

same condition as when destroyed, for the continued operation of the nonconforming use, provided that all of the following findings can be made:

- (1) That the particular location is necessary for the use because of the uniqueness of the site, such as the availability of a natural resource, or preservation of a unique topographic or geologic feature;
- (2) That no other site is available to allow the continued operation of the use in an economically feasible manner;
- (3) That the use in the existing location would not have an adverse impact on adjacent land uses in terms of traffic, circulation and access, noise, light and glare, and would not adversely impact the area in terms of public facilities and services.

(e) If a nonconforming structure or building is moved for any reason or for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located.

(Ord. No. 1069, § 4, 10-28-75; Ord. No. 1657, § 3, 4-16-85; Ord. No. 1759, § 105, 1-6-87.)

**Sec. 8-22305. Nonconforming lots.**

(a) A nonconforming lot shall not be reduced in area or width.

(b) Any conforming use or conforming building or structure on a nonconforming lot or parcel may be enlarged, extended, reconstructed or relocated in compliance with other requirements of this chapter.

(c) A nonconforming lot to be used for residential purposes shall be subject to the density requirements of the zoning district in which it is located; provided, that a single-family dwelling and customary accessory buildings may be erected on a nonconforming lot located in any district in which a single-family dwelling is permitted if the yards on the lot meet the minimum requirements of an R-1-6 District and provided that the lot has an area of no less than four thousand square feet.

(d) Two or more contiguous nonconforming lots in a single ownership shall be considered to be a single lot, and no portion of any such single lot shall be divided in any manner which would

diminish the degree of compliance with the area, width, or yard requirements of the district or such requirements for lands above the Toe of the Hill<sup>1</sup> in which the combined lot or component lots are located.

(Ord. No. 1069, § 4, 10-28-75; Ord. No. 21-2005, § 7(Exh. A-16), 7-26-05.)

**Sec. 8-22305.1. Post-disaster repair/reconstruction of nonconforming structures.**

(a) Notwithstanding other provisions of this article, dwellings or commercial structures, as defined by this chapter, which were legal nonconforming structures when destroyed by an event, as defined in section 7-8115(a) of this Code, or were legal nonconforming when ordered demolished due to the threat posed to public health and safety as a result of damages caused by an event (per section 7-8115(a)), may be reconstructed to the same location, configuration, floor area, and height as the original structure, provided:

- (1) They are constructed of approved materials which maintain the aesthetic characteristics and aspects of the damaged structure.
- (2) Construction shall comply with the then current building code as adopted by the City of Fremont, Title VII of this Code.
- (3) All parts or portions of the original construction are completely removed, except as approved by the building official.
- (4) The site is prepared in accordance with a foundation report prepared by an individual registered by the state to perform foundation investigations whenever required by the city building code in effect at the time of reconstruction.
- (5) The owner shall conform with the time table of Chapter 6, Title VII of this Code.

(b) Reconstruction of partially damaged buildings shall be compatible with the architecture of the remaining portion of the building.

(c) Reconstruction will be allowed pursuant to subsection (a) of this section only if a building permit is obtained and construction commences

within two years of the date of the declaration of emergency. In the event it can be demonstrated that the failure to obtain a building permit was caused by factors outside of the control of the property owner, an extension may be granted by the building official up to a maximum of three years from the date of the declaration of emergency. The burden of proof as to the legal nonconforming status of the structure shall be borne by the property owner.

(Ord. No. 2183, § 1, 6-18-96.)

**Sec. 8-22305.6. Post-disaster nonconforming land use.**

For those dwellings and commercial buildings or structures which housed legal nonconforming uses prior to an event for which there has been a declaration of emergency, the same nonconforming use may be maintained or reestablished in the new or repaired building provided the use is lawful and is in conformance with the municipal code as it relates to nonconforming uses. The burden of proof as to the legal nonconforming use of the structure shall be borne by the property owner.

(Ord. No. 2183, § 1, 6-18-96.)

