform to all land use and development standard provisions of the applicable Zone, including setbacks and separation of buildings, except as expressly permitted under Section 20.410.060(F) of this Zoning Ordinance.
- C. **Building Code Compliance.** The ~~second~~ accessory dwelling unit shall meet all applicable requirements of the California Building Code. ~~and shall be subject to payment of Public Facilities Fees and annexation into applicable Community Facility Districts, as established by City Ordinance.~~
 - 1. ~~— The fee shall be based on the proposed land use and shall be paid prior to the issuance of the building permit.~~
- D. **Annexation to Community Facilities District.** Accessory dwelling units shall be subject to annexation to applicable Community Facility Districts, as established by City Ordinance.
- E. **Size and Height Limitations.** ~~All second accessory dwelling units shall be limited to two (2) bedrooms, and the~~ The building size for all accessory dwelling units shall be limited to the smallest square footage applicable to the parcel:
 - 1. Attached. If attached, a maximum of thirty percent (30%) of the total interior habitable square footage of the ~~primary residence~~ primary dwelling unit, including a basement and attic, but not including a garage or any accessory structure. ~~OR~~
 - 2. Detached.
 - a. Lots of less than three-quarters (3/4) acre (32,620 square feet): maximum seven hundred fifty (750) square feet of gross floor area permitted.
 - b. Lots 3/4 acre (32,620 square feet) to less than one (1) acre: maximum eight hundred fifty (850) square feet of gross floor area permitted.
 - c. Lots one (1) acre or more: maximum 1,000 square feet of gross floor area permitted.

3. Height of ~~second~~ detached accessory dwelling unit shall be one (1) story maximum, fifteen (15) feet at peak of roof, and shall not exceed the height of the ~~primary residence~~ primary dwelling unit. For a ~~second~~ accessory dwelling unit attached to the existing single-family unit, the height shall not exceed the height of the existing structure, and the roof pitch shall match the existing structure.

Figure 20.410-1

Placement of ~~Second~~ Accessory Dwelling Units



- F. **Location, Setbacks.** The ~~second~~ accessory dwelling unit shall be located within the rear fifty percent (50%) of the lot, and shall comply with all setbacks of the applicable Zone required for a single-family residence. The ~~second~~ accessory dwelling unit shall be a minimum of ten (10) feet from any structure on-site (eave to eave).

1. No setbacks are required for an existing garage that is converted to an accessory dwelling unit.
2. A setback of five (5) feet from the side and rear lot lines is required for an accessory dwelling unit that is constructed above a garage.

- G. **Adequate Public Facilities.** Adequate public facilities (including water and sewer) and utilities for the ~~second~~ accessory dwelling unit must be available or made available at the time of development and shall be sized in accordance with applicable codes.

1. The City may determine that a new or separate utility connection is required to be installed directly between the accessory dwelling unit and the utility. No new or separate utility connection shall be required for any accessory dwelling unit described in Section 20.410.030(C).
2. The County of San Diego Health and Human Services Department must approve any private sewage disposal system that is required under this chapter.

- H. **Public Facilities and Utilities Fees.**

1. Accessory dwelling units shall not be considered new residential uses for the purpose of calculating connection fees or capacity charges for public facilities and utilities.
2. The City may determine that any new or separate public facility or utility connection required under Section 20.410.060(G), above, is subject to a connection fee or capacity

charge. No connection fee or capacity charge shall be imposed on any accessory dwelling unit described in Section 20.410.030(C).

3. All fees required by this chapter shall be proportionate to the burden of the accessory dwelling unit on the public facility or utility, shall be based upon either the size of the accessory dwelling unit or the number of plumbing fixtures for the accessory dwelling unit, and shall not exceed the reasonable cost of providing the service.
4. All fees required by this chapter shall be paid prior to the issuance of any building permit required for the construction of the accessory dwelling unit.

I. **Owner Occupied.** The property owner of the parcel shall be the permit applicant, shall be living on-premise at the time of ~~second~~ accessory dwelling unit application and approval, and shall continuously reside on-premise in either the ~~main~~ primary dwelling unit or the ~~second~~ accessory dwelling unit. The ~~second~~ accessory unit may be rented but not for less than 31 days. The accessory dwelling unit may not be sold separate from the primary dwelling unit. A ~~second~~ accessory dwelling unit may be approved and built at the same time as the ~~primary residence~~ primary dwelling unit is approved and constructed.

J. **Occupancy.** The maximum occupancy of the ~~second~~ accessory dwelling unit shall conform to the latest adopted Uniform Housing Code and in conformance with residential standards as adopted by the Zoning Ordinance.

K. **Siting.** The location and design of the ~~second~~ accessory dwelling unit shall not significantly impact the privacy or parking of adjacent properties.

L. **Parking.**

1. A minimum of one (1) on-site paved parking space shall be provided for the ~~second~~ accessory dwelling unit, in addition to the required parking for the ~~main~~ primary dwelling unit. ~~The space shall not be tandem to the main dwelling unit parking. The additional~~ parking space(s) shall be a minimum dimension of nine (9) feet by eighteen (18) feet except as provided for in subsection 20.410.060(L)(4) of this Section.

2. Offstreet parking is permitted in setback areas in locations determined by the City, or through tandem parking, unless specific findings are made by the City that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions. Parking spaces are subject to the following:

- i. Parking may be provided on an existing driveway but shall not block sidewalk access or encroach into the public right-of-way.
- ii. No more than thirty (30) percent of a front yard shall be dedicated to vehicle parking.
- iii. Except for an approved driveway, vehicles must be parked on an acceptable all-weather surface, such as brick, permeable pavers or other stable, dust-free surface

deemed acceptable by the Development Services Department and Stormwater Division.

3. If a garage, carport or covered parking structure is demolished in connection with the construction of an accessory dwelling unit, those offstreet parking spaces must be replaced. The replacement parking spaces may be located in any configuration on the same parcel as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, tandem spaces, or by the use of mechanical automobile parking lifts.
 4. No parking standards shall be imposed by the City on an accessory dwelling unit in any of the following instances: (i) the accessory dwelling unit is located within one-half mile of public transit (including, but not limited to, a public bus stop, bus station, light rail station, paratransit lot and other areas where public transportation is available; (ii) the accessory dwelling unit is located within an architecturally and historically significant historic district; (iii) the accessory dwelling unit is located within an existing primary dwelling unit or an existing accessory structure; (iv) on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or (v) there is a car share vehicle located within one block of the accessory dwelling unit.
 5. Required parking spaces shall be kept clear and used exclusively for vehicle parking. Such spaces shall not be used for storage or other uses.
- M. **Driveway.** A driveway connection serving both the main and ~~second~~ accessory dwelling unit is highly encouraged where feasible.
- N. **Emergency Access.** Emergency access and fire apparatus roads shall be provided to the satisfaction of the City of San Marcos Fire Marshal in accordance with the current edition of the California Fire Code.
- O. **Fire Sprinklers.** Fire sprinklers may be required for the accessory dwelling unit if required for the primary dwelling unit.
- P. **Community Character.** The ~~second~~ accessory dwelling unit shall be consistent with the character, architecture, and density of the exiting parcel structures.
- Q. **Restrictions.** An ~~second~~ accessory dwelling unit shall not be permitted on a lot that already contains a guest house, ~~second~~ accessory dwelling unit, residential care facility, or rooming house, as defined by chapter 20.600 (Definitions), unless expressly permitted by law. ~~Second~~ Accessory dwelling units are not allowed in planned residential developments or within the Ridgeline Overlay Zone (ROZ).
- R. **Deed Restriction.** Prior to the issuance of a building permit for the ~~second~~ accessory dwelling unit, a Deed (Land Use) Restriction shall be recorded with the County Recorder that includes all the following:
1. Limiting the total number of dwelling units on the property to two (2) units;

2. Requiring that one (1) of the dwelling units (main or ~~second~~ accessory dwelling unit) shall be owner occupied; and
3. Prohibiting the units from being sold separately.

