

CHAPTER 14.01

ADMINISTRATION OF ZONING

14.01.010 Intent and Purpose.

The intent and purpose of this Chapter is to establish regulations for the effective and efficient implementation of this Code. This Chapter contains the procedures for the interpretation of the Code, criteria for acceptance of applications for ministerial, administrative, and discretionary actions, standards for processing of applications and requirements for the notice and conduct of public hearings. This Chapter will work to the benefit of all in the community by providing for the comprehensive management and implementation of this Code.

14.01.020 Administration.

A. Designation and Authority of Zoning Administrator.

- 1. The Development Services Director shall serve as the Zoning Administrator for the City of Los Altos. The Development Services Director may designate the Development Services Deputy Director to serve as the Zoning Administrator in their absence.**
- 2. The Zoning Administrator is hereby charged with the duty of providing interpretations of the Zoning Code.**
- 3. The interpretations of the Zoning Administrator are subject to the adopted land use regulations of the City of Los Altos and all federal and state laws.**
- 4. The Zoning Administrator shall resolve any inconsistencies and conflicts within Title 14 of the Los Altos Municipal Code to ensure adherence to the purpose and intent of this code is implemented.**
- 5. The Zoning Administrator shall have the authority to refer any discretionary application to the Planning Commission for consideration when it is determined necessary.**

B. Designation and Authority of Planning Commission.

- 1. The Planning Commission designation and authority shall be the same as contained within Chapter 2.08 of the Los Altos Municipal Code.**

C. Enforcement of this Code.

- 1. When any use or structure is found to be in violation of the provisions of this Code, the Zoning Administrator may refer the violation to the City Attorney to commence appropriate civil, administrative, or criminal proceedings for the discontinuation or removal of the illegal use or structure in the manner prescribed by law.**

D. Investigation or Inspection of Property.

1. Any authorized city official may enter any premises, building, or structure at any reasonable hour, after either obtaining the consent of the owner or other responsible individual or pursuant to an inspection warrant, for investigation or inspection of such premises, building, or structure to determine whether said building, premises, or structure is in violation of this Code. Any person who denies, prevents, obstructs or attempts to deny, prevent, or obstruct such access pursuant to an inspection warrant is guilty of a misdemeanor.

E. Penalty for Violation of the Code.

1. Penalty for violation of the Code is described in Los Altos Municipal Code, Title 1 Chapter 1.20 and 1.30.

14.01.030 Discretionary Applications.

Submittal of Discretionary Applications for review by the City of Los Altos shall be limited to one (1) project per site at any one time. Subsequent discretionary applications may be applied for however, multiple separate discretionary applications are not allowed until completion, or withdrawal of a prior request.

14.01.040 Discretionary Application Review Procedures.

- A. Upon submittal of a development application by an applicant, in accordance with the Permit Streamlining Act, the Development Services Department shall have thirty (30) days to review the development application to determine if the application is complete. Prior to the end of that thirty (30) day period, the City shall notify the applicant in writing of any deficiencies in the application which make the application incomplete. This provision shall not apply to legislative actions by the City.
- B. If an applicant is notified in writing that a development application is incomplete, the applicant shall have (180) days from the date of notification to revise and resubmit the application. If the applicant fails to revise and resubmit the application within the said (180) day period, the application shall be deemed withdrawn. Thereafter, a resubmittal of an application for the same site shall constitute a new development application subject to the payment of new fees and commencing a new timeline for City action on the project.
- C. The Zoning Administrator, at their sole discretion, upon written request by the applicant prior to the end of the (180) day period may provide a one-time extension of sixty (60) days.
- D. The Zoning Administrator or their designee may send a courtesy notice to the applicant that if an incomplete application is not rectified by the submittal of additional information necessary to make the application complete, that the application will be deemed to be withdrawn. However, this notice is strictly a courtesy to an applicant and failure by the City to send, or the applicant to receive such notice shall not operate to negate the effective withdrawal of the application.

- E. When a final action on any given application is a denial and conditions surrounding that application have not substantially changed, the Zoning Administrator shall reject any new applications for any identical or substantially similar proposal for a period of twelve (12) months from the final action date on the original application. There shall be no limitation on subsequent applications for a site on which a project was denied without prejudice.
- F. The provisions of Government Code Section 65920 are applicable to City actions in processing development applications but are not applicable to legislative actions of the City.