**Sec. 8-22306. Nonconforming signs; conformity or discontinuance.**

(a) *Discontinuance date.* Except as otherwise provided in this section or by law, all nonconforming signs, including but not limited to, billboards or commercial advertising structures, lawfully existing as of January 1, 1958, may be continued in use, without expansion, alteration or other substantial change, until December 15, 1970, at which time such nonconforming signs shall immediately be removed, discontinued and abated, or changed so as to conform with the requirements of this chapter.

(b) *Signs with valid sign permit.* Except as otherwise provided in this section or by law, any sign for which a valid sign permit has been issued by the city after January 1, 1958, and which sign remains in conformance with the regulations applicable at the time of the issuance of such permit but which sign has become a nonconforming sign by virtue of an amendment to the sign regula-

tions, or by other provision of this chapter, may except as provided in subsection (d) below, be continued in use, including ordinary maintenance and repair and the change of the sign copy of such sign provided that any such maintenance, repair, or change in sign copy does not result in any substantial change in the configuration of the sign cabinet, if any, or other structural components of the sign. No such sign shall be relocated unless brought into conformance with the provisions of this chapter, except that the development organization may permit relocation of such a sign to another nonconforming location where existing conditions of the site (a lot and/or buildings located thereon) upon which such sign is located prevent reasonable relocation to a conforming sign location.

(c) *Signs for nonconforming uses.* The provisions of this section shall not apply to signs and structures lawfully accessory to a principal nonconforming use which is allowed to continue pursuant to other provisions of this article, so long as such signs would conform to the regulations of the district in which they are located or would conform with the following requirements: Signs appurtenant to a legal nonconforming use shall not exceed twenty-four square feet in area. Such signs may be integral with the building or located in required front yard area, provided that the height of such signs located in required front yard areas shall not exceed six feet above finished grade.

(d) *Zoning status change, parcel configuration revision or building alteration.* Notwithstanding the provisions of subsections (a) and (b) above, any conforming sign which becomes nonconforming by virtue of a change in the zoning district

(d) Other than public or private street lights, exterior lighting shall be diffused or concealed in order to prevent illumination of adjoining properties or the creation of objectionable visual impacts on other properties or roadways.

(e) Mixed-use developments<sup>1,3,4</sup> may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments.<sup>3</sup>

(f) Internal and external storage of municipal solid waste, recyclables, and yard waste shall conform to the standards set forth in Article 21.3, Section 8-22155 of this Code.  
(Ord. No. 1120, § 25, 11-2-76; Ord. No. 1737, § 2, 8-26-86; Ord. No. 1759, § 25, 1-6-87; Ord. No. 1797, § 10, 9-22-87; Ord. No. 1799, § 10, 10-13-87; Ord. No. 2045, § 82, 9-21-93; Ord. No. 17-2004, § 9, 7-6-04/eff. 1-5-05; Ord. No. 4-2007, § 14, 2-13-07.)

**Sec. 8-21007. Other regulations of this chapter which are, or may be applicable.**

(a) Parking regulations and standards shall be as stated in Article 20.

(b) Exceptions to the regulations of this article are described in Article 22.

(c) All development, extensions or expansion of lot, structures or uses is subject to the site plan and architectural approval process described in Article 27.

(d) Any change from a residential to a nonconforming residential use to a nonresidential use shall be subject to the site plan and architectural approval process described in Article 27.  
(Ord. No. 1120, § 25, 11-2-76; Ord. No. 1767, § 2, 3-17-87; Ord. No. 2045, § 83, 9-21-93.)

*[Notes Applicable to Article 10]*

<sup>1</sup>This term is defined in Article 1.

<sup>2</sup>Term is elaborated on in Standard Industrial Classification Manual.

<sup>3</sup>The special regulations of Article 21.3 apply to this use.

<sup>4</sup>Requires a public hearing; see Article 25.  
(Ord. No. 1120, § 25, 11-2-76; Ord. No. 1386, § 32, 6-17-87.)

**ARTICLE 11. C-C COMMUNITY COMMERCIAL DISTRICT\***

- § 8-21100. Purpose.
- § 8-21101. Permitted uses.
- § 8-21101.5 Uses specifically prohibited.
- § 8-21102. Accessory uses.
- § 8-21103. Conditional uses: Planning commission as reviewing agency.
- § 8-21103.1 Zoning administrator uses.
- § 8-21104. Building and site standards.
- § 8-21105. Other required conditions.
- § 8-21106. Other regulations of this chapter which are, or may be, applicable.