EXHIBIT A

Proposed Changes to Table 20.210-2

(Agricultural Zones – Agricultural Zone Permitted Uses)

Additions are shown as underlines and deletions are shown as ~~strikethrough~~

**Table 20.210-2
Agricultural Zone Permitted Uses**

Land Use (Note 1)	A-1	A-2	A-3	Additional Use Regulations
Residential Uses				
Farm Employee Housing, Large	CUP	CUP	CUP	
Farm Employee Housing, Small	DP	DP	DP	
Child Care Facility, Large Family Home	DP	DP	DP	20.400.050 (Child Care Facilities)
Child Care Facility, Small Family Home	P	P	P	20.400.050 (Child Care Facilities)
Community Garden	DP	DP	DP	
Residential Care Facility, Large	DP	DP	DP	20.400.110 (Care Facilities)
Residential Care Facility, Small	P	P	P	20.400.110 (Care Facilities)
Mobile/Manufactured Home	P	P	P	20.245 (Residential Manufactured Home Park Zone)
Private Residential Garage	P	P	P	
Single-Family Detached	P	P	P	
<u>Second Accessory Dwelling Unit/Accessory Structure</u>	A	A	A	20.410 (~~Second~~ <u>Accessory Dwelling Units and Accessory Structures</u>)
Supportive Housing	P	P	P	
Transitional Housing	P	P	P	
Recreation, Education & Public Assembly Uses				
Animal Keeping, Large	P	P	P	20.415 (Animals)
Animal Keeping, Small	A	A	A	20.415 (Animals)
Places of Assembly	CUP	CUP	CUP	20.400.160 (Places of Assembly)
Stable, Private	P	P	P	
Stable, Public	CUP	CUP	CUP	
Public Park/Open Space/Recreation	CUP	CUP	CUP	
Sport Court				
Lighted	DP	DP	DP	
Unlighted	A	A	A	
Outdoor Recreation Facility	CUP	CUP	CUP	
Agricultural Uses(2)				
Agricultural/Horticultural, Non-Commercial	P	P	P	
Agricultural/Horticultural, Commercial	DP	DP	DP	
Agricultural/Horticultural, Processing and Packaging				

**Table 20.210-2
Agricultural Zone Permitted Uses**

Land Use (Note 1)	A-1	A-2	A-3	Additional Use Regulations
Small Animals	---	---	CUP	Processing for market of poultry, small animals and crops raised or produced on the premises, or on other property owned or leased by the processor, but not including canning, rendering, or reduction (grinding, chopping, cutting) of meat or animal products
Plants and Crops	---	---	CUP	Provided no such plant is located closer than 50 feet to any side or rear yard.
Lodging, Bed & Breakfast	CUP	CUP	CUP	
Greenhouse/Nursery				
Commercial Production	DP	DP	DP	
Retail	DP	DP	DP	Open to the public
Sales Stand	A	A	A	20.210.060(C) and Table 20.210-3
Office, Professional, and Business Support Services			20.220.050(C)	
Business Support Service	A	A	A	Limited to 20% of gross floor area, supportive of agricultural primary land use only
Service Uses(2)				
Animal Sales and Services	CUP	CUP	CUP	
Industrial, Manufacturing & Processing Uses(2)				
Winery/Tasting Room	DP	DP	DP	
Renewable Energy Harvesting/Production	---	---	CUP	20.450 (Renewable Energy)
Transportation, Communication & Utility Uses(2)				
Antenna or Communication Facility	CUP	CUP	CUP	20.465 (Telecommunication Facilities)
Non-Public Antenna or Communication Facility	P	P	P	20.465 (Telecommunication Facilities)

Notes:

See Table 20.210-1 for definitions.

1. All land uses are subject to the following standards: chapters 20.320 (Signs on Private Property), 20.330 (Water Efficient Landscape Standards), 20.335 (Walls and Fences), 20.340 (Off-Street Parking and Loading), and 20.400 (Specific Use Standards).
2. Business, including merchandising and sales, shall be conducted entirely within an enclosed building, except as identified in Table 20.220-2, where outdoor business is permitted subject to a CUP.
3. A Director's Permit (DP) shall be required for the establishment of the land use in an existing building to ensure adequate parking and student services are provided and to minimize effects on other land uses within the building or site. A Conditional Use Permit (CUP) shall be required for the establishment of a use in conjunction with a new building (development of the building in conjunction with the use).

Proposed Changes to Table 20.215-2
(Residential Zones – Residential District Use Classifications)

Table 20.215-2
Residential District Use Classifications

[illegible]

Table 20.215-2
Residential District Use Classifications

Land Use	R-1-20	R-1-7.5 / R-1-10	R-2	R-3-6	R-3-10	Additional Use Regulations
Winery/Tasting Room	DP	---	---	---	---	20.425 (Bars, Alcohol-Service, and Entertainment)
Transportation, Communication & Utility Uses						
Antenna or Communication Facility	CUP	CUP	CUP	CUP	CUP	20.465 (Telecommunications Facilities)
Non-Public Antenna or Communication Facility	P	P	P	P	P	20.465 (Telecommunications Facilities)
Public Utilities	CUP	CUP	CUP	CUP	CUP	

EXHIBIT A

Proposed Changes to Section 20.215.050

(Residential Zones – Residential Development Standards)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.215.050 Residential Development Standards

...

- C. **Other Site Features.** ~~See~~ and Accessory dwelling units and accessory structure placement and encroachments shall be governed by chapter 20.410 (~~See~~ and Accessory Dwelling Units and Accessory Structures).

...

EXHIBIT A

Proposed Changes to Section 20.260.050

(Ridgeline Protection & Management Overlay Zone –

Development Regulations within the Ridgeline Overlay Zone)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.260.050 Development Regulations within the Ridgeline Overlay Zone

...

G. Accessory Structures.

1. Existing accessory structures greater than four hundred (400) square feet will be allowed a twenty-five percent (25%) maximum expansion provided they comply with the regulations stated herein.
2. The size of the accessory structure or ~~second~~ accessory dwelling unit shall be regulated by chapter 20.410 (~~Second~~ Accessory Units and Accessory Structures), and the structure location shall blend with the main dwelling unit while requiring the least amount of grading as feasible.
3. No temporary or portable car covers or car tents shall be allowed.
4. Accessory structures shall comply with chapter 20.410 (~~Second~~ Accessory Units and Accessory Structures).

...

EXHIBIT A

Proposed Changes to Section 20.310.030

(Inclusionary Housing – Exemptions)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.310.030 Exemptions

This chapter shall not apply to the following, except at the discretion of the City:

...

- D. ~~Second~~ Accessory dwelling units developed in accordance with chapter 20.410 (~~Second~~ Accessory Dwelling Units and Accessory Structures).

...

