

ORDINANCE NO.

**Ordinance Of The City Council Of The City Of Emeryville Amending
The Planning Regulations In Title 9 Of The Emeryville Municipal Code Relating To
Multi-Unit Residential Development To Address Unit Mix, Family Friendly Design,
Affordable Housing, And Ownership Housing**

WHEREAS, the Planning Regulations in Title 9 of the Emeryville Municipal Code were adopted by the City Council by Ordinance No. 13-001 on February 5, 2013; and

WHEREAS, there is a need to amend the Planning Regulations to modify the provisions for Multi-Unit Residential development to address unit mix, family friendly design, affordable housing, and ownership housing; and

WHEREAS, these issues were considered by the City Council and Planning Commission at a joint study session on May 2, 2015, by the Planning Commission at a study session on May 28, 2015, and by the City Council at a study session on September 1, 2015; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on September 24, 2015 to consider the proposed amendments to the Planning Regulations, approved the proposed amendments, and voted to recommend that the City Council approve the proposed amendments; and

WHEREAS, the City Council held a duly and properly noticed public hearing on October 20, 2015 to solicit public comments and consider the proposed amendments; and

WHEREAS, the City Council has reviewed and considered the staff report and attachments thereto, all public comments, and the proposed Ordinance and the applicable provisions of the Emeryville Municipal Code ("the Record");

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT.

The purpose and intent of this ordinance is to amend the Planning Regulations in Title 9 of the Emeryville Municipal code relating to Multi-Unit Residential development to address unit mix, family friendly design, affordable housing, and ownership housing.

SECTION TWO. REQUIRED FINDINGS FOR ADOPTING ORDINANCE.

The City Council of the City of Emeryville hereby makes the following findings required by Emeryville Municipal Code Sections 9-7.1305:

- a) That the proposed amendment is consistent with the General Plan;

The proposed amendment is consistent with the following General Plan goals and policies:

LU-G-4 A mix of housing types – A diversity of housing types to accommodate a variety of household sizes and incomes.

H-2-1. Ensure that the Planning Regulations continue to facilitate the development of affordable housing.

H-6-1. Support the development of a variety of housing types for families, the provision of family-friendly amenities, and family-friendly design in housing developments.

H-6-2. Promote homeownership opportunities and encourage the development of new for-sale residences.

LU-P-16 A point-based system will be established for intensity, height and density bonus, as well as review and approval process.

T-G-11 Transportation demand management strategies – TDM strategies that decrease single-occupant automobile demand and reduce vehicle miles traveled.

- b) That the proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public;

The proposed amendment will be of benefit to the public because it will promote family-friendly housing and will provide incentives for the provision of affordable units and ownership housing.

- c) That the proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

The proposed amendment to the Planning Regulations is exempt from environmental review under the “general rule” at Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

SECTION THREE. AMENDING SECTION 9-2.207 OF THE PLANNING REGULATIONS.

Section 9-2.207 of Article 2 of Chapter 2 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Provisions not explicitly listed remain unchanged.

CHAPTER 2. USE CLASSIFICATION

ARTICLE 2. RESIDENTIAL USE TYPES

9-2.207 Multi-Unit.

Three or more dwelling units on a single lot that may be either attached or detached. Typical uses include townhouses, condominiums, and apartment buildings. [\(See also Article 20 of Chapter 5.\)](#)

SECTION FOUR. AMENDING ARTICLE 2 OF CHAPTER 4 OF THE PLANNING REGULATIONS.

Article 2 of Chapter 4 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~strike through text~~. Provisions not explicitly listed remain unchanged.

CHAPTER 4. SITE DEVELOPMENT REGULATIONS

ARTICLE 2. BUILDING INTENSITY, HEIGHT AND RESIDENTIAL DENSITY

9-4.201 Building Intensity (Floor Area Ratio).

- (a) **Maximum Building Intensity (Floor Area Ratio).** The maximum intensity of buildings, expressed as a maximum floor area ratio (FAR), shall be as prescribed on the General Plan Floor Area Ratio Map (General Plan Figure 2-3, entitled "Maximum Floor Area Ratios"), which is made a part of these Regulations by this reference and is shown in Figure 9.4.201(a). The floor area ratio districts are delineated by numbers on this map and the corresponding limits for the maximum permitted FAR and bonus FAR that may be granted under Section 9-4.204 are as shown in Table 9-4.201(a):

Table 9-4.201(a): Maximum Floor Area Ratio

| Map Designation | Maximum Permitted Building Intensity (FAR) | |
|------------------------|--|----------------------------------|
| | Base | Bonus |
| 0.5/ 1.0 | Up to 0.5 | None Up to <u>1.0</u> |
| 1.0 | Up to 1.0 | None |
| 1.2 1.0/1.6 | Up to 1.2 1.0 | Up to 1.6 |
| 2.0 1.5/3.0 | Up to 2.0 1.5 | Up to 3.0 |
| 3.0 2.0/4.0 | Up to 3.0 2.0 | Up to 4.0 |
| 4.0 3.0/6.0 | Up to 4.0 3.0 | Up to 6.0 |

9-4.202 Height and Bulk.

- (a) **Maximum Height.** The maximum height of buildings and structures shall be as prescribed on the General Plan Height Map (General Plan Figure 2-4, entitled “Maximum Building Heights”), which is made a part of these Regulations by this reference and is shown in Figure 9-4.202(a). The height districts are delineated on this map and the corresponding limits for the maximum permitted height and bonus height that may be granted under Section 9-4.204 are as shown in Table 9-4.202(a):

Table 9-4.202(a): Maximum Height

| Map Designation | Maximum Permitted Height (Feet) | |
|----------------------|---------------------------------|------------------------------|
| | Base | Bonus |
| 30 | Up to 30 | None |
| 30/55 | Up to 30 | Up to 55 |
| 55 40/75 | Up to 55 40 | Up to 75 |
| 75 50/100 | Up to 75 50 | Up to 100 |
| 75 /100+ | Up to 100 75 | 75 to over 100 |

9-4.203 Residential Density.