**Sec. 8-21100. Purpose.**

To provide areas for general commercial uses and services in each of the planning areas and intended primarily to serve the residents thereof, wherein a broad range of services may be provided in a pedestrian-oriented commercial environment.

The C-C district designation shall normally be applied to a single location of each planning area of the general plan. A C-C district may be enlarged by action of the city council, subject to required modifications to the general plan and zoning maps; and consistent with the concept

\***Editor's note**—Section 26 of Ord. No. 1120, enacted Nov. 2, 1976, amended art. 11 to read as herein set out in §§ 8-21100—8-21106. Prior to enactment of said ordinance art. 11 pertained to similar subject matter and was derived from Ord. No. 87, §§ 8-21101—8-21106; Ord. No. 212, §§ 1 and 2; Ord. No. 229, §§ 1 and 2; Ord. No. 339, § 1; Ord. No. 371, § 10; Ord. No. 463, §§ 1, 4 and 5; Ord. No. 536, § 1; Ord. No. 549, § 2; Ord. No. 616, § 2; Ord. No. 758, § 13, 12-16-69; Ord. No. 855, § 1, 11-17-71; Ord. No. 863, § 5, 9-21-71; Ord. No. 915, §§ 9—16, 8-1-72; Ord. No. 935, § 1, 2-6-73; Ord. No. 958, §§ 2 and 3, 9-11-73; Ord. No. 976, § 2, 2-5-74; Ord. No. 1073, §§ 2 and 3, 11-11-75; and Ord. No. 1099, §§ 4 and 5, 5-25-76.

concentration and integration of uses, or if an increase in size is necessary to accommodate a particular use which cannot otherwise be accommodated within an existing C-C area.  
(Ord. No. 1120, § 26, 11-2-76; Ord. No. 2045, § 84, 9-21-93.)

**Sec. 8-21101. Permitted uses.**(a) *Retail stores:*

- (1) Apparel and accessory stores;<sup>2</sup>
- (2) Auto and home supply stores;<sup>2</sup>
- (3) Automotive dealers, except in (H) and (I) overlay districts;<sup>2</sup> this use does not include gasoline service stations;
- (4) Commercial nurseries;<sup>1</sup>
- (5) Eating places without alcoholic beverages<sup>1</sup> if closed before midnight and eating places with beer and wine<sup>1</sup> if closed before midnight, except drive-in or drive-through restaurants;<sup>1,2,3</sup>
- (6) Food stores<sup>2</sup>, except slaughter;<sup>1</sup>
- (7) Furniture, home furnishings and equipment stores;<sup>2</sup>
- (8) General merchandise stores, except department stores;<sup>2</sup>
- (9) Hardware stores;<sup>2</sup>
- (10) Home improvement centers;<sup>1</sup>
- (11) Miscellaneous retail,<sup>2</sup> except adult bookstores,<sup>1</sup> firearms dealers,<sup>1,2,3,4</sup> and head shops;<sup>1</sup>
- (12) Personal computer and software sales.

