

LBG:km  
GPMoratorium  
3/24/05



**ORDINANCE NO. 4666**

**AN INTERIM ORDINANCE MAKING FINDINGS AND ESTABLISHING A  
TEMPORARY MORATORIUM ON THE ISSUANCE OF BUILDING AND  
GRADING PERMITS UNLESS AN ANALYSIS OF GENERAL PLAN  
CONSISTENCY IS COMPLETED**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES  
ORDAIN AS FOLLOWS:**

Section 1. Findings

- A. On July 19, 2004 the Board of Supervisors adopted the 2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief (2004 General Plan).
- B. On March 8, 2005 the voters of El Dorado County confirmed by referendum said plan.
- C. The 2004 General Plan Environmental Impact Report identified numerous potentially significant impacts that could be mitigated by instituting a ministerial review process for certain classes of building and grading permits not otherwise subject to a determination of consistency with the general plan to ensure conformance with general plan policies. This mitigation measure is embodied in Policy 2.2.5.20 of the Land Use Element of the 2004 General Plan.
- D. The mitigation measures direct the County of El Dorado to prepare standards applicable to building and grading permits to be contained within the zoning ordinance (Title 17) of the El Dorado County Code.
- E. The county's zoning ordinance will be revised to implement the 2004 General Plan. Staff has commenced work on such revisions. However, such revisions cannot be implemented until the Sacramento Superior Court lifts a writ of mandate issued by that court on July 19, 1999 in the case of El Dorado County Taxpayers for Quality Growth, et al. v. El Dorado County Board of Supervisors. In any event, such revisions will be extensive and will require a substantial amount of time to complete.

F. In order to avoid environmental impacts identified in the 2004 General Plan Environmental Impact Report, and to ensure that substantial development does not occur prior to adoption of revisions to the zoning ordinance that are inconsistent with the 2004 General Plan and the revised zoning ordinance, it is necessary to prohibit issuance of certain classes of building and grading permits unless such permits are subject to review for consistency with the 2004 General Plan.

G. It is the intent of the Board of Supervisors to develop a ministerial checklist procedure to determine whether such projects present inconsistencies with the 2004 General Plan pending adoption of a zoning ordinance revised to implement the 2004 General Plan.

### Section 2. Imposition of Moratorium

A. In accordance with the authority granted to the County of El Dorado under Government Code section 65858, the issuance of building permits and grading permits to which this ordinance is made applicable by Section 3 below, is hereby prohibited, unless said permits satisfy the General Plan Consistency Review, as described in Section 4 below.

B. This ordinance is an interim ordinance adopted as an urgency measure pursuant to the authority granted by the County of El Dorado under Government Code section 65858 and is for the immediate preservation of the public safety, health and welfare. The facts constituting the urgency are: The voters of the County of El Dorado have upheld the action of the Board of Supervisors in adopting the 2004 El Dorado County General Plan by supporting Measure B. The County has made a commitment to uphold and implement the policies of the 2004 General Plan. In order to prevent adverse environmental impacts as a result of ministerial project approvals pending completion of a comprehensive revision to the county's zoning ordinance to implement the 2004 General Plan, Policy 2.2.5.20 requires the establishment of a review process for building permits and grading permits to ensure consistency with the 2004 General Plan and protection of the environment from the impacts associated with ministerial development. This interim ordinance is necessary in order to prevent substantial development that could have the potential for significant impacts to the environment and that could be inconsistent with the 2004 General Plan and the zoning ordinance that will implement it. Development of such a zoning ordinance revision has begun but will require substantial time to complete.

### Section 3. Applicability.

A. Subject to Section 3.B below, this ordinance shall apply to all of the following permits:

1. Building permits for new construction of structures, as defined in the 2004 General Plan, greater than 120 square feet, including additions to existing structures.

2. Building permits or other permits for development that require a grading permit.

B. The provisions of this ordinance shall not apply to any of the following:

1. Any permits that, absent the existence of this interim ordinance, would require a finding of consistency with the general plan pursuant to other provisions of state law or local ordinances.

2. Any permit issued pursuant to an application filed on or before March 15, 2005, unless the project is substantially expanded subsequent to that date as determined by the Director of Development Services or designee.

3. Any permits issued in accordance with an approved development agreement to the extent the development agreement prevents the application of policies of the 2004 General Plan.

Section 4. Consistency Review Process and Standards.

A. County staff, under the direction of the Director of Development Services, shall prepare a policy compliance checklist, outlining the required information to be submitted by an applicant. Said checklist may be amended from time to time as new standards are developed. The purpose of the checklist is to allow for a ministerial review to determine whether the proposed project is consistent with new policies of the 2004 General Plan that are not reflected in the current zoning ordinance or other building regulations.

B. All applications for development subject to this ordinance under Section 3 above, shall include a policy compliance checklist completed by the applicant.

C. Staff shall review the completed checklist against adopted general plan standards and determine, prior to issuance of any development permit, if the proposed development complies with the applicable general plan policies. If the proposed development is found to conform to the applicable policies, the reviewing authority shall make a record of its findings to be retained with the permit information. Such permits may be issued subject to compliance with all other applicable provisions of law. If a proposed development is found to be inconsistent with any policy, the applicant shall be advised of the determination and shall be afforded an opportunity to revise the proposed development to attain consistency or, if appropriate, seek discretionary review as set forth below.

D. Development shall be deemed to conform to the applicable general plan policies if the checklist:

1. Does not reflect any inconsistency with quantified, objective standards of the 2004 General Plan identified on the checklist; and

2. Does not reveal any condition of the subject property that might render the proposed development inconsistent with non-quantified, qualitative policies of the 2004 General Plan.

If a proposed development does not conform to general plan policies pursuant to the checklist review as set forth above, no permit shall be issued for the development unless:

1. The applicant modifies the application to eliminate any inconsistencies identified;  
or

2. With respect to any conditions that exist that require further qualitative review to determine consistency with non-quantified policies of the 2004 General Plan, the applicant has applied for and obtained discretionary review through the design review, use permit or similar process as determined appropriate by the Director of Development Services or designee, and obtained a finding of general plan consistency. Such review is hereby authorized whether or not otherwise required or authorized by ordinance.

#### Section 5. Compliance with California Environmental Quality Act.

The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 16060(c)(3) (the activity is not a project as defined in section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical changes to the environment, directly or indirectly. Further, this ordinance is intended to implement mitigation measures identified in the 2004 General Plan Environmental Impact Report and will have a positive, beneficial effect on the physical environment.

#### Section 6. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 7. Effective Date.

This ordinance shall become effective March 29, 2005, if adopted by at least four-fifths vote of the County Board of Supervisors and shall be in effect for 45 days from the date of adoption unless extended by the County Board of Supervisors as provided for in Government Code section 65858.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the \_\_\_\_ day of \_\_\_\_\_, 2005, by the following vote of said Board:

Ayes:

**ATTEST**  
**CINDY KECK**  
Clerk of the Board of Supervisors

Noes:  
Absent:

By \_\_\_\_\_  
Deputy Clerk

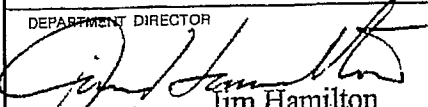
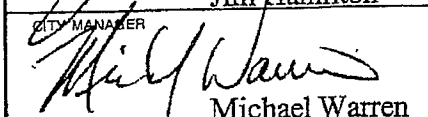
\_\_\_\_\_  
Chairman, Board of Supervisors

**I CERTIFY THAT:**  
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

**Date** \_\_\_\_\_  
**ATTEST:** CINDY KECK, Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_  
Deputy Clerk

**REPORT TO CITY COUNCIL**

ITEM NO.	9 - 4(d)
MEETING DATE	12-5-00
APPROVED BY	
DEPARTMENT DIRECTOR	 Jim Hamilton
CITY MANAGER	 Michael Warren

DATE: November 27, 2000

CODE: L-010-500

FROM: Development Services Department

SUBJECT: Adoption of Urgency Ordinance: Interim Zoning Ordinance

**BACKGROUND**

At its meeting of November 28, 2000, the Planning Commission recommended that the City Council adopt the attached Interim Zoning Ordinance. The ordinance is necessary to bridge the gap between the newly adopted General Plan and the City's Zoning Ordinance. As the Council knows, State law requires that the Zoning Ordinance be consistent with the General Plan. The plan not only includes changes in land use classifications which are not yet reflected on the zoning map, but includes development policies that are not included in the text of the existing code. As the guiding document, the land use classifications and policies of the General Plan prevail over those of the code. Failure to ensure that zoning and the General Plan are consistent could place development approvals in the City in jeopardy should a legal challenge be made. An interim ordinance provides a "bridge" between development standards and policies contained in the current Zoning Ordinance and the policies of the new General Plan.

The Legislature recognized the inconsistencies that could result from any major update of a general plan and specifically authorized interim zoning ordinances (Government Code Section 65858). In part, the law states that "the legislative body, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting uses which may conflict with a . . . general plan . . ." The ordinance would be adopted as an "urgency ordinance" and would take effect immediately. *A minimum four-fifths vote of the City Council is required for adoption.* Under the law, the ordinance would be in effect for 45 days. It can be extended for a total period not exceeding two years. A public hearing is required to extend the ordinance, but not for its initial adoption.

The ordinance has the following basic provisions:

1. All land use applications would be reviewed for consistency with the General Plan.
2. No application that is consistent with the plan would be denied, regardless how the property is currently zoned if it is consistent with the policies of the new Plan **and** the development standards of the current Zoning Ordinance based on the General Plan/Zoning Conformance Table contained in the interim ordinance.
3. The Development Services Director would be tasked with making the consistency determinations. Those decisions are appealable to the Planning Commission and City Council as provided for under existing procedures.

4. Properties zoned "U" Unclassified District would not be affected by the interim ordinance, since use permits would still be required for most development.
5. Certain policies of the Municipal Airport Area Plan and the Westside Area Plan would be retained during the interim period. Those policies deal with noise and safety issues. Suggested work programs to update the Comprehensive Land Use Plans for the airports needed will be brought to the Council in the future.

The review and approval process for development projects should be enhanced, since the interim ordinance will provide direction in resolving consistency and processing questions. In most instances, checking consistency with the General Plan will be a straightforward, administrative function that will not add time to the process.

The Council should note that all discretionary projects (those that require use permits, subdivision maps, etc.) must, by law, be found to be consistent with the General Plan prior to approval. Projects may be proposed based on existing zoning where a consistency finding cannot be made because of a land use classification change on the General Plan. When necessary to resolve inconsistencies between current ordinances and the General Plan, interpretation will be sought directly from the Planning Commission. Staff does not expect this to occur often, but the potential is there.

Work on updating the Zoning Code has already been initiated and is being undertaken by Michael Dyett of Dyett & Bhatia and staff. Staff is currently reviewing an administrative draft. Because of the complexity of this task, circulation of a public draft of the document will likely not commence until after the first of the year. Work will also begin shortly on updating the zoning map, a task that may take up to a year given the large number of parcels involved.

The draft Zoning Code is being structured to accomplish a number of things, including:

- Implement the policies of the General Plan by including new use designations and definitions. For instance, the "Neighborhood Commercial" General Plan classification would be implemented by a new "Neighborhood Commercial" zoning designation.
- Eliminate the "U" Unclassified Zoning District.
- Include specific development standards that would not only convey community expectations and General Plan policies, but provide clear guidance on meeting those expectations. The standards will address building height, bulk, form, and relationship to adjacent buildings and land uses.
- Simplify the permit process by better clarifying what development would require discretionary approval. Allowable uses will be defined, and the ambiguities of the existing permit process will be reduced or eliminated.

A major premise in developing the new Zoning Code is to move the City in the direction called for in the General Plan with the lightest possible touch. In order to make this first step as effective as

possible, staff has provided representatives of the development community an opportunity to review and comment on the interim ordinance. No major concerns have surfaced.

### ***ISSUES***

Does the Council concur with the Planning Commission that an interim ordinance is necessary to ensure consistency with the General Plan?

### ***ALTERNATIVES AND IMPLICATIONS OF ALTERNATIVES***

The alternatives for the Council to consider include the following:

1. Adopt the interim ordinance as recommended by the Commission. The ordinance has been reviewed by the City Attorney and meets the criteria specified by the Government Code.
2. Determine that it is not appropriate to adopt the ordinance at this time. This could result in projects being approved that are inconsistent with the General Plan.
3. Direct staff to revise the ordinance as the Commission feels is appropriate.

### ***CONCLUSIONS AND RECOMMENDATIONS***

It is the recommendation of staff that the Commission recommend that the City Council adopt the attached ordinance. As noted, the ordinance would initially be in effect for 45 days, at which time an extension would be sought and the required public hearing initiated. We anticipate that the Zoning Code update and comprehensive rezoning and map revisions will be completed in 12 to 16 months. The Commission should note that the City Attorney's office has determined that the California Environmental Quality Act (CEQA) does not apply to the ordinance.

### ***ATTACHMENTS***

- A. Ordinance

KM;jh

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ORDINANCE NO. 2280

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDDING,  
ESTABLISHING INTERIM ZONING PROVISIONS TO ENSURE THAT  
PHYSICAL DEVELOPMENT IN THE CITY OCCURS  
IN CONFORMITY WITH THE GENERAL PLAN**

**THE CITY COUNCIL OF THE CITY OF REDDING DOES ORDAIN AS  
FOLLOWS:**

**SECTION 1. FINDINGS OF FACT.** The City Council finds and declares as follows:

- A. Redding's General Plan, adopted on October 3, 2000, and effective on November 2, 2000, contains land use classifications which, in some cases, do not correlate directly with the zoning districts contained in Title 18 of the Redding Municipal Code.
- B. The General Plan Diagram, in certain instances, conflicts with the land use classifications previously applied to properties. Rezoning of these properties to reflect the new land use classifications has not yet been accomplished.
- C. The present zoning ordinance of the City of Redding, in some instances, does not conform to the objectives, policies, and intent of the General Plan.
- D. The City Council has approved a work program to update the City's zoning ordinance and rezone properties in a timely fashion in order to achieve conformance with the adopted General Plan.
- E. An urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety in that the issuance of development permits which are inconsistent with the General Plan inhibits community-desired development patterns and prevents the General Plan from acting as the constitution for development within the City, a foundation upon which all land use decisions are to be based. Further, where such zoning inconsistencies exist, the inconsistency with the General Plan violates the provisions of Government Code Section 65860. Authority for establishing interim zoning measures is afforded by Government Code Section 65858.

**SECTION 2. INTERIM REVIEW PROCEDURES, GENERALLY.**

In order to facilitate and encourage orderly development within the city during the interim period during which the zoning ordinance is being revised and properties rezoned, the following interim review procedures are established for all land use requests and development applications:

- A. All discretionary land use actions and physical development applications shall be reviewed for conformance with the objectives, policies, and intent of the General Plan.

- B. No application shall be denied if found to comply with the General Plan and the objectives, policies, and intent expressed therein, even though such application is found not to comply with the use provisions of the present Zoning Ordinance of the City of Redding.
- C. The Development Services Director (Director) shall have the authority to determine whether or not a project or proposed land use conforms to the objectives, policies, and intent of the General Plan. The Director shall also have the authority to determine the intensity and density of uses that should be applied to a given property based on the General Plan land use classification that has been designated, anticipated future zoning, if any, and an analysis of existing and surrounding development. The Director may, at his discretion, refer the consistency determination to the Planning Commission.
- D. Any person dissatisfied with the determination of the Director may appeal the determination to the Planning Commission by filing a written appeal with the City Clerk within ten days of the determination. The Director shall thereupon set a date for a public hearing to be held before the Planning Commission, provide notice of said hearing as required by State law and local ordinance, and submit a report to the Planning Commission in advance of the hearing, which report shall set forth the reasons in support of the determination.
- E. Any person dissatisfied with the decision of the Planning Commission may appeal the decision in the manner set forth in Section 18.74 of the Redding Municipal Code.
- F. The following table provides guidance on the correlation between the General Plan land use classifications and existing zoning districts and related standards. The table may be used as a guide in assisting in initial project design, but does not supercede Items 2A, 2B, or 2C above.