14.01.050 Expiration and Extensions.

- A. Expiration. Unless otherwise approved in the conditions of approval, any permit or entitlement shall expire in two (2) years if the project has not been established on the site.
 - 1. If the project authorized by the permit or entitlement has not been established within the required time, and a time extension is not granted, the permit shall expire and be deemed void without any further action by the city.
 - 2. An approved project shall be deemed to have been established when: a building permit has been issued; an approved use that does not require construction has commenced; a map required by the Subdivision Map Act related to the project has been filed and recorded.
- B. Extensions. A discretionary permit may be extended in accordance with the following provisions:
 - 1. An application, consisting of a written letter requesting an extension, shall be submitted a minimum of 30 days prior to the expiration date of the subject discretionary permit. Request for extension shall be denied if received after the expiration date.
 - 2. A fee, in accordance with the annual fee resolution adopted by the City Council shall be submitted with the letter.
 - 3. The Zoning Administrator may administratively grant a one-time extension for a maximum of twelve (12) months.
 - 4. A request for extension may be approved, conditionally approved or denied. An action to conditionally approve or deny a request for extension may be based on the existence of new requirements or standards which were not in effect at the time of the original approval. Such requirements or standards may be contained in the City's Zoning Code or in the Municipal Code, including the Health, Safety and Building Codes.
 - 5. While the discretionary permit is deemed active during the consideration of an extension request, if the expiration date has passed, the permit may not be implemented unless and until the extension request has been approved.

14.01.060 Fees and Deposits.

A. Filing Fees and Deposits.

- 1. Each applicant for an Amendment, Zone Changes, Conditional Use Permit, Variance, Design Review Permit, or other entitlement or relief provided for in this Code shall pay the fees and costs established by Resolution of the City Council upon the filing of an application such entitlement or relief. Said Resolution may be periodically amended by resolution to reflect the cost of processing such applications.**
- 2. An application shall not be accepted until all required fees have been paid.**

B. Waiver of Fees. The City Council may provide for the reduction of filing fees that have been established by Resolution of the City Council. City-sponsored applications shall be exempt from the payment of processing fees.

C. Refunds. The following provisions apply when full payment has been made for an application or when an application is withdrawn:

- 1. If any application is withdrawn within thirty (30) days from the date the application is filed, the City shall refund 50% of the fees paid. This provision shall not apply to any required consultant services provided for the application review and paid by deposit or reimbursement to the City.**
- 2. If any application is withdrawn after thirty (30) days from the date the application is filed, the City shall refund 25% of the fees paid. This provision shall not apply to any required consultant services provided for the application review and paid by deposit or reimbursement to the City.**
- 3. No refund shall be made after the notice of hearing has been published.**
- 4. If the application fee is a deposit based on an hourly rate, the refund will be the difference between the time expended by the City and the amount of the deposit.**

14.01.070 Amendment and Modifications to Discretionary Permits.

An approved discretionary permit may be amended or modified if the amendment is found to further the purposes of the Zoning Code and applicable State law(s). An amendment request shall be filed prior to the expiration date of the previously approved permit. The Zoning Administrator make one of the following determinations regarding the request:

- A. Minor Amendments.** If requested amendments are found to be minor in nature and in substantial conformance with the prior discretionary approval by the Zoning Administrator, the amendments may be approved administratively.
- B. Major Amendments.** If the Zoning Administrator determines that the requested amendments are significant enough to require a discretionary review, then the amendments shall be referred to the original decision-making authority. If the original application for the project required a public hearing, then the original decision-making authority's review of amendments shall require a public hearing in accordance with Title 14 of the Los Altos Municipal Code.

14.01.080 Amendments to Land Use Documents.

- A. Scope of Amendments.** Amendments may be proposed to change zoning districts, modify district boundaries or to revise the provisions of Title 14 to add, remove, or modify regulations. Amendments may be filed to add, remove, or modify the goals and policies of the General Plan or to change the land use designations therein.
- B. Amendment Initiation.** Legislative action such as, General Plan Amendments, Zone Change Amendments, and Zone Text Amendments and may only be initiated by the City Council, or Zoning Administrator and implemented by adoption of a Resolution or Ordinance of the City Council.
 - 1. Any person who can demonstrate an ownership interest in real property located within the City of Los Altos may request General Plan Amendment(s), Zone Change Amendment(s), and Zone Text Amendment(s) to the Zoning Administrator. The request shall be:**
 - a. Provided in writing to the Zoning Administrator. The Zoning Administrator will review said request and may require additional information to understand the potential impacts associated with the request.**
 - b. The Zoning Administrator will take the written request to the City Council for consideration. The request shall be:**
 - i. Authorized or denied to submit a formal application for formal consideration.**
- C. General Plan Amendments.**
 - 1. Frequency of Amendments.** No mandatory Element of the General Plan shall be amended more frequently than four (4) times during any calendar year.
 - 2. Planning Commission Recommendation.** The Planning Commission shall hold at least one (1) public hearing and make a recommendation on the adoption of an amendment to the General Plan. The Planning Commission shall forward its recommendation to the City Council.
 - 3. Public Hearing.** A General Plan Amendment requires at least one (1) public hearing before the City Council.
 - 4. Amendment by Resolution.** The City Council shall adopt amendments to the General Plan and General Plan Land Use Map by Resolution. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission.
- D. Zoning Code Amendments.**
 - 1. Types of Amendments.** There are two types of amendments to the Zoning Code including:
 - a. Zone Text Amendment — a revision, correction, addition or modification to the text of the Zoning Code, including changes to development standards, use regulations or procedures.**