(b) *Services:*

- (1) Accounting, auditing and bookkeeping services;<sup>2</sup>
- (2) Automotive repair, services and parking,<sup>2</sup> except major auto repair,<sup>1</sup> car washes, and except in an (I) overlay district, except automobile parking;
- (3) Beauty and barber shops;<sup>2</sup>
- (4) Bicycle, camera, lawn mower, leather goods, business machine repair shops;<sup>2</sup>
- (5) Business services, except establishments engaged in renting or leasing machinery, tools and other equipment;<sup>2</sup>
- (6) Child day care;<sup>2</sup>
- (7) Clothing and costume rental;<sup>2</sup>
- (8) Coin-operated service machine operations;<sup>2</sup>
- (9) Communications services, not elsewhere classified;<sup>2</sup>
- (10) Dog grooming;<sup>2</sup>
- (11) Drain cleaning service;
- (12) Engineering, architectural and surveying services;<sup>2</sup>
- (13) Establishments performing carpet and upholstery cleaning services at the customer's premises only;
- (14) Finance, insurance and real estate;<sup>2</sup>
- (15) General offices for business and manufacturing firms,<sup>2</sup> including sales offices and brokers for wholesale trade, with no on-site storage of goods, merchandise or equipment;
- (16) Gunsmith and locksmith shops;<sup>2</sup>
- (17) Hair removal service;
- (18) Health clubs or spas;<sup>2</sup>
- (19) Health services;<sup>2</sup>
- (20) Hotels limited service,<sup>1</sup> and motels,<sup>1</sup> and bed and breakfast inns,<sup>1</sup> when designed consistent with the scale and character of the surrounding commercial land uses;
- (21) Individual and family social services;<sup>2</sup>
- (22) Job training and vocational rehabilitation services;<sup>2</sup>
- (23) Judo and karate instruction;<sup>2</sup>
- (24) Laundry cleaning and garment services; except power and industrial launderers;<sup>2</sup>
- (25) Legal and miscellaneous services, including landscape counseling and planning;<sup>2</sup>
- (26) Mobile boat cleaning;
- (27) Motion pictures,<sup>2</sup> except drive-in<sup>1</sup> motion picture theaters<sup>2</sup> and adult motion picture theaters;<sup>1</sup>
- (28) Photographic studios, portrait;<sup>2</sup>
- (29) Printing, publishing and allied industries;<sup>2</sup>
- (30) Radio and TV broadcasting;<sup>2</sup>
- (31) Radio and TV repair shops;<sup>2</sup>

- (32) Refrigeration and air-conditioning service and repair shops,<sup>2</sup> except in an (I) overlay district;
- (33) Reupholstery and furniture repair,<sup>2</sup> except in an (I) overlay district;
- (34) Shoe repair, shoeshine and hat cleaning shops,<sup>2</sup>
- (35) Tanning salon;
- (36) Tax return preparation service;<sup>2</sup>
- (37) Taxidermists;<sup>2</sup>
- (38) Telephone communications;
- (39) Theatrical producers and miscellaneous theatrical services, except burlesque companies;<sup>2</sup>
- (40) Travel agencies and bureaus;<sup>2</sup>
- (41) Watch, clock and jewelry repair.<sup>2</sup>

(c) *Generally:* Any other retail or service use which the zoning administrator finds, pursuant to the requirements set forth in Article 25.2 of this chapter, is similar in nature, function or operation to permitted uses allowed within the district.

(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1373, §§ 2, 3, 4-1-80; Ord. No. 1375, §§ 4-6, 5-6-80; Ord. No. 1386, § 33, 6-17-80; Ord. No. 1476, § 4, 11-3-81; Ord. No. 1759, §§ 36-39, 1-6-87; Ord. No. 1867, §§ 1-4, 4-25-89; Ord. No. 2045, § 84, 9-21-93; Ord. No. 2081, § 5, 7-26-94; Ord. No. 2407, § 6, 10-24-00; Ord. No. 2423, § 7, 4-10-01; Ord. No. 2489, § 3, 10-1-02; Ord. No. 18-2006, § 1, 9-26-06.)

**Sec. 8-21101.5. Uses specifically prohibited.**

New residential uses are prohibited, except as specifically provided herein.

(Ord. No. 2404, § 8, 10-3-00.)

**Sec. 8-21102. Accessory uses.**

The following uses are allowed when subordinate to or part of a principal use on the same lot and serving a use incidental to such principal use:

- (a) Accessory uses and structures customarily appurtenant to a permitted use, such as incidental storage facilities.

- (b) Car washing and detailing, by hand, when accessory to an automotive dealership (servicing only those cars being sold at the dealership).
- (c) Dwelling unit,<sup>1</sup> one, accessory to and integral with a permitted or conditional use.
- (d) Game or computing devices,<sup>1,3</sup> not to exceed five.
- (e) Ice dispenser unit, one self-service, not to exceed one thousand six hundred cubic feet in size.
- (f) Massage<sup>1</sup> in the following instances:
  - (1) By a medical doctor, chiropractor or other individual licensed to practice any healing art under the California Business and Professions Code, Division 2, commencing with Section 500, when within the scope permitted by such provisions.
  - (2) In a health club, as a service ancillary thereto, when provided by a massage technician with a valid permit under Title IV, Chapter 7 of this Code.