### GENERAL PLAN/ZONING CONFORMANCE

GENERAL PLAN CLASSIFICATIONS	APPLICABLE ZONING DISTRICTS
5P (5 acres/unit)	R-1-B5A, R-1-BFM <sup>1</sup>
1-5 (1-5 acres/unit)	R-1-B40, R-1-B50, R-1-B2A, R-1-BFM <sup>1</sup>
1-2 (1-2 units/acre)	R-1-B40, R-1-BFM, R-1-B15, R-1-B20 <sup>1</sup>
2-3.5 (2-3.5 units/acre) 3-5-6 (3.5-6 units/acre)	R-1, R-1-B15, R-1-BFM <sup>1</sup>
6-10 (6-10 units/acre)	RM-6, RM-9 <sup>2,4</sup>
10-20 (10-20 units/acre)	RM-12, RM-18 <sup>2,4</sup>
20-30 (20-30 units/acre)	RM-24 <sup>1,4</sup>
LO (Limited Office)	R-4
GO (General Office)	C-O

GENERAL PLAN CLASSIFICATIONS	APPLICABLE ZONING DISTRICTS
MUC (Mixed Use Core)	C-4; C-2 <sup>3</sup>
NC (Neighborhood Commercial)	C-1
SC (Shopping Center)	C-2
GC (General Commercial)	C-2
RC (Regional Commercial)	C-2
HI (Heavy Industry)	M-2
GI (General Industry)	M-2, PI <sup>3</sup>
HC (Heavy Commercial)	C-3, C-6 <sup>3</sup>
PF-I (Public Facilities or Institutional) PF-I-S (Public Facilities or Institutional School)	U
PK (Parks—improved open space) PK-G (Golf course—public) REC (Recreation)	U
GWY (Greenway)	OS
AS (Airport Service)	U

- 1 Minimum lot sizes to be determined by the Development Services Director.
- 2 Residential density to be determined by the Development Services Director.
- 3 As determined by the Development Services Director.
- 4 All properties currently zoned "R-3" shall be considered to be zoned "RM" to ensure that subsequent development is in conformance with the policies and intent of the General Plan.

**Notes:**

- a. The "U" Unclassified zoning of properties remains in full force and effect. Development applications on such properties will be processed in accordance with the regulations of that district.
- b. All existing "Combining Districts" shall remain in full force and effect.

**SECTION 3. INTERIM REVIEW PROCEDURES, AIRPORT ENVIRONS.**

Until such time as the Shasta County Airport Land Use Commission approves new Comprehensive Land Use Plans (CLUPs) for Redding Municipal Airport and Benton Airpark, the development policies of the Redding Municipal Airport and the Westside Area Plan, pertaining to the airport environs, remain in effect. Where there is a conflict between said area plans and the General Plan, the General Plan shall prevail.

The following specific policies and figures from the above area plans shall continue to govern the review of development applications in the vicinity of these airports:

**Municipal Airport**

*Noise:* Policies 2f, 2g, 2h, 2j. Figures 5, 5.5, 5.6, 6.

*Safety:* Policies 3b, 3c, 3e. Figure: Industrial Occupancy Classifications.

*Land Use:* Policies 5f, 5h, 5j, 5i, 5p.

**Benton Airpark**

*Aviation Noise:* Policy 1.

*Safety:* Policies 1, 2.

**SECTION 4.**

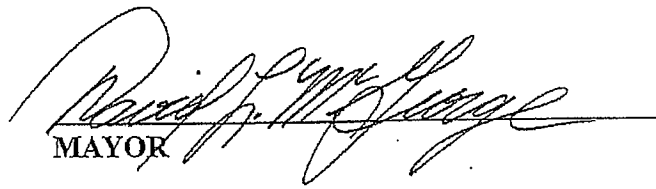
This ordinance shall remain in full force and effect for a period of 45 days following its enactment and shall thereupon be repealed without further action by the City Council unless, after formal public hearing, the City Council by a four-fifths affirmative vote extends the ordinance for a period of time permitted by law.

**SECTION 5.**

The City Council finds and declares that for the reasons set forth above, it is necessary as an emergency measure for preserving the public peace, health, or safety that this ordinance become effective immediately.

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced and read at a regular meeting of the City Council of the City of Redding on the 5<sup>th</sup> day of December 2000 and was duly adopted at said meeting by the following vote:

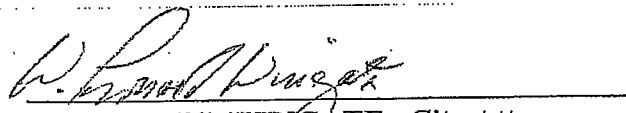
<b>AYES:</b>	<b>COUNCIL MEMBERS:</b> Cibula, Kight, Pohlmeier, Stegall and McGeorge
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b> None
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b> None
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b> None

  
 \_\_\_\_\_  
 MAYOR

**ATTEST:**

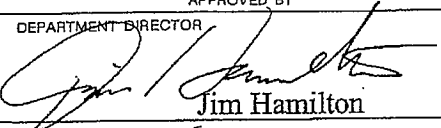

**FORM APPROVED:**

  
 \_\_\_\_\_  
 CONNIE STROHMAYER, City Clerk

  
 \_\_\_\_\_  
 W. LEONARD WINGATE, City Attorney

CITY OF REDDING

**REPORT TO CITY COUNCIL**

ITEM NO.	6 - 1
MEETING DATE	1-2-02
APPROVED BY	
DEPARTMENT DIRECTOR	 Jim Hamilton
CITY MANAGER	 Michael Warren

DATE: December 18, 2001

CODE: L-010-500

FROM: Development Services Department

SUBJECT: Public Hearing re Interim Zoning Ordinance Extension

***BACKGROUND***

At its regular meeting of December 5, 2000, the City Council adopted on an urgency basis an Interim Zoning Ordinance. The ordinance bridges the gap between the new General Plan and the City's Zoning Code, ensuring that they meet State law requirements for consistency. The *initial* term of the ordinance was limited to 45 days as prescribed by law. Council extended the ordinance on January 16, 2001, to provide time for the new Zoning Ordinance and map to be adopted. It is necessary to again extend the Interim Ordinance, since the work on these items has not yet been completed. These extensions are specifically provided for in State law.

This evening's action is to hold a public hearing and adopt the extension of the ordinance. Government Code Section 65858 limits the total time period for an interim ordinance to two years. This will be the last extension available, and the ordinance will expire on December 5, 2002, if not rescinded prior to that date.

Staff has been working with the Zoning Ordinance Advisory Committee, as well as conducting public workshops with interested groups, over the past several months. Substantive revisions to the ordinance have been made as a result of comments received. The Planning Commission will begin reviewing the draft ordinance at its January 8, 2002, meeting. We expect public hearings to occur in late February or early March. Once the Ordinance is adopted by Council this spring, we will begin public hearings on the revised Zoning Map. Council will be asked to rescind the Interim Ordinance when the Zoning Map is adopted.

***ISSUES***

The issue is whether the Council desires to extend the Interim Ordinance until December 5, 2002, as authorized by the Government Code. The extension will give staff time to complete work on the new Zoning Code and Zoning Map and for the Council to adopt them.

***ALTERNATIVES AND IMPLICATIONS OF ALTERNATIVES***

The alternatives include:

1. Extend the Interim Ordinance to December 5, 2002, by adopting the attached ordinance. A four-fifths vote of the Council is required for the extension.

2. Extend the Interim Ordinance for a shorter period of time. Staff feels that completing the work on the Zoning Code *and* undertaking a comprehensive rezoning of properties will take at least SIX months.

***CONCLUSIONS AND RECOMMENDATIONS***

It is the recommendation of staff that the Council, after close of the public hearing, extend the Interim Zoning Ordinance for the statutorily allowed period by adopting the attached ordinance. The ordinance would remain in effect until December 5, 2002, unless rescinded by the Council prior to its expiration.

***ATTACHMENTS***

- A. Interim ordinance

KM:jh

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ORDINANCE NO. 2290

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDDING,  
EXTENDING INTERIM ZONING PROVISIONS TO ENSURE THAT  
PHYSICAL DEVELOPMENT IN THE CITY OCCURS  
IN CONFORMITY WITH THE GENERAL PLAN**

**THE CITY COUNCIL OF THE CITY OF REDDING DOES ORDAIN AS  
FOLLOWS:**

**SECTION 1. FINDINGS OF FACT.** The City Council finds and declares as follows:

- A. Redding's General Plan, adopted on October 3, 2000, and effective on November 2, 2000, contains land use classifications which, in some cases, do not correlate directly with the zoning districts contained in Title 18 of the Redding Municipal Code.
- B. The General Plan Diagram, in certain instances, conflicts with the land use classifications previously applied to properties. Rezoning of these properties to reflect the new land use classifications has not yet been accomplished.
- C. The present zoning ordinance of the City of Redding, in some instances, does not conform to the objectives, policies, and intent of the General Plan.
- D. The City Council has approved a work program to update the City's zoning ordinance and rezone properties in a timely fashion in order to achieve conformance with the adopted General Plan.
- E. An urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety in that the issuance of development permits which are inconsistent with the General Plan inhibits community-desired development patterns and prevents the General Plan from acting as the constitution for development within the City, a foundation upon which all land use decisions are to be based. Further, where such zoning inconsistencies exist, the inconsistency with the General Plan violates the provisions of Government Code Section 65860. Authority for establishing interim zoning measures is afforded by Government Code Section 65858. On December 5, 2000, the Redding City Council adopted said emergency ordinance to be effective for a period of 45 days.

**SECTION 2. INTERIM REVIEW PROCEDURES, GENERALLY.**

In order to facilitate and encourage orderly development within the city during the interim period during which the zoning ordinance is being revised and properties rezoned, the following interim review procedures are established for all land use requests and development applications:

- A. All discretionary land use actions and physical development applications shall be reviewed for conformance with the objectives, policies, and intent of the General Plan.

ITEM	6-1
ATTACHMENT	A

- B. No application shall be denied if found to comply with the General Plan and the objectives, policies, and intent expressed therein, even though such application is found not to comply with the use provisions of the present Zoning Ordinance of the City of Redding.
- C. The Development Services Director (Director) shall have the authority to determine whether or not a project or proposed land use conforms to the objectives, policies, and intent of the General Plan. The Director shall also have the authority to determine the intensity and density of uses that should be applied to a given property based on the General Plan land use classification that has been designated, anticipated future zoning, if any, and an analysis of existing and surrounding development. The Director may, at his discretion, refer the consistency determination to the Planning Commission.
- D. Any person dissatisfied with the determination of the Director may appeal the determination to the Planning Commission by filing a written appeal with the City Clerk within ten days of the determination. The Director shall thereupon set a date for a public hearing to be held before the Planning Commission, provide notice of said hearing as required by State law and local ordinance, and submit a report to the Planning Commission in advance of the hearing, which report shall set forth the reasons in support of the determination.
- E. Any person dissatisfied with the decision of the Planning Commission may appeal the decision in the manner set forth in Section 18.74 of the Redding Municipal Code.
- F. The following table provides guidance on the correlation between the General Plan land use classifications and existing zoning districts and related standards. The table may be used as a guide in assisting in initial project design, but does not supercede Items 2A, 2B, or 2C above.

### GENERAL PLAN/ZONING CONFORMANCE

GENERAL PLAN CLASSIFICATIONS	APPLICABLE ZONING DISTRICTS
5P (5 acres/unit)	R-1-B5A, R-1-BFM <sup>1</sup>
1-5 (1-5 acres/unit)	R-1-B40, R-1-B50, R-1-B2A, R-1-BFM <sup>1</sup>
1-2 (1-2 units/acre)	R-1-B40, R-1-BFM, R-1-B15, R-1-B20 <sup>1</sup>
2-3.5 (2-3.5 units/acre) 3-5-6 (3.5-6 units/acre)	R-1, R-1-B15, R-1-BFM <sup>1</sup>
6-10 (6-10 units/acre)	RM-6, RM-9 <sup>2,4</sup>
10-20 (10-20 units/acre)	RM-12, RM-18 <sup>2,4</sup>
20-30 (20-30 units/acre)	RM-24 <sup>1,4</sup>
LO (Limited Office)	R-4
GO (General Office)	C-O



GENERAL PLAN CLASSIFICATIONS	APPLICABLE ZONING DISTRICTS
MUC (Mixed Use Core)	C-4; C-2 <sup>3</sup>
NC (Neighborhood Commercial)	C-1
SC (Shopping Center)	C-2
GC (General Commercial)	C-2
RC (Regional Commercial)	C-2
HI (Heavy Industry)	M-2
GI (General Industry)	M-2, PI <sup>3</sup>
HC (Heavy Commercial)	C-3, C-6 <sup>3</sup>
PF-I (Public Facilities or Institutional) PF-I-S (Public Facilities or Institutional School)	U
PK (Parks—improved open space) PK-G (Golf course—public) REC (Recreation)	U
GWY (Greenway)	OS
AS (Airport Service)	U

- 1 Minimum lot sizes to be determined by the Development Services Director.
- 2 Residential density to be determined by the Development Services Director.
- 3 As determined by the Development Services Director.
- 4 All properties currently zoned "R-3" shall be considered to be zoned "RM" to ensure that subsequent development is in conformance with the policies and intent of the General Plan.

**Notes:**

- a. The "U" Unclassified zoning of properties remains in full force and effect. Development applications on such properties will be processed in accordance with the regulations of that district.
- b. All existing "Combining Districts" shall remain in full force and effect.

**SECTION 3. INTERIM REVIEW PROCEDURES, AIRPORT ENVIRONS.**

Until such time as the Shasta County Airport Land Use Commission approves new Comprehensive Land Use Plans (CLUPs) for Redding Municipal Airport and Benton Airpark, the development policies of the Redding Municipal Airport and the Westside Area Plan, pertaining to the airport environs, remain in effect. Where there is a conflict between said area plans and the General Plan, the General Plan shall prevail.

The following specific policies and figures from the above area plans shall continue to govern the review of development applications in the vicinity of these airports:

**Municipal Airport**

*Noise:* Policies 2f, 2g, 2h, 2j. Figures 5, 5.5, 5.6, 6.

*Safety:* Policies 3b, 3c, 3e. Figure: Industrial Occupancy Classifications.

*Land Use:* Policies 5f, 5h, 5j, 5i, 5p.

**Benton Airpark**

*Aviation Noise:* Policy 1.

*Safety:* Policies 1, 2.

**SECTION 4.**

This extension of the ordinance shall remain in full force and effect through December 5, 2002, following its enactment and shall thereupon be repealed without further action by the City Council unless, after formal public hearing, the City Council by a four-fifths affirmative vote extends the ordinance for a period of time permitted by law.

**SECTION 5.**

The City Council finds and declares that for the reasons set forth above, it is necessary as an emergency measure for preserving the public peace, health, or safety that this ordinance become effective immediately.