- (a) **Maximum Residential Density.** The maximum density of residential uses, expressed as units per acre, shall be as prescribed on the General Plan Residential Density Map (General Plan Figure 2-6, entitled “Maximum Residential Densities”), which is made a part of these Regulations by this reference and is shown in Figure 9-4.203(a). The residential density districts are delineated by numbers on this map and the corresponding limits for the maximum permitted residential density and bonus residential density that may be granted under Section 9-4.204 are as shown in Table 9-4.203(a):

Table 9-4.203(a): Maximum Residential Density

| Map Designation | Maximum Permitted Residential Density (Units per Acre) | |
|-----------------------|--|-----------|
| | Base | Bonus |
| 20/35 | Up to 20 | Up to 35 |
| 50 35/60 | Up to 50 35 | Up to 60 |
| 85 50/100 | Up to 85 50 | Up to 100 |
| 100 70/135 | Up to 100 70 | Up to 135 |
| 115 85/170 | Up to 115 85 | Up to 170 |

9-4.204 Development Bonuses.

(a) State Density Bonus Not Available. If a developer chooses to request development bonuses pursuant to the provisions of this Section, density bonuses pursuant to the State Density Bonus Law requirements in Article 5 of Chapter 5 are not available.

(ab) Procedure. Bonus floor area ratio, height, and/or residential density, as specified in this Article, may be permitted upon the granting of a conditional use permit pursuant to Article 5 of Chapter 7 and the additional findings required by subsection (d) of this Section. Projects seeking bonus points for the Flexible Community Benefit pursuant to item (7) in Table 9-4.204(e) shall require approval of a conditional use permit by the City Council upon a recommendation of the Planning Commission. For Planned Unit Developments, development bonuses shall comply with the requirements of this Section, but shall not require a conditional use permit and shall be considered as part of the PUD approval process pursuant to Article 10 of Chapter 7.

(1) ~~In the RM Medium Density Residential zZone public benefits are not required. The findings in subsection (d)(1) below must be made.~~

a. Multi-Unit Residential projects of 10 units or more must provide affordable units and community benefits as specified in this Section. The findings in subsections (f)(1) and (f)(2) below must be made.

b. For all other projects, community benefits are not required. The findings in subsection (f)(1) below must be made.

(2) In all other zones affordable housing and other publiccommunity benefits as specified in this Section must be provided sufficient to earn the number of points required for the bonus amount requested, pursuant to subsections ~~(b) and (c), (d) and (e)~~ below. The findings in subsection (f)(2) below must be made.

- (3) For bonus height over 100 feet, affordable housing and other publiccommunity benefits as specified in this Section must be provided sufficient to earn at least 100 points pursuant to subsections ~~(c)~~ (d) and (e) below, ~~and the~~ additional findings in subsections (f)(2) and (g)(3) below must be made.

To qualify for a bonus, a publiccommunity benefit must be significant and clearly beyond what would otherwise be required for the project under applicable code provisions, conditions of approval, and/or environmental review mitigation measures. ~~Development bonuses pursuant to this Section are in addition to any density bonuses for affordable housing pursuant to Article 4 of Chapter 5.~~

- ~~(b)~~ **Determination of Bonuses.** Bonus floor area ratio, height, and/or residential density shall be calculated in accordance with the following procedures.

- (1) ~~Bonus Amount~~ Points Required. ~~Except for bonus height in the 100+ height district, the bonus amount is based on the~~ The number of bonus points required, up to a maximum of 100, attained through the provision of public benefits pursuant to subsection (c) of this Section. ~~The bonus amount is~~ calculated according to the following formula:

$$\frac{\text{Total Number of Points Bonus Requested}}{100 \text{ Bonus Increment}} \times \frac{\text{Bonus Increment}}{100} = \frac{\text{Bonus Amount Points Required}}{100}$$

Variables used in bonus amount point calculation:

- a. ~~Total Number of Points.~~ The sum of the points awarded for the provision of public benefits pursuant to subsection (c) of this Section, up to a maximum of 100. ~~Bonus Requested.~~ The amount of FAR, height, or residential density requested for the project above the base level as specified in Tables 9-4.201(a), 9-4.202(a), and 9-4.203(a), respectively.
- b. Bonus Increment. The difference between the maximum bonus amount and the maximum base amount for FAR, height, and residential density as specified in Tables 9-4.201(a), 9-4.202(a), and 9-4.203(a), respectively.
- ~~(2) Maximum Allowable FAR, Height, and Residential Density.~~ Except for bonus height in the 100+ height district, the maximum FAR, height, and residential density allowable is the sum of the base amount, as specified in Tables 9-4.201(a), 9-4.202(a), and 9-4.203(a), respectively, and the bonus amount calculated pursuant to subsection (b)(1) of this Section.

(32) Points Count Towards All Bonuses. The points awarded for the provision of affordable housing and other publiccommunity benefits pursuant to subsections ~~(c)~~ (d) and (e) of this Section may be counted towards FAR, height, and residential density. It is not necessary to earn separate points for each of these bonuses.

(43) Height Over 100 Feet. To qualify for bonus height ~~of any amount over 100 feet~~ in the 75/100+ height district, affordable housing and other publiccommunity benefits worth at least 100 points must be provided pursuant to subsections ~~(c)~~ (d) and (e) of this Section.

(54) Modifications.

a. Prior to Issuance of Building Permit. No publiccommunity benefit for which a bonus has been granted may be eliminated or reduced in size without the approval of the Planning Commission or City Council, whichever approved the project. To grant such approval, the Commission or Council must find that there is a corresponding reduction in intensity, height, and/or density, a substitution of an equivalent publiccommunity benefit, or a combination of the two.

b. Prior to Issuance of Certificate of Occupancy. Before a certificate of occupancy is issued for a project, the applicant shall certify to the Director that the bonus points upon which the project's floor area ratio, height, and/or residential density were based have, in fact, been achieved. If the number of bonus points achieved by the completed project is less than required, the applicant shall contribute 0.1% of construction valuation per point of shortfall to the Citywide Parks Fund. Such contribution shall be made before a certificate of occupancy is issued.

~~(6) Exceptional Circumstances. The above provisions notwithstanding, in exceptional circumstances the Planning Commission or City Council, as the case may be, may determine that one or more public benefits are sufficient to warrant the granting of all or part of the full bonus.~~

(d) Affordable Housing. No fewer than half of the bonus points required for the project, as calculated pursuant to subsection (c)(1) above, up to 50 points, shall be earned through the provision of affordable housing as specified below. If half of the bonus points required for the project is not a multiple of five, it shall be rounded up to the next multiple of five for the purposes of the provision of affordable housing.