In no case shall advertising, signs or any other display relating to the availability of massage services be visible from the exterior of the building.

- (g) Mobile vending vehicle/cart, one.<sup>1,3</sup>
- (h) Newspaper racks, provided such racks are placed only on private property and in such a manner as to present an orderly appearance and not to create an unsafe condition.
- (i) Reverse vending machines,<sup>1,3</sup> except bulk reverse vending machines.<sup>1</sup>
- (j) Satellite dish antennas.
- (k) Signs.<sup>1,3</sup>  
(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1476, § 5, 11-3-81; Ord. No. 1550, § 2.5, 4-5-83; Ord. No. 1647, § 8, 1-22-85; Ord. No. 1759, § 40, 1-6-87; Ord. No. 1797, § 11, 9-22-87; Ord. No. 1799, § 11,

10-13-87; Ord. No. 2045, § 84, 9-21-93; Ord. No. 2096, § 9, 11-22-94; Ord. No. 2472, § 7, 7-2-02; Ord. No. 19-2004, § 14, 7-13-04.)

**Sec. 8-21103. Conditional uses: Planning commission as reviewing agency.**

The following uses may be allowed with a conditional use permit. The procedure for a conditional use permit shall be as set forth in Article 25 of this chapter:

- (a) Ambulance services.
- (b) Amusement and recreation services,<sup>2</sup> except those uses set forth in this article as permitted uses or zoning administrator uses, and except adult-oriented businesses.<sup>1</sup>
- (c) Banquet halls<sup>1</sup> open after midnight.
- (d) Car washes,<sup>2</sup> except in (HOD) overlay districts.
- (e) Concert halls<sup>1</sup> with 100 seats or more.
- (f) Dating or escort services, except in (HOD) overlay districts.
- (g) Dinner theaters<sup>1</sup> with 100 seats or more.
- (h) Drinking places.<sup>1</sup>
- (i) Drive-in or drive-through eating places,<sup>1</sup> except in (HOD) overlay districts.
- (j) Emergency shelters<sup>1,3</sup>, except in an (F-W) or (F) overlay district.
- (k) Exhibition or conference halls<sup>1</sup> open after midnight.
- (l) Game or computing arcades<sup>1,3</sup> 1,200 square feet in size or larger or within one-quarter mile of a high school or junior high school.
- (m) Gasoline service stations (automobile service stations).<sup>1,3</sup>
- (n) Firearms dealers,<sup>1,3</sup> except in (HOD) overlay districts.
- (o) Head shops.<sup>1</sup>
- (p) Hotels, full service.<sup>1</sup>
- (q) Massage establishments,<sup>1,3</sup> except in (HOD) overlay districts.

- (r) Membership organizations.<sup>2,3</sup>
- (s) Mixed-use developments<sup>1,3,4</sup> except for the following:
  - (1) Areas proximate to State Route 84 and Ardenwood Boulevard; Interstate 880 and Mowry Avenue; Thornton Avenue and Cushing Parkway; or between Auto Mall Parkway and Mission Boulevard between Interstates 880 and 680.
  - (2) Uses prohibited by Article 21.3 for mixed-use developments.<sup>3</sup>
- (t) Modeling services, except in (HOD) overlay districts.
- (u) Motion picture theaters<sup>1</sup> with 150 seats or more.
- (v) Mortuaries.<sup>2</sup>
- (w) Nightclubs.<sup>1</sup>
- (x) Performing arts theaters<sup>1</sup> with 100 seats or more.
- (y) Public uses<sup>1</sup> and quasi-public<sup>1,3</sup> uses.
- (z) Schools for photography.<sup>2</sup>
- (aa) Skating rinks.
- (bb) Tattoo parlors.
- (cc) Any other uses that the planning commission finds are similar in nature, function and operation to conditional uses in the district.  
(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1294, § 3, 11-28-78; Ord. No. 1324, § 3, 5-1-79; Ord. No. 1375, § 7, 5-6-80; Ord. No. 1386, § 34, 6-17-80; Ord. No. 1476, § 6, 11-3-81; Ord. No. 1516, § 1, 8-24-82; Ord. No. 1560, § 5, 6-7-83; Ord. No. 1619, § 2, 8-14-84; Ord. No. 1759, §§ 41, 42, 1-6-87; Ord. No. 1867, §§ 5, 6, 4-25-89; Ord. No. 1885, § 13, 8-22-89; Ord. No. 2045, § 84, 9-21-93; Ord. No. 2081, § 6, 7-26-94; Ord. No. 2096, § 10, 11-22-94; Ord. No. 2407, § 7, 10-24-00; Ord. No. 2506, Exh. A, § 8, 7-22-03; Ord. No. 17-2004, § 10, 7-6-04/eff. 1-5-05; Ord. No. 19-2004, § 15, 7-13-04; Ord. No. 1-2009, § 23, 1-6-09.)