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced and read at a regular meeting of the City Council of the City of Redding on the 2<sup>nd</sup> day of January 2002 and was duly adopted at said meeting by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**

\_\_\_\_\_  
**PAT KIGHT, MAYOR**

**ATTEST:**

**FORM APPROVED:**

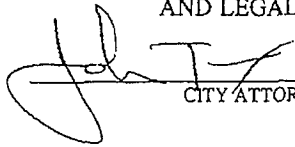
\_\_\_\_\_  
**CONNIE STROHMAYER, City Clerk**

\_\_\_\_\_  
**W. LEONARD WINGATE, City Attorney**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2003 JUL 31 PM 8:17  
INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_

APPROVED  
AS TO FORM  
AND LEGALITY

  
CITY ATTORNEY

ORDINANCE No. 12514 C.M.S.

**ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO EXTEND THE EXPIRATION DATE OF THE INTERIM CONTROLS FOR THE IMPLEMENTATION OF THE OAKLAND GENERAL PLAN TO DECEMBER 31, 2005, AND REVISING SECTIONS 17.01.070, 17.01.080 AND 17.01.120 PERTAINING TO THE GENERAL PLAN CONFORMITY REQUIREMENTS AND PROVIDING FOR THE INTERPRETATION OF THE LAND USE DIAGRAM BY THE DIRECTOR OF PLANNING AND ZONING**

**WHEREAS**, on May 12, 1998, the City Council passed Ordinance No. 12054 C.M.S. adopting interim controls for implementation of the Oakland General Plan prior to the comprehensive revision of the Oakland Planning Code including new zoning, subdivision, environmental review, and related regulations; and

**WHEREAS** Section 5 of Ordinance No. 12054 C.M.S provides that the interim controls shall expire after a three-year period unless extended for an additional two year period following the recommendation of the Planning Commission; and

**WHEREAS**, on May 6, 1998, the Planning Commission adopted "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations." The Planning Commission amended the Guidelines on November 3, 1999, August 8, 2001, and December 5, 2001; and

**WHEREAS**, the Community and Economic Development Agency is in the process of updating the Oakland Planning Code to implement the General Plan, a process which was expected to be completed three years from May 12, 1998; and

**WHEREAS**, on June 5, 2001, the City Council passed Ordinance No. 12332 C.M.S. extending the interim controls for a two-year period until June 30, 2003; and

**WHEREAS**, the zoning code update project is not yet completed and it is necessary to again extend the interim controls; and

**WHEREAS**, as noted at page 143 of the Land Use and Transportation Element (LUTE) and following, the General Plan Land Use Diagram is intended to be illustrative of the General Plan goals and policies and was primarily intended to reflect existing land use patterns; and

**WHEREAS**, during the zoning update process staff has determined that in many instances the Land Use Diagram is neither accurate nor precise and in fact in some instances it has mapped classifications in error and in a manner that clearly contradicts the intent of the map as described in the LUTE; and

**WHEREAS**, amendments are necessary to the Oakland Planning Code and the interim controls to accommodate situations where staff has in the past or will in the future determine that the Land Use Diagram has mapped an area of the City in error, making it erroneously appear that certain predominant land uses or densities are not allowed when in fact that was not the intent of the LUTE; and

**WHEREAS**, staff has determined that it will recommend amendments to the Land use Diagram when the zoning map is updated to correct areas where the General Plan land use classification may have been assigned without a parcel by parcel survey; and

**WHEREAS**, revisions are proposed to the interim guidelines to allow applicants to request a General Plan conformity determination from the Director of Planning and Zoning if it can be demonstrated that a proposed project meets the intent of the written goals and policies of any element of the General Plan and other findings as described in the Ordinance; and

**WHEREAS**, revisions are proposed to the interim guidelines to allow projects to be approved with an interim or permanent conditional use permit notwithstanding apparent inconsistency with the Land Use Diagram if certain findings can be made by the Planning Director pertaining to the predominant uses and densities in the area of the proposal and if it can be demonstrated that a proposed project meets the intent of the written goals and policies of any element of the General Plan and other findings as described in the Ordinance; and

**WHEREAS**, the written determination by the Director of Planning and Zoning is required to be sent to all property owners within 300 feet of the property involved; and

**WHEREAS**, the written determination by the Director of Planning and Zoning may be appealed to the City Council; and

**WHEREAS**, the requirements of the California Environmental Quality Act (CEQA) of 1970 are satisfied because the interim controls are covered by the Environmental Impact Report prepared for the Land Use and Transportation Element that was certified by the City Council on March 24, 1998; and

**WHEREAS**, the Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by extending the interim controls; now, therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Pursuant to the provisions of Section 5 of Ordinance No. 12054 C.M.S., Ordinance 12054 C.M.S shall remain in effect for an additional four years beyond the original period set forth in that section, and thus it shall remain in effect until December 31, 2005.

**SECTION 2.** The Oakland Planning Code is hereby amended as follows:

**“Chapter 17.01.070 Determination of General Plan conformity by Director of City Planning**

The Director of City Planning shall determine whether any specific proposal conforms to the General Plan. The Director shall use the guidelines adopted pursuant to Section 17.01.060 in making this determination. Any interested party may apply for a written General Plan conformity determination upon payment of a fee as prescribed in the city master fee schedule. Prior to making a decision, there shall be notice given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved pursuant to Section 17.134.040.

**“Chapter 17.01.080 Appeal of Director’s determination**

A. Within ten calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.070, an appeal of such determination may be taken to the City Planning Commission by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the city master fee schedule, and shall be processed in accordance with the administrative appeal procedure in Chapter 17.132.

B. Within ten calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.120 C. an appeal of such determination may be taken to the City Council by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the city master fee schedule. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Director and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Director or wherein his/her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After the hearing date is set, the Planning Director shall refer the matter to the Planning Commission for its review and advice. The Planning Commission shall consider the matter at its next available meeting. Such referral shall be only for the purpose of issue clarification and advice to the City Council. The City Clerk shall not less than ten days prior to the Council hearing, give to the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, written notice of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposal conforms to the provisions of section 17.01.120.C., and may approve or disapprove the proposed determination. The decision of the City Council shall be made by resolution and shall be final.

**“Chapter 17.01.120 Proposals clearly not in conformance with the General Plan or the Land Use Diagram.**

Any proposal determined to clearly not conform to the General Plan shall not be allowed and no application shall be accepted, nor shall any permits be approved or issued, for any such proposal, except as provided in this section or in Section 17.01.040 or Section 17.01.070.

A. If Permitted or Conditionally Permitted by Zoning and/or Subdivision Regulations ("Express Conflict"). At his or her option, the applicant may modify the project to conform to the General Plan, request a General Plan conformity determination from the Director of City Planning pursuant to Section 17.01.070, or may apply for a General Plan Amendment. If such amendment involves the land use classification, the amendment shall be to the land use classification corresponding to the "best fit zone" or other possible zone in which the proposal is located, as determined in accordance with the guidelines adopted pursuant to Section 17.01.060.

B. If Not Permitted by Zoning and/or Subdivision Regulations (No "Express Conflict"). If proposal is not permitted under the Zoning Regulations, the applicant may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144 in addition to a General Plan amendment. Any such rezoning shall be to the "best fit zone": or other possible zone corresponding to the land use classification of the associated General Plan amendment, as determined in accordance with the guidelines adopted pursuant to Section 17.01.060. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to any required conditional use permit.

C. If permitted or conditionally permitted by zoning, and where determined by the Planning Director to be consistent with the surrounding land uses and appropriate for the area, notwithstanding that the project may not be consistent with the General Plan classification shown on the Land Use Diagram. It is recognized that the General Plan land uses have been broadly applied to areas without parcel by parcel specificity and that the Land Use Diagram details are largely illustrative of the Plan's written goals and policies. Because the Diagram is generalized, and does not necessarily depict the accuracy of each parcel or very small land areas, a determination of project consistency can be requested of the Director of City Planning. The applicant must demonstrate to the satisfaction of the Planning Director that the predominant use, or average density, is different from that shown on the Diagram and is appropriate for the area in question and that the project is in conformance with the written goals and policies of the General Plan. The project may be allowed upon the granting of an interim conditional use permit or a conditional use permit. Written notice of the Director's determination shall be sent to all property owners within 300 feet of the property involved. The Director's determination may be appealed to the City Council pursuant to Section 17.01.080 B.

**SECTION 3.** This ordinance complies with the California Environmental Quality Act because the interim controls are covered by the Environmental Impact Report for the Land use and Transportation Element of the General Plan that was certified by the City Council on March 24, 1998.

**SECTION 4.** This ordinance shall be effective upon adoption, subject to the provisions of Section 213 of the Charter of the City of Oakland.

**SECTION 5.** If any provision of this ordinance or application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

**JUL 15 2003**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2003  
PASSED BY THE FOLLOWING VOTE:

AYES-  
NOES-  
ABSENT-  
ABSTENTION-

**BROOKS, BRUNNER, CHANG,  
NADEL, REID, QUAN, WAN  
AND PRESIDENT DE LA FUENTE -8**

ATTEST:



CEDA FLOYD

City Clerk and Clerk of the Council of  
the City of Oakland, California

**Introduction Date:**

**JUN 17 2003**

2009 OCT 29 PM 3:01 **OAKLAND CITY COUNCIL****ORDINANCE NO. 12986 C.M.S.****ORDINANCE EXTENDING THE INTERIM CONTROLS FOR THE IMPLEMENTATION OF THE OAKLAND GENERAL PLAN (OAKLAND PLANNING CODE CHAPTER 17.01 AND THE GENERAL PLAN CONFORMITY GUIDELINES) TO JUNE 30, 2011**

**WHEREAS**, on May 12, 1998 the City Council passed Ordinance No. 12054 C.M.S. which adopted Interim Controls for implementation of the Oakland General Plan prior to the comprehensive revision of the Oakland Planning Code, subdivision, environmental review, and related regulations; and

**WHEREAS**, Section 5 of Ordinance No. 12054 C.M.S. provides that the Interim Controls shall expire after a three year period unless extended for an additional two year period; and

**WHEREAS**, on June 5, 2001, the City Council adopted Ordinance No. 12332 C.M.S. which extended the Interim Controls until June 30, 2003; and

**WHEREAS**, on July 15, 2003, the City Council adopted Ordinance No. 12514 C.M.S. which extended the Interim Controls until December 31, 2005;

**WHEREAS**, on June 20, 2006, the City Council adopted Ordinance No. 12746 C.M.S. which extended the Interim Controls until June 30, 2007; and

**WHEREAS**, on December 4, 2007, the City Council adopted Ordinance No. 12839 C.M.S. which extended the Interim Controls until January 1, 2010; and

**WHEREAS**, on May 6 1998, the Planning Commission adopted the "Guidelines for Determining Project Conformity with the General Plan Guidelines and Zoning Regulations" (General Plan Conformity Guidelines), with the Planning Commission amending said General Plan Conformity Guidelines on: November 3, 1999; August 8, 2001; December 5, 2001; July 15, 2003; May 28, 2004; October 31, 2006; and July 21, 2009; and

**WHEREAS**, the Community and Economic Development Agency is still in the process of updating the Oakland Planning Code to implement the General Plan and thus the Interim Controls are still necessary; and



**WHEREAS**, the requirements of the California Environmental Quality Act (CEQA) of 1970 are satisfied because the extension of the Interim Controls merely continues the policy and practice of the last eleven years and as a separate and independent basis, the Interim Controls are covered by the Environmental Impact Report prepared for the Land Use and Transportation Element of the General Plan that was certified by the City Council on March 24, 1998, as well as by the Mitigated Negative Declaration adopted for the Housing Element of the General Plan on June 15, 2004; and

**WHEREAS**, the Council finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by extending the Interim Controls; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** Oakland Planning Code Chapter 17.01 and the General Plan Conformity Guidelines are hereby extended in accordance with other sections of this ordinance.

**Section 2.** This ordinance shall be effective upon its adoption if it receives at least six affirmative votes otherwise it shall be effective upon the seventh day after final adoption, and shall remain in effect until June 30, 2011, or until the comprehensively updated Oakland Planning Code and Zoning Maps are completed and adopted, whichever comes first.

**Section 3.** The ordinance complies with CEQA as stated in the recitals section.

**Section 4.** If any provision of this ordinance or application thereof to any person or circumstances is held invalid the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

**Section 5.** The recitals are true and correct and an integral part of this ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 8 2009

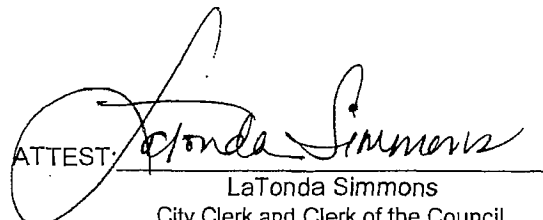
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: NOV 17 2009

DATE OF ATTESTATION: 12-14-09

## NOTICE AND DIGEST

MPW

### **ORDINANCE EXTENDING THE INTERIM CONTROLS FOR THE IMPLEMENTATION OF THE OAKLAND GENERAL PLAN (OAKLAND PLANNING CODE CHAPTER 17.01 AND THE GENERAL PLAN CONFORMITY GUIDELINES) TO JUNE 30, 2011**

This ordinance extends until June 30, 2011, the Interim Land Use Controls of Oakland Planning Code Chapter 17.01 ("General Provisions of Planning Code and General Plan Conformity") and the General Plan Conformity Guidelines that will expire on January 1, 2010, except for applications which were complete prior to that date. These controls are used to regulate parcels of land where the zoning designation is not in conformity with the General Plan Land Use classification. These controls were established to resolve zoning and General Plan conflicts for the period of time between the adoption of the General Plan (1998) and the updating of the zoning code (expected completion in 2011), to conform to the Land Use and Transportation Element of the General Plan.

**CHAPTER 6.**  
**INTERIM ZONING REGULATIONS**

**Sections:**

- ARTICLE 1. GENERAL PROVISIONS
  - 9-6.101 Title
  - 9-6.102 Purpose
  - 9-6.103 References
  - 9-6.104 Zoning Ordinance Remains in Effect
  - 9-6.105 Consistency with General Plan
  - 9-6.106 Procedures
  
- ARTICLE 2. ZONING DISTRICTS
  - 9-6.201 Purpose
  - 9-6.202 Zoning Ordinance Provisions Superseded
  - 9-6.203 Base Zones
  - 9-6.204 Overlay Zones
  - 9-6.205 Zoning Maps
  
- ARTICLE 3. ZONING DISTRICT REGULATIONS
  - 9-6.301 Purpose
  - 9-6.302 Zoning Ordinance Provisions Superseded
  - 9-6.303 Uses Permitted, Conditionally Permitted, and Prohibited
  - 9-6.304 Special Regulations in the Residential Zones
  - 9-6.305 Special Regulations in the Mixed Use Zones
  - 9-6.306 Special Regulations in the OT Office/Technology Zone
  - 9-6.307 Special Regulations in the IND Industrial Zone
  - 9-6.308 Special Regulations in the PUB Public Zone
  - 9-6.309 Special Regulations in the MAR Marina Zone
  - 9-6.310 Special Regulations in the POS Park/Open Space Zone
  - 9-6.311 Special Regulations in the S-M Shoreline Management Zone
  - 9-6.312 Special Regulations in the RR Regional Retail Overlay Zone
  - 9-6.313 Special Regulations in the NR Neighborhood Retail Overlay Zone
  - 9-6.314 Use Regulations and Standards in All or Several Zones
  
- ARTICLE 4. DIMENSIONAL, INTENSITY, AND DENSITY REGULATIONS
  - 9-6.401 Purpose
  - 9-6.402 Zoning Ordinance Provisions Superseded
  - 9-6.403 Setbacks
  - 9-6.404 Residential Density
  - 9-6.405 Building Intensity
  - 9-6.406 Height
  - 9-6.407 Bonuses

ARTICLE 5. REQUIRED FINDINGS

- 9-6.501 Purpose
- 9-6.502 Uses in the Mixed Use Zones
- 9-6.503 Uses in the OT Office/Technology Zone
- 9-6.504 Uses in the IND Industrial Zone
- 9-6.505 Uses in the MAR Marina Zone
- 9-6.506 Uses in the POS Park/Open Space Zone
- 9-6.507 Uses in the RR Regional Retail Overlay Zone
- 9-6.508 Uses in the NR Neighborhood Retail Overlay Zone
- 9-6.509 Density, Floor Area Ratio, and Height Bonuses

ARTICLE 6. DEFINITIONS

- 9-6.601 Purpose
- 9-6.602 Definitions of Terms
- 9-6.603 Use Groups

**ARTICLE 1. GENERAL PROVISIONS**

**9-6.101. Title.**

This chapter shall be known and cited as the “Interim Zoning Regulations of the City of Emeryville” or the “Interim Zoning Regulations”.