EXHIBIT A

Proposed Changes to Table 20.340-1 (Parking Requirements by Land Use)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Table 20.340-1
Parking Requirements by Land Use

Land Use	Minimum Required Parking	Additional Use Regulations
Residential Uses		
Animal Keeping, Small	None required	
Caretaker Unit	1 space	Interior dimension: 20 feet x 20 feet
Child Care Facility, Large Family Home	Required residential unit parking spaces and 1 space/2 employees	Tandem parking is permitted in driveways; vehicles cannot encroach into public rights-of-way
Child Care Facility, Small Family Home	Required residential unit parking spaces	Tandem parking is permitted in driveways; vehicles cannot encroach into public rights-of-way
Community Garden	None required.	
Continuing Care Retirement Community	Studio: 1 space/unit 1 Bedroom Unit: 1.5 space/unit 2+ Bedroom Unit: 2 spaces/unit; 1 space shall be covered Guest Parking: 1 space/3 units	
Duplex	2 spaces/unit; guest parking: 1 space/3 units	1 space shall be covered
Emergency Shelter	1 space/4 beds	
Farm Employee Housing, Large	1 space/unit	Space shall be covered
Farm Employee Housing, Small		
Live/Work Space or Live/Work Unit	Refer to live/work requirements under Section 20.340.040 (F), Table 20.240-2	
Mobile/Manufactured Home	2 covered spaces/mobile home; 1 guest space/6 mobile homes	Tandem parking is permitted
Mobile/Manufactured Home Mini Park		
Mobile/Manufactured Home Park		
Multifamily Dwelling	Studio: 1 space/unit; 1 Bedroom Unit: 1.5 space/unit 2+ Bedroom Unit*: 2 spaces/unit; 1 space shall be covered Guest Parking: 1 space/3 units	*1 garage space shall be provided for condominiums, duplexes, townhomes, patio homes. Apartments shall provide one covered parking space (garage or carport) of the required ratio. Additional multifamily requirements are provided in section 20.340.040(G)
Multifamily Dwelling, Affordable Housing (deed restricted)	1.7 spaces / unit	Additional multifamily requirements are provided in section 20.340.040(G)
Non-Commercial Horticulture	None required.	
Planned Residential Development (PRD)	Sum of individual parking requirements for each use; residential parking by bedroom count	Chapter 20.435 (Planned Residential Development)

**Table 20.340-1
Parking Requirements by Land Use**

Land Use	Minimum Required Parking	Additional Use Regulations
Private Residential Garage	None required.	
Recreational Vehicles (RVs)/Parks	To be determined by the Director during SDP or CUP review process.	
Residential Care Facility, Small & Large	1 space/3 residents	Provision of parking shall be based on the population served and level of care provided at the facility. Minimum requirements here are guidelines for establishing appropriate service levels on a case by case basis at time of SDP review
Rooming House	1 space/room; plus 2 spaces	
~~Second~~ Accessory Dwelling Unit/Accessory Dwelling	1 space/ ~~second~~ accessory dwelling unit	
Senior/Age-Restricted Dwelling or Unit	1.25 spaces/unit	Satisfies resident and visitor parking
Single-Family Attached	2 spaces/unit	1 space shall be covered;
Single-Family Detached	≤3,000 s.f. unit: 2 attached covered spaces required; >3,000 s.f. unit: 3 attached covered spaces required	See Table 20.340-5 for additional standards; Section 20.340.060(H)
Sport Court, on a Residential Lot	None required.	Residential Zones only.
Supportive Housing	Studio: 1 space/unit 1 Bedroom Unit: 1.5 space/unit 2+ Bedroom Unit: 2 spaces/unit; 1 space shall be covered, Guest Parking: 1 space/3 units	
Transitional Housing	2 covered spaces/unit	

...

EXHIBIT A

Proposed Changes to 20.400.220

(Specific Use Standards – Utility Service)

Additions are shown as underlines and deletions are shown as ~~strikethrough~~

Section 20.400.220 Utility Service

The developer or owner of a property shall be responsible for utility service connections in cooperation with responsible utility companies and in compliance with Title 17 of this Code.

...

C. **Amateur/Non-Public Antennas.** Amateur and non-public transmitting and/or receiving antennas shall meet the following standards:

1. All such antennas shall conform to required setbacks, consistent with accessory structure setbacks within the applicable Zone; see chapter 20.410 (~~Second~~ Accessory Dwelling Units and Accessory Structures).
2. All such antennas shall not exceed sixty (60) feet in height, as measured from the finished grade of the lot, except with the issuance of a Special Use Permit subject to the standards of this Zoning Ordinance.

EXHIBIT A

Proposed Changes to 20.600.030

(Definitions – “A” Definitions)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.600.030 “A” Definitions

...

Accessory Dwelling Unit. A residential dwelling unit (i) created within the living area of an existing dwelling unit or accessory structure located on the parcel; (ii) attached to an existing dwelling unit located on the parcel; or (iii) detached from an existing dwelling unit located on the parcel, but located on the same parcel as the existing dwelling unit, that provides complete independent living facilities for one (1) or more persons on the same parcel as a legal single family residence. An accessory dwelling unit shall include permanent provisions that include living, sleeping, eating, cooking, and sanitation.

Accessory Structure. A structure that is subordinate to, and detached from the main structure, the use of which is incidental and subordinate to that of the main structure. See chapter 20.410 (See ~~and~~ Accessory Dwelling Units and Accessory Structures).

...

EXHIBIT A

Proposed Changes to 20.600.210

(Definitions – “S” Definitions)

Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.600.210 “S” Definitions

...

~~Second Dwelling Units (land use).~~ A detached or attached residential dwelling unit that provides complete independent living facilities for one (1) or more persons on the same parcel as a legal single family residence. A second dwelling unit shall include permanent provisions that include ~~living, sleeping, eating, cooking, and sanitation.~~

...

EXHIBIT B

Text Amendment amending Chapter 20.305 governing density bonuses

EXHIBIT B

Additions are shown as underlines and deletions are shown as ~~striketrough~~

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ARTICLE 3 GENERAL DEVELOPMENT STANDARDS

CHAPTER 20.305 DENSITY BONUS

Sections:

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EXHIBIT B

CHAPTER 20.305 DENSITY BONUS

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Section 20.305.130	<u>Severability</u>

Section 20.305.010 Purpose of Chapter

This chapter is intended to provide incentives for the production of housing for ~~extremely low~~, very low, ~~and low~~ and moderate income households, and ~~older adult~~ senior citizen households in accordance with the State's density bonus laws (sections 65915, 65916, and 65917 through 65918 of the California Government Code. In enacting this chapter, it is the intent of the City to encourage and facilitate the development of affordable housing and to implement the goals, objectives, and policies of the City's Housing Element.

The regulations and procedures set forth in this chapter shall apply throughout the City. Sections of the California Government Code referenced in this chapter, and application forms for complying with this chapter, shall be available to the public.

Section 20.305.020 Applicability

This chapter applies when an applicant seeks a density bonus for a housing development within the City or for the donation of land for housing within the City. The City shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in Government Code Section 65915. The granting of the density bonus shall not be interpreted to require a General Plan amendment, Zone change, or other discretionary approval.

A. **Terms.** The following definitions apply for terms used throughout this chapter:

1. **Density Bonus.** A density increase over the otherwise maximum allowable gross residential density as of the date of submission of the density bonus application to the City, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of

affordable housing units exceeds the percentage established in Government Code Section 65915.

2. **Density Bonus Housing Agreement.** A legally binding agreement between the developer and the City to ensure that the requirements of this chapter are satisfied.
3. **Density Bonus Unit.** An additional residential unit granted according to the provisions of this chapter that exceeds the otherwise maximum residential density of a development site.
4. **Housing Development.** A development project for five or more residential units, including mixed-use developments. For purposes of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.
5. **Target Unit.** A unit designated to be occupied by a household meeting certain eligibility standards defined by the City.