- b. Zone Change — a change to the zoning designation of a property or properties on the Zoning Map.
- 2. Planning Commission Recommendation. The Planning Commission shall hold at least one (1) public hearing and make a recommendation on the adoption of a Zone Text Amendment or Zone Change. The Planning Commission shall send its recommendation to the City Council.
- 3. City Council Consideration. The City Council shall hold at least one (1) public hearing for any Zone Text Amendment or Zone Change. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission.
 - a. Amendment by Ordinance. The City Council shall adopt amendments to the Zoning Code or Zoning Map by Ordinance.

14.01.090 Preliminary Reviews.

A preliminary review is a request for a pre-submittal evaluation of a project. A preliminary review is not required; however, it is encouraged complex changes in development or land use. The preliminary review will assess the site and architectural design of the proposed project. In addition, this review will consider General Plan consistency, development standards, and land use compatibility. The objective of this exercise is to provide the applicant with a sense of the issues that need to be addressed in the formal application. The preliminary review process is not intended and cannot be used as a process to determine the ultimate decision on the formal application. Information gathered through this process can be used to determine whether a formal application should be filed.

- A. Review Levels. There are two levels of preliminary review available to a prospective applicant, described as follows:
 - 1. Staff Level Review. Staff level review involves an informal assessment of the proposed project by the Development Services and Public Works Staff. This review provides the applicant with an opportunity to receive preliminary comments from the departments who will ultimately make recommendations on a formal application. Staff will provide written comments on the preliminary review.
 - 2. Planning Commission Review. Preliminary review by the Planning Commission is a more formal option available to the applicant. This process is more appropriate for projects which may involve more significant issues of sensitivity or compatibility, or qualitative interpretations of City policy. Through this process, a brief assessment will be prepared by staff to identify the issues pertinent to the proposed project. The applicant will have the opportunity to present the proposal directly to the Planning Commission. Preliminary reviews are considered by the Planning Commission as a Discussion Item at a regular meeting. The Planning Commission is legally limited in the type and amount of

input they can provide at this level. Typically, comments are focused on the identification of potential issues which may be raised during consideration of a formal submittal. General feedback on how key issues or policies might apply to the project may also be provided.

- B. Fees. Accompanied by the payment of a filing fee in such amount as established from time to time by resolution of the City Council.
- C. Submittal Requirements.
 - 1. Electronic plans shall be submitted and include a site plan, floor plan(s), building elevation(s), and any other relevant exhibits.
 - 2. Written project proposal explanation to describe the intended development use, function of the site, and its compliance with the General Plan and Zoning Standards or its reliance on any State law(s).

14.01.100 Appeal Procedures.

- A. Decisions May Be Appealed.
 - 1. Any decision rendered under regulations contained within Title 14 of the Los Altos Municipal Code by the Development Services Department staff (administrative discretion) may be appealed by the applicant, or property owner or resident of property within a (300) foot radius of the subject property. Appeals of decisions by the Development Services Department staff (administrative discretion) shall be heard by the Zoning Administrator; the decision of the appeal by the Zoning Administrator shall be final.
 - 2. Any decision rendered under regulations contained within Title 14 of the Los Altos Municipal Code by the Zoning Administrator may be appealed by the applicant, or property owner or resident of property within a (300) foot radius of the subject property. Appeals of decisions by the Zoning Administrator shall be heard by the Planning Commission; the decision of the appeal by the Planning Commission shall be final.
 - 3. Any decision rendered under regulations contained within Title 14 of the Los Altos Municipal Code by the Planning Commission may be appealed by the applicant, the City Council, any property owner or resident of property within a (300) foot radius of the subject property. Appeals of decisions by the Planning Commission shall be heard by the City Council; the decision of the appeal by the City Council shall be final.
- B. Appeal Contents and Filing Procedures. Appeals must:
 - 1. Be made no later than fourteen (14) calendar days after the rendering of the decision being appealed; and
 - 2. Be filed in-person with the City Clerk; and
 - 3. Be filed in writing and clearly identifying the determination or decision from which the appeal is taken and stating the grounds for the appeal, and

- a. Appeals of a housing development shall only be allowed and based on objective standards consistent with state law.
- 4. Accompanied by the payment of a filing fee in such amount as established from time to time by resolution of the City Council.
- C. Notice of Appeal Hearings. Notice of an appeal hearing shall conform to the same public hearing notice requirements of the project being appealed. The appellant shall be responsible for all noticing materials required in the original application.
- D. Date of Appeal Hearings. The date of an appeal hearing shall be determined by the chair of the hearing body.