**9-6.102 Purpose.**

The purpose of these Interim Zoning Regulations is to implement the Emeryville General Plan adopted by the City Council by Resolution No. 09-208 on October 13, 2009 until such time as a new Zoning Ordinance is enacted.

**9-6.103 References.**

As used in this chapter:

- (a) “General Plan” refers to the Emeryville General Plan adopted by the City Council by Resolution No. 09-208 on October 13, 2009.
- (b) “General Plan Land Use Map” refers to Figure 2-2 of the General Plan entitled “Land Use Diagram”.
- (c) “General Plan Floor Area Ratio Map” refers to Figure 2-3 of the General Plan entitled “Maximum Floor Area Ratios”.
- (d) “General Plan Height Map” refers to Figure 2-4 of the General Plan entitled “Maximum Building Heights”.
- (e) “General Plan Residential Density Map” refers to Figure 2-6 of the General Plan entitled “Maximum Residential Densities”.
- (f) “Zoning Ordinance” refers to the ordinance codified in Chapter 4 of this title.

- (g) "Zoning Districts Map" refers to the map entitled "Zoning Districts" adopted by the City Council by Resolution No. 05-46 on March 15, 2005 and subsequently amended.
- (h) Sections beginning with 9-4 refer to sections of the Zoning Ordinance.
- (i) Sections beginning with 9-6 refer to sections of this chapter.
- (j) See Article 6 for definitions of other terms and concepts used in this chapter.

**9-6.104 Zoning Ordinance Remains in Effect.**

The Zoning Ordinance shall remain in effect except as it is explicitly superseded by provisions in this chapter.

**9-6.105 Consistency with General Plan.**

These Interim Zoning Regulations are intended to be consistent with the General Plan. Should any provisions of this chapter be determined inconsistent with the General Plan, the General Plan shall prevail. The Director of Planning and Building shall have the authority to determine the extent of any such inconsistency and issue a decision to resolve the matter. The Director's decision may be appealed to the Planning Commission as provided in Article 88 of the Zoning Ordinance.

**9-6.106 Procedures.**

The procedures for obtaining permits and other approvals are contained in Articles 80 through 99 of the Zoning Ordinance. Variances from residential density, floor area ratio, and height limits are not possible because these are prescribed in the General Plan. Any proposed deviation from the prescribed residential density, floor area ratio, or height limit requires a General Plan Amendment pursuant to Article 81 of the Zoning Ordinance.

**ARTICLE 2. ZONING DISTRICTS**

**9-6.201 Purpose.**

The purpose of this article is to establish "zoning districts" or "zones" consistent with the General Plan and certain provisions of the Zoning Ordinance.

**9-6.202 Zoning Ordinance Provisions Superseded.**

The provisions of this article supersede Section 9-4.2.2 and Articles 10 through 39 and Article 57 of the Zoning Ordinance.

**9-6.203 Base Zones.**

Base zones are hereby established consistent with the General Plan and certain provisions of the Zoning Ordinance. The descriptions of the base zones in this section are to be construed only as statements of intent, and are not regulatory; for regulations of uses within these zones, see Article 3. The base zones are as follows:

- (a) **RH High Density Residential.** Mid- or high-rise residential development generally at maximum densities over 60 units per acre. Small-scale businesses, offices, retail, services, and other commercial uses on the ground floor are included.
- (b) **RMH Medium High Density Residential.** Low- or mid-rise residential development generally at maximum densities ranging from 50 to 60 units per acre. Incidental retail uses that serve the neighborhood are also included.
- (c) **RM Medium Density Residential.** Low-rise residential development generally at maximum densities ranging from 20 to 35 units per acre, including single family detached and attached housing, and multifamily housing types. Incidental retail uses that serve the neighborhood are also included.
- (d) **MUR Mixed Use with Residential.** One or more of a variety of residential and nonresidential uses, including but not limited to offices, retail and hotels. On larger sites, a mix of residential and non-residential uses is required; on smaller sites, a single use is allowed.
- (e) **MUN Mixed Use with Non-Residential.** One or more of a variety of nonresidential uses, including but not limited to offices, retail and hotels. On larger sites, more than one use is required; on smaller sites, a single use is allowed.
- (f) **OT Office/Technology.** Administrative, financial, business, professional, medical and public offices, research and development, biotechnology, and media production facilities. Warehousing and distribution facilities and retail are included in the district as secondary uses only.
- (g) **IND Industrial.** A range of industrial and high technology uses, including light manufacturing, repair, testing, printing, service commercial, and biotechnology uses. West of Hollis Street north of 65<sup>th</sup> Street general manufacturing uses are included. East of Hollis Street and along Horton Street between Powell Street and Stanford Avenue new general manufacturing uses are not included, but existing general manufacturing uses can continue as conforming uses and may be expanded with a conditional use permit subject to performance standards for noise, air quality, and truck traffic, to safeguard adjacent residential uses. Unrelated retail and commercial uses that could be more appropriately located elsewhere in the city are not included, except for offices, subject to appropriate standards.
- (h) **PUB Public.** A variety of public and quasi-public uses, including government offices, fire and police facilities, schools, community services, transit stations and related facilities.
- (i) **MAR Marina.** Marinas, limited retail, and recreation facilities and restaurants with a waterfront orientation.
- (j) **POS Park/Open Space.** Parks, recreation facilities, and greenways for the general community, and open space for habitat conservation.
- (k) **S-M Shoreline Management.** Shoreline areas of San Francisco Bay as designated by the Emeryville Shoreline Protection Ordinance of 1987. Structures are prohibited and only uses pertaining to parks, recreation, and habitat conservation are allowed. All uses, including accessory uses, must comply with the Shoreline Protection Ordinance.

(1) **PUD Planned Unit Development.** A group of residential, commercial, industrial or institutional buildings, or a mixture thereof, where the entire site is planned in such a manner as to permit flexibility in physical design, achieve attractive physical designs which encourage large-scale site planning, and ensure that the goals, policies and standards of the City are established early in the formation of such development proposals. New Planned Unit Developments are subject to the provisions of this chapter; existing Planned Unit Developments are not subject to the provisions of this chapter. Uses and development regulations in existing PUDs shall be as stipulated in the various ordinances establishing the PUDs, as listed below. Existing Planned Unit Developments include:

- (1) Pixar Animation Studios. Created by Ordinance No. 94-014 passed on December 6, 1994 and subsequently amended by Ordinance No. 98-003 passed on May 19, 1998, Ordinance No. 98-005 passed on May 19, 1998, and Ordinance No. 04-004 passed on June 1, 2004.
- (2) Novartis (Chiron) Life Sciences Center. Created by Ordinance No. 95-006 passed on August 15, 1995 and subsequently amended by Ordinance No. 01-001 passed on June 5, 2001.
- (3) Promenade Retail Project (Emery Village Center). Created by Ordinance No. 94-014 passed on December 6, 1994 and subsequently amended by Ordinance No. 98-003 passed on May 19, 1998, Ordinance No. 98-005 passed on May 19, 1998, and Ordinance No. 99-003 passed on April 20, 1999.
- (4) Watergate Office Tower Complex. Created by Ordinance No. 99-007 passed on July 20, 1999.
- (5) Bay Street (South Bayfront Retail/Mixed Use Project). Created by Ordinance No. 99-009 passed on September 21, 1999.
- (6) Marketplace Redevelopment Project. Created by Ordinance No. 08-004 passed on August 5, 2008.

#### **9-6.204 Overlay Zones.**

Overlay zones are hereby established consistent with the General Plan and certain provisions of the Zoning Ordinance. The descriptions of the overlay zones in this section are to be construed only as statements of intent, and are not regulatory; for regulations of uses within these zones, see Article 3. The overlay zones are as follows:

- (a) **RR Regional Retail.** This overlay is intended to reflect sites that are appropriate for retail uses that serve as a regional draw. Stores can be small in size (such as at Bay Street) or large (such as IKEA). For sites with this overlay, 100 percent of the building area can be retail, while the uses in the underlying base zone are also included.
- (b) **NR Neighborhood Retail.** This designation is intended for four neighborhood centers, and is intended for stores and restaurants/cafes that serve the local community. Establishments shall generally be smaller sized, lending themselves to the pedestrian-oriented nature of the centers; however larger establishments, such as supermarkets, that serve the local community and are designed appropriately with a pedestrian orientation are also included. Retail and eating and drinking establishments can comprise up to 100

percent of the building area. A majority of the ground floor area, and a significant portion of the frontage along any public street, shall be devoted to retail or other active uses such as restaurants and cafes.

- (c) **N-H North Hollis Overlay District.** An overlay zone created by Ordinance No. 02-006 passed on June 4, 2002 to implement the North Hollis Area Urban Design Program, including the Design Guidelines, which was adopted by the City Council by Resolution No. 02-052 on April 16, 2002. Regulations for the North Hollis Overlay District are as stipulated in Article 42 of the Zoning Ordinance.
- (d) **P-A Park Avenue Overlay District.** An overlay zone created by Ordinance No. 07-003 passed on March 6, 2007 to implement the Park Avenue District Plan, which was adopted by the City Council by Resolution No. 06-158 on August 15, 2006. Regulations for the Park Avenue Overlay District are as stipulated in Article 43 of the Zoning Ordinance, except that provisions related to floor area ratio in Section 9-4.43.7 are superseded by the provisions of this chapter. The use regulations of Article 43 are reflected in Table 9-6.303 of this chapter for reference.

#### **9-6.205 Zoning Maps.**

The zones established by Sections 9-6.203 and 9-6.204 are delineated on the following maps, which are made a part of this chapter by this reference:

- (a) **General Plan Land Use Map.**
  - (1) Base zones listed in Sections 9-6.203(a) through (j) are as shown on the General Plan Land Use Map, except as these are superseded by the S-M Shoreline Management and PUD Planned Unit Development zones as specified in subsection (b) of this section.
  - (2) The RR Regional Retail and NR Neighborhood Retail overlay zones listed in Sections 9-6.204(a) and (b) are as shown on General Plan Land Use Map.
- (b) **Zoning Districts Map.**
  - (1) The S-M Shoreline Management and PUD Planned Unit Development zones listed in Sections 9-6.203(k) and (l) are as shown on the Zoning Districts Map and supersede the base zones listed in 9-6.203(a) through (j) as shown on General Plan Land Use Map.
  - (2) The N-H North Hollis and P-A Park Avenue overlay zones listed in Sections 9-6.204(c) and (d) are as shown on the Zoning Districts Map.

### **ARTICLE 3. ZONING DISTRICT REGULATIONS**

#### **9-6.301 Purpose.**

The purpose of this article is to establish use and development regulations in the base and overlay zones, except existing PUD Planned Unit Developments, the N-H North Hollis Overlay District and the P-A Park Avenue Overlay District.



**9-6.302 Zoning Ordinance Provisions Superseded.**

The provisions of this article supersede Articles 10 through 39, Article 57, and Section 9-4.55.10 of the Zoning Ordinance.

**9-6.303 Uses Permitted, Conditionally Permitted, and Prohibited.**

Uses, as classified in Article 4 of the Zoning Ordinance, are permitted, conditionally permitted, or prohibited in base and overlay zones as indicated in Table 9-6.303. Permitted uses are indicated by a “P”, conditionally permitted uses are indicated by a “C”, and prohibited uses are indicated by an “X”. Conditionally permitted uses are allowed upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance and any additional findings that may be required by Article 5 this chapter. Use regulations in the overlay zones supersede those of the base zones. Where the indication in an overlay zone for a particular use is blank, the regulation of the base zone for that use is unchanged. Additional provisions are as indicated in the notes following the table and in the following sections of this article.

**Table 9-6.303. Uses Permitted, Conditionally Permitted, and Prohibited.**

Uses:	Base Zones:											Overlay Zones:		
	RH High Density Residential	RMH Medium High Density Residential	RM Medium Density Residential	MUR Mixed Use with Residential	MUN Mixed Use with Non-Residential	OT Office/Technology	IND Industrial	PUB Public	MAR Marina	POS Park/Open Space	S-M Shoreline Management	RR Regional Retail	NR Neighborhood Retail	P-A Park Avenue District
<b>RESIDENTIAL</b>														
Family Residential														
Single-family detached	P	P	P	C <sup>4</sup>	X	X	X	X	P <sup>11</sup>	X	X			
Two-family	P	P	P	C <sup>4</sup>	X	X	X	X	X	X	X			
Single-family semiattached	P	P	P	C <sup>4</sup>	X	X	X	X	X	X	X			
Townhouse	P	P	P	P <sup>4</sup>	X	X	X	X	X	X	X			
Multifamily	P	P	C	P <sup>4</sup>	X	X	X	X	X	X	X			
Group Residential	X	C	C	C <sup>4</sup>	X	X	X	X	X	X	X			
Residential Second Unit	P	P	P	C <sup>4</sup>	X	X	X	X	X	X	X			
Mobile Home Parks	C	C	C	X	X	X	X	X	X	X	X			

Uses:	Base Zones:											Overlay Zones:		
	RH High Density Residential	RMH Medium High Density Residential	RM Medium Density Residential	MUR Mixed Use with Residential	MUN Mixed Use with Non-Residential	OT Office/Technology	IND Industrial	PUB Public	MAR Marina	POS Park/Open Space	S-M Shoreline Management	RR Regional Retail	NR Neighborhood Retail	P-A Park Avenue District
<b>CIVIC</b>														
Administrative Services	C	C	C	C <sup>4</sup>	C <sup>4</sup>	P	C <sup>6</sup>	P	P	X	X			
Community Education	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	P	C	X	X			
Community Recreation	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	P	C <sup>12</sup>	C	X			
Convalescent Services	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X			
Cultural and Library Services	C	C	C	P <sup>4</sup>	P <sup>4</sup>	C	C	P	C	C	X			
<b>Day Care Services</b>														
Day care centers	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	X	C	X	X	X			
Large family day care homes	C	C	C	C <sup>4</sup>	X	X	X	X	X	X	X			
Essential Services	P	P	P	P <sup>4</sup>	P <sup>4</sup>	P	P	P	P	C	X			
Group Care	C	C	X	C <sup>4</sup>	C <sup>4</sup>	C	X	C	X	X	X			
Hospital Services	C	C	X	C <sup>4</sup>	C <sup>4</sup>	C	X	C	X	X	X			
Major Public Services	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C	X	X			
Park and Recreation	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	P	P	P	C <sup>15</sup>			
Public Parking Services	C	C	X	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C	X	X			
Religious Assembly	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X			
Safety Services	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	P	C	X	X			
Utility Services	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C	X	X			
<b>COMMERCIAL</b>														
Administrative and Business Offices	C <sup>1</sup>	C	C	P <sup>4</sup>	P <sup>4</sup>	P	C <sup>6</sup>	X	C	X	X			
Adult Entertainment	X	X	X	X	X	X	C <sup>7</sup>	X	X	X	X			

