

## **ORDINANCE NO. 272**

### **An Ordinance of the City of Saratoga Amending Saratoga Municipal Code Articles 7-30, 14-10, 15-05, 15-06, 15-11, 15-12, 15-13, 15-17, 15-18, 15-19, 15-35, 15-45, 15-46, 15-56, 15-80, 16-17, 16-20 and 17-05 and Adding Article 16-47.**

#### **Findings**

1. The City of Saratoga wishes to amend certain articles and sections of the City Code in order to remedy internal ambiguities, clarify existing requirements, codify staff interpretations, omit redundant terms and provisions, amend grammatical and other errors, and promote energy efficiency and environmental sustainability.
2. Following several study sessions the Planning Commission of the City of Saratoga considered proposed amendments to the City Code at a duly noticed public hearing on July 22nd, 2009 and thereafter recommended adoption of this ordinance.
3. The City Council of the City of Saratoga held a duly noticed public hearing on September 2, 2009 and September 16, 2009, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance.

**Therefore, the City Council hereby ordains as follows:**

#### **Section 1. Adoption.**

Articles 7-30, 14-10, 15-05, 15-06, 15-11, 15-12, 15-13, 15-17, 15-18, 15-19, 15-35, 15-45, 15-46, 15-56, 15-80, 16-17, and 17-05 of the Saratoga City Code are hereby amended and Article 16-47 is adopted as set forth in Exhibit "A". Text to be added is indicated in double underlined font (i.e. example) and text to be deleted is indicated in strikeout font (i.e. ~~example~~). Text in standard font is not changed. Sections within an Article that are not included in Exhibit "A" are unchanged from the existing City Code.

#### **Section 2. Severance Clause.**

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

### **Section 3. California Environmental Quality Act**

The proposed ordinance, amendments and additions to the City Code are Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Sections 15061(b)(3) and 15308. CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, Staff is recommending amendments to the existing CITY CODE and related sections and additions of provisions and reference appendices to the existing Code; the amendments and additions would have minimal impact on the environment.

### **Section 4. Publication**

This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the City of Saratoga within fifteen (15) days after its adoption.

The foregoing ordinance was introduced and read at the regular meeting of the City Council of the City of Saratoga held on the 2nd day of September 2009, and was adopted by the following vote following a second reading on the 16th day of September 2009:

AYES: Councilmember Susie Nagpal, Howard Miller, Jill Hunter,  
Vice Mayor Kathleen, Mayor Chuck Page

NOES: None

ABSENT: None

ABSTAIN: None

SIGNED:

ATTEST:

\_\_\_\_\_  
Chuck Page,  
MAYOR OF THE CITY OF SARATOGA

\_\_\_\_\_  
Ann Sullivan,  
CLERK OF THE CITY OF SARATOGA

APPROVED AS TO FORM:

\_\_\_\_\_  
Richard Taylor, CITY ATTORNEY

## Amendments to Saratoga City Code

### Zoning Ordinance Update ZOA09-0005

Proposed amendments are shown below. Text to be added is double underlined (example) and text to be deleted is shown in strikeout (~~example~~). Text in standard font is not changed.

#### ARTICLE 7-30 NOISE CONTROL

##### **7-30.050 General noise restriction.**

- (a) No person shall cause, produce, or allow to be produced, in any residential zoning district, any single event noise more than six dBA above the ambient noise level at the location where the single event noise source is measured.
- (b) No person shall cause, produce or allow to be produced, in any office or commercial district, any single event noise more than eight dBA above the ambient noise level at the location where the single event noise source is measured.
- (c) The single event noise level shall be measured with a sound level meter as follows:
  - (1) With respect to noise originating upon a particular site, the measurement can be taken at any point outside of the property plane for that site.
  - (2) With respect to noise originating from a dwelling unit constituting part of a multi-family development, the measurement can be taken at any point beyond the exterior walls of such unit or at any point within the habitable interior of another dwelling unit located on the same site.
  - (3) With respect to any situation not described in subsection (c)(1) or (c)(2) of this Section, the measurement shall be taken at the point where the noise source is located.

#### ARTICLE 14-10 DEFINITIONS

##### **14-10.110 Frontage.**

"Frontage" means the property line of a site abutting on a street. In the case of a corner lot, the frontage shall be that property line with the shortest dimension of the lot abutting on a street which does not result in the creation of a nonconforming lot with respect to frontage, width or depth. ~~If more than one property line of a corner lot abutting on a street can be designated as the frontage without creating a nonconforming lot, then any of such property lines may be deemed the frontage.~~

#### ARTICLE 15-05 GENERAL PROVISIONS

## **15-05.080 Indemnification of the City; liability insurance.**

(a) The approval of any application pursuant to this Chapter shall be subject to a condition that the applicant and the owner of the property to which the approval applies agree shall, upon the City's request, to defend, indemnify and hold the City and its officers, officials, boards, commissions, employees, agents and volunteers harmless from and against:

(1) any and all claims, actions or proceedings to attack, set aside, void or annul the approval any action on the subject application, or any of the proceedings, acts or determinations taken, done or made prior to such approval or in furtherance of said action, which is brought within the time prescribed in Section 15-90.080 of this Chapter; and

(2) any and all claims, demands, actions, expenses or liabilities arising from or in any manner relating to construction, installation, alteration or grading work (whether on private or public property) which is the subject of the approval of the application and performed by such applicant and/or owner, their successors, or by any person acting on behalf of such applicant and/or owner.

In addition, prior to any Zoning Clearance from the Community Development Director, such applicant and owner shall execute an agreement implementing said condition, which shall be subject to prior approval as to form and content by the Community Development Director. If a defense is requested by the City, the City shall give prompt notice to the such owner and applicant of any such the involved claim, action or proceeding, and shall cooperate fully in the defense thereof. Nothing herein shall prevent the City from participating in the providing its own defense, but in such event if such defense is without the consent of the indemnifying party, the City shall pay its own attorney's fees and costs.

(b) ~~Whenever an approval granted pursuant to this Chapter authorizes or requires any construction, installation, alteration or grading work to be performed, whether on public or private property, the applicant shall furnish to the City~~ The City may in addition require as follows with regard to the above required agreement:

(1) recordation of such agreement ~~A written agreement to defend, indemnify and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any and all claims, demands, actions, expenses or liabilities arising from or in any manner relating to the performance of such construction, installation, alteration or grading work by the applicant or by anyone acting on his behalf; and~~

~~(2) When required as a condition of the approval, proof of a policy or policies of liability and other insurance coverage~~ (including, but not limited to contractual liability coverage) consistent in accordance with the applicable insurance standards of the City, as established from time to time by resolution of the City Council.

## **ARTICLE 15-06 DEFINITIONS**

### **15-06.022 Accessory structure.**

"Accessory structure" means a structure which is: (a) detached from any other structure such that the distance between any part of the two structures is thirty-six inches or more; and (b) incidental and subordinate to, and customarily associated with, the main structure or principal use on the lot. Notwithstanding the foregoing, second dwelling units are not accessory structures. No

accessory structure is permitted in any zone district in the absence of an existing or concurrently established main structure or principal use on the lot.