**Sec. 8-21103.1. Zoning administrator permitted uses.**

The following uses may be allowed with a zoning administrator permit. The procedure for a zoning administrator permit shall be as set forth in Article 25.5 of this Chapter:

- (a) Agriculture,<sup>1</sup> except the raising of animals or fowl for commercial purposes.
- (b) Banquet hall<sup>1</sup> if closed before midnight.
- (c) Concert hall<sup>1</sup> with less than one hundred seats.
- (d) Dinner theater<sup>1</sup> with less than one hundred seats.
- (e) Eating places with all alcoholic beverages.<sup>1</sup>
- (f) Eating places with beer and wine,<sup>1</sup> if open after midnight.
- (g) Eating places without alcoholic beverages<sup>1</sup> if open after midnight.
- (h) Equipment rental and leasing, miscellaneous,<sup>2</sup> except in (H) overlay districts, and only when the zoning administrator determines that the uses will not have a significant adverse impact on the visual character or pedestrian orientation of the surrounding area.
- (i) Exhibition or conference halls<sup>1</sup> if closed before midnight.
- (j) Food preparation facilities for off-site consumption.<sup>1</sup>
- (k) Food storage and distribution facilities.<sup>1</sup>
- (l) Game or computing arcades<sup>1,3</sup> less than 1,200 square feet in size, except when within one-quarter mile of a high school or junior high school.
- (m) Meal service facilities.<sup>1</sup>
- (n) Miniature golf courses.<sup>2</sup>
- (o) Mixed-use developments<sup>1,3,4</sup> except for the following:
  - (1) Areas proximate to State Route 84 and Ardenwood Boulevard; Interstate 880 and Mowry Avenue; Thornton Avenue and Cushing Park-

way; or between Auto Mall Parkway and Mission Boulevard between Interstates 880 and 680.

- (2) Uses that are listed as prohibited in Article 21.3 for mixed-use developments.<sup>3</sup>
- (p) Motion picture theater<sup>1</sup> with less than one hundred fifty seats.
- (q) Performing arts theater<sup>1</sup> with less than one hundred seats.
- (r) Recycling collection facilities, small.<sup>1</sup>
- (s) Schools and educational services, not elsewhere classified.<sup>2</sup>
- (t) Veterinary services;<sup>2,3</sup>
- (u) Any other uses that the zoning administrator finds are similar in nature, function and operation to zoning administrator uses in the district.

(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1550, § 2.5, 4-5-83; Ord. No. 1560, § 5, 6-7-83; Ord. No. 1683, § 15, 8-27-85; Ord. No. 1759, §§ 43, 44, 1-6-87; Ord. No. 1797, § 12, 9-22-87; Ord. No. 1799, § 12, 10-13-87; Ord. No. 1885, § 14, 8-22-89; Ord. No. 2045, § 84, 9-21-93; Ord. No. 2348, § 1, 7-27-99; Ord. No. 2407, § 8, 10-24-00; Ord. No. 17-2004, § 11, 7-6-04; Ord. No. 19-2004, § 16, 7-13-04; Ord. No. 13-2006, § 1, 7-11-06; Ord. No. 18-2006, § 2, 9-26-06; Ord. No. 5-2008, § 10, 4-1-08.)