Uses:	Base Zones:											Overlay Zones:		
	RH High Density Residential	RMH Medium High Density Residential	RM Medium Density Residential	MUR Mixed Use with Residential	MUN Mixed Use with Non-Residential	OT Office/Technology	IND Industrial	PUB Public	MAR Marina	POS Park/Open Space	S-M Shoreline Management	RR Regional Retail	NR Neighborhood Retail	P-A Park Avenue District
Animal Sales and Services														
Grooming and pet stores	C <sup>1</sup>	C <sup>2</sup>	X	P <sup>4</sup>	P <sup>4</sup>	C	X	X	X	X	X	C <sup>16</sup>	C <sup>17</sup>	
Kennels	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X			
Veterinary	C <sup>1</sup>	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X		C <sup>17</sup>	
Automotive and Equipment														
Automotive rentals	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X			
Automotive repairs	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X		X <sup>17</sup>	
Automobile sales	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X	C <sup>16</sup>	X <sup>17</sup>	
Cleaning	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X	C <sup>16</sup>	X <sup>17</sup>	
Commercial parking	C	C	X	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X	C <sup>16</sup>		
Equipment repair and sales	X	X	X	X	X	X	C	X	X	X	X		X <sup>17</sup>	
Storage of operable vehicles	X	X	X	X	X	X	C	X	X	X	X		X <sup>17</sup>	
Building Maintenance Services	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X			
Commercial Recreation														
Amusement center	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X	C <sup>16</sup>		
Gaming	X	X	X	X	X	X	X	X	X	X	X		C <sup>17</sup>	
Indoor entertainment	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X	C <sup>16</sup>	C <sup>17</sup>	
Indoor sports and recreation	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X	C <sup>16</sup>	C <sup>17</sup>	
Outdoor entertainment	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C <sup>12</sup>	C	C <sup>15</sup>			

Uses:	Base Zones:											Overlay Zones:		
	RH High Density Residential	RMH Medium High Density Residential	RM Medium Density Residential	MUR Mixed Use with Residential	MUN Mixed Use with Non-Residential	OT Office/Technology	IND Industrial	PUB Public	MAR Marina	POS Park/Open Space	S-M Shoreline Management	RR Regional Retail	NR Neighborhood Retail	P-A Park Avenue District
Outdoor sports and recreation	C	C	X	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C <sup>12</sup>	C	C <sup>15</sup>			
Construction Sales and Service	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X	C <sup>16</sup>		
Convenience Sales and Services	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	C <sup>4</sup>	C <sup>4</sup>	C	C <sup>8</sup>	X	C <sup>12</sup>	X	X		C <sup>17</sup>	
Eating and Drinking Establishments														
Convenience	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	C <sup>4</sup>	C <sup>4</sup>	C	C <sup>8</sup>	C	C <sup>12</sup>	C <sup>14</sup>	X		P <sup>17</sup>	
Full-service	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	C <sup>4</sup>	C <sup>4</sup>	C	C	C	C <sup>12</sup>	C <sup>14</sup>	X	C <sup>16</sup>	P <sup>17</sup>	
Financial Services	C <sup>1</sup>	X	X	C <sup>4</sup>	C <sup>4</sup>	P	X	X	X	X	X	C <sup>16</sup>	P <sup>17</sup>	
Food and Beverage Retail Sales Services	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X	C <sup>16</sup>	P <sup>17</sup>	
Funeral and Interment	X	X	X	X	X	X	C	X	X	X	X		X <sup>17</sup>	
Gasoline Sales	X	X	X	X	C <sup>4</sup>	X	C	X	C <sup>13</sup>	X	X	C <sup>16</sup>	X <sup>17</sup>	X
Lodging Services	X	X	X	P <sup>4</sup>	P <sup>4</sup>	X	X	X	C	X	X			
Medical Services	C <sup>1</sup>	X	X	C <sup>4</sup>	C <sup>4</sup>	P	X	X	X	X	X		C <sup>17</sup>	
On-Premises Liquor Sales	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C <sup>8</sup>	X	C	X	X		C <sup>17</sup>	
Personal Services	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	C <sup>4</sup>	C <sup>4</sup>	C	X	X	X	X	X		P <sup>17</sup>	
Professional Services	C <sup>1</sup>	C	C	P <sup>4</sup>	P <sup>4</sup>	P	C <sup>6</sup>	X	C	X	X			
Repair Services	C <sup>1</sup>	C <sup>2</sup>	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X		C <sup>17</sup>	
Research Services	X	X	X	C <sup>4</sup>	C <sup>4</sup>	P	P	X	X	X	X			
Retail Sales	C <sup>1</sup>	C <sup>2</sup>	C <sup>3</sup>	P <sup>4</sup>	P <sup>4</sup>	C <sup>5</sup>	C <sup>8</sup>	X	C <sup>12</sup>	C <sup>14</sup>	X	C <sup>16</sup>	P <sup>17</sup>	
Transportation Services	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X		X <sup>17</sup>	
<b>INDUSTRIAL</b>														
Custom Manufacturing	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X			

Uses:	Base Zones:											Overlay Zones:		
	RH High Density Residential	RMH Medium High Density Residential	RM Medium Density Residential	MUR Mixed Use with Residential	MUN Mixed Use with Non-Residential	OT Office/Technology	IND Industrial	PUB Public	MAR Marina	POS Park/Open Space	S-M Shoreline Management	RR Regional Retail	NR Neighborhood Retail	P-A Park Avenue District
General Industrial	X	X	X	X	X	X	C <sup>6</sup>	X	X	X	X		X <sup>17</sup>	
Hazardous Waste Facility														
Small Scale Hazardous Waste Transfer and Storage Facility	X	X	X	X	C <sup>4</sup>	C	C	X	X	X	X		X <sup>17</sup>	X
Industrial Hazardous Waste Transfer/ Storage/ Treatment Facility	X	X	X	X	X	X	X	X	X	X	X		X <sup>17</sup>	X
High Technology	X	X	X	C <sup>4</sup>	C <sup>4</sup>	P	P	X	X	X	X			
Inoperable Vehicle Storage	X	X	X	X	X	X	C	X	X	X	X		X <sup>17</sup>	
Laundry Services	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X		X <sup>17</sup>	
Light Manufacturing	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	P	X	X	X	X			
Personal Storage	X	X	X	C <sup>4</sup>	C <sup>4</sup>	C	C	X	X	X	X		X <sup>17</sup>	X
Wholesaling and Distribution														
Light	X	X	X	X	C <sup>4</sup>	C <sup>5</sup>	P	X	X	X	X		X <sup>17</sup>	
Heavy	X	X	X	X	X	X	C	X	X	X	X		X <sup>17</sup>	
<b>LIVE/WORK<sup>18</sup></b>														
Light <sup>18</sup>	C	C	C	C <sup>4</sup>	C <sup>4</sup>	C	C <sup>10</sup>	X	X	X	X			
Heavy <sup>18</sup>	X	X	X	X	X	X	C <sup>10</sup>	X	X	X	X			

- Notes: 1. See Section 9-6.304(a)(1).  
2. See Section 9-6.304(a)(2).  
3. See Section 9-6.304(a)(3).  
4. See Sections 9-6.305 and 9-6.502.  
5. See Sections 9-6.306 and 9-6.503.  
6. See Sections 9-6.307(a) and 9-6.504(a).  
7. See Section 9-6.307(b).  
8. See Sections 9-6.307(c) and 9-6.504(b).

9. See Section 9-6.307(d).
  10. See Section 9-6.307(e).
  11. See Section 9-6.309(a).
  12. See Sections 9-6.309(b) and 9-6.505.
  13. See Section 9-6.309(c).
  14. See Sections 9-6.310 and 9-6.506.
  15. See Section 9-6.311.
  16. See Sections 9-6.312 and 9-6.507.
  17. See Sections 9-6.313 and 9-6.508.
  18. Live/work uses are as defined in Sections 9-4.3.16(f) and (g), and as regulated in Article 58 of the Zoning Ordinance. See Section 9-6.602(b) for definitions of "Light live/work" and "Heavy live/work".
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**9-6.304 Special Regulations in the Residential Zones.**

- (a) Limitations on Certain Commercial Uses. In the Residential zones, certain commercial uses, as indicated in Table 9-6.303, are permitted on the ground floor only, and are subject to the following restrictions:
  - (1) RH High Density Residential Zone. Each such individual establishment shall not exceed 15,000 gross square feet.
  - (2) RMH Medium High Density Residential Zone. Each such individual establishment shall not exceed 10,000 gross square feet and shall be local-serving.
  - (3) RM Medium Density Residential Zone. Each such individual establishment shall not exceed 5,000 gross square feet and shall be local-serving.
- (b) Commercial Hauling Prohibited. Commercial hauling businesses are not permitted as home occupations in the Residential zones.

**9-6.305 Special Regulations in the Mixed Use Zones.**

- (a) Sites of Less Than One Acre. Developments on sites of less than one acre in the Mixed Use zones may be comprised of a single use, as prescribed in Section 9-6.303.
- (b) Sites of One to Five Acres. Developments on sites of at least one acre but less than five acres in the Mixed Use zones must be approved pursuant to the Conditional Use Permit procedure at Article 82 of the Zoning Ordinance, or, at the applicant's option, pursuant to the Planned Unit Development Procedure at Article 85 of the Zoning Ordinance. A mix of use groups is required pursuant to subsection (d) of this section, except that a single use, as prescribed in Section 9-6.303, may be allowed upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance and the additional finding required by Section 9-6.502.
- (c) Sites of Five Acres or More. On sites of five acres or more in the Mixed Use zones, a mix of use groups is required pursuant to subsection (d) of this section. Such developments must be approved pursuant to the Planned Unit Development Procedure at Article 85 of the Zoning Ordinance.
- (d) Mix of Use Groups. As used in subsections (b) and (c) above, a "mix of use groups" means:

- (1) MUR Mixed Use with Residential Zone. The development must include uses from two or more of the Use Groups defined in Section 9-6.603, one of which must be the Residential Group. Additional uses, as prescribed in Section 9-6.303, are also allowed.
- (2) MUN Mixed Use with Nonresidential Zone. The development must include uses from two or more of the Use Groups defined in Section 9-6.603, one of which may not be the Residential Group. Additional uses, as prescribed in Section 9-6.303, are also allowed.

The exact mix of uses shall be determined through the Conditional Use Permit or Planned Unit Development approval process.

**9-6.306 Special Regulations in the OT Office/Technology Zone.**

- (a) Limitations on Certain Commercial Uses. Retail Sales and Warehousing and Distribution uses are conditionally permitted only if they are secondary to other permitted or conditionally permitted uses in the OT zone.

**9-6.307 Special Regulations in the IND Industrial Zone.**

- (a) Limitations on Office Uses. Office uses shall be designed and operated so as not to interfere with other nearby uses that are permitted or conditionally permitted in the IND zone.
- (b) Adult Entertainment. Adult Entertainment uses are as regulated in Article 60 of the Zoning Ordinance, except that references to the I-G General Industrial District are replaced by the IND Industrial zone established by this chapter.
- (c) Limitations on Certain Commercial Uses. Retail and convenience type uses, and On-premises Liquor Sales, are limited to those primarily intended to serve the immediate surrounding area.
- (d) Limitations on General Industrial Uses.
  - (1) West of Hollis Street north of 65<sup>th</sup> Street, General Industrial uses are permitted with a conditional use permit.
  - (2) East of Hollis Street, and along Horton Street between Powell Street and Stanford Avenue, new General Industrial uses are not permitted, but existing General Industrial uses may continue as conforming uses and may be expanded upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance subject to the Class A performance standards as stipulated in Article 59 of the Zoning Ordinance.
- (e) Limitations on Live/Work Uses.
  - (1) West of Hollis Street north of 65<sup>th</sup> Street, only heavy live/work is permitted with a conditional use permit; light live/work is prohibited.
  - (2) East of Hollis Street, and along Horton Street between Powell Street and Stanford Avenue, only light live/work is permitted with a conditional use permit; heavy live/work is prohibited.

**9-6.308 Special Regulations in the PUB Public Zone.**

(None).

**9-6.309 Special Regulations in the MAR Marina Zone.**

- (a) Limitations on Residential Uses. Live-aboard boats are permitted; all other residential uses are prohibited.
- (b) Limitations on Certain Civic and Commercial Uses. Retail, recreation, and food service uses must have a waterfront orientation.
- (c) Limitations on Gasoline Sales Uses. Fuel docks dispensing fuel for boats are conditionally permitted; all other Gasoline Sales uses are prohibited.

**9-6.310 Special Regulations in the POS Park/Open Space Zone.**

- (a) Limitations on Certain Commercial Uses. Food service and retail uses must be oriented to park users, and are limited to a total floor area of no more than 20% of the park area.

**9-6.311 Special Regulations in the S-M Shoreline Management Zone.**

- (a) Uses. All uses, including accessory uses, must comply with the Emeryville Shoreline Protection Ordinance of 1987.
- (b) Structures. Structures are not permitted.

**9-6.312 Special Regulations in the RR Regional Retail Overlay Zone.**

- (a) Conditionally Permitted Uses. Conditionally permitted uses may occupy 100 percent of the building area provided that they are regional-serving.

**9-6.313 Special Regulations in the NR Neighborhood Retail Overlay Zone.**

- (a) Permitted Uses. Uses indicated as permitted in the NR Neighborhood Retail overlay zone column of Table 9-6.303 are only permitted if they have all of the following characteristics:
  - (1) Are local-serving;
  - (2) Are located on the ground floor;
  - (3) Have a gross floor area of 5,000 square feet or less;
  - (4) Have a pedestrian orientation with a main entrance facing the public sidewalk that will remain open to the general public during normal business hours;
  - (5) Do not include alcoholic beverage sales, except Full Service Eating and Drinking Establishments; and
  - (6) Do not include check cashing services.
  - (7) Have hours of operation no earlier than 7:00 a.m. daily, and no later than 10 p.m. Monday through Saturday and 9 p.m. on Sunday.



- (8) Provide at least two bicycle parking racks accommodating a total of at least four bicycles on the sidewalk near the main entrance.
- (b) Conditionally Permitted Uses. In addition to uses indicated as conditionally permitted in Table 9-6.303, any uses indicated as permitted but not having all of the characteristics listed in subsection (a) above shall require a conditional use permit.
- (c) Prohibited Uses. Uses indicated as prohibited in the NR zone in Table 9-6.303 are not allowed, even if they are permitted or conditionally permitted in the base zone.
- (d) Off-street Parking and Loading. Local-serving uses having a gross floor area of 5,000 square feet or less are exempt from the off-street parking and loading requirements stipulated in Article 55 of the Zoning Ordinance.