#### **15-06.290 Frontage.**

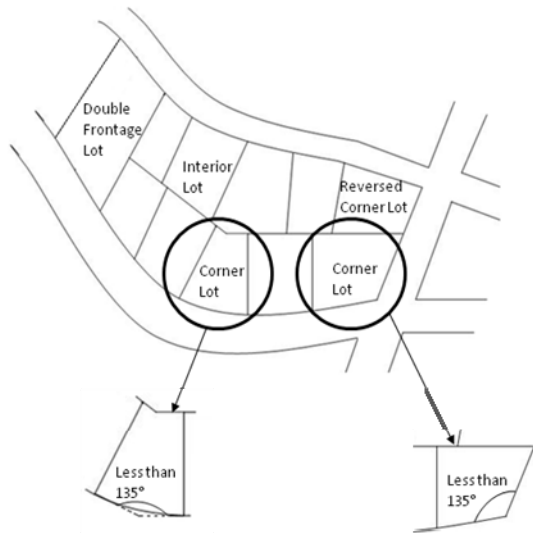
"Frontage" means the property line of a site abutting on a street. In the case of a corner lot, the frontage shall be that property line with the shortest dimension of the lot fronting abutting on a street which does not result in the creation of a nonconforming lot with respect to frontage, width or depth. ~~If more than one property line of a corner lot abutting on a street can be designated as the frontage without creating a nonconforming lot, then any of such property lines may be deemed the frontage.~~

#### **15-06.420 Lot.**

"Lot" means a parcel of land consisting of a single lot of record.

(a) **Lot of record** means a lot which is part of a subdivision and shown on a map thereof as recorded in the office of the County Recorder, or a legally created parcel of land described by metes and bounds or shown on a parcel map which has been so recorded.

(b) **Corner lot** means a lot abutting the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the intersections of the lot lines with the street lines meet at an interior angle of one hundred thirty-five degrees or less, or if the centerline of the street abutting the lot has an interior angle over the distance of any curve of one hundred thirty-five degrees or less as illustrated in Figure 1.



**Figure 1: Interior, Double Frontage and Corner Lots**

(c) **Interior lot** means a lot other than a corner lot.

(d) **Flag lot** means a lot having access to a street by means of a private driveway or corridor of land not otherwise meeting the requirements of this Chapter for site width. The length of a

corridor access shall be measured from the frontage line to the nearest point of intersection with that property line parallel or most nearly parallel to the frontage line.

(e) **Hillside lot** means a lot having an average slope of ten percent or greater.

(f) **In-fill lot** means a lot surrounded by other developed lots in at least three out of four northern, southern, eastern or western directions.

(g) **Reversed corner lot** means a corner lot, the side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

(h) **Double frontage lot** means an interior lot having frontage on two parallel or approximately parallel streets.

#### **15-06.430 Lot line.**

"Lot line" means any boundary of a lot.

(a) **Front lot line** means, on an interior lot, the lot line abutting a street, or, on a corner lot, the shortest dimension of the lot fronting the street, or, on a double frontage lot, the lot line abutting the street providing the primary means of access to the lot, or, on a flag lot, the interior lot line most parallel to and nearest the street from which the means of access is obtained, except that where the average width of a flag lot exceeds its average depth and the longer dimension is considered the depth, the front lot line will be the property line from which the front yard is measured.

(b) **Rear lot line** means the lot line not intersecting a front lot line which is most distant from and most closely parallel to the front lot line. ~~boundary opposite, or approximately opposite the front lot line.~~ A lot bounded by only three lot lines will not have a rear lot line.

(c) **Side lot line** means any lot line which is not a front or rear lot line.

(d) **Interior lot line** means any lot line not abutting a street.

(e) **Exterior lot line** or **street lot line** means any lot line abutting a street.

(f) The Community Development Director may assign or designate lot lines for irregular-shaped parcels or lots that do not have frontage, as defined in Section 15-06.290.

#### **15-06.520 Property line.**

"Property line" means lot line, as defined in Section 15-06.430.

#### **15-06.587 Setback.**

"Setback" means the minimum distance between the structure and any lot line. Where a street line is located within the boundaries of a site, the required setback shall be measured from such street line instead of the lot line.

#### **15-06.588 Setback area.**

- (a) **Front setback area** means that portion of a site bounded by the side lot lines, the front lot line, and the front setback line, located the required minimum distance from the front lot line.
- (b) **Side setback area** means that portion of a site bounded by the front setback area, the rear setback area, the side lot line, and the side setback line, located the required minimum distance from the side lot line.
- (1) **Exterior side setback area** means that portion of a site bounded by the front setback area, the rear setback area, the exterior side lot line, and the exterior side setback line, located the required minimum distance from the exterior side lot line of a corner lot. Exterior side setback areas exist only on corner lots.
- (2) **Interior side setback area** means that portion of a site bounded by the front setback area, the rear setback area, the interior side lot line, and the interior side setback line, located the required minimum distance from the interior side lot line.
- (c) **Rear setback area** means that portion of a site bounded by the side lot lines, the rear lot line or the rearmost portion of the lot if there is no rear lot line, and the rear setback line, located the required minimum distance from the rear lot line or the rearmost portion of the lot if there is no rear lot line.
- (d) When a lot line is located in a street the setback area shall be measured from the right-of-way line, street line, or the plan line of a street (if any, and defined as the ultimate City-determined improvement line for a specific street segment), instead of the lot line .

#### **15-06.730. Zoning Clearance.**

“Zoning Clearance” means a certification from the Community Development Director that a project as shown on construction drawings complies with all applicable zoning regulations and development conditions (e.g., conditions of approval). A zoning clearance shall not constitute a representation or warranty by the City to the owner of the property or to any other person with respect to the statements contained therein, nor shall the issuance of a zoning clearance prevent the City from enforcing any zoning regulation or development condition if a violation of the same is later found to exist.

### **ARTICLE 15-11 A: AGRICULTURAL DISTRICT**

#### **15-11.020 Permitted uses.**

The following permitted uses shall be allowed in the agricultural district:

- (a) Single-family dwellings.

(b) Accessory structures and uses located on the same site as a permitted use, including barns, farm out-buildings, storehouses, garden structures; green houses, workshops and one guest house.

(c) Raising of field crops, fruit and nut trees, vegetables, horticultural specialties and timber.

(d) Processing of products produced on the site.

(e) Home occupations, conducted in accordance with the regulations prescribed in Article 15-40 of this Chapter.

(f) Stables and corrals for the keeping for private use of one horse for each forty thousand square feet of net site area; provided, however, that in the equestrian zone only, one additional horse may be permitted on the first forty thousand square feet of net site area, and an additional horse may be permitted for each additional forty thousand square feet of net site area. All horses shall be subject to the regulations and license provisions set forth in Section 7-20.220 of this Code.

(g) Swimming pools used solely by persons resident on the site and their guests.

(h) The keeping for private use of a reasonable number of domestic dogs, cats and other small mammals, birds, fish and small reptiles, subject to the regulations as set forth in Article 7-20 of this Code, and subject also to the following restrictions:

(1) All animals shall be kept as pets only, and not for sale, breeding, experimental or commercial purposes.

(2) Animals shall at all times be confined to the site, unless restrained or caged and under the direct control of the owner or person having custody of the animal.

(3) No animals shall be permitted which are vicious, poisonous, wild, dangerous, capable of raucous outcry or other noise disturbing to the peace and quiet of the neighborhood, or otherwise constitute a hazard to the public health, safety or welfare, and all such animals are hereby declared to be a public nuisance.

The factors to be considered in determining whether the number of animals upon a site is reasonable shall include, but are not limited to, the size of the site or portion thereof on which the animals are kept; the type of animals and extent of noise, odor or other adverse impacts upon the occupants of neighboring properties the animals may cause by their presence on the site; the proximity of other dwelling units; the manner in which the animals are confined upon the site; and the propensity of the animals to cause injury or damage to persons or property.