**Sec. 8-21104. Building and site standards.**

- (a) *Maximum building height:*<sup>1</sup> Forty feet. Increases in building height may be permitted, subject to the provisions set forth in Article 21.3 of this chapter.
- (b) *Maximum coverage of site by buildings:*<sup>1</sup> None, except as set forth in paragraph (i), below.
- (c) *Minimum lot area:*<sup>1</sup> None.
- (d) *Minimum lot width:*<sup>1</sup> None.
- (e) *Minimum yard width adjacent to streets:* None for buildings; six feet for parking.
- (f) *Minimum interior side yard<sup>1</sup> width:* None, except fifteen feet when adjacent to undeveloped land designated for residential use on the general plan or when adjacent to property developed

residentially. When adjacent to residentially developed properties having parking or circulation located proximate to the property line, the community development director may reduce the setback, provided the director finds, pursuant to the requirements set forth in Article 25.2 of this chapter, no significant impact on the adjacent residential use will occur.

(g) *Minimum rear yard<sup>1</sup> depth:* None, except ten feet when adjacent to undeveloped land designated for residential use on the general plan, or when adjacent to property developed residentially. When adjacent to residentially developed properties having parking or circulation located proximate to the lot line, the community development director may reduce the setback provided the director finds, pursuant to the requirements set forth in Article 25.2 of this chapter, no significant impact on the adjacent residential use will occur.

(h) *Setbacks on private streets:*<sup>1</sup> Setbacks shall be measured from the right-of-way line of the street and not from the curblines.

(i) *Maximum floor area ratio (FAR):* 0.50, except as provided in (1), (2) and (3), below.

- (1) Reserved.
- (2) For properties within the Mission San Jose Historic Overlay District, the maximum FAR may be increased to 0.65, consistent with the provisions of the Mission San Jose Design Guidelines.
- (3) Increases in FAR above these thresholds may be permitted, subject to the provisions set forth in article 21.3 of this chapter. Any structure with an FAR greater than the maximum thresholds established by this section 0.50 which existed as of May 7, 1991 shall have the right to rebuild to existing conditions if destroyed by fire or other natural disasters.

For structures within the historic Mission San José and Niles districts, the Irvington Redevelopment Area or Sub-area 1 of the Specific Plan Centerville, floor area ratios in excess of 0.50 may be permitted if, pursuant to the requirements set forth in article 25.2 of this chapter, the commu-

nity development director finds sufficient parking is provided by an adjacent parking district or through joint access easements with adjacent parcels. The joint access easements shall be binding and run with the land.

(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1560, § 5, 6-7-83; Ord. No. 1759, §§ 45, 46, 1-6-87; Ord. No. 2045, § 84, 9-21-93; Ord. No. 11-2005, § 1, 5-3-05; Ord. No. 12-2005, § 1, 5-3-05; Ord. No. 24-2006, § 1, 11-7-06.)

**Sec. 8-21105. Other required conditions.**

(a) All uses shall be conducted wholly within a completely enclosed building except for gasoline service stations, off-street parking and loading facilities, permitted agricultural uses, swimming pools, cabanas, outdoor eating facilities in connection with eating places, commercial nurseries, small recycling collection facilities, reverse vending machines, and such outdoor sales and service activities as are accessory to a permitted use or as specifically permitted in the district. Sales and storage yards of home improvement centers and commercial nurseries which are not within enclosed buildings shall be surrounded by a minimum six-foot high masonry wall and shall be accessible only from within the building housing the principal use. Emergency exits may be provided through the masonry wall. Material stored behind such walls shall not be permitted to be visible above said walls.

(b) All required yards adjacent to streets and freeways shall be landscaped.

(c) Processing of products on the premises is permitted provided the processing is clearly incidental and essential to the retail business and where all such completed products are sold on the premises only.

(d) Other than public or private street lights, exterior lighting shall be diffused or concealed, in order to prevent illumination of adjoining properties or the creation of objectionable visual impacts on other properties or roadways.