Section 20.305.030 State Density Bonuses and Concessions

- A. **Incentive Grant.** The City shall grant a density bonus after review by the City Council, as set forth in ~~section 20.305.060 (Density Bonus Housing Agreement)~~ 20.305.080 (Density Bonus Housing Agreement) to:
 1. Housing Development. An applicant or developer of a housing development who seeks and agrees to construct ~~affordable or senior housing units or land,~~ a housing development in compliance with the standards set forth in Government Code Section 65915, as amended from time to time;
 2. Donation of Land. An applicant for a tentative subdivision map, parcel map or other residential development approval who donates land to the City in accordance with the standards set forth in Government Code Section 65915, as amended from time to time;
 3. Child Care Facility. An applicant or developer of a housing development who proposes to construct a child care facility located on the premises of, as part of, or adjacent to, the housing development in accordance with the standards set forth in Government Code Section 65915, as amended from time to time;
 4. Condominium Conversions. An applicant or developer of a housing development who proposes to convert apartments to a condominium project in accordance with the standards set forth in Government Code Section 65915.5, as amended from time to time; and/or
 5. If requested by the applicant or developer of a housing development, and consistent with the applicable requirements of this chapter and Government Code Section 65915, the City may also grant any of the additional incentives listed in Section 20.305.060.
- B. **Calculation.** In determining the minimum number of density bonus units to be granted pursuant to this section, the maximum residential density for the site shall be increased as defined in Government Code Section 65915(f) and (g). When calculating the number of permitted density bonus units, any fraction of units shall be rounded to the next larger integer.

1. The density bonus units shall not be included when determining the total number of target units in the housing development. When calculating the required number of target units, any resulting decimal fraction shall be rounded to the next larger integer.
 2. In cases where a density increase less than provided for in Government Code Section 65915 is requested, no reduction shall be allowed in the number of target units required.
 3. An applicant who requests a density bonus pursuant to Government Code Section 65915 shall elect on what basis the bonus shall be awarded.
 4. The maximum combined mandated density increase shall be thirty-five (35) percent.
- C. **Limited Action.** The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zone change, or other discretionary approval.

Section 20.305.040 Affordability and Occupancy Standards

- A. **Documentation.** The City Council, by resolution, shall approve standard documents to ensure the continued affordability of target units consistent with Government Code Section 65915 and this section. The documents may include regulatory agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents that shall be recorded against all target units. Affordability documents for target units offered for sale may also include subordinate shared appreciation documents permitting the City to recapture at resale the difference between the fair market rate price of the target unit at the time of sale, and the affordable price to the initial occupants at the time of the initial sale, plus a the City's proportionate share of appreciation realized from an unrestricted sale in such amounts as deemed necessary by the City to replace the target units.
- B. **Rental Affordability Tenure.** Target units offered for rent to low, or very-low ~~and extremely low~~ income households shall be made available for rent consistent with Government Code Section 65915, and shall remain restricted and affordable to the designated income group for thirty (30) fifty-five (55) years or more. A term of affordability longer than thirty (30) fifty-five (55) years may be required if the residential development receives a subsidy of any type, including a loan, grant, construction or mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability, or as prescribed in any guidelines adopted by the City for the Density Bonus Program. Rents for the lower income target units shall be set at an affordable rent, as that term is defined in Section 50053 of the California Health and Safety Code.
- C. **Ownership Affordability Tenure.**
1. Target units offered for sale to low, very-low ~~extremely low~~, or moderate income households shall be sold at an affordable cost to the initial occupants of the target units. At resale, the City shall enforce an equity-sharing agreement in accordance with Government Code Section 65915, unless such an agreement is in conflict with the requirements of another public funding source or law.
 2. For all other target units offered for sale other than to low, very low or moderate income households, any subordinate shared appreciation documents shall continue for a term of

~~thirty (30)~~ fifty-five (55) years or more. If resale restrictions are used in lieu of shared appreciation documents, any resale restriction shall continue for a term of ~~thirty (30)~~ fifty-five (55) years or more. A term of affordability longer than ~~thirty (30)~~ fifty-five (55) years may be required if the residential development receives a subsidy of any type, including a loan, grant, ~~construction or~~ mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability.

- D. **Principal Residence.** Any household that occupies a target unit must occupy that dwelling unit as its principal residence.
- E. **Occupancy Requirements.** No household may begin occupancy of a target unit until the household has been determined by the City or its designee to be eligible to occupy that dwelling unit, including, but not limited to, that the initial occupant of the target unit is a person or family of very low, low or moderate income, as required. The City Council, by resolution, shall establish guidelines for determining household income, maximum occupancy standards, affordable ownership cost, affordable rent, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.
- F. ~~Fees.~~ The City Council, by resolution, ~~may establish fees for projects requesting density bonuses and incentives or concessions and for the ongoing administration and monitoring of the target units and daycare centers; fees shall be subject to the provisions of the regulatory agreement between the parties.~~
- G. **Eligibility Restrictions.**
1. ~~Any person who is a member of the City Council, the Planning Commission, and their immediate family members, and any person having any equity interest in the residential development, including a developer, partner, investor, or applicant and their immediate family members, is ineligible to rent, lease, occupy, or purchase a target unit. The City Council, by resolution, may establish guidelines for determination of "immediate family members."~~
 2. An applicant shall be ineligible for a density bonus or other incentives or concessions according to the standards set forth in Government Code Section 65915 if (i) the housing development is proposed on any property that includes a parcel on which rental dwelling units are located, or if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of low or very low income; (ii) subject to any other form of rent or price control through the City's valid exercise of its police power; or (iii) occupied by lower or very low income households, unless the proposed housing development replaces those units and either the proposed housing development, inclusive of the units replaced, contains affordable units at the percentages set forth in Government Code Section 65915, or each unit in the development, exclusive of the manager's unit, is affordable to and occupied by either a low or very low income household.

Section 20.305.050 Requirements

- A. **Inclusionary Housing.** All residential projects, including density bonus projects, are subject to and must satisfy the requirements of any inclusionary housing policies or ordinances of the City.
- B. **Design.** All units within a density bonus project, including the density bonus units and the target units, must comply with all applicable building and housing codes. The design of the target units shall be consistent and compatible with the design of the total project development in terms of size, appearance, materials, and finished quality.
- C. **Agreement Conditions.** A density bonus housing agreement shall be a condition of all housing developments pursuant to this chapter. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development that are designated for the location of the target units.
- D. **Construction.** Target units shall be constructed concurrent with market-rate units unless both the final decision-making authority of the City and the developer/applicant agree within the density bonus housing agreement to an alternative schedule for development.
- E. **On-Site Requirement.** Target units and density bonus units shall be built on-site, except as expressly permitted by this chapter or Government Code Section 65915 or subject to the discretion of the City, and, whenever reasonably possible, distributed throughout the project site.
- F. **Housing Options.** The target units created shall provide a range of housing options to specifically address the affordable housing needs and priorities of the residents of the City. This includes such factors as housing configuration (condominiums, townhouses, apartments, single-family occupancy, etc.); number of bedrooms; and certain amenities specific to the housing type such as facilities for older adults, students, and families.
- G. **Affordability Tenure.** Target units shall remain restricted and affordable, as determined pursuant to Section 20.305.040(B) and (C).

Section 20.305.060 Additional Incentives

An applicant or housing developer seeking a density bonus pursuant to this chapter may submit a proposal to the City for any of the following: (i) specific concessions or incentives; (ii) waivers or reductions of development standards; and/or (iii) parking ratios. The applicant or housing developer requesting the additional incentives may also request a meeting with the City to discuss such additional incentives.

A. **Concessions or Incentives.** An applicant may submit a proposal to the City for specific incentives or concessions that the applicant or housing developer requests. The number of concessions or incentives granted by the City shall be restricted in compliance with the standards set forth in Government Code Section 65915, as amended from time to time. The City shall grant the requested concession(s) or incentive(s), unless the City makes a written finding, based upon substantial evidence, of any finding

included in this subsection or Government Code Section 65915. The City shall bear the burden of proof for the denial of any requested concession or incentive.

1. The concession or incentive does not result in identifiable and actual cost reductions to provide affordable housing costs, or for rents for the target units; or
2. The concession or incentive would have a specific, adverse impact upon the public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources, and for which there is no feasible method to mitigate or avoid the adverse impact without rendering the development unaffordable; or
3. The concession or incentive would be contrary to State or Federal law.