**9-6.314 Use Regulations and Standards in All or Several Zones.**

- (a) Use Regulations. The following use regulations shall apply in all or several zones, as indicated:
  - (1) Factory-Built Housing. Factory-built housing shall be treated the same as conventional site-built housing.
  - (2) Mobile Homes on Individual Lots. Mobile homes on individual lots shall be treated the same as single-family dwellings.
  - (3) Small Family Day Care. Small family day care homes located in single-family dwellings shall be treated the same as a single-family dwellings.
  - (4) Large Family Day Care. Large family day care homes are subject to the applicable provisions of Article 56 of the Zoning Ordinance.
  - (5) Special Residential Care Facilities. Special residential care facilities located in single-family dwellings shall be permitted as residential uses subject to the applicable provisions of Article 56 of the Zoning Ordinance.
  - (6) Residential Second Units. Residential second units are subject to the applicable provisions of Article 56 of the Zoning Ordinance.
  - (7) Accessory Uses. Accessory uses and structures are subject to the provisions of Article 5 of the Zoning Ordinance.
  - (8) Home Occupations. Home occupations are permitted in any legal residential unit, subject to the applicable provisions of Article 5 of the Zoning Ordinance.
  - (9) Open Storage. Open storage in any zone shall require a conditional use permit pursuant to Article 82 of the Zoning Ordinance except in the S-M Shoreline Management zone where it is prohibited.
  - (10) Drive-in Facilities. Drive-in Facilities are prohibited in all zones except the RR Regional Retail Overlay Zone, where they shall require a conditional use permit pursuant to Article 82 of the Zoning Ordinance and the additional findings required by Section 9-6.507.
- (b) Standards. The following standards shall apply in all or several zones, as indicated:

- (1) Setbacks. The minimum setbacks of buildings from lot lines, referred to in this chapter as “yards”, shall be as prescribed in Section 9-6.403.
- (2) Residential Density. Maximum residential density shall be as prescribed in Section 9-6.404.
- (3) Building Intensity. The maximum floor area ratio of buildings shall be as prescribed in Section 9-6.405.
- (4) Height. The maximum height of buildings and structures shall be as prescribed in Section 9-6.406.
- (5) Minimum Dwelling Area. In the RH High Density Residential, RMH Medium High Density Residential, and RM Medium Density Residential zones, each dwelling unit shall have a minimum gross floor area of not less than 500 square feet.
- (6) Minimum Lot Size. There is no minimum lot size in any zone.
- (7) Landscaping, Buffering and Screening. Landscaping, buffering, and screening shall be provided pursuant to the provisions of Article 54 of the Zoning Ordinance.
- (8) Off-street Parking and Loading. Off-street parking and loading shall be provided pursuant to the provisions of Article 55 of the Zoning Ordinance, with the following exceptions:
  - a. Certain uses in the NR Neighborhood Retail overlay zone are exempt from off-street parking and loading requirements, as stipulated in Section 9-6.313(d).
  - b. Parking provided pursuant to Section 9-4.55.10 shall require a conditional use permit rather than a variance, and shall be subject only to the findings in Sections 9-4.55.10(3)(i) and (ii), except that references to a variance in such findings are replaced by references to a conditional use permit.
  - c. The parking requirement for Research Services and High Technology uses shall be 1.5 spaces per 1,000 square feet.
- (9) Bicycle Parking. Bicycle parking shall be provided pursuant to the provisions of Article 68 of the Zoning Ordinance.
- (10) Vehicular Access. All lots shall have vehicular access from a dedicated street or alley. Access to all off-street parking and loading areas shall conform to requirements of the City Engineer and shall be subject to modification during review of the site plan.
- (11) Lighting. All lighting, interior or exterior, shall be designed and located so as to confine all direct rays to the premises on which it is located.
- (12) Multiple Uses. The provisions of this chapter supersede the standards for multiple-use developments contained in Article 57 of the Zoning Ordinance.
- (13) Live/Work Space. The standards for live/work space are contained in Article 58 of the Zoning Ordinance.

- (14) Performance Standards. All development shall be subject to the performance standards as set forth in Article 59 of the Zoning Ordinance.
- (15) Signs. The standards for signs are contained in Article 61 of the Zoning Ordinance.
- (16) Affordable Housing. All new residential projects of 30 or more dwelling units, including live-work units, shall be subject to the affordable housing set-aside program as prescribed in Article 62 of the Zoning Ordinance.
- (17) Water Reuse. The requirements for the use of recycled water are contained in Article 63 of the Zoning Ordinance.
- (18) Demolition of Structures.
  - a. Demolition of Tier 1 and Tier 2 buildings in the Park Avenue District shall be subject to the requirements of Article 64 of the Zoning Ordinance.
  - b. Demolition of structures containing residential units, including live/work units, shall be subject to the requirements of Article 65 of the Zoning Ordinance.
  - c. Demolition of significant non-residential structures outside the Park Avenue District shall be subject to the requirements of Article 67 of the Zoning Ordinance.
- (19) Sidewalk Cafes. Sidewalk cafes shall be subject to the requirements of Article 66 of the Zoning Ordinance.
- (20) Condominium Conversions. Conversion of existing residential buildings to condominiums shall be subject to the requirements of Article 7 of Chapter 3 of this title.
- (21) Noise. Regulations regarding noise, including construction noise, are set forth in Chapter 13 of Title 5. These are in addition to the performance standards set forth in Article 59 of the Zoning Ordinance.
- (22) Medical Marijuana Dispensaries. Medical marijuana dispensaries are prohibited pursuant to Chapter 28 of Title 5.
- (23) Tobacco Shops. Pursuant to Section 5-29.10 of Chapter 29 of Title 5, retail or wholesale tobacco shops are prohibited from being located within 1,000 feet of public or private schools and parks, greenways and playgrounds. "Retail or wholesale tobacco shop", as defined in Section 5-29.02(p) of Chapter 29 of Title 5, means any business establishment that derives 50% or more of gross receipts from the sale or exchange of tobacco products or any other weed, plant or combustible substance, including medicinal marijuana, or tobacco paraphernalia.
- (24) Stormwater Treatment. Development projects are subject to the applicable requirements of the Stormwater Treatment Design, Management, and Discharge Control Program set forth in Chapter 13 of Title 6.
- (25) Street Trees. Maintenance, planting, and removal of street trees are subject to the requirements of the Urban Forestry Ordinance set forth in Chapter 10 of Title 7.

**ARTICLE 4. DIMENSIONAL, INTENSITY, AND DENSITY REGULATIONS**

**9-6.401 Purpose.**

The purpose of this article is to prescribe minimum required setbacks and maximum permitted residential density, building intensity, and height, for buildings and structures in all zoning districts; and to prescribe bonus density, intensity, and heights that may be conditionally permitted.

**9-6.402 Zoning Ordinance Provisions Superseded.**

The provisions of this article supersede Sections 9-4.3.10(f) and 9-4.43.7, and Articles 51 and 52 of the Zoning Ordinance.

**9-6.403 Setbacks.**

The minimum setbacks of buildings from lot lines, referred to in this chapter as “yards”, shall be as prescribed in Table 9-6.403. General requirements for yards shall be as prescribed in Article 53 of the Zoning Ordinance.

**Table 9-6.403. Required Yards (Setbacks).**

Required Yard:		Residential Zones:		All Other Zones:	
		RH High Density Residential and RMH Medium High Density Residential	RM Medium Density Residential	Abutting a Lot in a Residential Zone	Not Abutting a Lot in a Residential Zone
Front	If the two adjacent lots are developed: <sup>1</sup>	Average of front yards on the adjacent lots.		Where street frontage abuts a lot in a residential zone, setback from street line shall be the same as required on the adjacent residential lot. <sup>2</sup>	None.
	If only one of the adjacent lots is developed: <sup>1</sup>	Same as front yard on developed lot but not less than 5 feet.	Same as front yard on developed lot but not less than 10 feet.		
	If neither of the adjacent lots is developed:	5 feet	10 feet		
	Corner lot, whether or not adjacent lots are developed:	5 feet	10 feet		
Street Side		3 feet			

	Residential Zones:		All Other Zones:	
	RH High Density Residential and RMH Medium High Density Residential	RM Medium Density Residential	Abutting a Lot in a Residential Zone	Not Abutting a Lot in a Residential Zone
<b>Required Yard:</b>				
Interior Side	3 feet		10 feet, plus an additional 2 feet for each 1 foot by which the height of the building on the nonresidential lot exceeds 30 feet.	None.
Rear	15 feet			

- Notes: 1. Detached garages and accessory buildings shall not be considered in determining existing front yards.  
2. Where a lot has frontage on two streets, and both such frontages are adjacent to property in a residential zone, the setback from the street line on each frontage shall be the same as required on the adjacent residential lot.

**9-6.404 Residential Density.**

(a) The maximum density of residential uses in dwelling units per acre shall be as prescribed on the General Plan Residential Density Map. This map is made a part of this chapter by this reference. The residential density districts prescribed on this map are:

- 20/35 Permitted: up to 20 units per acre; Bonus: up to 35 units per acre.
- 50/60 Permitted: up to 50 units per acre; Bonus: up to 60 units per acre.
- 85/110 Permitted: up to 85 units per acre; Bonus: up to 110 units per acre.
- 100/135 Permitted: up to 100 units per acre; Bonus: up to 135 units per acre.
- 115/170 Permitted: up to 115 units per acre; Bonus: up to 170 units per acre.

(b) Where there is no residential density district shown on the General Plan Residential Density Map, residential uses are not permitted.

(c) Interpretation of Residential Density Map. If a lot is in two or more residential density zones on the General Plan Residential Density Map, the density indicated on the map shall apply to each portion of the lot, provided that the density for the entire lot may be increased up to the maximum density applicable to any portion of the lot upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance if both of the following conditions are met:

- (1) At least 50 percent of the lot area is already covered by the zone with the maximum residential density; and
- (2) The entire lot could be included in said zone by shifting the residential density zone boundary by not more than 50 feet as measured perpendicularly to said boundary at any point.

If subsections (1) and (2) above do not apply, the maximum permissible number of dwelling units for the lot shall be calculated based on the residential densities that apply

to each portion of the lot. However, the resulting dwelling units may be located anywhere on the lot, subject to applicable maximum floor area ratios, height limits, setbacks, and any other dimensional requirements.

**9-6.405 Building Intensity.**

- (a) The maximum floor area ratio (FAR) of buildings shall be as prescribed on the General Plan Floor Area Ratio Map. This map is made a part of this chapter by this reference. The floor area ratio districts prescribed on this map are:

0.5	Permitted: up to 0.5 FAR;	Bonus: none.
1.2/1.6	Permitted: up to 1.2 FAR;	Bonus: up to 1.6 FAR.
2.0/3.0	Permitted: up to 2.0 FAR;	Bonus: up to 3.0 FAR.
3.0/4.0	Permitted: up to 3.0 FAR;	Bonus: up to 4.0 FAR.
4.0/6.0	Permitted: up to 4.0 FAR;	Bonus: up to 6.0 FAR.

- (b) Where there is no FAR shown on the General Plan Floor Area Ratio Map, buildings and structures are not permitted.

- (c) Interpretation of Floor Area Ratio Map. If a lot is in two or more floor area ratio zones on the General Plan Floor Area Ratio Map, the floor area ratio indicated on the map shall apply to each portion of the lot, provided that the floor area ratio for the entire lot may be increased up to the maximum floor area ratio applicable to any portion of the lot upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance if both of the following conditions are met:

- (1) At least 50 percent of the lot area is already covered by the zone with the maximum floor area ratio; and
- (2) The entire lot could be included in said zone by shifting the floor area ratio zone boundary by not more than 50 feet as measured perpendicularly to said boundary at any point.

If subsections (1) and (2) above do not apply, the maximum permissible floor area for the lot shall be calculated based on the floor area ratios that apply to each portion of the lot. However, the resulting floor area may be located anywhere on the lot, subject to applicable height limits, setbacks, and any other dimensional requirements.

**9-6.406 Height.**

- (a) The maximum height of buildings and structures shall be as prescribed on the General Plan Height Map. This map is made a part of this chapter by this reference. The height districts prescribed on this map are:

30	Permitted: up to 30 feet;	Bonus: none.
30/55	Permitted: up to 30 feet;	Bonus: up to 55 feet.
55/75	Permitted: up to 55 feet;	Bonus: up to 75 feet.
75/100	Permitted: up to 75 feet;	Bonus: up to 100 feet.
100+	Permitted: up to 100 feet;	Bonus: over 100 feet.

- (b) Where there is no height district shown on the General Plan Height Map, buildings and structures are not permitted.

- (c) Exceptions to height limits. No building and structure shall exceed the height limits except as provided in this section. The following structures may be permitted to extend up to ten feet above the maximum height limits, provided that any extension above ten feet shall require a conditional use permit pursuant to Article 82 of the Zoning Ordinance:
  - (1) Chimneys
  - (2) Domestic radio and television antennas; provided, however, that satellite dish antennas shall not extend above the maximum height limits
  - (3) Fire and parapet walls
  - (4) Roof structures for the housing of air conditioners, elevators, stairways, tanks, ventilating fans and similar equipment
  - (5) Skylights
  - (6) Unoccupiable building space
  - (7) Other appurtenances normally incidental to principal buildings and structures
- (d) Interpretation of Height Map. If a lot is in two or more height zones on the General Plan Height Map, the height limit indicated on the map shall apply to each portion of the lot, provided that the height limit for the entire lot may be increased up to the maximum height limit applicable to any portion of the lot upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance if both of the following conditions are met:
  - (1) At least 50 percent of the lot area is already covered by the zone with the maximum height limit; and
  - (2) The entire lot could be included in said zone by shifting the height zone boundary by not more than 50 feet as measured perpendicularly to said boundary at any point.

**9-6.407 Bonuses.**

- (a) Procedure. Except in the RM Medium Density Residential zone, bonus residential densities, floor area ratios, and/or heights, as specified in this article, may be permitted upon the granting of a conditional use permit pursuant to Article 82 of the Zoning Ordinance and the additional findings required Section 9-6.509 if public benefits as specified in this section are provided. Such public benefits are not required in the RM Medium Density Residential zone.
- (b) Public Benefits. To be eligible for bonus residential density, floor area ratio, and/or height, a project must provide significant public benefits substantially beyond normal requirements in the following areas:
  - (1) Public Open Space. Publicly accessible and readily usable parks and/or plazas constituting at least 10 percent of the site area.
  - (2) Family Friendly Development. In residential projects, three bedroom or larger housing units constitute at least 10 percent of the total number of units, and amenities for children, such as play structures.

- (3) Sustainable Design. LEED gold or platinum certification or equivalent.
  - (4) Transportation Demand Management. Facilities and programs to encourage residents and/or tenants to use other travel modes besides single occupant vehicles and to reduce vehicle miles traveled, such as showers and lockers, car sharing pods, bicycle sharing programs, free transit passes, carpool matching services, free carpool parking, parking cash-out programs, unbundled parking, electric vehicle charging stations, alternative work schedules, telecommuting, and on-site daycare.
  - (5) Public Right-of-Way Improvements. Improvements to the public right-of-way, including sidewalk areas, beyond normal improvements required along the property frontage.
  - (6) Undergrounding of Utility Wires. Undergrounding existing overhead utility wires that are not along the project's immediate frontage, including those across the street or on adjacent blocks.
  - (7) Public Parking. Motor vehicle and bicycle parking available to the general public.
  - (8) Neighborhood Centers. Along major streets in the NR Neighborhood Center overlay zone, at least 75 percent of the ground floor frontage devoted to space appropriate for, and actively marketed to, uses listed in Section 9-6.313(a). Such space must have a depth of at least 30 feet and a ceiling height of at least 12 feet. At least one space must be provided with a vent shaft for a kitchen flue and space for a grease interceptor to allow for a possible Eating and Drinking Establishment use.
  - (9) Recycled Water. Dual plumbing in buildings for the future use of recycled water for toilet flushing, cooling towers, and other appropriate uses.
  - (10) Small Businesses. Facilities and programs to attract and retain small businesses, including at least 10 percent of the gross building area configured as tenant spaces of no more than 5,000 square feet, consideration of commercial condominiums or rent subsidies, and active marketing efforts targeted to small businesses.
  - (11) Water Reuse. On-site gray water or rain water collection and reuse facilities.
  - (12) Alternative Energy. On-site wind power, solar power, or cogeneration facilities.
  - (13) Public Art. On-site public art substantially exceeding the requirements of the Art in Public Places Program.
  - (14) Alternative Public Benefit. A currently undefined public benefit as proposed by the applicant which the City Council, on the recommendation of the Planning Commission, determines provides a public benefit which is "significant" and "substantially beyond normal requirements" so as to warrant the granting of the bonus.
- (c) Determination of Bonus. Projects providing public benefits in one of the areas listed in subsection (b) above are eligible for one-third of the bonus residential density, floor area ratio, and/or height. Projects providing public benefits in two of these areas are eligible for two-thirds of the bonus. Projects providing public benefits in three or more of these



areas are eligible for the full bonus. In considering a conditional use permit for bonus residential density, floor area ratio, and/or height, the Planning Commission or City Council, as the case may be, shall determine whether the public benefits provided are “significant” and “substantially beyond normal requirements” so as to warrant the granting of the bonus. Notwithstanding the foregoing, the Planning Commission or City Council, as the case may be, may determine whether one public benefit is sufficiently “significant” and “substantially beyond normal requirements” so as to warrant the granting of all or part of the full bonus.