(i) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

#### **15-11.030 Conditional uses.**



The following conditional uses may be allowed in the agricultural district, upon the granting of a use permit pursuant to Article 15-55 or Article 15-56 of this Chapter:

- (a) Accessory structures and uses located on the same site as a conditional use.
- (b) Community facilities.
- (c) Institutional facilities.
- (d) Police and fire stations and other public buildings, structures and facilities.
- (e) Religious and charitable institutions.
- (f) Nursing homes and day care facilities.
- (g) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines.
- (h) Recreational courts, to be used solely by persons resident on the site and their guests.
- (i) Commercial stables and community stables, subject to the regulations prescribed in Section 7-20.220 of this Code.
- ~~(j) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

#### ARTICLE 15-12 R-1: SINGLE-FAMILY RESIDENTIAL DISTRICTS

##### **15-12.020 Permitted uses.**

The following permitted uses shall be allowed in the R-1 districts:

- (a) Single-family dwellings.
- (b) Accessory structures and uses located on the same site as a permitted use, including garages and carports, garden sheds, greenhouses, shade structures, recreation rooms, home hobby shops, cabanas, structures for housing swimming pool equipment, one second dwelling unit or one guest house.
- (c) Raising of fruit and nut trees, vegetables and horticultural specialties, not including nurseries, greenhouses or storage of landscaping equipment products or supplies for commercial uses.
- (d) Home occupations, conducted in accordance with the regulations prescribed in Article 15-40 of this Chapter.
- (e) Stables and corrals for the keeping for private use of one horse for each forty thousand square feet of net site area; provided, however, that in the equestrian zone only, one additional

horse may be permitted on the first forty thousand square feet of net site area, and an additional horse may be permitted for each additional forty thousand square feet of net site area. All horses shall be subject to the regulations and license provisions set forth in Section 7-20.220 of this Code.

(f) Swimming pools used solely by persons resident on the site and their guests.

(g) The keeping for private use of a reasonable number of domestic dogs, cats and other small mammals, birds, fish and small reptiles, subject to the regulations as set forth in Article 7-20 of this Code, and subject also to the restrictions and standards prescribed in Section 15-11.020(h) of this Chapter.

(h) Except as specified in Section 15-12.030, recreational courts, to be used solely by persons resident on the site and their guests.

(i) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

#### **15-12.030 Conditional uses.**

The following conditional uses may be allowed in the R-1 districts, upon the granting of a use permit pursuant to Article 15-55 or Article 15-56 of this Chapter:

(a) Accessory structures and uses located on the same site as a conditional use.

(b) Community facilities.

(c) Institutional facilities.

(d) Police and fire stations and other public buildings, structures and facilities.

(e) Religious and charitable institutions.

(f) Nursing homes and day care facilities, in excess of six persons being cared for at the facility.

(g) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines.

(h) Recreational courts, to be used solely by persons resident on the site and their guests, where the lot is located in an R-1 district that is combined with a P-C district or is part of a planned residential development.

(i) Boarding stables and community stables, subject to the regulations prescribed in Section 7-20.220 of this Code.

(j) Model homes utilized in connection with the sale of new single-family dwellings in a subdivision, located upon a lot within the same subdivision or, in the discretion of the Planning Commission, upon a lot within another subdivision developed by the applicant, for such period of time as determined by the Planning Commission, not to exceed an initial term of one year and not exceeding a term of one year for each extension thereof.

(k) Cemeteries.

~~(l) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

#### **15-12.100 Height of structures.**

(a) No single-family dwelling shall exceed twenty-six feet in height and no other type of main structure shall exceed thirty feet in height. Exceptions to these limitations may be approved pursuant to a Use Permit and Design Review issued in accordance with Article 15-55 of this Code if the additional height is necessary in order to adhere to a specific architectural style. The additional height may only be granted on residentially zoned parcels exceeding twenty thousand square feet. The Staff and Planning Commission will use the "A Field Guide to American Houses" and other resource material approved by the Planning Commission as resources documents to assess the purity of architectural design.

(b) No accessory structure shall exceed fifteen feet in height; provided, however, the Planning Commission may approve of an accessory structure extending up to twenty feet in height if the Commission finds and determines that:

(1) The additional height is necessary in order to establish architectural compatibility with the main structure on the site; and

(2) The accessory structure will be compatible with the surrounding neighborhood.

(c) No structure shall exceed two stories, except that pursuant to a use permit issued under Article 15-55 of this Chapter, a three-story structure may be allowed for an institutional facility located upon a site designated for quasi-public facilities (CFS) ~~(QPF)~~ in the General Plan, where the average slope underneath the structure is ten percent or greater and a stepped building pad is used.

### **ARTICLE 15-13 HR: HILLSIDE RESIDENTIAL DISTRICT**

#### **15-13.030 Permitted uses.**

The following permitted uses shall be allowed in the HR district:

(a) Single-family dwellings.

- (b) Accessory structures and uses located on the same site as a permitted use, including garages and carports, garden sheds, greenhouses, shade structures, recreation rooms, home hobby shops, cabanas, structures for housing swimming pool equipment and one guest house.
- (c) Raising of vegetables, field crops, fruit and nut trees and horticultural specialties, and the processing of such products as are so raised or grown on the premises.
- (d) Home occupations, conducted in accordance with the regulations prescribed in Article 15-40 of this Chapter.
- (e) Stables and corrals or the keeping for private use of not more than two horses on a site. The minimum net site area shall be forty thousand square feet for one horse and eighty thousand square feet for two horses, except that in the equestrian zone only, a second horse may be kept if the net site area is at least forty thousand square feet. All horses shall be subject to the regulations and license provisions set forth in Section 7-20.220 of this Code.
- (f) Swimming pools used solely by persons resident on the site and their guests.
- (g) The keeping for private use, of a reasonable number of domestic dogs, cats and other small mammals, birds, fish and small reptiles, subject to the regulations as set forth in Article 7-20 of this Code, and subject also to the restrictions and standards prescribed in Section 15-11.020(h) of this Chapter.
- (h) Public parks, trails and other publicly owned open spaces.
- (i) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

**15-13.040 Conditional uses.**

The following conditional uses may be allowed in the HR district, upon the granting of a use permit pursuant to Article 15-55 or Article 15-56 of this Chapter. The conditional uses listed in subsections (k), (l), (m), (n) and (o) of this Section may be permitted, provided the uses do not create major traffic or noise impacts and are found to be compatible with the immediately surrounding area:

- (a) Accessory structures and uses located on the same site as a conditional use.
- (b) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines.
- (c) Recreational courts, to be used solely by persons resident on the site and their guests.
- (d) Boarding stables and community stables, subject to the regulations prescribed in Section 7-20.220 of this Code.

(e) Model homes utilized in connection with the sale of new single-family dwellings in a subdivision, located upon a lot within the same subdivision or, in the discretion of the Planning Commission, upon a lot within another subdivision developed by the applicant, for such period of time as determined by the Planning Commission, not to exceed an initial term of one year and not exceeding a term of one year for each extension thereof.

(f) Stables and corrals for the keeping for private use of more than two horses on a site. The minimum net site area for each horse shall be forty thousand square feet, except that in the equestrian zone only, one additional horse may be permitted for each forty thousand square feet of net site area. All horses shall be subject to the regulations and license provisions set forth in Section 7-20.220 of this Code.

(g) Plant nurseries, excluding sales of items other than plant materials.

(h) Wineries.

(i) Cluster development in accordance with Section 15-13.060(c).

(j) Community facilities.

(k) Institutional facilities.

(l) Police and fire stations and other public buildings, structures and facilities.

(m) Religious and charitable institutions.

(n) Nursing homes and day care facilities.

~~(o) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

## ARTICLE 15-17 R-M: MULTI-FAMILY RESIDENTIAL DISTRICTS

### **15-17.020 Permitted uses.**

The following permitted uses shall be allowed in the R-M districts:

(a) Single-family dwellings.

(b) Multi-family dwellings.

(c) Accessory structures and uses located on the same site as a permitted use, including garages and carports, garden sheds, greenhouses, shade structures, recreation rooms, hobby shops, cabanas and structures for housing swimming pool equipment.

(d) Raising of fruit and nut trees, vegetables and horticultural specialties, not including nurseries, greenhouses or storage of landscaping equipment, products or supplies for commercial uses.