(1) Residential Projects. Multi-Unit Residential developments of 10 units or more shall provide affordable units in the development in accordance with the applicable requirements of Article 4 of Chapter 5. The number of

bonus points awarded shall be determined for providing affordable units at various income levels in accordance with Table 9-4.204(d)(1) below.

Table 9-4.204(d)(1): Bonus Points for Affordable Units in Project

| <u>Bonus Points Awarded</u> | <u>Rental Projects</u> | | | <u>Ownership Projects</u> |
|-----------------------------|------------------------|------------------------|-------------------|---------------------------|
| | <u>TOTAL</u> | <u>Very Low Income</u> | <u>Low Income</u> | <u>Moderate Income</u> |
| <u>5</u> | <u>12.5%</u> | <u>2.8%</u> | <u>4.3%</u> | <u>5.3%</u> |
| <u>10</u> | <u>13.0%</u> | <u>2.9%</u> | <u>4.5%</u> | <u>5.5%</u> |
| <u>15</u> | <u>13.5%</u> | <u>3.1%</u> | <u>4.7%</u> | <u>5.8%</u> |
| <u>20</u> | <u>14.0%</u> | <u>3.2%</u> | <u>4.9%</u> | <u>6.0%</u> |
| <u>25</u> | <u>14.5%</u> | <u>3.3%</u> | <u>5.0%</u> | <u>6.2%</u> |
| <u>30</u> | <u>15.0%</u> | <u>3.4%</u> | <u>5.2%</u> | <u>6.4%</u> |
| <u>35</u> | <u>15.5%</u> | <u>3.5%</u> | <u>5.4%</u> | <u>6.6%</u> |
| <u>40</u> | <u>16.0%</u> | <u>3.6%</u> | <u>5.6%</u> | <u>6.8%</u> |
| <u>45</u> | <u>16.5%</u> | <u>3.7%</u> | <u>5.7%</u> | <u>7.0%</u> |
| <u>50</u> | <u>17.0%</u> | <u>3.9%</u> | <u>5.9%</u> | <u>7.2%</u> |

(2) Nonresidential Projects. Nonresidential developments shall pay an additional affordable housing impact fee in accordance with Table 9-4.204(d)(2) below. The increase shall be based on the applicable fee in effect when the fee is due. For use types that are normally exempt from the affordable housing impact fee, the increased fee shall be based on the fee for nonexempt uses.

Table 9-4.204(d)(2): Bonus Points for Non-Residential Uses

| <u>Bonus Points Awarded</u> | <u>Additional Fee</u> |
|-----------------------------|-----------------------|
| <u>5</u> | <u>10%</u> |
| <u>10</u> | <u>20%</u> |
| <u>15</u> | <u>30%</u> |
| <u>20</u> | <u>40%</u> |
| <u>25</u> | <u>50%</u> |
| <u>30</u> | <u>60%</u> |
| <u>35</u> | <u>70%</u> |
| <u>40</u> | <u>80%</u> |
| <u>45</u> | <u>90%</u> |
| <u>50</u> | <u>100%</u> |

For example, if the current fee for nonexempt uses were \$4.00 per square foot, to earn 30 points, an additional fee of \$2.40 per square foot would be required (60% of \$4.00) for a total of \$6.40 per square foot. A use type that is normally exempt from the affordable housing impact fee would not pay the base fee of \$4.00 per square foot, but would pay the fee increase of \$2.40 per square foot.

(~~ce~~) **Public-Community Benefits.** No more than half of the bonuses points required for the project, as calculated pursuant to subsection (c)(1) above, may be earned through the provision of community benefits. Public benefits, tThe maximum number of points that may be awarded for each community benefit, the calculation method, and other requirements are as shown in Table 9-4.204(~~ce~~):

Table 9-4.204(~~ce~~): Public-Community Benefits and Bonus Points

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|---|-----------------------|--|---|
| (1) Public Open Space | 50 | 15% of site area or 2,000 square feet, whichever is greater: 50 points | Must be in addition to what is required by Article 3 of this Chapter. Design must comply with applicable provisions of the Emeryville Design Guidelines and be approved as part of Design Review for the project. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity. |
| | | 10% of site area or 1,500 square feet, whichever is greater: 35 points | |
| | | 5% of site area or 1,000 square feet, whichever is greater: 20 points. | |
| | | Contribution to Citywide Parks Fund: 10 points for every 1% of project construction valuation up to 50 points. | |
| (2) Sustainable Design⁴ | 35 | LEED™ Platinum or equivalent: 35 points | Compliance of schematic design to be confirmed by Chief Building Official. LEED™ or equivalent third-party certification required prior to issuance of certificate of occupancy. |
| | | LEED™ Gold or equivalent: 25 points | |
| | | LEED™ Silver or equivalent: 10 points | |
| (32) Alternative Zero Net Energy⁴ | 50 | 100% of energy load (zero net energy): 50 points | Percent of total building energy load measured as kilowatt per square foot provided by solar panels, wind turbines, or other renewable sources. No less than 50% of the bonusable energy must be produced on-site, and no more than 50% may be in the form |
| | | 50% of energy load: 35 points | |
| | | 30% of energy load: 20 points | |

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|--|----------------|--|--|
| | | 15% of energy load: 10 points | of Renewable Energy Credits (RECs) in compliance with California state laws and procedures. Any such RECs must be available for the life of the project as evidenced by a long-term contract. |
| (4) Water Efficiency [†] | 35 | Graywater reuse system: 20 points | Reuse of domestic waste water from plumbing fixtures such as showers, dishwashers, and clothes washers, but not including toilets and garbage disposals, to be used for toilet flushing and irrigation. System must comply with the requirements of the Emeryville Plumbing Code in Chapter 3 of Title 8. |
| | | Rainwater capture system: 15 points | System that captures and stores water from at least 75% of the project roof area for landscape irrigation and/or indoor water use. The storage system must be sized to hold all the water from a 1-inch rainfall event (equivalent to 0.62 gallons per square foot of roof area used for capture). System must comply with all applicable codes and regulations. |
| (5) Energy Efficiency [†] | 35 | 20%: 35 points 10%: 15 points | Percent by which energy efficiency exceeds requirements of California Energy Code. |
| (63) Public Improvements | 50 | 10 points for every 1% of project construction valuation up to 50 points | Does not include improvements along project frontage that are normally required. Examples include curb, gutter, and sidewalk; pedestrian and bicycle paths; sanitary and storm sewers; and street trees, beyond what would normally be required. |
| (74) Utility Undergrounding | 50 | Contribution to Citywide Underground Utility Fund: 10 points for every 1% of project construction valuation up to 50 points | Does not include utility undergrounding that is normally required. |
| (8) Transportation Demand Management (TDM) | 35 | General Requirement: All TDM measures except transit passes must be clearly indicated on project plans, must be installed prior to issuance of a certificate of occupancy, and must remain in place for the life of the project. Provision must be made for ongoing operation and maintenance in perpetuity. | |