B. Waiver of Reduction of Development Standards. An applicant may submit a proposal to the City for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a housing development. A proposal for such a waiver or reduction of development standards shall not reduce or increase the number of concessions or incentives to which the City determines the applicant is entitled. The City shall grant the requested waiver or reduction of development standards, unless the City makes a written finding, based upon substantial evidence, of any finding included in this subsection or Government Code Section 65915. The City shall bear the burden of proof for the denial of any requested waiver or reduction of development standards.

1. The waiver or reduction of development standards would have a specific, adverse impact upon the public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources, and for which there is no feasible method to mitigate or avoid the adverse impact without rendering the development unaffordable; or
2. The waiver or reduction of development standards would be contrary to State or Federal law.

C. Parking. An applicant may submit a request to the City to limit the vehicular parking ratio of a housing development, inclusive of handicapped and guest parking, to the ratios listed under this subsection or any other ratio permitted under Government Code Section 65915, as amended from time to time. A request for limited parking ratios shall not reduce or increase the number of concessions or incentives to which the City determines the applicant is entitled.

1. Zero to one bedroom: one (1) onsite parking space
2. Two to three bedrooms: two (2) onsite parking spaces
3. Four and more bedrooms: two and one-half (2.5) parking spaces

4. Transit Stop. An applicant may submit a request to the City to limit the vehicular parking ratio of a housing development, inclusive of handicapped and guest parking, if the housing development is located within one-half mile of a major transit stop in accordance with the standards under Government Code Section 65915.

Section 20.305.070 Density Bonus Application

A. **Required Items.** The City shall provide a list of all documents and information required to be submitted with the density bonus application for the application to be deemed complete.

B. **Timeline for Review and Notification to Applicant of Completion.** The City shall process a density bonus application within thirty (30) days after receiving the application, and shall notify the applicant in writing whether or not the application is deemed complete in a manner consistent with Government Code Section 65943. If additional time is required for the City to review a density bonus application, the City shall inform the applicant in writing of the reason for the additional time necessary to review the application.

Section 20.305.080 Density Bonus Housing Agreement

A. **Agreement Required.** Applicants/developers requesting a density bonus shall agree to enter into a density bonus housing agreement with the City. The terms of the draft agreement shall be reviewed and revised, as appropriate, by the Director, and approved by the City Manager.

B. **Recordation.** Following execution of the agreement by all parties, the completed density bonus housing agreement, or memorandum thereof, shall be recorded and the conditions recorded as a deed restriction on the parcel(s) or unit(s) designated for the location of target units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus housing agreement shall be binding to all future owners and successors in interest.

C. **Required Items.** In addition to the density bonus application required under Section 20.305.070, the ~~The~~ density bonus housing agreement shall include the following:

1. The total number of units approved for the housing development, including the number of target units and density bonus units.
2. A description of the household income group to be accommodated by the housing development, as outlined in section 20.305.030 (State Density Bonuses and Concessions), and the standards for determining the corresponding affordable rent or affordable sales price and housing cost.
3. The household/unit size assumptions used for the purpose of calculating housing costs, which shall be as follows (unless an adjustment is agreed to by the City, or the applicable state or federal funding source has different requirements):
 - a. One (1)-bedroom units shall be based on the median income for a household of two (2)
 - b. Two (2)-bedroom units shall be based on the median income for a household of three (3)
 - c. Three (3)-bedroom units shall be based on the median income for a household of four (4)

- d. Four (4)-bedroom units shall be based on the median income for a household of five (5)
4. The location, unit size (square feet), and number of bedrooms of target units.
5. Tenure of restrictions for target units of at least ~~ten (10) or thirty (30)~~ fifty-five (55) years, in accordance with section 20.305.050 (Requirements).
6. A schedule for completion and occupancy of target units.
7. A description of the additional incentive(s), equivalent financial incentives, or direct financial assistance being provided by the City.
8. A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third-party beneficiaries under the agreement).
9. For for-sale units, conditions governing the initial sale and resale of for-sale target units to eligible very-low- or low-income households or qualifying residents to ensure continued compliance with the restrictions of this chapter.
10. For for-sale units, a condition requiring disclosure by the developer to the buyer of for-sale target units of the existence of the deed restrictions affecting the re-sale of the property.
11. For rental units, conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units as rental target units.
12. For rental units, a method to annually monitor rental target units to ensure continued compliance with the restrictions of this chapter that identifies the number of bedrooms and monthly rent or cost of each target unit, the income of each person occupying said unit for the prior year, vacancy information for each target unit for the prior year, and any other information as required by the City.
13. A provision allowing the City or its designee the first right of refusal to buy the rental or for-sale target unit(s) for the purposes of providing affordable housing.
14. Other provisions needed to ensure implementation and compliance with this chapter and Sections 65915 through ~~65917~~ 65918 of the California Government Code.

D. **Review.** For purposes of this chapter, the City shall act by and through the City Council or its designee, the City Manager. ~~All density bonus projects shall be reviewed by the City Council.~~

Section 20.305.090 Commercial Development Bonus

- A. **Incentive Grant.** The City shall grant a development bonus to a commercial developer that enters into an agreement for partnered housing with a housing developer to contribute affordable housing through a joint project or two separate projects encompassing affordable housing.
- B. **Agreement for Partnered Housing.** The agreement for partnered housing shall be between the commercial developer and the housing developer, and shall identify how the commercial

developer will contribute affordable housing. The City must approve any such agreement for partnered housing.

- C. **Construction.** Housing may be constructed on the site of the commercial development or on a site specified under Government Code Section 65915.7, as amended from time to time.
- D. **Housing Density Bonus and Additional Incentives.** A development bonus granted to a commercial developer shall not impact a housing developer's ability to receive a density bonus or other additional incentives from the City under this chapter.
- E. **City Council Review.** Any commercial development bonus project shall be reviewed by the City Council.
- F. **Sunset Provision.** This section shall remain in effect until January 1, 2022, and as of that date, is repealed, or until such time as the State repeals Government Code Section 65915.7.

Section 20.305.100 ~~Review of Application Processing Fee~~

~~For purposes of this chapter, the City shall act by and through the City Council or its designee, the City Manager. All density bonus projects shall be reviewed by the City Council.~~

A. ~~Fee Required.~~

- A. The City Council, by resolution, may establish fees for projects requesting density bonuses, additional incentives under Section 20.305.060 of this Chapter, and/or commercial development bonuses, and for the ongoing administration and monitoring of the target units and child care facilities. Any such fees shall be subject to the provisions of the regulatory agreement between the parties.
- B. A developer and/or subsequent owner of a target unit(s) shall be required to pay such fees as may be established by resolution of the City Council to recover the cost to the City of administration of the provisions of this chapter.

Section 20.305.110 Enforcement

The regulations of this chapter, including the terms of any density bonus housing agreement or documents prepared to administer the affordability and eligibility requirements per Section 20.305.040 (Affordability and Occupancy Standards), shall be enforced according to the provisions in chapter 20.550 (Enforcement and Penalty) of this Zoning Ordinance.

Section 20.305.120 Appeal Process

- A. An applicant may submit a request to appeal a decision of the Director to deny an application for a density bonus, incentive or concession submitted under this Chapter. A written appeal shall be filed with the Director, together with the payment of any required fee, within ten (10) days of the decision. The appeal request shall contain the reasons for the appeal and the grounds upon which the appeal is based. The Planning Commission shall hold a hearing on the appeal after

giving notice thereof to the appellant in the manner prescribed in Chapter 20.505 (Noticing and Public Hearings) of this Zoning Ordinance. The Planning Commission shall consider the appeal and shall either affirm the decision of the Director or render its decision de novo on the appeal. The decision of the Planning Commission in the case of any such appeal shall be the final determination of the City.