(e) Home occupations, conducted in accordance with the regulations prescribed in Article 15-40 of this Chapter.

(f) Swimming pools used solely by persons resident on the site and their guests.

(g) The keeping for private use of a reasonable number of dogs, cats and other small mammals, birds, fish and small reptiles, subject to the regulations as set forth in Article 7-20 of this Code, and subject also to the restrictions and standards prescribed in Section 15-11.020(h) of this Chapter.

(h) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

**15-17.030 Conditional uses.**

The following conditional uses may be allowed in the R-M districts, upon the granting of a use permit pursuant to Article 15-55 of this Chapter:

(a) Accessory structures and uses located on the same site as a conditional use.

(b) Community facilities.

(c) Institutional facilities.

(d) Police and fire stations and other public buildings, structures and facilities.

(e) Religious and charitable institutions.

(f) Nursing homes and day care facilities.

(g) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines.

(h) Recreational courts, to be used solely by persons resident on the site and their guests.

(i) Model dwelling units utilized in connection with the sale of dwelling units in a residential subdivision, located within the same subdivision or, in the discretion of the Planning Commission, within another subdivision developed by the applicant, for such period of time as determined by the Planning Commission, not to exceed an initial term of one year and not exceeding a term of one year for each extension thereof.

(j) Hotels, in the R-M-3,000 district only.

~~(k) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

## ARTICLE 15-18 P-A: PROFESSIONAL AND ADMINISTRATIVE DISTRICTS

### **15-18.020 Permitted uses.**

The following permitted uses shall be allowed in a P-A district, unless a use involves the operation of a business providing direct customer service (including, but not limited to, conducting a delivery service) on-site between the hours of 1:00 A.M. and 6:00 A.M., in which event such use may be allowed upon the granting of a use permit pursuant to Article 15-55 of this Chapter:

- (a) Professional, administrative and medical offices.
- (b) Financial institutions.
- (c) Accessory structures and uses located on the same site as a permitted use.
- (d) Parking lots which comply with the standards for off-street parking facilities as set forth in Section 15-35.020 of this Chapter.
- (e) Temporary seasonal Christmas tree and pumpkin sales on a site not less than nine and one-half acres in size.
- (f) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

### **15-18.030 Conditional uses.**

The following conditional uses may be allowed in a P-A district, upon the granting of a use permit pursuant to Article 15-55 of this Chapter:

- (a) Accessory structures and uses located on the same site as a conditional use.
- (b) Community facilities.
- (c) Institutional facilities.
- (d) Police and fire stations and other public buildings, structures and facilities.
- (e) Religious and charitable institutions.
- (f) Nursing homes and day care facilities.
- (g) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks and transmission lines.

(h) Mixed Use Developments conforming to the Mixed Use Design Standards found in Article 15-58.

(i) Bed and breakfast establishments.

~~(j) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

## ARTICLE 15-19 C: COMMERCIAL DISTRICTS

### **15-19.020 General regulations.**

The following general regulations shall apply to all commercial districts in the City:

(a) **Permitted uses.** The following permitted uses shall be allowed in any commercial district, unless a use involves the operation of a business providing direct customer service (including, but not limited to, conducting a delivery service) on-site between the hours of 1:00 A.M. and 6:00 A.M., in which event such use may be allowed upon the granting of a use permit pursuant to Article 15-55 of this Chapter:

(1) Retail establishments, except restaurants, markets, delicatessens, and any establishment engaged in the sale of alcoholic beverages.

(2) Home occupations, conducted in accordance with the regulations prescribed in Article 15-40 of this Chapter.

(3) Parking lots which comply with the standards for off-street parking facilities as set forth in Section 15-35.020 of this Chapter.

(4) Accessory structures and uses located on the same site as a permitted use.

(5) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications, subject to design review under Article 15-46.

(b) **Conditional uses.** The following conditional uses may be allowed in any commercial district, upon the granting of a use permit pursuant to Article 15-55 of this Chapter:

(1) Restaurants.

(2) Markets and delicatessens.

(3) Any establishment engaged in the sale of alcoholic beverages.

(4) Hotels and motels.

(5) Bed and breakfast establishments.

(6) Institutional facilities.



- (7) Community facilities.
- (8) Game arcades.
- (9) Gasoline service stations on sites abutting Saratoga/Sunnyvale Road, Saratoga/Los Gatos Road or Saratoga Avenue and accessible directly from such arterial road; provided, that all operations except the sale of gasoline and oil shall be conducted within an enclosed structure.
- (10) Animal establishments, as defined in Section 7-20.010(c) of this Code. All animal establishments shall be subject to the regulations and license provisions set forth in Section 7-20.210 of this Code.
- (11) Public buildings and grounds.
- (12) Public utility and public service pumping stations, power stations, drainage ways and structures, storage tanks, transmission lines and cable television facilities.
- (13) Accessory structures and uses located on the same site as a conditional use.
- ~~(14) Antenna facilities operated by a public utility for transmitting and receiving cellular telephone and other wireless communications.~~

## ARTICLE 15-35 OFF-STREET PARKING AND LOADING FACILITIES

### **15-35.040 Design standards for off-street parking facilities**

Off-street parking facilities shall comply with the following standards:

- (a) Each standard parking space shall be not less than eighteen feet in length and nine feet, six inches in width, exclusive of aisles and access drives. The spaces shall be marked by double strips two feet apart and the width of each space shall be measured from center to center of the double strips. Each parallel standard parking space shall be not less than twenty-three feet in length and eight feet in width.
- (b) Each compact parking space shall be not less than sixteen feet in length and eight feet in width, exclusive of aisles and access drives; provided, however, when spaces are marked by double strips two feet apart, the width of each compact parking space may be not less than seven feet, six inches as measured from center to center of the double strips. Each parallel compact parking space shall be not less than nineteen feet in length and eight feet in width.
- (c) Sufficient room for turning and maneuvering vehicles shall be provided on the site.
- (d) The width of the driveway within a single-family residential district shall be a minimum of twelve feet or greater, as required by the Fire District having jurisdiction pursuant to Fire Code

~~requirements, as described in Article 16-15 of the Code.~~ The width of the driveway in all other zoning districts shall be as required by the Fire District having jurisdiction.

- (e) Each parking space shall be accessible from a street or alley, independent of any other parking space; provided, however, in the case of off-street parking for a single-family dwelling or a second dwelling unit, the approving authority may permit tandem parking.
- (f) Entrances and exits shall be provided at locations approved by the City.
- (g) The parking area, aisles and access drives shall be designed, paved, graded and drained in accordance with applicable City construction standards, subject to approval by the City Engineer.
- (h) Bumper rails shall be provided where needed for safety or to protect property, as prescribed by the City Engineer.
- (i) If the parking area is illuminated, lighting shall not exceed one hundred foot lamberts and shall be deflected away from adjoining residential sites so as to cause no annoying glare.
- (j) Where a parking area is located adjacent to, or directly across a street or alley from, an A, R-1, HR or R-M district, a landscaped strip not less than five feet in depth shall be planted and permanently maintained along the property line with plant materials not less than five feet in height; except, that within fifty feet from a street intersection, as measured from intersecting curblines or intersecting edges of the street pavement where no curb exists, the plant materials shall not exceed three feet in height above the established grade of the adjoining street.
- (k) Where residential parking is located in a garage, the dimensions of the required parking spaces shall be not less than eighteen feet in length and nine feet, six inches in width.