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|---|---------------------------|---|--|
| | | Bicycle sharing program: 15 points | Participation in an existing bicycle sharing program or provision of bicycles on-site made available for free to project occupants. Bicycle "docks" must be shown on plans and bicycles must be provided prior to issuance of a certificate of occupancy. |
| | | Bicycle Lockers: 10 points | Required long-term bicycle parking provided in secure lockers. |
| | | Showers and clothes lockers: 10 points | Showers and clothes lockers provided on-site for nonresidential projects and available free of charge to project occupants. |
| | | Electronic Transit Information Signs: 10 points | A sign or signs indicating real-time arrival estimates for the closest public transit lines. |
| | | Automated Teller Machine (ATM): 5 points | On-site ATM must be available to project occupants and must accept deposits. |
| | | Day Care Facilities: 20 points or Contribution to Emeryville Child Development Center: 10 points for every 1% of project construction valuation up to 20 points. | Child care facilities provided on-site, with or without charge, for use of project occupants, or a cash contribution to the Emeryville Child Development Center. |
| | | Free Transit Passes: 35 points | Free AC Transit and/or BART passes, such as pre-paid Clipper cards or BART tickets, available to all project occupants for a minimum of 10 years. A legally binding agreement must be filed with the Director in a form approved by the Director and the City Attorney prior to issuance of a certificate of occupancy. |

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|--|---------------------------|--|---|
| (95) <u>Additional Family Friendly Housing Units</u> | 50 | 2 points for each percentage of units that qualify as "family friendly". <u>5 points for each additional 5 percent of total units that have two or more bedrooms, of which at least 1 percent of total units must have three or more bedrooms.</u> | "Family friendly" units must be a minimum of three bedrooms and must be provided with in-unit laundry hook-ups. 15 square feet of common open space for each unit must be provided, with amenities for children, teens, or seniors, in addition to the common open space required by Article 3 of this Chapter. Design must comply with provisions of the Emeryville Design Guidelines applicable to family friendly housing and be approved as part of Design Review for the project. <u>Two- and three-bedroom units are in addition to those required by Section 9-5.2003, and must comply with the applicable provisions of the Emeryville Design Guidelines pertaining to Family-Friendly Residential Unit Design.</u> |
| (10) Neighborhood Centers | 35 | 35 points if project is located in the NR Neighborhood Retail Overlay Zone and meets requirements. | Along Transit Streets and Connector Streets, as indicated in the General Plan, at least 75% of the ground floor frontage must be devoted to space appropriate for, and actively marketed to, uses meeting the criteria of Section 9-3.404(a)(1). 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 adequate for a kitchen flue and space for an appropriately-sized grease interceptor, as determined by the Chief Building Official, to allow for a possible Restaurant use. |
| (446) Small Businesses | 35 <u>50</u> | Contribution to Citywide Fund to Support Small Local-Serving Businesses: 10 points for every 1% of project construction valuation up to 35 <u>50</u> points. | Contribution must be made prior to issuance of building permit. |

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|---------------------------------|-----------------------|---|---|
| (12) Public Art | 20 | Minimum of 10 points and maximum of 20 points, based on 10 points for every 1% of project construction valuation (e.g. 10 points for 1.0% of valuation up to 20 points for 2.0% of valuation). | Must be in addition to what is required by Contribution for Art in Public Places Program at <u>Article 4 of Chapter 2 of Title 3</u>. (e.g. if this Program requires a contribution of 1.0% of valuation, 10 points would be earned for a contribution of 2.0% and 20 points would be earned for a contribution of 3.0%). Contribution may be in the form of acquisition and installation of publicly accessible art on the development site or an in-lieu contribution to the Emeryville Public Art Fund for acquisition and placement of public art throughout the City, or a combination of on-site art and an in-lieu payment. Compliance shall be pursuant to <u>Section 3-2.406</u>. |
| (13) Public Parking | 35 | Public parking in or within 500 feet of the NR Neighborhood Retail Overlay Zone: 1 point per parking space | Must be in addition to parking required by <u>Article 4</u> of this Chapter. Spaces must be permanently reserved for public use and need not be located on the project site, but must be located on a single site. Parking must be covered or within a structure, not in an open surface parking lot. An agreement providing for the public use of the parking in perpetuity, executed by the parties involved, must be filed with the Director in a form approved by the Director and the City Attorney. The agreement shall be notarized and recorded in the office of the County Recorder. Parking spaces must be available for public use immediately upon issuance of the certificate of occupancy for the project. |
| (14) Bike Station | 35 | Public bicycle parking facility in or within 500 feet of the NR Neighborhood Retail Overlay Zone, the RR Regional Retail Overlay Zone, or the TH Transit Hub Overlay Zone: 1 point for every 3 bicycle parking spaces. | Must be in addition to bicycle parking required by <u>Article 4</u> of this Chapter. Spaces must be permanently reserved for public use and need not be located on the project site, but must be located on a single site. Bike parking must be inside, secure, and available 24 hours. An agreement providing for the public use of the bike station in perpetuity |
| | | | executed by the parties involved, must be filed with the Director in a form approved by the Director and the City Attorney. The agreement shall be |