- B. Any other denials issued by the Director or Planning Commission relating to the overall project approval shall be subject to the appeal provisions under Chapter 20.545 (Appeals and Revocation) of this Zoning Ordinance.
- C. An applicant may also elect to initiate judicial proceedings to contest the City's denial of an application for a density bonus, incentive or concession, as authorized under Government Code section 65915.

Section 20.305.130 Severability

If any provision of this chapter or the application thereof is held to be invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

EXHIBIT C

Text Amendment amending Section 20.300.070(F), Table 20.300-4, 20.400.020.D, 20.450.040.A
and 20.450.040.B governing noise performance standards

EXHIBIT C

Proposed Changes to Chapter 20.300 Site Planning and General Development Standards
Additions are shown as underlines and deletions are shown as ~~striketrough~~

20.300.070 Performance Standards

F. **Noise.** These regulations aim to prohibit unnecessary, excessive, and annoying noises from all sources, as certain noise levels are detrimental to the health and welfare of individuals. The standards of this section and of Chapter 10.24 Noise of the Municipal Code apply to all land uses in all Zones unless otherwise specified.

1. Noise shall be measured with a sound-level meter that meets the standards of the American National Standards Institute (ANSI) (Section S1.4~~6~~1979, Type 1 or Type 2).

Noise levels shall be measured in decibels at the property line of the receptor property, and at least ~~four (4)~~ five (5) feet above the ground and ~~five (5)~~ ten (10) feet from the nearest structure or wall. The unit of measure shall be designated as an A-weighted decibel (dBA) Leq standard. A calibration check shall be made of the instrument at the time any noise measurement is made.

2. No person shall create or allow the creation of exterior noise that causes the noise level to exceed the noise standards established by Table 20.300-4. Increases in allowable noise levels listed in Table 20.300-4 may be permitted in accordance with the standards outlined in Table 20.300-5.

Table 20.300-4
Exterior Noise Standards
by Zone

Zone	Allowable Noise Level (dBA <u>Leq</u>) Measured from the Property Line
Single-Family Residential (A, R-1, R-2) ^{1,2}	
7 a.m. to 10 p.m. (daytime)	60
10 p.m. to 7 a.m. (overnight)	50
Multifamily Residential (R-3) ^{1,2}	
7 a.m. to 10 p.m. (daytime)	65
10 p.m. to 7 a.m. (overnight)	55
Commercial (C, O-P, SR) ³	
7 a.m. to 10 p.m. (daytime)	~~60~~ <u>65</u>
10 p.m. to 7 a.m. (overnight)	55
Industrial	
7 a.m. to 10 p.m. (daytime)	65
10 p.m. to 7 a.m. (overnight)	60

Notes:

1. For single-family detached dwelling units, the "exterior noise level" is defined as the noise level measured at an outdoor living area which adjoins and is on the same lot as the dwelling, and which contains at least the following minimum net lot area: (i) for lots less than 4,000 square feet in area, the exterior area shall include 400 square feet, (ii) for lots between 4,000 square feet to 10 acres in area, the exterior area shall include 10 percent of the lot area; (iii) for lots over 10 acres in area, the exterior area shall include 1 acre.
2. For all other residential land uses, "exterior noise level" is defined as noise measured at exterior areas which are provided for private or group usable open space purposes. "Private Usable Open Space" is defined as usable open space intended for use of occupants of one dwelling unit, normally including yards, decks, and balconies. When the noise limit for Private Usable Open Space cannot be met, then a Group Usable Open Space that meets the exterior noise level standard shall be provided. "Group Usable Open Space" is defined as usable open space intended for common use by occupants of a development, either privately owned and maintained or dedicated to a public agency, normally including swimming pools, recreation courts, patios, open landscaped areas, and greenbelts with pedestrian walkways and equestrian and bicycle trails, but not including off-street parking and loading areas or driveways.
3. For non-residential noise sensitive land uses, exterior noise level is defined as noise measured at the exterior area provided for public use.

3. No person shall create nor allow the creation of noise that causes the interior noise level when measured within a dwelling unit to exceed forty-five (45) dBA at any time, except as permitted by Table 20.300-6.
4. Use of compressors or other equipment, including vents, ducts, and conduits, but excluding window or wall-mounted air-conditioners, that are located outside of the exterior walls of any building, shall be enclosed within a permanent, non-combustible, view obscuring enclosure to ensure that the equipment does not emit noise in excess of the ANSI standards.

Table 20.300-5
Permitted Increase in Noise Levels

Permitted Increase (dBA)	Duration (cumulative minutes per hour)
5	15
10	5
15	1
20	Less than 1 minute

Table 20.300-6
Permitted Increase in Interior Noise Levels

Permitted Increase (dBA)	Duration (cumulative minutes per hour)
5	1
10	Less than 1 minute

- G. **Vibration.** Vibration may disturb the conduct of certain activities and create discomfort for some individuals. To minimize the disturbance and inconvenience from vibrations, no person or use shall create, maintain, or cause ground vibration that is discernible without instruments to a person of normal sensitivity at any point on a property that is adjacent to the property of the vibration source. The ground vibration caused by moving vehicles, trains, aircraft, or temporary construction or demolition is exempted.

EXHIBIT C

Proposed Changes to Chapter 20.400 Specific Use Standards
Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.400.020 Applicability

Land uses and activities addressed by this chapter shall comply with the provisions of this chapter applicable to the land use, in addition to all requirements of the applicable Zone and this Zoning Ordinance.

- A. **Applicable Activities.** The provisions of this chapter shall apply to the establishment of the land use or any modification to the land use exceeding ten percent (10%) of the value or twenty percent (20%) of the floor area of the existing use.
- B. **Nonconforming Uses.** The regulations of chapter 20.345 (Nonconforming Uses and Structures) for nonconforming land uses and structures, including thresholds and timing, shall prevail over the provisions of this chapter.
- C. **Permit Requirements.** All land uses addressed in this chapter shall be subject to the permit requirements of the applicable Zone. If a CUP is required, the standards of this chapter shall be the minimum requirements for the CUP.
- D. **Regulations.** All land uses and activities regulated by this chapter shall comply with all state, building, and fire codes, and shall not exceed the City's noise limits ~~as established by the General Plan~~ of Section 20.300.070(F) or Chapter 10.24 Noise of the San Marcos Municipal Code.
- E. **Conflicts.** In the event of any conflict between the requirements of this chapter and those of another chapter or section of this Zoning Ordinance, except the provisions of chapter 20.345 (Nonconforming Uses and Structures), the provisions of this chapter shall prevail.

EXHIBIT C

Proposed Changes to Chapter 20.450 Renewable Energy
Additions are shown as underlines and deletions are shown as ~~striketrough~~

Section 20.450.040 Development Standards

The following requirements shall apply to all non-solar, non-public renewable energy systems based on the type of system and applicable performance standards:

- A. **Noise.** All renewable energy systems shall be operated in such a manner that they do not exceed the City's noise standards as established ~~in the General Plan~~ in Section 20.300.070(F) and Chapter 10.24 Noise of the San Marcos Municipal Code.
- B. **Setbacks.** All non-solar renewable energy systems mounted to a building or structure shall be subject to the required setbacks of the applicable Zone, except as modified below:
 - 1. Where encroachments are *necessary for proper function* of the renewable energy system, based on system type or adjacency conditions, no portion of the system shall be:
 - a. less than two (2) feet from any rear or interior property line; however, Section 20.300.070(F) GP noise restrictions as ~~measures~~ measured from the property line shall prevail over this encroachment provision; or
 - b. closer than ten (10) feet to any street frontage or ROW
 - 2. Stand-alone, ground-mounted renewable energy systems are prohibited; in the I and I-2 Zones, such systems shall be subject to a CUP and appropriate public hearings.