#### ARTICLE 15-45 DESIGN REVIEW: SINGLE-FAMILY DWELLING

##### **15-45.070 Application requirements.**

- (a) Applications for administrative design review approval and design review approval shall be filed with the Community Development Director on such forms as the Director shall prescribe. An application shall include the following exhibits:
  - (1) Site plan showing (i) property lines, (ii) easements and their dimensions, (iii) underground utilities and their dimensions, (iv) structure setbacks, (v) building envelope, (vi) topography, (vii) species, trunk diameter at breast height (DBH as defined in Section 15-50.020(g)), canopy driplines, and locations of all heritage trees (as defined in Section 15-50.020(l), trees measuring at least ten inches DBH, and all native trees measuring at least six inches DBH on the property and within one hundred fifty feet of the property, (viii) areas of dense vegetation and (ix) riparian corridors.
  - (2) Any application that proposes new construction three feet or closer to a required setback area shall include a boundary survey ~~survey site plan~~ signed by a licensed land surveyor or registered civil engineer qualified to do property line surveys. Such surveys shall verify the

location of all existing property lines, easements, structures and protected trees, as defined in Section 15-50.020(q).

(3) A statement of energy conserving features proposed for the project. Such features may include, but are not limited to, use of solar panels for domestic hot water or space heating, passive solar building design, insulation beyond that required under State law, insulated windows, or solar shading devices. Upon request, the applicant shall submit a solar shade study if determined necessary by the Community Development Director.

(4) Elevations of the proposed structures showing exterior materials, roof materials and window treatment.

(5) Cross sections for all projects located on a hillside lot, together with an aerial photograph of the site if requested by the Community Development Director.

(6) Engineered grading and drainage plans, including cross sections if the structure if the structure is to be constructed on a hillside lot.

(7) Floor plans that indicate total floor area, determined in accordance with Section 15-06.280 of this Chapter.

(8) Roof plans.

(9) Landscape and irrigation plans for the site, showing the location of existing trees proposed to be retained on the site, the location of any proposed replacement trees, the location and design of landscaped areas, types and quantities of landscape materials and irrigation systems, appropriate use of native plants and water conserving materials and irrigation systems and all other landscape features.

(10) Tree Preservation Plan, as required in Section 15-50.140.

(11) Preliminary title report showing all parties having any interest in the property and any easements, encumbrances and restrictions, which benefit or burden the property.

(12) Such additional exhibits or information as may be required by the Community Development Director. All exhibits shall be drawn to scale, dated and signed by the person preparing the exhibit. Copies of all plans to be submitted shall consist of two sets drawn on sheets eighteen inches by twenty-eight inches in size and fifteen reduced sets on sheets eleven inches by seventeen inches in size.

(13) A geotechnical clearance as defined in Section 15-06.325 of this Code, if required by the City Engineer.

(14) Such additional exhibits or information as may be required by the Community Development Director to demonstrate compliance with Article 16-47 – Green Building Regulations of the Saratoga City Code.

(b) An application shall be accompanied by the payment of a processing fee, in such amount as established from time to time by resolution of the City Council.

#### **15-45.075 Requirement for Story Poles**

Story poles are required as set forth below in order to depict the elevations and silhouettes of a proposed new building or an addition to an existing building requiring design review approval.

(a) **Definition and Requirement.** Story Poles are temporary frames delineating the height and general area of a proposed structure. Story poles must be installed in the manner set forth below if the project is subject to design review approval.

(b) **Timing.** The applicant shall install the story poles when notified to do so by the Community Development Department or designated representative. Generally, this will be two weeks prior to advertising the public hearing for the project (or in the case of administrative design review two weeks prior to the “Notice of Intent to Approve”). Neither the notice of public hearing nor the “Notice of Intent to Approve” (as applicable) for the project will be mailed until the story poles are installed to the satisfaction of the Community Development Director and photographs of the installed and approved story poles are filed with the Community Development Department.

(c) **Requirements.** The applicant’s surveyor or civil engineer shall determine the perimeter points and elevations of the story poles based on the plans to be considered by the approving body. A letter signed by the project surveyor or civil engineer certifying the accuracy of the story poles shall be submitted before notice of the public hearing or the “Notice of Intent to approve” (as applicable) on the project is mailed. Story poles shall be constructed of rigid materials which accurately outline the height and general area (including the proposed ridgelines) for the new structure and/or addition. To delineate the area of large or complex structures staff may require the addition of netting or other appurtenances. All perimeter walls shall be delineated on the ground.

(d) **Duration.** The story poles shall not be removed until a decision on the project has been made by the approving body and no appeal has been filed. If the decision by the approving body is appealed, the story poles shall remain in place until a final decision that is not subject to appeal has been made. The story poles are required to be removed within 15 calendar days after a final action has been taken and all appeal periods have expired. If a project application is issued a continuance for an extended period of time, the Community Development Director may require the story poles to be removed and reinstalled not less than fifteen (15) days prior to the next public hearing on the project.

#### **15-45.085 Off-site Required improvements.**

#### **15-45.090 Expiration of design review approval; extension; tolling of time period.**

(a) Each design review approvals granted pursuant to this Article shall expire thirty-six months from the date on which the approval became effective, unless prior to such expiration date a

building permit is issued and construction commenced. If such building permit expires, and the Building Official does not renew the building permit within one hundred eighty days after expiration, the Design Review approval shall expire.

(b) A design review approval may be extended for a single period of twelve months by the Community Development Director. Any application for extension shall be filed prior to the expiration date, and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the City Council. Extension of design review approval is not a matter of right and the approving authority may deny the application or grant the application subject to conditions. Neither the period of time specified in subsection (a) of this Section nor any extension period shall include the period of time during which a lawsuit involving the approval or conditional approval of the design review is or was pending in a court of competent jurisdiction.

(c) A design review approval in conjunction with an approved tentative subdivision map or approved use permit, or both, may be extended for a period or periods of time not to exceed the time authorized under Section 14-20.080(b) or Section 15-55.090(b) of this Code, respectively. The application for extension shall be filed in the manner prescribed in, and shall be reviewed in accordance with the standards set forth in, Section 14-20.080(b) or Section 15-55.090(b) of this Code, respectively.

#### ARTICLE 15-46 DESIGN REVIEW: MULTI-FAMILY DWELLINGS AND COMMERCIAL STRUCTURES

##### **15-46.020 Requirement for design review; public hearing.**

(a) In each of the following cases, no building permit shall be issued until the proposed improvements have received design review approval by the Planning Commission pursuant to this Article:

- (1) Any new main structure in an R-M, P-A or C district.
- (2) Any expansion over five hundred square feet to an existing main structure in an R-M, P-A or C district.
- (3) Any substantial exterior alteration, as determined by the Community Development Director, to an existing structure in an R-M, P-A or C district.
- (4) Any addition ~~over twenty-two feet in height~~ to an existing main or accessory structure which results in a structure over twenty-two feet in height in an R-M, P-A or C district.
- (5) Any parking lot in an R-M, P-A or C district covering an area of one thousand square feet or greater.
- (6) Any structure, except a single-family dwelling or accessory structure, having a floor area of one thousand square feet or greater, located in an A, R-1, HR or R-OS district.

(7) Any new antenna facility operated by a public utility for transmitting and receiving cellular telephone and wireless communication, located in an district that permits such use.

(b) A public hearing on the application for design review approval under this Article shall be required. Notice of the public hearing shall be given not less than ten days nor more than thirty days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment roll of the County as owning property within five hundred feet of the boundaries of the site upon which the structure, expansion, alteration, addition or parking lot is to be constructed. Notice of the public hearing shall also be published once in a newspaper having general circulation in the City not later than ten days prior to the date of the hearing.

#### **15-46.030 Application requirements.**

(a) Application for design review approval shall be filed with the Community Development Director on such form as shall be prescribed. The application shall include the following exhibits:

(1) A site plan showing property lines, easements, dimensions, topography, and the proposed layout of all structures and improvements including, where appropriate, driveways, pedestrian walks, parking and loading areas, landscaped areas, fences and walls, and the species, trunk diameter breast height (DBH as defined in Section 15-50.020(g)), canopy driplines, and locations of all heritage trees (as defined in Section 15-50.020(l)), trees measuring at least ten inches DBH, and all native trees measuring at least six inches DBH on the property and within one hundred fifty feet of the property. The site plan shall indicate the locations of entrances and exits and the direction of traffic flow into and out of parking and loading areas, the location and dimension of each parking and loading space, and areas for turning and maneuvering vehicles.