| Public Community Benefit | Maximum Points | Point Calculation | Requirements |
|--|-----------------------|--|--|
| | | | <p>notarized and recorded in the office of the County Recorder. The bike station must be available for public use immediately upon issuance of the certificate of occupancy for the project. Provision must be made for ongoing operation and maintenance in perpetuity.</p> |
| (15) Significant Structures | 35 | <p>Project of high design quality that incorporates at least two facades of a Significant Structure: 15 points</p> <p>Adaptive reuse of an entire Significant Structure: 35 points</p> | <p>Article 12 of Chapter 5 addresses preservation and demolition of Significant Structures. Projects involving demolition of a Significant Structure (even if incorporating two or more facades of the Significant Building) require City Council approval, while projects not involving such demolition require Planning Commission approval.</p> |
| (16) Electric Vehicle (EV) Charging Stations | 35 | <p>10 points for each 1% of parking spaces that are EV charging stations.</p> | <p>Must comply with the requirements for EV Charging Stations at Section 9-4.406(l). Provision must be made for ongoing operation and maintenance in perpetuity.</p> |
| (17) Mechanical Equipment Concealed in Penthouse² or Inside Building | 20 | <p>Mechanical equipment concealed in penthouse level on top of building or within building: 20 points</p> | <p>Penthouse level must be integrated into the overall architectural design of the building and must completely conceal and baffle noise from all mechanical equipment. Penthouse must be completely roofed except for cooling towers and any other equipment that cannot properly function if roofed, must be set back from roof edges, may cover no more than 50% of roof area, and may not exceed 25 feet in height. Mechanical equipment within building must be completely concealed from public view and noise must be baffled.</p> |
| (18) Universal Design | 50 | <p>2 points for each percentage of residential units that incorporate Universal Design features.</p> | <p>To qualify, residential units must have all of the following features, in addition to any accessibility features required by the building code.</p> <p>Kitchen:</p> <ul style="list-style-type: none"> ● Clear floor space: 60" circle. ● Space for a side-by-side |
| | | | <p>refrigerator/freezer or refrigerator/freezer with frozen food storage in the bottom.</p> |

| <u>Public Community Benefit</u> | Maximum Points | Point Calculation | Requirements |
|--|----------------|---|---|
| | | | <ul style="list-style-type: none"> • Appliances and cooktop must have front- or side-mounted controls and be approachable by people using wheelchairs or scooters. • Repositionable countertops to 28" height. <p>Bathroom:</p> <ul style="list-style-type: none"> • Clear floor space: 60" circle. • Reinforcement provided for grab bars beside toilets. • Toilet centered in a minimum 36-inch wide space, 18 inches from the sidewall <p>Miscellaneous:</p> <ul style="list-style-type: none"> • A minimum of one accessible parking space. • Space for laundry equipment with accessible front loading and front mounted controls located on an accessible route. • All closet rods adjustable to 48 inches above the floor. |
| (197) <u>Flexible Public Community Benefit</u> | <u>N/A50</u> | The Planning Commission or City Council, as the case may be, shall determine the number of points to grant for the proposed <u>public-community benefit based on 10 points for every 1% of project construction valuation.</u> | Currently undefined <u>public-community benefit</u> proposed by the applicant that is significant and substantially beyond normal requirements. <u>An example would be Universal Design features beyond those required by applicable building codes.</u> |

- ~~Notes: 1. Public benefits (2), (3), (4), and (5) are overlapping. Points may not be awarded more than once for what is essentially the same public benefit in more than one category, and a total of no more than 35 points may be awarded in these four categories combined.~~
- ~~2. Penthouse is not included in building height.~~

(ef) **Findings.** To grant a conditional use permit for bonus floor area ratio, height, or residential density, as prescribed in this Article, the following findings must be made in addition to the findings required by Article 5 of Chapter 7:

- (1) In the RM Medium Density Residential zone:
 - a. That the proposed project is compatible with the surrounding neighborhood with regard to building scale, form, and materials, and street orientation.
 - b. 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, except that a driveway of up to ten feet in width shall be allowed.
- (2) In all other zones:
 - a. That the proposed project will provide ~~public-community~~ benefits sufficient to earn the number of points required for the bonus amount requested, pursuant to subsections ~~(b)~~ and (c), (d), and (e) of this Section.
 - b. That the proposed community benefits for the project are significant and clearly beyond what would otherwise be required for the project under applicable code provisions, conditions of approval, and/or environmental review mitigation measures.
 - c. That the proposed community benefits for the project are acceptable and appropriate in this case, and will provide tangible benefits to the community.
- (3) Bonus height over 100 feet:
 - a. That the proposed project will provide ~~public-community~~ benefits sufficient to earn at least 100 points pursuant to subsections ~~(d)~~ and (e) of this Section.
 - b. That the proposed project will minimize impacts on public views, wind, and shadows at the street level.
 - c. That the proposed project will be separated by an adequate distance from any other building with a height greater than 100 feet as specified in Section 9-4.202(f).

SECTION FIVE. AMENDING ARTICLE 4 OF CHAPTER 4 OF THE PLANNING REGULATIONS.

Article 4 of Chapter 4 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~strikethrough text~~. Provisions not explicitly listed remain unchanged.

ARTICLE 4. PARKING AND LOADING

9-4.404 Calculation of Parking Requirement.

The minimum number of parking spaces required and the maximum number of parking spaces allowed shall be based on the estimated parking demand by use type as listed in Table 9-4.404. The following rules apply when calculating the estimated parking demand:

- (f) **Minimum and Maximum Parking Requirements.** Except as otherwise provided in this Section, no less than the minimum number of parking spaces, and no more than the maximum number of parking spaces, as required by this subsection, shall be provided for each use.

~~(1) For all Single Unit, Two Unit, Multi-Unit, and Mobile Home Park Residential use types, the minimum and maximum parking requirements shall be as follows:~~

~~a. Minimum. The minimum number of parking spaces required shall be the same as the estimated parking demand as indicated in Table 9-4.404.~~

~~b. Maximum. The maximum number of parking spaces allowed shall be ten percent more than the estimated parking demand as indicated in Table 9-4.404.~~

~~(2) For all other use types, the minimum and maximum parking requirements shall be as follows:~~

a.(1) Minimum. The minimum number of parking spaces required shall be 33% less than the estimated parking demand as indicated in Table 9-4.404.

b.(2) Maximum. The maximum number of parking spaces allowed shall be ten percent more than the estimated parking demand as indicated in Table 9-4.404.

Table 9-4.404: Estimated Parking Demand

| Use Type | Number of spaces | Per |
|--|------------------|--------------------------|
| Residential Use Types | | |
| Single Unit | 1 | dwelling unit |
| Two Unit and Multi-Unit | | |
| All except senior ² and low-income housing ³ | | |
| Studio and One-bedroom units <u>Resident parking</u> | 1 | dwelling unit |
| Two-bedroom and larger units | 1.5 | dwelling unit |
| Guest parking for developments with five or more dwelling units | <u>0.250.2</u> | dwelling unit |
| Senior ² and low-income housing ³ | | |
| Studio and One-bedroom units <u>Resident parking</u> | 0.5 | dwelling unit |
| Two-bedroom and larger units | 0.75 | dwelling unit |
| Guest parking for developments with five or more dwelling units | <u>0.250.2</u> | dwelling unit |
| Mobile Home Park | 1 | mobile home |

SECTION SIX. AMENDING ARTICLE 4 OF CHAPTER 5 OF THE PLANNING REGULATIONS.