## **ARTICLE 5. REQUIRED FINDINGS**

### **9-6.501 Purpose.**

The purpose of this article is to prescribe findings for the granting of conditional use permits pursuant to the provisions of this chapter. In addition to the general findings required by Section 9-4.82.13, the findings required by this article must be made in order to grant a conditional use permit in the situations specified.

### **9-6.502 Uses in the Mixed Use Zones.**

To grant a conditional use permit for a single use on a site of at least one acre but less than five acres in the Mixed Use zones, pursuant to Section 9-6.305(b), the following finding must be made:

- (a) That the applicant has convincingly demonstrated that it is infeasible to develop a project with a mix of use groups on the site.

### **9-6.503 Uses in the OT Office/Technology Zone.**

To grant a conditional use permit for a Retail Sales or Light Warehousing and Distribution use in the OT Office/Technology zone, the following finding must be made:

- (a) That the use is secondary to other uses that are permitted or conditionally permitted in the OT Office/Technology zone.

### **9-6.504 Uses in the IND Industrial Zone.**

- (a) To grant a conditional use permit for an Administrative Services (Civic), Administrative and Business Offices, or Professional Services use in the IND Industrial zone, the following finding must be made:

- (1) That the use is designed and operated so as not to interfere with other nearby uses that are permitted or conditionally permitted in the IND Industrial zone.

- (b) To grant a conditional use permit for a Convenience Sales and Services, Convenience Eating and Drinking Establishment, On-Premises Liquor Sales, or Retail Sales use in the IND Industrial zone, the following finding must be made:

- (1) That the use is primarily intended to serve the immediate surrounding area.

**9-6.505 Uses in the MAR Marina Zone.**

To grant a conditional use permit for a Community Recreation, Commercial Recreation, Convenience Sales and Services, Eating and Drinking Establishment, or Retail Sales use in the MAR Marina zone, the following finding must be made:

- (a) That the use has a waterfront orientation.

**9-6.506 Uses in the POS Park/Open Space Zone.**

To grant a conditional use permit for an Eating and Drinking Establishment or Retail Sales use in the POS Park/Open Space zone, the following finding must be made:

- (a) That the use is oriented to park users, and has a total floor area of no more than 20% of the park area.

**9-6.507 Uses in the RR Regional Retail Overlay Zone.**

To grant a conditional use permit for any use that is listed in Table 9-6.303 as conditionally permitted in the RR Regional Retail overlay zone, or for a Drive-in Facility in the RR Regional Retail overlay zone, the following findings must be made:

- (a) That the use will enhance Emeryville's role as a regional retail destination.
- (b) That the use will provide adequate access for all travel modes, including automobiles, pedestrians, bicycles, and public transit.
- (c) That the proposal will conform in all significant respects with any applicable area plan which has been adopted by the City Council.

**9-6.508 Uses in the NR Neighborhood Retail Overlay Zone.**

To grant a conditional use permit for any ground floor use that is listed in Table 9-6.303 or Section 9-6.313(b) as conditionally permitted in the NR Neighborhood Retail overlay zone the following findings must be made:

- (a) That the use will enhance the area's role as a neighborhood center.
- (b) That the use will provide a pedestrian orientation, including consideration of a main entrance facing the public sidewalk that will remain open to the general public during normal business hours.
- (c) That the proposal will conform in all significant respects with any applicable area plan which has been adopted by the City Council.

**9-6.509 Density, Height, and Floor Area Ratio Bonuses.**

To grant a conditional use permit for bonus residential density, height, or floor area ratio, as prescribed in Article 4, the following findings must be made:

- (a) In the RM Medium Density Residential zone:
  - (1) That the proposed project is of excellent design quality.
  - (2) That the proposed project is compatible with the surrounding neighborhood with regard to building scale, form, and materials, and street orientation.

- (3) That the proposed project has been designed to minimize the appearance from the street of driveways, parking spaces, maneuvering aisles, and garage doors as much as possible given the size and shape of the lot, and that at least 70% of the street frontage is devoted to active non-parking related uses, unless this reduces the parking related frontage to less than 10 feet, in which case a driveway of up to 10 feet in width shall be allowed.
- (b) In all other zones:
- (1) That the proposed project is of excellent design quality.
  - (2) That the proposed project will provide significant public benefits substantially beyond normal requirements in one or more of the areas listed in Section 9-6.407(b). A project providing public benefits in one of these areas is eligible for one-third of the bonus; a project providing public benefits in two of these areas is eligible for two-thirds of the bonus; a project providing public benefits in three or more of these areas is eligible for the full bonus.
- (c) Bonus height over 100 feet:
- (1) That the proposed project is of excellent design quality.
  - (2) That the proposed project will provide significant public benefits substantially beyond normal requirements in three or more of the areas listed in Section 9-4.407(b).
  - (3) That the proposed project will minimize impacts on public views, wind, and shadows at the street level.
  - (4) That the proposed project will be separated by an adequate distance from any other building with a height greater than 100 feet.

## **ARTICLE 6. DEFINITIONS**

### **9-6.601 Purpose.**

The purpose of this article is to define certain terms and concepts used in this chapter. If not otherwise specified, terms used in this chapter shall be as defined in the Zoning Ordinance.

### **9-6.602 Definitions of Terms.**

As used in this chapter:

- (a) "Intensity" means the intensity of land utilization as measured by the lot size or floor area ratio of all development. This supersedes the definition of "intensity" at Section 9-4.3.13(c) except for existing Planned Unit Developments, which are still subject to the definition at Section 9-4.3.13(c).
- (b) "Live/work" uses are as defined in Sections 9-4.3.16(f) and (g), with the following additional stipulations:
  - (1) "Heavy live/work" means any live/work use which otherwise complies with all applicable laws in which the work activity may be objectionable by reason of production of offensive odor, dust, noise, bright lights, vibration, or the storage of

hazardous materials or products, including but not limited to manufacturing, welding, or assembly.

- (2) "Light live/work" means any live/work use not classified as heavy live/work.
- (c) "Local-serving" means having a market area generally not exceeding one mile in radius.
- (d) "Mixed Use Zones" means the MUR Mixed Use with Residential and the MUN Mixed Use with Nonresidential zones.
- (e) "Regional-serving" means having a market area generally exceeding one mile in radius.
- (f) "Residential Zones" means the RH High Density Residential, RMH Medium High Density Residential, and RM Medium Density Residential zones.

### **9-6.603 Use Groups.**

For purposes of this chapter, use classifications are divided into the following use groups: Residential, Retail, Office, Hotel, Recreational, and Industrial. These groups are defined as follows:

- (a) Residential Group. This group is characterized by multiple dwelling units in a single structure or group of structures, and includes the following use classifications:

- Family Residential
- Townhouse
- Multifamily

- (b) Retail Group. This group is characterized by establishments whose primary function is to serve walk-in customers, with or without advance appointments, and includes the following use classifications:

- Cultural and Library Services
- Animal Sales and Services
  - Grooming and pet stores
- Convenience Sales and Services
- Eating and Drinking Establishments
  - Convenience
  - Full-service
- Financial Services
- Food and Beverage Retail Sales Services
- On-Premises Liquor Sales
- Personal Services
- Retail Sales
- Repair Services

- (c) Office Group. This group is characterized by establishments whose employees spend all or most of the workday at assigned work stations in offices, laboratories, and similar environments, and whose primary function is not to serve walk-in customers, and includes the following use classifications:

- Administrative Services (Civic)
- Administrative and Business Offices

Animal Sales and Services  
Veterinary  
Medical Services  
Professional Services  
Research Services  
High Technology

- (d) Hotel Group. This group is characterized by hotels and motels that provide commercial lodging services to the general public on a less than monthly basis, and includes the following use classification:

Lodging Services

- (e) Recreational Group. This group is characterized by establishments that provide leisure activities to the general public on a walk-in basis, with or without advance appointments, and includes the following use classifications:

















Community Recreation  
Park and Recreation  
Commercial Recreation  
Amusement center  
Indoor sports and recreation  
Indoor entertainment

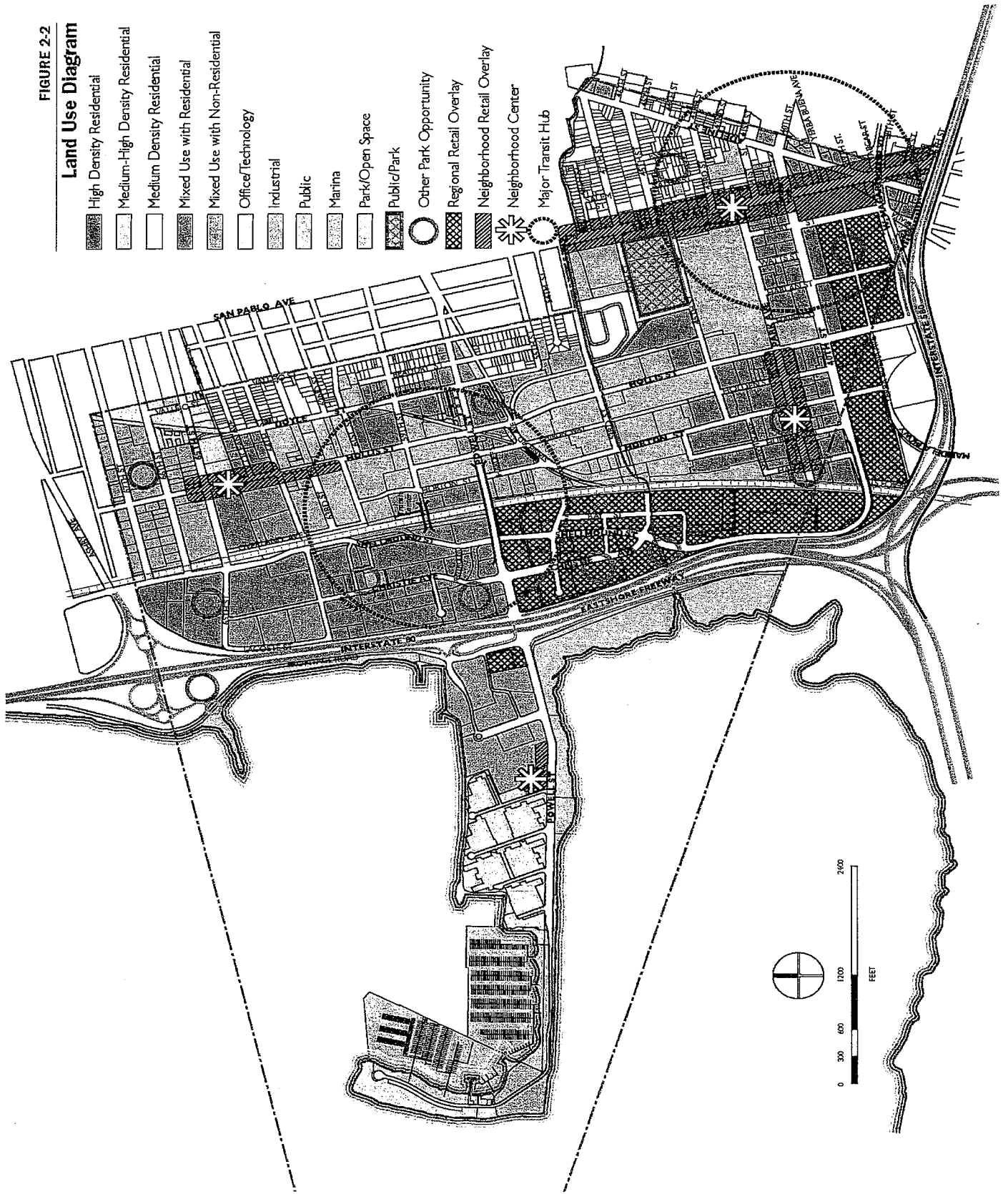
- (f) Industrial Group. This group is characterized by establishments engaged in low-impact manufacturing activities suitable for a mixed use environment, and includes the following use classifications:

Custom Manufacturing  
Light Manufacturing

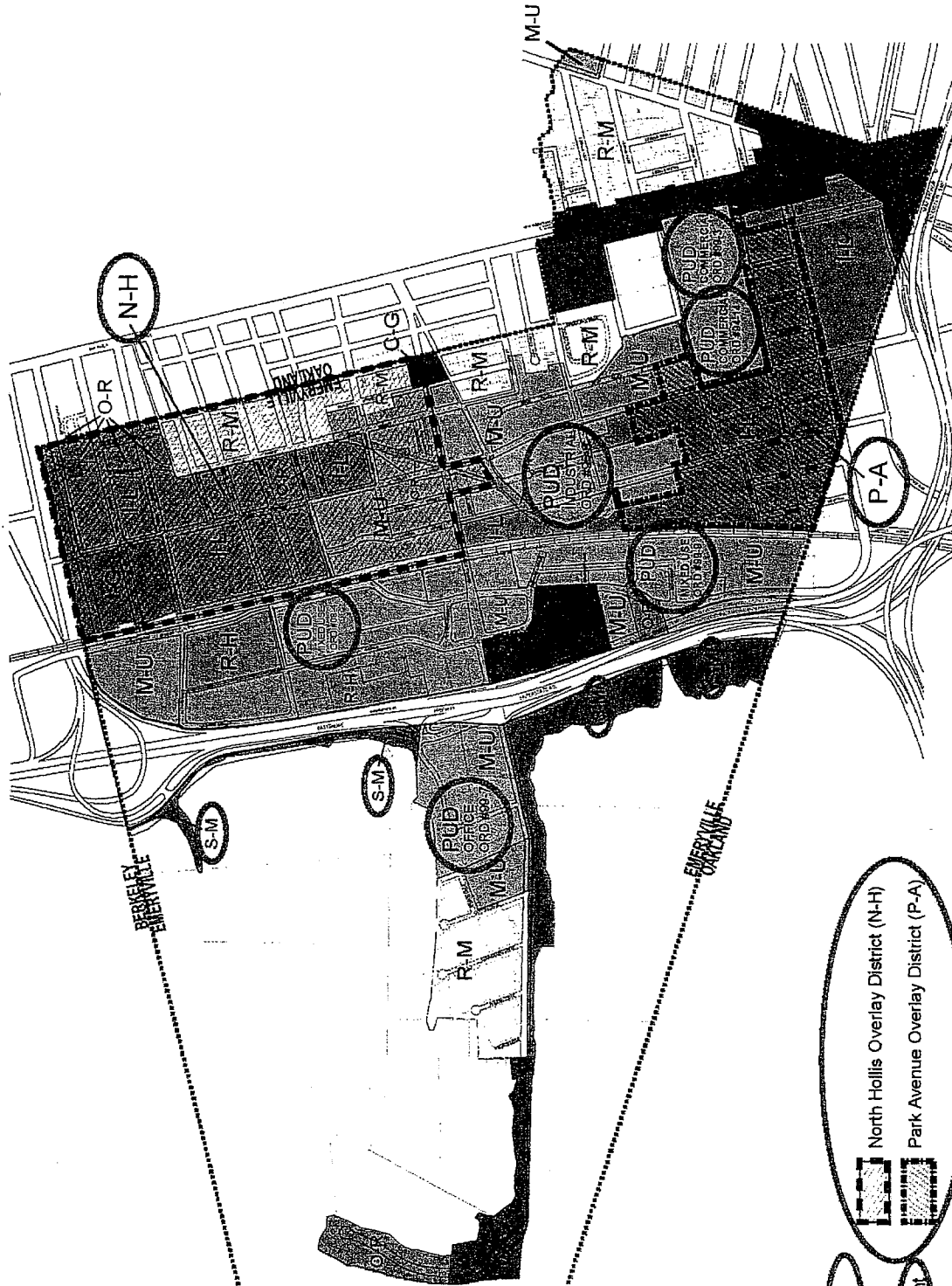
FIGURE 2-2

**Land Use Diagram**

-  High Density Residential
-  Medium-High Density Residential
-  Medium Density Residential
-  Mixed Use with Residential
-  Mixed Use with Non-Residential
-  Office/Technology
-  Industrial
-  Public
-  Marina
-  Park/Open Space
-  Public/Park
-  Other Park Opportunity
-  Regional Retail Overlay
-  Neighborhood Retail Overlay
-  Neighborhood Center
-  Major Transit Hub