(2) Architectural drawings or sketches showing all elevations of the proposed structures as they will appear upon completion. All exterior surfacing materials and their colors shall be specified, and the size, location, material, colors and illumination of all signs shall be indicated.

(3) A landscape and irrigation plan for the site, showing the locations of existing trees proposed to be retained on the site, the location of any proposed replacement trees, types and quantities of landscape plants and materials and irrigation systems, appropriate use of native plants, and water conserving plants and materials and irrigation systems, and all other landscape features.

(4) Cross sections for all projects located on a hillside lot.

(5) Engineered grading and drainage plans, including cross sections if the structure is to be constructed on a hillside lot. Disposition of on-site storm water shall be consistent with the requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (NPDES).

(6) Floor plans showing total floor area, determined in accordance with Section 15-06.280 of this Chapter.

(7) Roof plans.

(8) Such additional exhibits or information as may be required by the Community Development Director or the Planning Commission. All exhibits shall be drawn to scale, dated and signed by the person preparing the exhibit. Copies of all plans to be submitted shall consist of two sets drawn on sheets eighteen inches by twenty-eight inches in size and fifteen sets on sheets eleven inches by seventeen inches in size.

(9) Such additional exhibits or information as may be required by the Community Development Director to demonstrate compliance with Article 16-47 – Green Building Regulations of the Saratoga City Code.

(b) The application shall be accompanied by the payment of a processing fee, in such amount as established from time to time by resolution of the City Council, together with a deposit toward the expense of noticing the public hearing as determined by the Community Development Director.

**15-46.032 Requirement for Story Poles.**

Story poles shall be required in the same manner as under City Code Section 15-45.075.

**15-46.040 Design Criteria Review Findings.**

The Planning Commission shall not grant design review approval unless it is able to make the following findings In reviewing applications for design review approval under this Article, the Planning Commission shall be guided by the following criteria:

(a) Where more than one building or structure will be constructed, the architectural features and landscaping thereof shall be harmonious. Such features include height, elevations, roofs, material, color and appurtenances.

(b) Where more than one sign will be erected or displayed on the site, the signs shall have a common or compatible design and locational positions and shall be harmonious in appearance.

(c) Landscaping shall integrate and accommodate existing trees and vegetation to be preserved; it shall make use of water-conserving plants, materials and irrigation systems to the maximum extent feasible; and, to the maximum extent feasible, it shall be clustered in natural appearing groups, as opposed to being placed in rows or regularly spaced.

(d) Colors of wall and roofing materials shall blend with the natural landscape and be nonreflective.

(e) Roofing materials shall be wood shingles, wood shakes, tile, or other materials such as composition as approved by the Planning Commission. No mechanical equipment shall be located upon a roof unless it is appropriately screened.

(f) The proposed development shall be compatible in terms of height, bulk and design with other structures in the immediate area.

**15-46.050 Expiration of design review approval; extension; tolling of time period.**

(a) Design review approvals granted pursuant to this Article shall expire twenty-four months from the date on which the approval became effective, unless prior to such expiration date a building permit is issued for the improvements constituting the subject of the design review approval and construction thereof is commenced and prosecuted diligently toward completion, or a certificate of occupancy issued for such improvements.

(b) Design review approvals may be extended for a single period ~~or periods~~ of time not exceeding twelve months. The application for extension shall be filed prior to the expiration date, and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the City Council. If a public hearing was conducted on the original design review application, a public hearing shall similarly be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 15-46.020(b) of this Article. Extension of design review approval is not a matter of right and the approving authority may deny the application or grant the same subject to conditions. Neither the period of time specified in subsection (a) of this Section nor any extension period shall include the period of time during which a lawsuit involving the approval or conditional approval of the design review is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the Planning Commission.

(c) Design review approvals approved in conjunction with an approved tentative subdivision map or approved use permit, or both, may be extended for a period or period of time not exceeding thirty-six months. The application for extension shall be filed in the manner prescribed in and shall be reviewed in accordance with the standards set forth in, Section 14-20.080(b) or Section 15-55.090(b) of the Code, respectively.

#### **15-46.055 Required Improvements**

The design criteria specified in Section 15-46.040 may be made subject to conditions reasonably related to the project and to the findings required for approval. Conditions may include, but are not limited to, the following:

(a) Construction or repair of curb, gutters and sidewalks.

(b) Water or sewer main extensions.

(c) Storm drain installation.

(d) Dedication of property or easements for utilities, street lighting, public right-of-way, trails, etc.

(e) Installation of street trees.

(f) Completion of street widening paving to property line.

(g) Repair or reconstruction of street paving prior to the issuance of a certificate of occupancy.

(h) Undergrounding of existing overhead utility lines from closest exiting distribution pole to the new structure.

(i) Improvements to water delivery systems as required by the Fire District or Water Company to ensure both adequate domestic and fire flow.

(j) Installation of fire hydrants as required by the Fire District having jurisdiction.



## ARTICLE 15-56 SECOND DWELLING UNITS

### 15-56.030 Development standards.

Except as otherwise provided in Section 15-56.050, each second dwelling unit shall comply with all of the following development standards:

- (a) Lot size. The net site area of the lot upon which the second dwelling unit is located shall not be less than the minimum standard prescribed for the district applicable to such lot. Minimum standards for lots located in the HR Residential District are determined per Section 15-13.060 (a) of the City Code.
- (b) Unit size. The second dwelling unit shall be at least four hundred square feet and shall not exceed one thousand two hundred square feet of living space, not including the garage. If a second dwelling unit has a basement, the area of the basement is included as part of the total maximum allowed.
- (c) Building codes. The second dwelling unit shall comply with applicable building, health and fire codes.
- (d) Zoning regulations. The second dwelling unit shall comply with applicable zoning regulations (including, but not limited to, required setbacks, coverage, and height limits). A one-time ten percent increase in site coverage and allowable floor area may be granted by the Community Development Director if the new second dwelling unit is deed restricted so that it may only be rented to below market rate households.
- (e) Parking. A minimum of one off-street covered parking space within a garage shall be provided for the second dwelling unit in addition to the off-street covered parking spaces required for the main dwelling. The garage requirement may be waived if the second dwelling unit is deed restricted so that they may only be rented to below market rate households. If the garage requirement is waived, an open parking space must be provided.
- (f) Access. The second dwelling unit shall be served by the same driveway access to the street as the existing main dwelling.
- (g) Common entrance. If the second dwelling unit is attached to the main dwelling, both the second dwelling unit and the main dwelling must be served by either a common entrance or a separate entrance to the second dwelling unit must be located on the side or at the rear of the main dwelling.
- (h) Limitations on number of bedrooms. A second dwelling unit may not have more than two bedrooms.
- (i) Appearance. All new construction to create a second dwelling unit must match the existing main structure in color, materials and architectural design.

## ARTICLE 15-80 MISCELLANEOUS REGULATIONS AND EXCEPTIONS

### **15-80.030 Special rules for accessory uses and structures in residential districts.**

The following special rules shall apply to certain accessory uses and structures in any A, R-1, HR, R-OS or R-M district:

(a) Stables and corrals. Subject to approval by the Community Development Director, no stable or corral, whether private or community, shall be located closer than fifty feet from any property line of the site, or closer than fifty feet from any dwelling unit or swimming pool on the site. In the HR district, no stable or corral shall be located closer than fifty feet from any stream and the natural grade of a corral shall not exceed an average slope of fifteen percent.