(e) Mixed-use developments<sup>1,3,4</sup> may be considered under a planned district pursuant to the requirements set forth in Articles 18.1 and 21.3 of this chapter, except for the following:

- (1) Areas proximate to State Route 84 and Ardenwood Boulevard; State Route 880 and Mowry Avenue, Thornton Avenue and Cushing Parkway; and, Auto Mall Parkway and Mission Boulevard between State Routes 880 and 680.
- (2) Uses which are listed as prohibited in Article 21.3 for mixed-use developments.<sup>3</sup>

(f) Internal and external storage of municipal solid waste, recyclables, and yard waste shall conform to the standards set forth in Article 21.3, Section 8-22155 of this Code.

(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1737, § 2, 8-26-86; Ord. No. 1759, § 47, 1-6-87; Ord. No. 1797, § 13, 9-22-87; Ord. No. 1799, § 13, 10-13-87; Ord. No. 2045, § 84, 9-21-93; Ord. No. 17-2004, § 12, 7-6-04/eff. 1-5-05; Ord. No. 4-2007, § 15, 2-13-07.)

**Sec. 8-21106. Other regulations of this chapter which are, or may be, applicable.**

- (a) Parking regulations and standards shall be as stated in Article 20.
- (b) Exceptions in the regulations of this article shall be as described in Article 22.
- (c) All development, extensions or expansions of lot, structures or uses shall be subject to the site plan and architectural approval process described in Article 27.
- (d) Any change from an existing nonconforming residential use to a conforming use shall be subject to the site plan and architectural approval process described in Article 27.

(Ord. No. 1120, § 26, 11-2-76; Ord. No. 1767, § 3, 3-17-87; Ord. No. 2045, § 84, 9-21-93.)

*[Notes Applicable to Article 11]*

<sup>1</sup>Term is defined in Article 1.

<sup>2</sup>Term is elaborated on in Standard Industrial Classification Manual.<sup>1</sup>

<sup>3</sup>The special regulations of Article 21.3 apply to this use.;

<sup>4</sup>Requires a public hearing, see Article 25. (Ord. No. 1120, § 26, 11-2-76; Ord. No. 1386, § 35, 6-17-80.)

ARTICLE 11.1. RESERVED\*

ARTICLE 12. C-B-D CENTRAL BUSINESS DISTRICT†

- § 8-21200. Purpose.
- § 8-21201. Permitted uses.
- § 8-21201.1. Uses specifically prohibited.
- § 8-21202. Accessory uses.
- § 8-21203. Conditional uses: Planning commission as reviewing agency.
- § 8-21203.1. Location limitation.
- § 8-21204. Zoning administrator permitted use.
- § 8-21205. Building and site standards.
- § 8-21206. Other required conditions.
- § 8-21207. Other regulations of this chapter which are, or may be, applicable.

**Sec. 8-21200. Purpose.**

To provide for a concentration of retail, service and office uses reflecting needs of the entire city and the subregion. Development within the district shall be in accordance with principles contained within the general plan and policies adopted by the city council.

(Ord. No. 1120, § 27, 11-2-76.)

**Sec. 8-21201. Permitted uses.**

The following uses, unless otherwise designated herein as conditional uses, are permitted uses in existing structures. Where new struc-

\*Editor's note—Ord. No. 915, § 17, adopted Aug. 1, 1972, repealed former Art. 11.1, §§ 8-21110—8-21116, which article pertained to the "C-H-Historical Commercial District" and was derived from the following: Ord. No. 135, § 1; Ord. No. 371, § 11; Ord. No. 386, § 2; Ord. No. 463, §§ 1, 6; Ord. No. 549, § 3; Ord. No. 563, § 1; Ord. No. 616, § 2; Ord. No. 748, §§ 4, 5; Ord. No. 758, § 14, adopted Dec. 16, 1969.

†Editor's note—Section 27 of Ord. No. 1120, enacted Nov. 2, 1976, amended Art. 12 to read as herein set out in §§ 8-21200—8-21207. Prior to enactment of said ordinance Art. 12 pertained to similar subject matter and was derived from Ord. No. 37, §§ 8-21200—8-21206; Ord. No. 371, § 12; Ord. No. 758, § 5, enacted Dec. 16, 1969; Ord. No. 991, §§ 1 and 2, enacted May 7, 1974; and Ord. No. 1070, § 2, enacted Nov. 4, 1975.