EXHIBIT D

Text Amendment amending Chapter 20.335 governing walls and fences

EXHIBIT D

Additions are shown as underlines and deletions are shown as ~~strikethrough~~

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Section 20.335.040	Non-Residential and Mixed Use Requirements
Section 20.335.050	Single Family Residential Requirements
Section 20.335.060	<u>Agricultural Zone Requirements</u>

EXHIBIT D

Additions are shown as underlines and deletions are shown as ~~strikethrough~~

CHAPTER 20.335 WALLS AND FENCES

Sections:

Section 20.335.010	Purpose of Chapter
Section 20.335.020	Applicability
Section 20.335.030	General Development Standards
Section 20.335.040	Non-Residential and Mixed Use Requirements
Section 20.335.050	Single-Family Residential Requirements
<u>Section 20.335.060</u>	<u>Agricultural Zone Requirements</u>

Section 20.335.010 Purpose of Chapter

The purpose of this chapter is to regulate the development, installation, and maintenance of private walls and fences within the community. Specifically, this chapter does the following:

- A. Promotes the public health, safety, and general welfare of the City by regulating the fences and walls protecting or separating real property.
- B. Further modifies the operation of allowable land uses by regulating the installation, operation, and maintenance of all walls and fences.

Section 20.335.020 Applicability

The provisions of this chapter shall be applicable to all walls and fences required by any land use or within any Zone of this Title except as modified by chapter 20.400 (Specific Use Standards) or 20.445 (Refuse and Recycling).

- A. **Review Required.** The review of fences and walls shall be an integral part of any site plan, permit, or Site Development Plan Review application. Compliance with all wall and fence standards shall be required, unless otherwise modified by a DP.
- B. **Swimming Pools, Spas, and Similar Features.** Swimming pools, spas, and similar features shall be fenced in accordance with the California Building Code.

Section 20.335.030 General Development Standards

- A. **Architectural Compatibility.** Walls, fences, and architectural screening elements shall be compatible with the architectural treatment of the primary building on the parcel, and shall meet all standards applicable to the Zone unless otherwise modified by this chapter.
- B. **Visibility.** No wall, fence, or landscaping element shall interfere with intersection visibility or line of sight or other safety issue. See Figure 20.300-4.

- C. **Blank Walls Prohibited.** Blank walls are prohibited. Where screening or security walls (excluding wrought iron fences) are located within ten (10) feet of a public ROW, landscaping shall be provided between the wall and the ROW to a minimum height of forty-two (42) inches to minimize opportunities for crime and unsafe conditions.
- D. **Permitted Materials.** Approved materials include wood, vinyl, stone, masonry, brick, block, stucco, wrought iron, and concrete. Where opaque walls are required, they shall be constructed of brick, split-face block, stone, or frame-stucco.
- E. **Prohibited Materials.**
1. Barbed, razor, concertina, corrugated metal and plastic, tarps, and electrified wire of any kind or configuration is prohibited in all Zones, except as modified by section 20.335.030 (E) (2) below.
 2. Woven wire, barbed wire, or electrified fencing may be permitted in the front and side yards of all Agricultural (A) Zones only if needed to secure livestock and/or horses; maximum height not to exceed seventy-two (72) inches.
 3. Chain-link fencing and similar material are prohibited along any public ROW regardless of setback. Where chain-link fencing is used, it shall not be visible from the public ROW. This standard shall apply to all Zones except Agricultural (A) Zones.
- F. **Maximum Height.** The height of all walls, fences, and architectural screening elements shall be measured from the finished grade of the property to the highest point of the element.
1. Table 20.335-1 established maximum wall/fence heights by Zone.
 2. Where additional height is needed based on security or specific site operating requirements, additional wall/fence height may be approved through a DP, subject to evaluation of agencies and necessity.
 3. Hedges or other vegetation shall not exceed the maximum height of walls permitted in the Zone so located.

Figure 20.335-1
Fence Height by Location (applicable to R Zones)

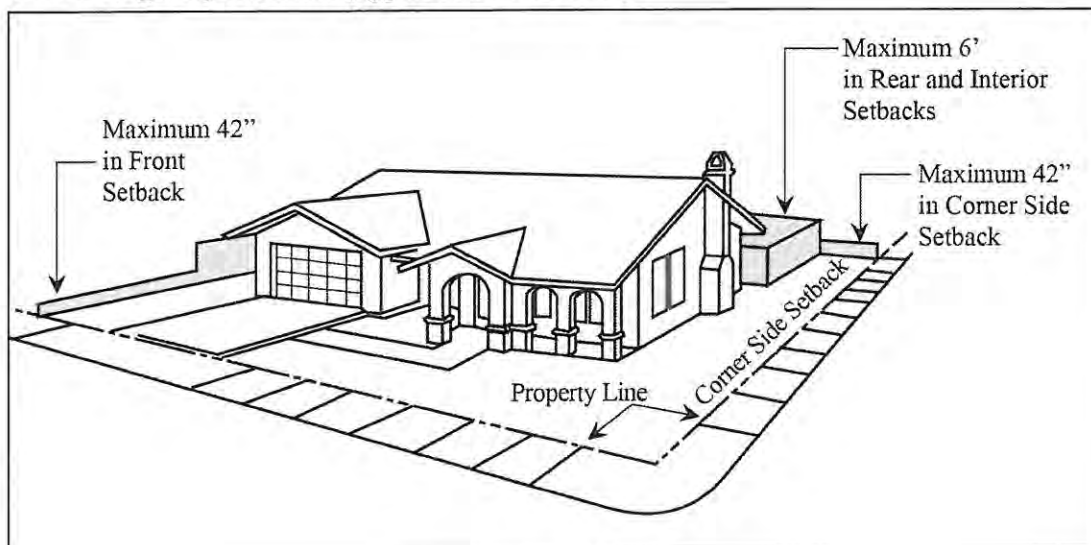


**Table 20.335-1
Wall/Fence Maximum Height Standards by Zone**

Setback Location	Maximum Permitted Height by Setback									
	A & R Zones*		P-I Zone		MU Zones		Commercial		Industrial	
	<Min. Setback	≥Min. Setback	<Min. Setback	≥Min. Setback	<Min. Setback	≥Min. Setback	<Min. Setback	≥Min. Setback	<Min. Setback	≥Min. Setback
Front PL	42"	6'	42"	42"	---	6'	42"	6'	---	6'
Public ROW	42"	6'	6'	6'	---	6'	42"	6'	---	6'
Interior PL	---	6'	6'	6'	7'	7'	8'	8'	10'	10'
Adjacent to R PL	---	6'	6'	6'	6'	6'	6'	6'	6'	6'

Note: --- = not permitted. Heights may be modified by DP or the standards of chapter 20.400 (Specific Use Standards).

*Or as regulated by section 20.335.050 (Single-Family Residential Requirements); and 20.335.060 (Agricultural Zone Standards); privacy fence allowed along rear and interior property lines to the maximum height indicated.

Section 20.335.040 Non-Residential and Mixed Use Requirements

Walls and fences define space, provide buffers between properties and uses, and may be used for security purposes. Where fences and walls are used they shall comply with the provisions of this chapter. Fences and walls shall comply with one (1) or a combination of the following fencing standards, as appropriate for the parcel and adjacent uses:

A. Required.

1. The use of fences and walls along public ROWs is not required in non-residential and Mixed Use Zones, unless specifically required in conjunction with a land use per the standards of chapter 20.400 (Specific Use Standards).
2. Opaque decorative masonry walls, fixed height of six (6) feet, shall be constructed along all property lines abutting properties that have more restrictive Zone.