14.01.110 Revocations and Modifications.

- A. Revocation or Modification of Entitlements. The Zoning Administrator or Planning Commission, on its own motion or by direction from the City Council, may recommend, and the City Council may approve the revocation and/or modification of any previously approved application or granted entitlement, after holding a properly noticed public hearing on the matter where any of the following findings are made:
 - 1. That the approved application or entitlement was obtained by fraud; or
 - 2. That the approved application or entitlement is not being exercised; or
 - 3. That the approved application or entitlement has ceased or has been suspended for a period of time and is causing detriment to the public health, safety and welfare or constitutes a public or private nuisance; or
 - 4. That the use for which the approved application or entitlement was granted or permitted is being or has been operated or used contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law, or regulation; or
 - 5. If any provision of an approved application or entitlement is held or declared invalid, the approved application or entitlement shall be void and all privileges granted thereunder shall lapse.
- B. Notice of Action.
 - 1. Notice of the action taken by the City Council at a hearing for a revocation or modification of an approved application or entitlement shall be sent by certified mail, return receipt requested, to the person owning and operating the property, structure, or use.
 - 2. Notification of the action by the City Council shall be made by serving a notice in the manner required by law.
- C. Effective Date of Revocations and Modifications. An order by the City Council revoking or modifying an entitlement shall become effective immediately.

14.01.120 Administrative Modification of Standards.

- A. Intent and Purpose. Standards may be administratively modified by the Zoning Administrator to permit development on property, which is constrained due to lot size, shape, location, access restrictions, physical constraints or other constraints.

Administrative modifications are used only when deviations from Code standards are truly minor, and no potential impact will occur to the health, safety or general welfare of adjacent persons or properties will occur.

- B. Authority of the Zoning Administrator.** The Zoning Administrator shall have the authority to approve, conditionally approve, or deny an application for an administrative modification pursuant to the following limitations:
1. Reduction of required lot area, minimum floor area, setbacks, courts or open areas, landscaped areas, wall or fence heights, distance between buildings or size and location of parking spaces required by the Zoning Code, reductions shall not be greater than 10% of the standard being modified.
- C. Procedure for Administrative Modifications.**
1. The Development Services Department shall review the application and shall determine whether the application is complete and whether the application qualifies as an administrative modification within thirty (30) days of the application date.
 2. An administrative modification of standards shall be processed as a Design Review Permit reviewed by the Zoning Administrator.
 3. Notice of the administrative modification shall be provided to property owners within a (300) foot radius of the subject site and shall be considered at a regular meeting of the Zoning Administrator.
- D. Administrative Modifications Allowance.** Only one (1) Administrative Modification of Standards shall be granted per property within the City.

14.01.130 Public Notice Requirements.

Unless otherwise specified, the following Public Notice Requirements shall be required of any discretionary application required by Title 14. In the event that there are two public notice requirements which are in conflict, the more stringent notice requirements shall be required.

- A. Notice of public meetings before the zoning administrator, planning commission, or city council shall be provided pursuant to Government Code Section 65091. Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all the following methods:**
1. Mailing of notices via first-class mail to all property owners within three hundred (300) feet of the project site at the mailing address on record with the county assessor; and
 2. Posting of a notice on the project site in accordance with the standards set by the development services director; and
 3. All meetings before the planning commission and/or city council conducted under this section, excluding study sessions, shall be noticed separately and conducted as public hearings and shall satisfy all notification requirements

applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

14.01.140 Indemnification of City of Los Altos.

Except as otherwise provided by law, an applicant who receives a permit, license, entitlement, or other approval pursuant to Title 14 of the Los Altos Municipal Code shall defend, indemnify, and hold harmless the City of Los Altos and its officials and employees in any action brought by a third party to overturn, set aside, or void such permit, license, entitlement, or approval. This duty to defend, indemnify, and hold harmless the City of Los Altos and its officials and employees is a condition of approval of all such permits, entitlements, licenses and approvals whether or not expressly set forth in such permit, license, entitlement, or approval.

14.01.150 Public Projects.

Notwithstanding any other lawful exemptions to zoning regulations, the provisions of this title shall not apply to any buildings, improvements, lots or premises, owned, leased, operated or controlled by the City or any City Project for public purposes by the City of Los Altos.

14.01.160 No relief from other provisions.

Except as otherwise specifically provided, no provision of this zoning ordinance shall be construed as relieving any party to whom a discretionary approval is issued from any other provision, ordinance, rule or regulation of the City requiring a license, franchise, or permit to accomplish, engage in, carry on, or maintain a particular business, enterprise, occupation, transaction, use or structure(s).