(b) Swimming pools. Subject to approval by the Community Development Director, no swimming pool or accessory mechanical equipment shall be located in a required front, side or rear setback area, except as follows:

(1) A swimming pool and accessory mechanical equipment may be located within a required rear setback area, but the water line of the swimming pool may be no closer than six feet from any property line. Any portion of such swimming pool that is located outside of the rear setback area shall comply with the side setback area requirements for the site.

(2) If the required minimum side setback area is more than ten feet, accessory mechanical equipment may be located within such side setback area, but no closer than ten feet from the side lot line.

(c) Recreational courts. Subject to approval by the Community Development Director, recreational courts may be allowed, provided that such recreational courts shall comply with all of the following restrictions, standards and requirements:

(1) The recreational court shall not exceed seven thousand two hundred square feet in area.

(2) The recreational court shall not be illuminated by exterior lighting.

(3) No direct opaque screening shall be utilized around any portion of the recreational court.

(4) No fencing for a recreational court shall exceed ten feet in height.

(5) No recreational court shall be located in a required front or side setback area. Such courts may be located within a required rear setback area, but no closer than fifteen feet from any property line.

(6) The natural grade of the area to be covered by the recreational court shall not exceed an average slope of ten percent, unless a variance is granted pursuant to Article 15-70 of this Chapter.

(7) The recreational court shall be landscaped, in accordance with a landscape plan approved by the Community Development Director, so as to create a complete landscaping buffer from

adjoining properties within two years from installation. In addition, a bond, letter of credit or other security, in such amount as determined by the Community Development Director, shall be furnished to the City to guaranty the installation of the landscaping improvements in accordance with the approved landscaping plan.

(8) The recreational court shall be designed and located to minimize adverse impacts upon trees, natural vegetation and topographical features and to avoid damage as a result of drainage, erosion or earth movement.

(9) The recreational court shall be designed to preserve the open space qualities of hillsides, creeks, public paths, trails and rights-of-way on or in the vicinity of the site.

(d) Enclosed accessory structures. No enclosed accessory structures shall be located in any required setback area of any lot, except as follows:

(1) Upon the granting of a use permit by the Planning Commission pursuant to Article 15-55, cabanas, garages, carports, recreation rooms, hobby shops and other similar structures may be located no closer than six feet from the rear property line and shall not exceed eight feet in height, plus one additional foot in height for each three feet of setback from the rear property line in excess of six feet, up to a maximum height of ten feet if the structure is still located within the required rear setback area.

(2) Subject to approval by the Community Development Director, garden sheds, structures for housing swimming pool equipment and other enclosed structures of a similar nature, not exceeding two hundred fifty square feet in floor area, may be located no closer than six feet from the rear property line and shall not exceed six feet in height, plus one additional foot in height for each additional foot of setback from the rear property line in excess of six feet, up to a maximum height of ten feet if the structure is still located within the required rear setback area. This subsection shall not apply to any structure intended or used for the keeping of animals.

(e) Unenclosed garden structures. Subject to approval by the Community Development Director, unenclosed garden, ornamental and decorative structures such as gazebos, lattice work, arbors and fountains, free-standing fireplaces and play structures may be located no closer than six feet from a side or rear property line and shall not exceed eight feet in height, plus one additional foot in height for each additional foot of setback from the side and rear property line in excess of six feet, up to a maximum height of ten feet if the structure is still located within a required side or rear setback area.

(f) Solar panels. Subject to approval by the Community Development Director, solar panels not exceeding six feet in height may be located within any portion of a rear setback area.

(g) Outdoor Cooking Devices ~~Barbeques~~ Subject to approval by the Community Development Director, permanent outdoor cooking devices ~~barbeques~~, such as those constructed out of brick or masonry, may be located no closer than six feet from the rear property line and shall not exceed ~~four-~~ eight feet in height.

(h) Accessory structures in R-M district. Notwithstanding any other provisions of this Section and subject to approval by the Community Development Director, accessory structures not exceeding fourteen feet in height may be located in a required rear setback area in any R-M district, provided that not more than fifteen percent of the rear setback area shall be covered by structures, and provided further, that on a reversed corner lot, an accessory structure shall not be located closer to the rear property line than the required side setback area on the abutting lot and not closer to the exterior side property line than the required front setback area of the abutting lot.

(i) Referral to Planning Commission. With respect to any accessory structure requiring approval by the Community Development Director, as described in subsections (a) through (h) of this Section, the Director may refer the matter to the Planning Commission for action thereon whenever the Director deems such referral to be necessary or appropriate.

(j) Exceptions to standards. The Planning Commission shall have authority to grant exceptions to any of the regulations set forth in subsections (a) through (h) of this Section pertaining to the size, height or required setback of an accessory structure in a side or rear setback area, through the granting of a use permit for such accessory structure pursuant to Article 15-55 of this Chapter. The Planning Commission's authority shall not be subject to any quantified limitations contained in subsections (a) through (h), except subsection (d)(1) which already establishes quantified limitations on a use permit issued by the Planning Commission. The Planning Commission's authority shall not extend to allowing an accessory structure in a setback area where it not expressly allowed under subsections (a) through (h).

#### **15-80.035 Requirements for basements and lightwells.**

The following requirements shall apply to basements in any A, R-1, HR, R-OS or R-M district, with the exception of requirements in subsections (d) and (e) of this Section, which shall apply to all districts:

(a) A basement shall be located ~~entirely~~ beneath the building footprint of an enclosed accessory structure and/or the building footprint of the main structure, including attached garage, and shall not be located within any required setback area. The building footprint is the floor area from the exterior surface of the exterior walls of the ground floor of all main or accessory structures on a lot.

#### **15-80.080 ~~Radio and television a~~Antennas.**

(g) **Mitigation of visual impact.** Antennas and their support structures, including guy wires and accessory equipment, shall be located on the site and screened as much as possible by architectural features, fences or landscaping to minimize the visual impact of the antenna and its support structure upon adjacent properties and public rights-of-way. The materials used in constructing the antenna and its support structure shall not be unnecessarily bright, shiny or reflective. Conditions may be imposed upon the issuance of a building or use permit or design review approval to mitigate the anticipated visual impact of the proposed antenna installation.

## ARTICLE 16-17 EXCAVATION AND GRADING

### 16-17.160 Driveways.

~~Unless otherwise recommended in the approved soil engineering or geology report, d~~Driveways shall conform to the provisions of this Section.

(a) Gradient. Maximum driveway gradient shall not exceed eighteen percent for more than fifty feet.

(b) Construction standards:

(1) Driveways to structures with less than a thirty-five foot setback have no conditions placed on their construction.

(2) Driveways to structures with more than a thirty-five foot setback shall comply with the following conditions:

a. The width of a driveway servicing one parcel within a single-family residential district shall be a minimum of twelve feet, or greater as required by the Fire District having jurisdiction. The driveway servicing more than one parcel within a single family residential district must be at least fourteen feet wide with a one foot shoulder on each side or greater as required by the Fire District having jurisdiction. The width of the driveway in all other zoning districts shall be as required by the Fire District having jurisdiction.

b. The driveway must have a minimum curve radius of forty-two feet.

c. If the finished surface slope is twelve and one-half percent or less, the driveway must have at least a six-inch aggregate base and a double-coat oil and screening surface.

d. If the finished surface slope is twelve and one-half to fifteen percent slope, the driveway must have at least a six-inch aggregate base and a two-inch asphalt concrete surface.

e. If the finished surface slope is fifteen to eighteen percent, the driveway must have at least a six-inch aggregate base and four-inch rough-surface concrete surface.

f. A turnaround at the end of a driveway must have at least a thirty-two foot radius or an equivalent approved by the Fire District having jurisdiction.

g. The driveway must have a centerline perpendicular to the street right-of-way at the point of their intersection or present a minimum forty-two foot effective inside radius to vehicles departing or entering the public street from both sides.