Article 4 of Chapter 5 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~strikethrough text~~. Provisions not explicitly listed remain unchanged.

ARTICLE 4. AFFORDABLE HOUSING PROGRAM

9-5.406 New Rental Residential Projects – Affordable Housing Impact Fees.

- (a) Rental residential projects shall pay affordable housing impact fees as prescribed by this Section to mitigate the project's impact on the need for affordable housing in the City, unless the applicant elects to provide on-site rental affordable units consistent with Section 9-5.407, or is granted a development bonus for the provision of on-site affordable housing pursuant to Section 9-4.204 or a density bonus for the provision of on-site affordable housing pursuant to Article 5 of this Chapter.
- (c) Except as provided in Section 9-5.1906, ~~¶~~the affordable housing impact fee shall be paid upon issuance of a building permit for each dwelling unit in the rental residential project. The amount of any affordable housing impact fee payable under this Section shall be based upon the fee schedule in effect at the time of issuance of the building permit for the dwelling unit to which the fee relates.

(d) Affordable housing impact fees established pursuant to this Section shall be subject to the applicable provisions of Article 19 of this Chapter.

9-5.407 Rental Affordable Units Permitted If Consistent with Costa-Hawkins Act.

(a) As an alternative to paying the affordable housing impact fees as required by Section 9-5.406, or where an applicant elects to initially rent all of the units in an ownership residential project, an applicant may propose to provide ~~6.912~~ percent of the dwelling units in the residential project as affordable rental units, of which 8 percent shall be affordable to low income households and 4 percent shall be affordable to very low income households. In calculating the number of required rental affordable units, any decimal fraction less than or equal to 0.50 may be disregarded and any decimal fraction greater than 0.50 shall be construed as requiring one dwelling unit.

9-5.408 Requirements for Rental Affordable Units.

(b) All rental affordable units shall be occupied by moderate, low, or very low income households.

9-5.409 New Nonresidential Projects – Affordable Housing Impact Fees.

(c) Except as provided in Section 9-5.1906, ~~t~~he affordable housing impact fee shall be paid upon issuance of a building permit for any nonresidential project for which the fee is due. The amount of any affordable housing impact fee payable under this Section shall be based upon the fee schedule in effect at the time of issuance of the building permit for the nonresidential project to which the fee relates.

(e) Affordable housing impact fees established pursuant to this Section shall be subject to the applicable provisions of Article 19 of this Chapter.

9-5.412 Density Bonus.

To avoid any undue economic burden or cost to the applicant providing affordable units required by the provisions of this Article, developers of affordable housing may apply for a density bonus and other incentives, if eligible, pursuant to either Section 9-4.204 or Article 5 of this Chapter, but not both. ~~Any such density bonus shall be in addition to any development bonuses granted pursuant to Section 9-4.204.~~

SECTION SEVEN. AMENDING ARTICLE 5 OF CHAPTER 5 OF THE PLANNING REGULATIONS.

Article 5 of Chapter 5 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~striketrough text~~. Provisions not explicitly listed remain unchanged.

ARTICLE 5. DENSITY BONUS FOR AFFORDABLE HOUSING

9-5.501 Purpose.

The purpose of this Article is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915-65918, and to increase the production of affordable housing, consistent with City policies. The bonuses for affordable housing in this Article are distinguished from, and are ~~in addition to mutually exclusive of~~, other development bonuses available to projects that provide affordable housing and other community public benefits, as provided by pursuant to Section 9-4.204. Developers may apply for a density bonus and other incentives, if eligible, pursuant to either Section 9-4.204 or this Article, but not both.

9-5.503 Projects Eligible for Density Bonus.

- (a) The City shall grant one density bonus as described in Section 9-5.505, and incentives or concessions as described in Section 9-5.506, when an applicant for a residential development project agrees to construct at least any one of the following:
- (1) At least ten percent of the total dwelling units of a residential development project for low income households.
 - (2) At least five percent of the total dwelling units of a residential development project for very low income households.
 - (3) A senior citizen housing development or a mobile home park that limits residency based on age requirements for housing older persons pursuant to California Civil Code Section 798.76 or 799.5.
 - (4) Ten percent of the total dwelling units in a common interest development as defined in California Civil Code Section 1351, for persons and families of moderate income, provided that all units in the development are offered to the public for purchase.

The applicant shall elect whether the density bonus shall be awarded on the bases of (1), (2), (3), or (4) above. A density bonus awarded under this Section allows a residential development to exceed the maximum residential density as provided by Section 9-4.203. The maximum residential density shall be the base

density established in Table 9-4.203(a) and Figure 9-4.203(a). The granting of a density bonus, concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of dwelling units that is equal to five or ten percent of the total dwelling units.

For those projects that are subject to the provisions of the Affordable Housing ~~Set Aside~~ Program (in Article 4 of this Chapter), set-aside affordable units provided pursuant to that Article may be counted toward the requirements of this Section. To the extent that the provisions of this Section and the Affordable Housing ~~Set Aside~~ provisions are in conflict, the provisions of the Affordable Housing ~~Set Aside~~ Program prevail. However, if such affordable units are used to fulfill the requirements of Section 9-4.204, the density bonuses of this Article are not available.

9-5.509 Requirements for Participation.

In order for a developer or property owner to be eligible for density bonus the following requirements must be met:

(d) The time period of availability as affordable or senior housing shall be for at least thirty years. A longer period may be required for affordable housing ~~set-aside~~ units pursuant to Article 4 of this Chapter, or as required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(h) The developer or property owner may not also seek development bonuses pursuant to Section 9-4.204.

SECTION EIGHT. ADDING ARTICLE 20, "MULTI-UNIT RESIDENTIAL DEVELOPMENTS", TO CHAPTER 5 OF THE PLANNING REGULATIONS.