B. Open-Style Standards. Open-style fences such as spaced wood, chain link with redwood slats, and ornamental iron, can be provided when that type of fencing complies with one (1) of the following landscaping requirements, subject to Director approval:

1. Gaps in spaced wood (or simulated wood) fences not to exceed four (4) inches, or one-half (½) the width of the average board or slat, whichever is less.
2. Planting with sufficient vines or climbing ivy of an acceptable density to ensure complete view-obstructing screening within one (1) year of planting.
3. Combination of landscaped berm and solid masonry block wall to a minimum height of six (6) feet. Trees of the evergreen variety or other year-round leaf-bearing type shall be planted so that they exceed this minimum height.
4. Combination of trees and shrubs of the evergreen variety, or other similar year-round leaf-bearing type, set away and in front of the fence line so as not to encroach over the fence. Such plants shall be of such variety and shall be clustered so as to allow only minimal gaps between foliage of mature trees and shrubs within one (1) year after planting.

5. Evergreen shrubs or other similar year-round leaf-bearing shrub, planted with such spacing so as to form a solid hedge with a minimum of eight (8) feet in height within one (1) year after planting.
6. All planting and landscaping shall be in compliance with chapter 20.330 (Water Efficient Landscape Standards).

C. Mixed Use Limitations.

1. Mixed Use Zones may use wrought iron or decorative metal fencing and gates along public ROW setback lines to a maximum height of six (6) feet.
2. Walls along the ground floor public ROW shall be limited to forty-two (42) inches in height and may only be allowed in conjunction with a residential use or outdoor dining. Walls/fences in conjunction with other non-residential uses are prohibited.
3. No fence or wall shall be closer to the front or public ROW property line than the minimum setback applicable to the Zone or ROW, except for outdoor dining per chapter 20.400 (Specific Use Standards).

D. Maintenance. Fences and walls shall be constructed of new material and shall be maintained in a state of good repair. Any dilapidated, dangerous, or unsightly fences or walls shall be repaired or removed.

Section 20.335.050 Single-Family Residential Requirements

A. Property Boundary Walls. Walls and/or fences for privacy or aesthetics along property boundaries are permitted per the following standards; see Figure 20-335-1.

1. Front setback area maximum height forty-two (42) inches.
 - a. Residential parcels adjacent to major thoroughfares may be permitted a sound wall to an increased height of six (6) to eight (8) feet based on lot configuration and sound wall needs subject to Director and City Engineer approval and building permit requirements.
2. Side street setback area maximum height of forty-two (42) inches within the front setback area, otherwise six (6) feet.
3. Side, interior and rear property lines maximum height six (6) feet.
 - a. Residential parcels adjacent to non-residential uses/parcels may be permitted a wall to an increased height of six (6) feet based on lot configuration and sound wall needs subject to Director approval and building permit requirements. Wall/fence requirements for the non-residential use shall apply.

Section 20.335.060 Agricultural Zone Requirements

A. Property Boundary Fences/Walls. Walls and/or fences for privacy or aesthetics along property boundaries are permitted per the following standards:

1. Front setback area maximum height forty-two (42) inches, except as follows:

- a. On lots of one (1) gross acre or larger in size, open fences consisting of wrought iron, tubular steel, pipe corral, or rails may be a maximum of sixty (60) inches in height. For the purposes of this chapter, "open fences" means any fence which is ninety (90) percent open/transparent. For all corner lots, the line-of-sight triangle shall not be obstructed and fences shall not exceed forty-two inches within this area (see Figure 20.300-4).
 - b. Posts, pilasters, or other support elements for such fences shall not exceed twenty-four (24) inches in any horizontal measurement (width and diameter), shall be spaced a minimum of eight (8) feet apart (edge to edge), and shall not exceed a height of sixty-six (66) inches.
 - c. The maximum height of driveway entry gates and associated pilasters shall not exceed seventy-eight (78) inches. A driveway entry gate and associated pilasters shall be located adjacent to a driveway and may be located within the front yard setback area, provided a minimum twenty (20) foot setback is maintained to the edge of the street intersecting the driveway to allow the vehicle entering the property to stop in the driveway during operation of the gate without impacting traffic in the street.
2. Side street setback area maximum height of forty-two (42) inches within the front setback area, otherwise, six (6) feet. In the side street setback area for corner lots, fencing shall have a maximum height of 6 feet except for any portion that extends into the front yard setback area where the maximum height shall be 42 inches, except as follows:
 - a. On lots of 1 acre or larger in size, an open fence as described in Section 20.335.060(A)(1)(a) may be allowed up to sixty (60) inches in height within the front yard setback area. The line-of-sight triangle shall not be obstructed therefore any fence within this area shall not exceed forty-two (42) inches in height (see Figure 20.300-4).
3. Side, interior and rear property lines maximum height of six feet.

EXHIBIT E

Text Amendment amending Section 20.530.040 governing amendments to the Zoning Ordinance or the San Marcos General Plan

EXHIBIT E

Proposed Changes to Section 20.530.040

(Amendments – Notice and Hearings)

Additions are shown as underlines and deletions are shown as ~~strikethrough~~

Section 20.530.040 Notice and Hearings

Amendments are subject to approval by the Planning Commission and the City Council in a hearing or hearings noticed in accordance with chapter 20.505 (Noticing and Public Hearings).

A. **Decisions.** The Planning Commission shall announce its decision and shall recommend the adoption of the amendment by the City Council or recommend that the application be denied by the City Council. ~~All decisions regarding amendments are required to be approved by a minimum of four-fifths (4/5) decision by the decision-making body.~~

1. ~~An amendment shall not be adopted, except by a four-fifths (4/5th) vote of the full membership of the City Council, if~~ If any of the following protests are presented during the public hearing, are presented: a four-fifths (4/5th) vote of the full membership of the City Council is required to adopt the amendment.

a. Protests to the amendment signed by real property owners of twenty percent (20%) or more of the property for which the amendment is proposed, or

b. Protests to the amendment signed by real property owners of twenty percent (20%) or more of property immediately adjacent to and within five hundred (500) feet of the proposed amendment.

...



ATTACHMENT B
SMMC CHAPTER 10.24

AGENDA ITEM
3

ATTACHMENT B

For Planning Commission reference only, San Marcos Municipal Code:
Additions are shown as underlines and deletions are shown as strikethrough

10.24.010 – 10.24.020

CHAPTER 10.24 NOISE

10.24.010 Loud, Annoying, and Unnecessary Noises Prohibited. No person shall make, cause to be made, or continue to make or cause to be made, within the city limits of the City of San Marcos, any loud, annoying or unnecessary noise that injures, impairs or endangers the health, peace or safety of any person of reasonable sensibilities, or that disturbs the peace, quiet, comfort or tranquility of the neighborhood or community, or exceeds the noise limits set forth in Chapter 20.300.070(F) of the San Marcos Municipal Code. The characteristics and conditions that should be considered in determining whether a violation of the provisions of this section exists, include, but are not limited to, the following: **(Ord. No. 2008-1300; 2/26/08)**

- (1) The level and intensity of the noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is natural or unnatural;
- (4) The level and intensity of background noise;
- (5) The nature and zoning of the area abutting and within which the noise emanates;
- (6) The time of the day or night the noise occurs;
- (7) Whether the noise is recurrent, intermittent or constant;

10.24.020 Definitions and Examples of Prohibited Noise.

(a) "Prohibited Noise" means any sound that disturbs a reasonable person of normal sensitivities, or is plainly audible as further defined in this section, or the noise limits set forth in Chapter 20.300.070(F) of the San Marcos Municipal Code. Where no specific distance is set forth for the determination of audibility, references to noise disturbance shall be deemed to mean plainly audible at a distance of two hundred (200) feet from the real property line of the source of the sound, if the sound occurs on privately owned property, or from the source of the sound, if the sound occurs on public right of way, public space or other publicly owned property. **(Ord. No. 2008-1300; 2/26/08)**