(3) All bridges and driveway structures shall be designed to sustain a minimum of thirty-five thousand pounds dynamic loading.

#### ARTICLE 16-47 GREEN BUILDING REGULATIONS

##### Sections:

16.47.010 Purpose.

16.47.020 Definitions.

16.47.030 Covered projects.

16.47.040 Private building compliance.

16.47.050 Public building compliance.

16.47.060 Maintenance of resources.

##### **16.47.010 Purpose.**

The City finds that green building design and construction can have a significant positive effect on energy and resource efficiency and reduce waste and pollution generation. The intent of this Article is to promote the environmental sustainability of natural resources by efficiently redirecting the use of recyclable materials away from landfills, by encouraging recycled-content materials in construction, by reducing the energy consumption needs of structures by making use of efficient construction methods and by promoting groundwater recharge and efficient preservation and use of water resources.

##### **16.47.020 Definitions.**

For the purposes of this Article, certain words and phrases used herein are defined as follows:

(a) "Build It Green" means the Build It Green organization. Build It Green is a California professional nonprofit membership organization whose mission is to promote healthy, energy- and resource-efficient buildings.

(b) "Certified green building rater" means a person or organization determined by the building official to be qualified to perform inspections and provide documentation to assure compliance with the rating system developed by Build It Green.

(c) "GreenPoint Rated" means the rating system developed by Build It Green.

(d) "LEED" means the leadership in energy and environmental design program developed by the U.S. Green Building Council. The U.S. Green Building Council is a national professional nonprofit membership organization whose mission is to promote buildings that are environmentally responsible.

(e) "LEED accredited professional" means a person or organization determined by the building official to be qualified to perform inspections and provide documentation to assure compliance with the U.S. Green Building Council LEED requirements.

##### **16.47.030 Covered projects.**

This Article shall apply to the new construction of the following types of buildings:

(a) New single-family and multiple-family dwellings;

(b) New commercial, mixed-use, and public and community facility buildings.

**16.47.040 Private (nonpublic) building compliance.**

All covered projects shall demonstrate compliance with the following level of green building standards and submit application materials determined by the Community Development Director as sufficient to make such compliance determination:

(a) Single-family and multiple-family dwellings.

(1) Prior to issuance of a building permit, the applicant shall submit verification by a certified green building rater that the dwelling design qualifies for a minimum score of fifty (50) points under the GreenPoint rating system.

(2) Prior to issuance of a final occupancy inspection, the applicant shall submit verification by a certified green building rater that the dwelling was built in compliance with the approved plans which supported the minimum score of fifty (50) points, including the requisite number of points in the specific categories as specified in the GreenPoint rating system.

(b) Commercial, mixed-use, and community facility buildings.

(1) Prior to issuance of a building permit, the applicant shall submit verification by the City building official that the building design will be fifteen (15) percent more energy efficient than required by Part 6 of Title 24 of the California Code of Regulations using a State of California adopted performance method, as approved by the State Energy Commission.

(2) Prior to issuance of a final occupancy inspection, the applicant shall submit verification by the project architect or engineer that the building was constructed per the approved energy efficiency requirements.

**16.47.050 Public building compliance.**

All covered projects shall demonstrate compliance with the following level of green building standards:

(a) Public buildings that are less than five thousand (5,000) square feet in size.

(1) Prior to issuance of a building permit, the City shall verify that the building design will be fifteen (15) percent more energy efficient than required by Part 6 of Title 24 of the California Code of Regulations using a state of California adopted performance method, as approved by the State Energy Commission.

(2) Prior to issuance of a final occupancy inspection, the City shall verify that the building was constructed per the approved energy efficiency requirements.

(b) Public buildings that are five thousand (5,000) square feet in size, or larger.

(1) Prior to issuance of a building permit, the City shall verify that the building design has been LEED certified at a minimum silver level.

(2) Prior to issuance of a final occupancy inspection, the city shall verify that the building was constructed in compliance with the LEED certification.

**16.47.060 Maintenance of resources.**

The building official shall maintain a current list of certified green building raters and LEED accredited professionals who are qualified to provide the GreenPoint Rated and LEED certifications, and shall be responsible for administering and implementing the requirements of this Article.

ARTICLE 17-05 EXISTING LAWS

**17-05.010 Greenhouse gas reduction policies.**

The list below provides a reference to Sections of the City of Saratoga Municipal Code seeking to reduce emissions of greenhouse gases, together with a brief description of each Section. Nothing in this section shall change the meaning of the code sections summarized below and the full text of each section shall apply regardless of the summary below.

(a) 2-45.95 Recycled paper. Mandates the establishment of procedures for purchasing recycled paper and paper products, giving preference to recycled materials when all other factors are equal.

(b) 4-65.090 Recyclers; quarterly reports. Requires quarterly reports on meeting waste reduction goals.

(c) 6-15.070 Discharge of pollutants into storm drains and watercourses. Establishes a misdemeanor for depositing pollutants into natural waterways and storm drains.

(d) 9-70 Transportation demand management. Promotes the implementation of programs to reduce traffic congestion and improve air quality in the City.

(e) 14-25.065 Subdivisions: design requirements: creek protection easement. To protect creeks, creek banks, and associated wildlife habitats, prohibits building within a specified area around a protected creek.

(f) 15-16 P-C: Planned community district. Allows for the creation of Planned Community Districts, which include smaller, less expensive housing, in addition to dedicating space for parks and recreation uses.

(g) 15-20.050(j) R-OS: Residential open space district, development criteria: Landscaping. In R-OS areas, gives preference to natural, indigenous, and drought-resistant plants.



- (h) 15-45.055 Residential design handbook. Requires that all single-family structures be built in accordance with the guidelines in the Residential Design Handbook, which includes information on energy efficiency and promotes native vegetation and minimizing the amount of paved surfaces.
- (i) 15-47 Water-efficient landscapes. To promote water conservation, encourages water-efficient landscaping including programming watering devices to account for weather patterns, using recycled water for landscape irrigation, and grouping plants for efficient watering. Also requires that the City inform new home-owners about water-efficient landscapes.
- (j) 15-48 Limitations on wood-burning fireplaces. To improve air quality, limits installation of fireplaces in new construction, and outlaws burning garbage, plastics, rubber, paint, and anything that might emit noxious or toxic fumes.
- (k) 15-50 Tree regulations. Provides for the preservation of trees, which offer both scenic and climatic benefits to the City. Requires approval for the removal of protected trees (15-50.050), and gives the City the power to require the planting of new trees as a condition for approving the removal of a tree (15-50.080).
- (l) 15-52 Small wind energy systems. Facilitates construction of small wind energy conversions systems for home, farm, and small commercial use.
- (m) 15-56 Second dwelling units. Section 15-56.030(d) allows additional site coverage and allowable floor area in a second dwelling unit, if that unit is deed restricted to only be rented to below market rate households.
- (n) 15-80.030(f) Miscellaneous regulations and exceptions: Solar panels. Subject to approval by the Community Development Director, solar panels not exceeding six feet in height may be located within any portion of a rear setback area.
- (o) 15-81 Housing density bonus. Provides for incentives for high-density housing that includes housing specifically set aside for senior citizens and low income persons.
- (p) 16-47 Green Building Regulations. Requires that new single-family dwelling, multi-family dwellings, commercial, mixed-use, public and community facility buildings demonstrate compliance with green building standards.
- ~~(p)~~ (q) 16-72 Construction and demolition debris. Requires a recycling plan for construction and demolition debris for projects with more than 2,500 square feet of floor space. Plans should maximize waste diverted from landfills, and are documented, approved, and overseen by City staff.
- ~~(q)~~ (r) 16-75.030 Water conservation devices. Requires that all newly constructed buildings incorporate water conservation devices into plumbing and irrigation systems.