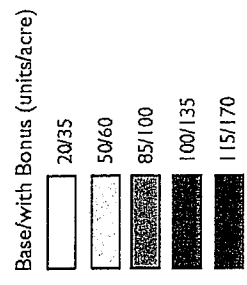
# Zoning Districts Map



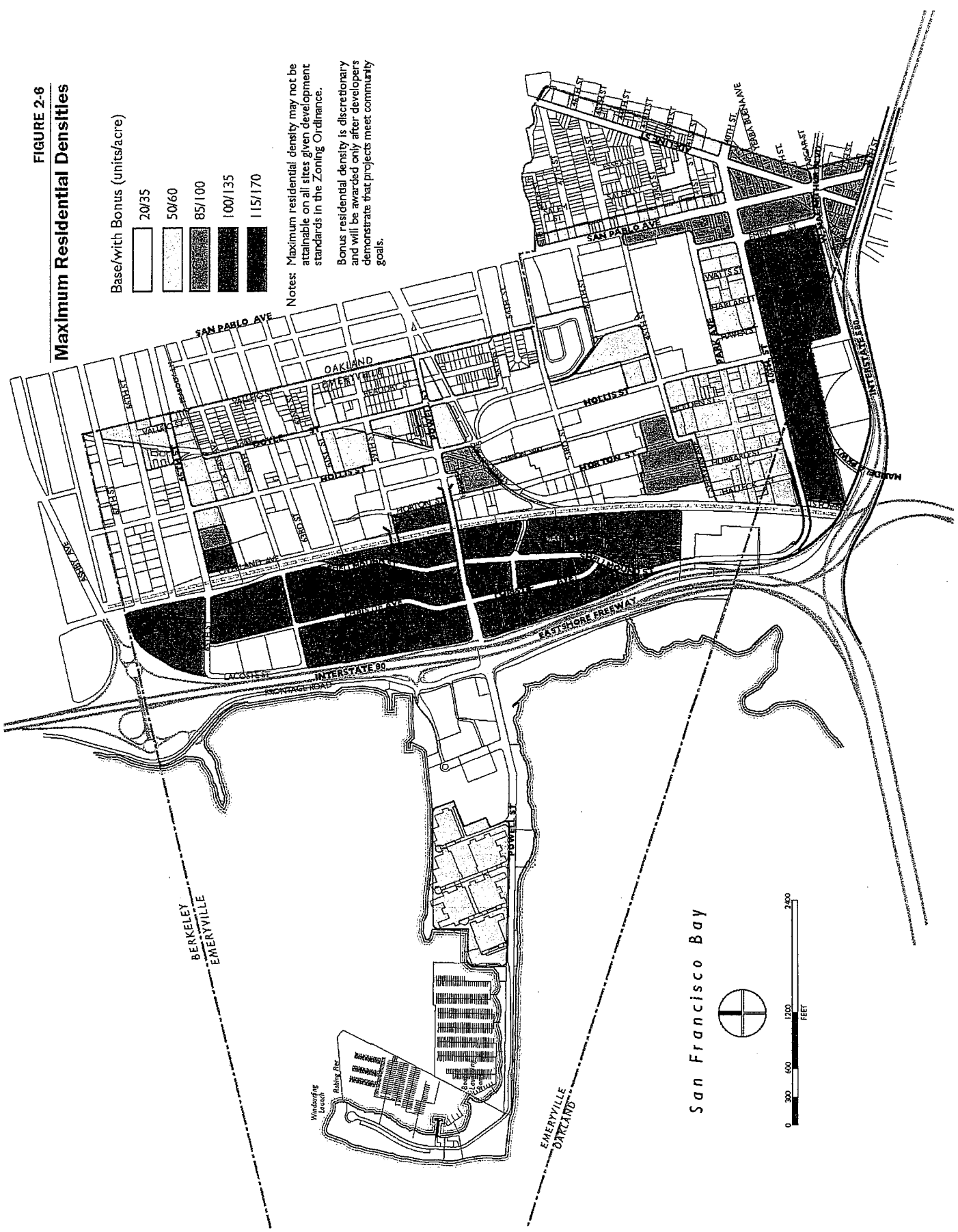
- R-M** Medium Density Residential
- R-H** High Density Residential
- R-L** General Commercial
- R-I** Light Industrial
- R-C** General Industrial
- R-U** Mixed Use
- S-R** Outdoor Recreation
- S-M** Shoreline Management
- S-T** Public Use
- PUD** Planned Unit Development

- N-H** North Hollis Overlay District (N-H)
- P-A** Park Avenue Overlay District (P-A)

**FIGURE 2-6**  
**Maximum Residential Densities**

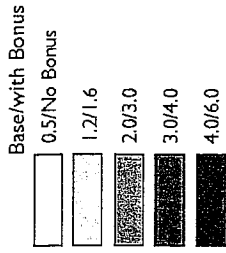


Notes: Maximum residential density may not be attainable on all sites given development standards in the Zoning Ordinance.  
 Bonus residential density is discretionary and will be awarded only after developers demonstrate that projects meet community goals.





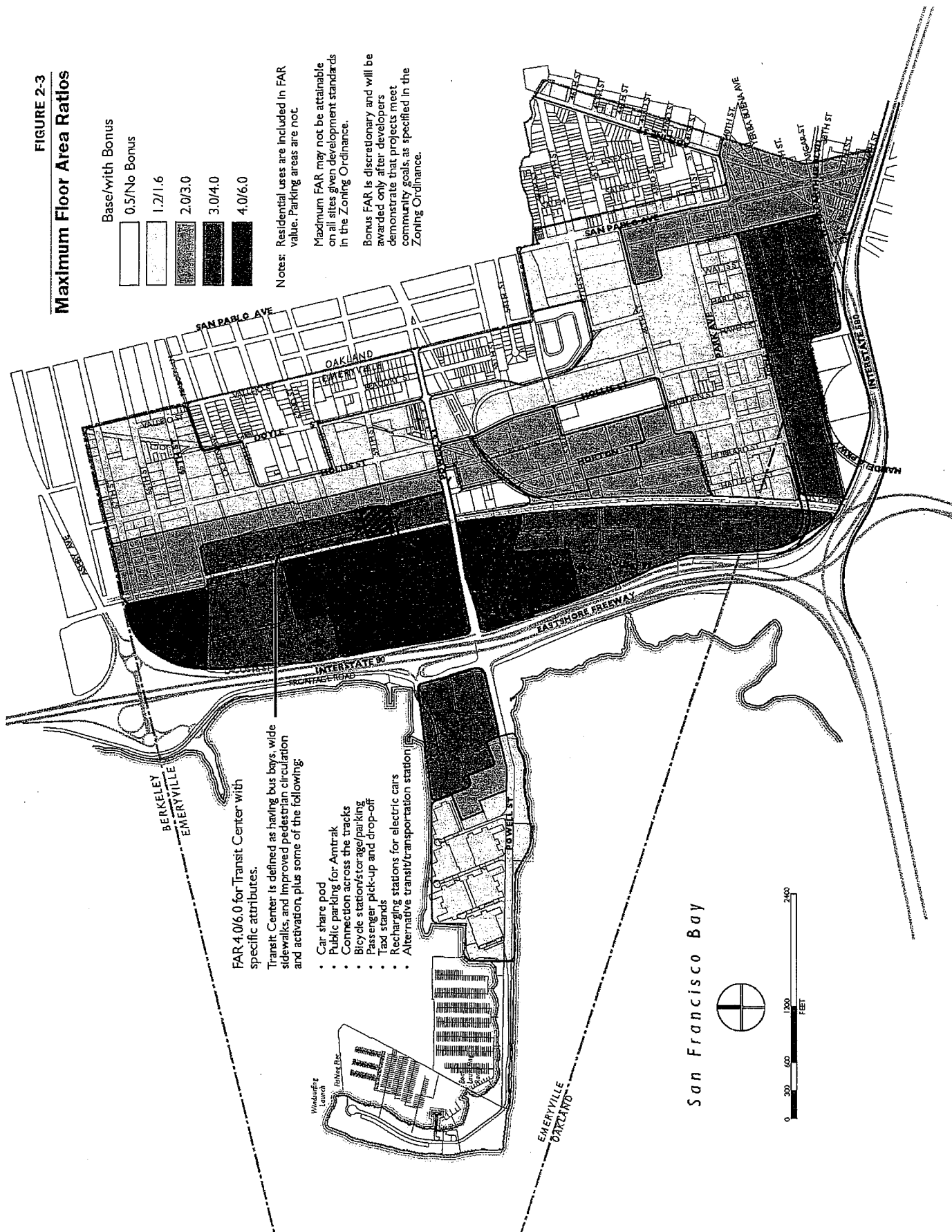
**FIGURE 2-3**  
**Maximum Floor Area Ratios**



Notes: Residential uses are included in FAR value. Parking areas are not.

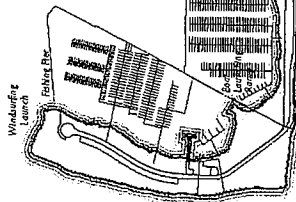
Maximum FAR may not be attainable on all sites given development standards in the Zoning Ordinance.

Bonus FAR is discretionary and will be awarded only after developers demonstrate that projects meet community goals, as specified in the Zoning Ordinance.

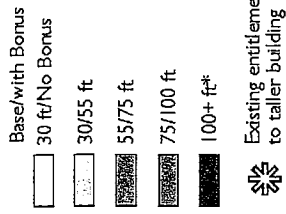


FAR 4.0/6.0 for Transit Center with specific attributes.  
Transit Center is defined as having bus bays, wide sidewalks, and improved pedestrian circulation and activation, plus some of the following:

- Car share pod
- Public parking for Amtrak
- Connection across the tracks
- Bicycle station/storage/parking
- Passenger pick-up and drop-off
- Taxi stands
- Recharging stations for electric cars
- Alternative transit/transportation station

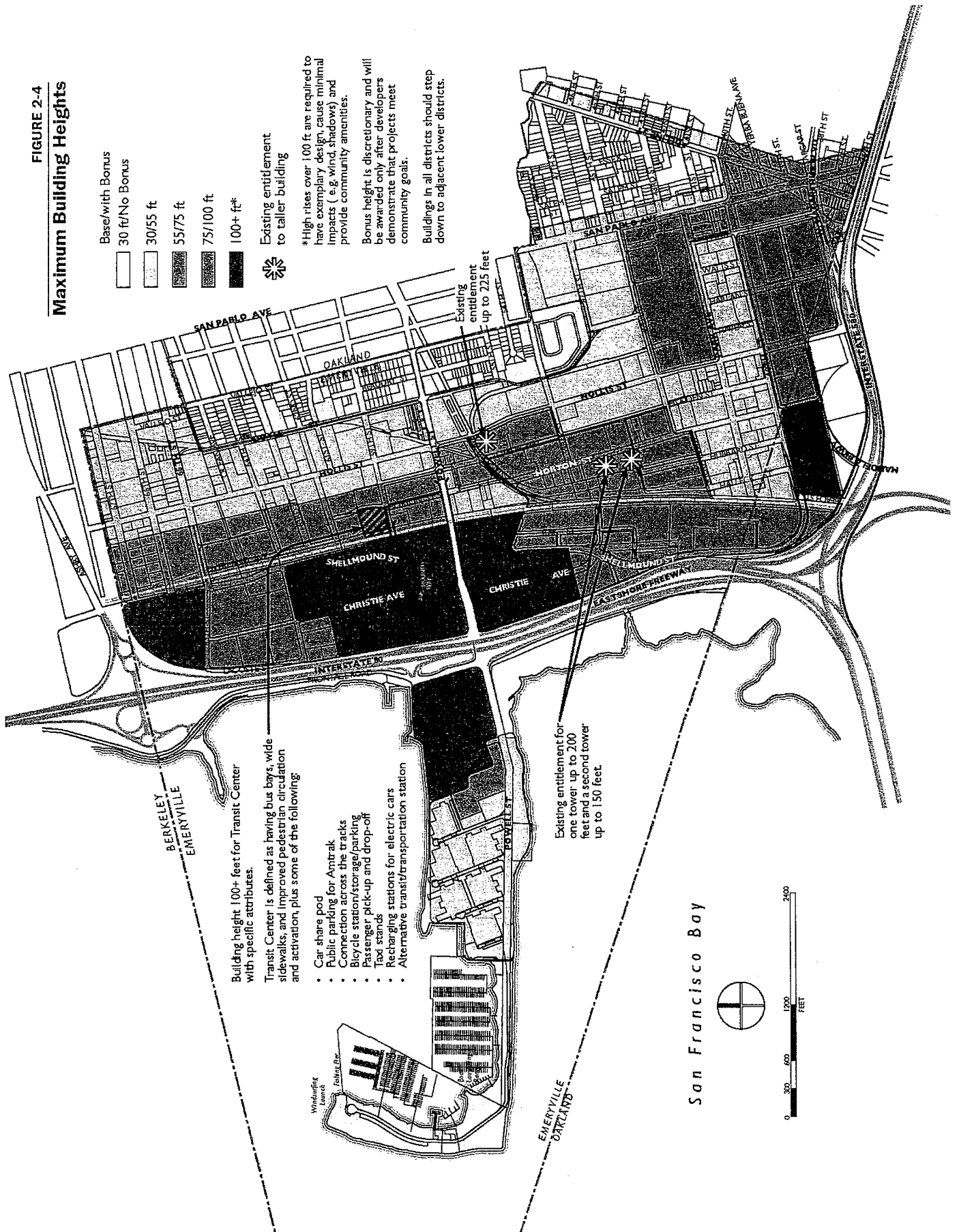


**FIGURE 2-4**  
**Maximum Building Heights**



\*High rises over 100 ft. are required to have exemplary design, cause minimal impacts (e.g. wind, shadows) and provide community amenities.  
 Bonus height is discretionary and will be awarded only after developers demonstrate that projects meet community goals.

Buildings in all districts should step down to adjacent lower districts.



Building height 100+ feet for Transit Center with specific attributes.  
 Transit Center is defined as having bus bays, wide sidewalks, and improved pedestrian circulation and activation, plus some of the following:

- Car share pod
- Public parking for Amtrak
- Connection across the tracks
- Bicycle station/storage/parking
- Passenger pick-up and drop-off
- Taxi stands
- Recharging stations for electric cars
- Alternative transit/transportation station

Existing entitlement for one tower up to 200 feet and a second tower up to 150 feet