Article 20, "Multi-Unit Residential Developments", is hereby added to Chapter 5 of Title 9 of the Emeryville Municipal Code to read as follows:

CHAPTER 5. CITYWIDE USE AND DEVELOPMENT REGULATIONS

ARTICLE 20. MULTI-UNIT RESIDENTIAL DEVELOPMENTS

9-5.2001 Purpose.

This Article establishes regulations for Multi-Unit Residential developments. The purpose of these regulations is help achieve the goals, objectives, and policies of the Housing Element of the General Plan to promote family-friendly, affordability housing by

establishing minimum standards for unit mix and design, and providing incentives for affordable and ownership housing.

9-5.2002 Applicability.

Except as otherwise stipulated, the provisions of this Article apply to any proposal to develop a Multi-Unit Residential use, as defined in Section 9-2.207.

9-5.2003 Unit Mix.

Multi-Unit Residential developments of 10 units or more shall comply with the following requirements:

- (a) No fewer than 50% of all units in the development shall have two or more bedrooms, including units with three or more bedrooms as required by subsection (b) below.
- (b) No fewer than 15% of all units in the development shall have three or more bedrooms.
- (c) No more than 10% of all units in the development shall be studio units.

9-5.2004 Design.

- (a) All Multi-Unit Residential developments shall be subject to the applicable provisions of the Emeryville Design Guidelines, including but not limited to those pertaining to Residential Use Types, as required by Article 4 of Chapter 7.
- (b) In addition to the requirements of subsection (a) above, all Multi-Unit Residential developments of 10 units or more shall comply with the applicable provisions of the Emeryville Design Guidelines pertaining to Family-Friendly Residential Site and Building Design, and all units required by Section 9-5.2003 shall comply with the applicable provisions of the Emeryville Design Guidelines pertaining to Family-Friendly Residential Unit Design.

9-5.2005 Exceptions.

Exceptions to the unit mix and design requirements of Sections 9-5.2003 and 9-5.2004, respectively, may be approved upon the granting of a conditional use permit by the City Council upon a recommendation of the Planning Commission. Examples include, but are not limited to, senior housing, special needs housing, and multi-generational housing. To grant such a conditional use permit, the following finding must be made in addition to the findings required by Article 5 of Chapter 7:

- (a) There is a demonstrated need for a housing type or types that deviate from the unit mix and/or design requirements of this Article. The importance of meeting this need outweighs the importance of compliance with these requirements.

9-5.2006 Affordable Housing.

- (a) **Projects Not Seeking Development Bonuses.** Multi-Unit Residential projects not seeking development bonuses, either pursuant to Section 9-4.204 or Article 5 of Chapter 5, shall pay the affordable housing impact fee pursuant to the requirements of Section 9-5.406, or may propose to provide affordable units in the project pursuant to the requirements of Section 9-5.407.
- (b) **Projects Seeking Development Bonuses.** Multi-Unit Residential projects seeking development bonuses, either pursuant to Section 9-4.204 or Article 5 of Chapter 5, shall be exempt from the affordable housing impact fee requirements of Section 9-5.406, but shall provide affordable units in the project pursuant to the applicable provisions of Section 9-4.204 or Article 5 of Chapter 5.

9-5.2007 Ownership Housing.

Multi-Unit Residential projects seeking development bonuses pursuant to Section 9-4.204 shall be subject to the following requirements for ownership housing:

- (a) **Condominium Map Required.** A subdivision map for the purposes of creating condominium units shall be submitted and considered for approval concurrently with applications of other planning permits required for the project. The final subdivision map creating the condominium units shall be recorded prior to issuance of a certificate of occupancy for the project.
- (b) **Project May Be Operated As Rental.** Notwithstanding the requirements of subsection (a) above, the developer may retain ownership of all units and operate the project as a rental project. In this case, the requirements of Section 9-4.204 and Article 4 of Chapter 5 for rental residential projects shall apply.
- (c) **Requirements for Ownership Projects.** If the developer elects to sell the individual units and operate the project as an ownership project, the following requirements shall apply:
 - (1) The requirements of Section 9-4.204 and Article 4 of Chapter 5 for ownership residential projects shall apply.
 - (2) Covenants, Conditions and Restrictions shall be recorded that include the current basic eligibility requirements of the Federal Housing Administration (FHA) for condominium project approval, including, but not limited to, requirements for owner occupancy and limitations on investor ownership and commercial space.

- (d) **Conversion to Ownership Project.** Pursuant to the applicability provisions of Section 9-6.702, if a project that had been operated as a rental project pursuant to subsection (b) above is later converted to an ownership project through the sale of units, the residential condominium conversion requirements in Article 7 of Chapter 6 shall apply.

9-5.2008 Transportation Demand Management.

Multi-Unit Residential developments of 10 units or more shall comply with the following Transportation Demand Management (TDM) requirements.

- (a) **TDM Plan.** As part of the development application, the developer shall submit a TDM plan for approval by the Planning Commission or City Council, as the case may be, in conjunction with approval of the development. Compliance with the approved TDM plan shall be a condition of approval of the development. The TDM plan shall be implemented for a minimum of 40 years following issuance of a certificate of occupancy. The primary goal of the TDM plan shall be to ensure that the average Vehicle Miles Traveled (VMT) by residents of the development is less than the average citywide VMT. Such plan may include, but is not limited to, free transit passes for residents, free car sharing memberships for residents, free bike sharing memberships for residents, transportation information displays, and transportation information packets for residents. The plan shall include an annual survey of residents of the development to measure the plan's success at achieving its primary goal; such annual surveys shall be made available to the Community Development Director upon request. The Community Development Director may require modifications to the plan if it does not appear to be meeting its primary goal based on the annual survey.
- (b) **GreenTRIP Certification.** Residential developments that obtain GreenTRIP Certification from TransForm, or other equivalent certification, prior to issuance of a certificate of occupancy, shall be deemed to have met the requirement for a TDM plan in subsection (a).

SECTION NINE. AMENDING CHAPTER 6 OF THE PLANNING REGULATIONS

Chapter 6 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~strikethrough text~~. Provisions not explicitly listed remain unchanged.

CHAPTER 6. SUBDIVISIONS

ARTICLE 2. MAJOR SUBDIVISIONS

9-6.208 Tentative Maps: Planning Commission Action.

- (e) **Conditions of Approval.** Conditions necessary to make the findings required by this Section, or to meet the requirement of these Planning Regulations or the Subdivision Map Act may be imposed on the approval of a tentative map, including, but not limited to, the following:

(5) Residential Condominiums. Residential condominiums shall be conditioned to require recordation of covenants, conditions, and restrictions that include the current basic eligibility requirements of the Federal Housing Administration (FHA) for condominium project approval, including, but not limited to, requirements for owner occupancy and limitations on investor ownership and commercial space.

ARTICLE 3. MINOR SUBDIVISIONS

9-6.307 Parcel Maps: Planning and Building Director Action.

- (d) Conditions of Approval. Conditions necessary to make the findings required by this Section, or to meet the requirement of these Planning Regulations or the Subdivision Map Act may be imposed on the approval of a parcel map, including, but not limited to, the following:

(4) Residential Condominiums. Residential condominiums shall be conditioned to require recordation of covenants, conditions, and restrictions that include the current basic eligibility requirements of the Federal Housing Administration (FHA) for condominium project approval, including, but not limited to, requirements for owner occupancy and limitations on investor ownership and commercial space.

ARTICLE 7. RESIDENTIAL CONDOMINIUM CONVERSIONS.

9-6.702 Applicability.

These provisions of this Article implement and supplement the requirements of the Subdivision Map Act applicable to condominium conversions. Such condominium conversions may include, but are not limited to, any of the following: (a) a community apartment project, (b) a condominium project or (c) a stock cooperative as defined by state law. The provisions of this Article apply to either:

- (a) to a any proposed tentative map, or parcel map, ~~or parcel map waiver~~ that involves a change in ownership of a single structure or a group of structures used

for residential dwelling units from individual ownership to an ownership in which the residential units may be sold separately. ~~These provisions implement and supplement the requirements of the Subdivision Map Act applicable to condominium conversions. Such condominium conversions may include, but are not limited to, any of the following: (a) a community apartment project, (b) a condominium project or (c) a stock cooperative as defined by state law. Residential condominium conversion projects that have a recorded final condominium map and which have a current, valid California Department of Real Estate public report approval are exempt from the provisions of this Article.~~

- (b) The sale of dwelling units in a residential development that has an approved condominium map but that has previously been operated as a rental project.

9-6.705 Development Standards.

- (d) **Affordable Housing.** All condominium conversion projects that contain ~~30-10~~ or more units shall comply with the requirements for new ownership residential projects of the Affordable Housing ~~Set Aside~~ Program in Article 4 of Chapter 5.

SECTION TEN. AMENDING CHAPTER 7 OF THE PLANNING REGULATIONS

Chapter 7 of Title 9 of the Emeryville Municipal Code is hereby amended to read as follows. Additions are in underlined text. Deletions are in ~~strike through text~~. Provisions not explicitly listed remain unchanged.

ARTICLE 1. PLANNING DECISION AUTHORITY

9-7.102 City Council.

The City Council (the "Council") has the following powers and duties under these Planning Regulations:

- (f) **Multi-Unit Residential Uses.** Make decisions on applications for exemptions to unit mix and design requirements for Multi-Unit Residential uses pursuant to the provisions of Section 9-5.2005.
- (g) **Flexible Community Benefit.** Make decisions on applications for development bonus points for Flexible Community Benefits pursuant to the provisions of item (7) of Table 9-4.204(e).

[Subsections 9-7.102(f) through 9-7.102(m) are hereby relettered 9-7.102(h) through 9-7.102(o) respectively.]

ARTICLE 2. COMMON PROCEDURES

9-7.202 General Processing Requirements.

Table 9-7.202: Decision Making, Public Hearing and Notice Requirements

| Permit or Action Type | Reference | Decision Process | | | Public Hearing Required? | Type of Notice | | Required Findings | Combined or Concurrent Processing |
|---|-------------------------------------|------------------|-----------------------|-------------------------|--------------------------|-------------------|----------|------------------------------|-----------------------------------|
| | | Advisory | Decision | Appeal ¹ | | Required | Optional | | |
| Discretionary Quasi-Judicial Actions | | | | | | | | | |
| Conditional Use Permits | Chapter 7 Article 5 | | | | | | | Section 9-7.505 ⁸ | Combined ⁶ |
| Minor ⁷ | | N/A | Director | PC ² | No | None | A, B, F | | |
| Major | | Director | PC | CC ² | Yes | A, C, D, E | F | | |
| <u>Flexible Community Benefits</u> | <u>Item (7) of Table 9-4.204(e)</u> | <u>PC</u> | <u>CC²</u> | <u>None²</u> | <u>Yes</u> | <u>A, C, D, E</u> | <u>F</u> | <u>Section 9-4.204(f)(2)</u> | |
| Demolition of Significant or Residential Structure | Chapter 5 Article 12 | PC | CC ² | None ² | Yes | A, C, D, E | F | Section 9-5.1206(b) | |
| <u>Exceptions to unit mix and design requirements for Multi-Unit Residential uses</u> | <u>Section 9-5.2005</u> | <u>PC</u> | <u>CC²</u> | <u>None²</u> | <u>Yes</u> | <u>A, C, D, E</u> | <u>F</u> | <u>Section 9-5.2005(a)</u> | |
| Temporary Use Permit | Chapter 7 Article 6 | N/A | Director | PC ² | No | None | B, F | Section 9-7.605 | N/A |

Article 5. Conditional Use Permits

9-7.502 Applicability.

A conditional use permit is required to approve certain uses in certain zoning districts as specified in Article 2 of Chapter 3. A conditional use permit is also required to allow certain other uses and situations as specified in these Planning Regulations including the following:

- (j) Exceptions to unit mix and design requirements for Multi-Unit Residential uses pursuant to Section 9-5.2005.
- (jk) Any other use or situation indicated as requiring a conditional use permit in these Planning Regulations.

SECTION ELEVEN. CEQA DETERMINATION

The City Council hereby finds that this proposal is exempt from environmental review under the "general rule" at Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

SECTION TWELVE. SEVERABILITY

The City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION THIRTEEN. CODIFICATION

Sections Three, Four, Five, Six, Seven, Eight, Nine and Ten of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Eleven, Twelve, Thirteen and Fourteen shall not be codified.

SECTION FOURTEEN. EFFECTIVE DATE AND POSTING

This Ordinance shall take effect thirty days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code Section 33693.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting held on Tuesday, October 20, 2015 and passed and adopted by the City Council at a regular meeting held on Tuesday November 3, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY