

## **ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION**

### ***DIVISION 1. GENERALLY***

#### **Sec. 29.80.010. Scope.**

Overlay zones are the PD or planned development overlay zone, LHP or landmark and historic preservation overlay zone and PS or public school overlay zones. The zone with which an overlay zone is combined is called the underlying zone.

(Ord. No. 1316, § 4.80.010, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1344, 1-17-77; Ord. No. 1452, 12-17-79; Ord. No. 1571, 3-7-83)

#### **Secs. 29.80.015—29.80.070. Reserved.**

### ***DIVISION 2. PLANNED DEVELOPMENT OVERLAY ZONE<sup>1</sup>***

#### **Sec. 29.80.075. Purpose and intent.**

As more specifically provided in section 29.80.080(b), the purpose and intent of the planned development overlay zone (PD) is to preserve, enhance, and/or promote:

- (1) The Town's natural and historic resources;
- (2) The production of affordable housing;
- (3) The maximization of open space; and/or
- (4) A project that provides a public benefit to the citizens of the Town.

(Ord. No. 2273, § I, 5-1-18)

#### **Sec. 29.80.080. Limitations on use of a planned development.**

- (a) The PD overlay is not intended for:
- (1) Uses inconsistent with the general plan;
  - (2) Proposed development that is reasonably feasible under the existing Town Code; or

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<sup>1</sup>Editor's note(s)—Ord. No. 2273, § I, adopted May 1, 2018, repealed the former div. 2 §§ 29.80.075—29.80.145, and enacted a new div. 2 as set out herein. The former div. 2 pertained to similar subject matter and derived from Ord. No. 1316, §§ 4.82.010—4.82.150, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1363, 8-1-77; Ord. No. 1500, 5-18-81; Ord. No. 1838, §§ III, IV, 11-5-90; Ord. No. 1942, § I, 5-17-93.

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- (3) A deviation of standards applicable to similar types of development.
- (b) An application for a PD shall only be considered by the recommending and deciding bodies if it meets the purpose and intent of this division, and meets one (1) or more of the following criteria:
- (1) A project that provides a public benefit to the citizens of the Town.
  - (2) Property that is designated within the Hillside Development Standards and Guidelines Area Map.
  - (3) Property that has a historical designation or is within a Landmark Historic Preservation (LHP) Overlay Zone.
  - (4) Property with a tree or "stand of trees" that is unique, historical, ecological, or of aesthetic value, as determined according to standards set forth in the Town's Tree Protection Ordinance.
  - (5) Property that contains a stream, channel, or creek that supports or has supported riparian vegetation, fish, and/or aquatic life as further defined in the guidelines and standards for land use near streams.
  - (6) A property with a geological hazard or within a fault zone.
  - (7) A property being considered for affordable housing as defined in the Town's adopted and certified housing element.
  - (8) A property being considered for a use or combination of uses not allowed in the Town's existing zoning districts.
  - (9) A property being considered for the creative use of the site consistent with the base zoning district.
- (Ord. No. 2273, § I, 5-1-18)

#### **Sec. 29.80.085. Relationship of planned developments to other adopted land use documents.**

The planned development overlay shall not be used to deviate from general plan provisions, guidelines adopted by the Town Council, the standards contained in any existing land use regulation, or any other provision of the Town Code otherwise applicable to the property except as otherwise provided in section 29.80.095(4).

(Ord. No. 2273, § I, 5-1-18)

#### **Sec. 29.80.090. Requirements.**

The PD application shall include text and plans or diagrams that clearly demonstrate and specify all of the following:

- (1) Compliance with all sections of this division.
- (2) Conformity of the PD to the goals, policies, applicable land use designation(s) and standards of the general plan.
- (3) A plan or set of plans that identify characteristics existing on the property which warrant application of the PD overlay zone.
- (4) Proposed distribution, location and extent of the land uses on the site, including open space.
- (5) Proposed standards and criteria by which development will proceed, including standards for conservation, development and utilization of natural and/or historic resources.
- (6) Proposed deviations from the land use regulations and development standards applicable to the underlying zoning district(s).

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(7) Description of the public benefit of the proposal.

(Ord. No. 2273, § I, 5-1-18)

### **Sec. 29.80.095. Findings.**

The deciding body, on the basis of the totality of the evidence and testimony submitted at the hearing, may adopt a PD if all of the following findings can be made:

- (1) The proposed PD is in compliance with all sections of this division.
- (2) The proposed PD is in conformance with the goals, policies, and applicable land use designation(s) and standards of the Town's general plan.
- (3) The proposed PD is in conformance with all other applicable land use regulations, including but not limited to Town Council adopted guidelines, except as otherwise provided in section 29.80.095(4).
- (4) Any proposed use or development standards that deviate from the underlying zoning district(s) result in innovative and creative site planning to develop:
  - a. Housing with a minimum of forty (40) percent of the units affordable to households of very low, low, or moderate income; or
  - b. Mixed commercial, or mixed residential, or mixed commercial and residential development; or
  - c. A development designed and sited to protect, preserve and enhance conservation and enrichment of hillsides, natural and/or historic resources, ridgelines, a tree or stand of trees, creek and riparian corridors, geologic hazard or fault zone, and open space; or
  - d. A project that maximizes open space; or
  - e. The proposed PD provides a public benefit to the citizens of the Town.

(Ord. No. 2273, § I, 5-1-18)

### **Sec. 29.80.100. Phased development.**

Proposed phasing plans shall be reviewed and adopted by the Town Council only if each phase is self-sufficient and is not dependent on subsequent phases to fulfill infrastructure requirements and/or conditions of approval.

(Ord. No. 2273, § I, 5-1-18)

### **Sec. 29.80.105. Dedication prior to issuance of first building permit.**

Development rights for required open spaces shall be dedicated in advance of the issuance of any building permits.

(Ord. No. 2273, § I, 5-1-18)

### **Sec. 29.80.110. Vested.**

Failure to obtain building permits for the approved Planned Development within twenty-four (24) months from the date of approval will automatically void the PD ordinance, unless an extension of time has been granted by the Town Council for good cause shown.

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(Ord. No. 2273, § I, 5-1-18)

**Sec. 29.80.120. Amendments to previously approved planned development.**

Amendments to a PD approved both prior to and after the adoption of this division may only be considered under this division and its provisions and must meet the requirements set forth herein.

(Ord. No. 2273, § I, 5-1-18)

**Secs. 29.80.125—29.80.210. Reserved.**

***DIVISION 3. HISTORIC PRESERVATION AND LHP OR LANDMARK AND HISTORIC  
PRESERVATION OVERLAY ZONE***

**Sec. 29.80.215. Purposes.**

It is hereby found that structures, sites and areas of special character or special historical, architectural or aesthetic interest or value have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving them. It is further found that the public health, safety and welfare require prevention of needless destruction and impairment, and promotion of the economic utilization and discouragement of the decay and desuetude of such structures, sites and areas. The purpose of historic preservation is to promote the health, safety and general welfare of the public through:

- (1) The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important in local, State, or National history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the Town and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived.
- (2) The development and maintenance of appropriate settings and environment for such structures.
- (3) The enhancement of property values, the stabilization of neighborhood and areas of the Town, the increase of economic and financial benefits to the Town and its inhabitants, and the promotion of tourist trade and interest.
- (4) The enrichment of human life in its educational and cultural dimensions by serving aesthetic as well as material needs and fostering knowledge of the living heritage of the past.

(Ord. No. 1316, § 4.86.010, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.220. Powers and duties of Planning Commission.**

The Planning Commission:

- (1) Shall recommend to the Town Council, after public hearing, concerning designation of landmarks and historic districts, as provided in Section 29.80.245.
- (2) May establish and maintain a list of structures and other landmarks deserving official recognition although not designated as landmarks or historic districts, and take appropriate measures for recognition.

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- (3) Shall hear and determine architecture and site approval applications for demolition a designated landmark sites and principal buildings in historic districts, as provided in sections 29.80.270 through 29.80.290.
  - (4) May take steps to encourage or bring about preservation of structures or other features where the Planning Commission has decided to suspend action on a permit application, as provided in Section 29.80.285.
  - (5) Shall seek and consider a recommendation from the Historic Preservation Committee when undertaking the powers and duties set forth in subsections (1) and (3) above, and shall consult with or request assistance from the Historic Preservation Committee when undertaking the powers and duties set forth in subsections (2) and (4) above.

(Ord. No. 1316, § 4.86.020, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1831, § I, 7-16-90; Ord. No. 2041, § IV, 2-2-98; Ord. No. 2355, § V, 4-2-24)

### **Sec. 29.80.222. Powers and duties of the Planning Director.**

The Planning Director:

- (1) Upon recommendation by the Historic Preservation Committee, determines matters pertaining to historic preservation as provided in Section 29.80.227 that are not assigned to the Planning Commission.

(Ord. No. 2355, § VI, 4-2-24)

### **Sec. 29.80.225. Historic Preservation Committee.**

- (a) The Historic Preservation Committee acts as an advisory body to the Planning Commission and Planning Director on all matters pertaining to historic preservation. The Historic Preservation Committee shall consist of five (5) members, three (3) public members and two (2) Planning Commissioners. The public members shall be appointed by the Town Council, and the Planning Commission members shall be appointed by the Planning Commission Chair and affirmed by the Town Council.
- (b) The Committee is composed of professional and lay members with demonstrated interest, competence, or knowledge in historic preservation. Committee members shall be appointed from among the disciplines of architecture, history, architectural history, planning, archeology, or other historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology to the extent that such professionals are available in the community.

(Ord. No. 1316, § 4.86.040, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1626, 8-6-84; Ord. No. 1762, § I, 9-19-88; Ord. No. 1831, § II, 7-16-90; Ord. No. 1856, § I, 6-3-91; Ord. No. 1915, § III, 10-19-92; Ord. No. 2041, § IV, 2-2-98; Ord. No. 2355, § VII, 4-2-24)

### **Sec. 29.80.227. Powers and duties of the Historic Preservation Committee.**

The Historic Preservation Committee shall:

- (1) Regularly review and make recommendations to the Planning Commission concerning the determination of all matters pertaining to historic preservation which comes before the Planning Commission.

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- (2) Review and make recommendations to the Planning Director concerning the determination of a minor residential development permit for properties with a LHP overlay zone or structures which were built prior to 1941.
  - (3) Review and make recommendations to the Planning Director concerning minor residential and commercial exterior alterations not covered under the architecture and site approval process or the minor residential development permit, for designated properties with a LHP overlay zone pursuant to subsection 29.20.485.
  - (4) Upon request of the Planning Director, review pending or proposed building permits dealing with historic structures when it is questionable that the work proposed meets the guidelines for pre-1941 structures.
  - (5) May, on request of the property owner, advise with respect to any proposed work requiring or not requiring a Town permit on any historic structure, a designated landmark site or in a designated historic district. Examples of the work referred to are additions, demolitions, painting and repainting of exterior surfaces, roofing, fencing, landscaping, glazing, and installation of lighting fixtures. In advising, the Historic Preservation Committee shall be guided by the purposes and standards specified in this division and other applicable ordinances and/or development standards. This subsection does not impose regulations or controls on any property.
  - (6) Review and make recommendations to the Planning Director on requests for removal of a pre-1941 property from the Historic Resources Inventory.

(Ord. No. 1915, § IV, 10-19-92; Ord. No. 2041, § IV, 2-2-98; Ord. No. 2169, § I, 10-20-08; Ord. No. 2355, § VIII, 4-2-24)

### **Sec. 29.80.230. Designation by ordinance.**

- (a) The Council may by ordinance designate:
  - (1) One (1) or more individual structures or other features, or integrated groups of structures and features on one (1) or more lots or sites, having a special character or special historical, architectural or aesthetic interest or value, as landmarks, and shall designate a landmark site for each landmark; and
  - (2) One (1) or more areas containing a number of structures having special character or special historical, architectural or aesthetic interest or value, and constituting distinct sections of the Town, as historic districts.
- (b) Each designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation, and a list of any particular features in addition to those features which would be affected by work described in section 29.80.260 that are to be preserved, and shall specify the location and boundaries of the landmark site or historic district.
- (c) A lot zoned LHP may only be used in the manner provided in the underlying zone, however, the Town Council, on the basis of the evidence submitted at the hearing, may permit an existing use not otherwise permitted in the underlying zone to continue providing the Council makes the following findings:
  - (1) The use has been legal and continues to operate in a manner that is not detrimental to other uses in the general vicinity;
  - (2) There is no history of complaints about the use;
  - (3) Removal of the use to another location would effectively end the significance of the historical designation on the property; and
  - (4) The use has been legally and continuously operating for at least fifty (50) years.

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The specific use and the findings to support its continuance shall be incorporated in the designating ordinance.

- (d) If the use permitted by subsection (c) above is discontinued for one hundred eighty (180) consecutive days, the use shall not be resumed and the use of the property shall conform with the provisions of the underlying zone. Token use does not toll or interrupt a period of discontinuance.
- (e) The property designated shall be subject to the controls and standards contained in this division. In addition, the property shall be subject to the following further controls and standards if imposed by the designating ordinance:
  - (1) For a publicly owned landmark, review of proposed changes in major interior architectural features.
  - (2) For a historic district, such further controls and standards as the Council finds necessary or desirable, including but not limited to facade, setback and height controls.
- (f) The Council may amend or rescind a designation only by ordinance, after Planning Commission and Council hearings as required for original designations.

(Ord. No. 1316, § 4.86.050, 6-7-76; Ord. No. 1674, 2-18-86; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.235. Initiation of designation.**

Initiation of designation proceedings shall be by resolution of the Council or Planning Commission. The date of initiation is the date the resolution is adopted.

(Ord. No. 1316, § 4.86.060, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.240. Procedure.**

Except as provided by this division the proceedings for LHP or landmark and historic preservation overlay zone designation are the same as for any other zoning of land.

(Ord. No. 1316, § 4.86.070, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.245. Hearing by Planning Commission for proposed historic designation.**

Notices required by sections 29.20.560 and 29.20.565, shall be mailed.

- (1) *Action and time limit.* The Planning Commission shall consider the degree of conformity of the proposed designation with the purposes and standards of this division and the general plan. The Planning Commission shall determine the matter within one hundred twenty (120) days after the initiation of designation proceedings.
- (2) *Notice of action.* The Planning Commission shall promptly notify the property owner of action taken. If the Planning Commission approves or modifies the proposed designation in whole or in part, it shall transmit the proposal, together with a copy of the resolution of approval, to the Council.

(Ord. No. 1316, § 4.86.080, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1626, 8-6-84; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.250. Notice of designation by Council.**

When a landmark or historic district has been designated by the Council, the Town Clerk shall promptly notify the owners of the property included therein.

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(Ord. No. 1316, § 4.86.100, 6-7-76; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.255. Conformity required.**

Construction, alteration, demolition or removal work for which a Town permit is required is prohibited on a designated landmark site or in a designated historic district unless approval by the deciding body has been granted as provided in sections 29.80.260 through 29.80.300, or unless the work conforms with the provisions of section 29.80.310.

(Ord. No. 1316, § 4.86.110, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.260. Permit required.**

No person shall do any work listed below without first obtaining the required planning approval:

- (1) Exterior alteration to a designated landmark, property in an historic district or pre-1941 structure consisting of any construction, addition, demolition, restoration or rehabilitation.
- (2) Interior alterations that would affect the exterior of a designated landmark, a structure in an historic district or a pre-1941 structure.
- (3) Construction of any type on a landmark site or within a historic district unless excepted by the designating ordinance, or of a type which does not affect the exterior appearance of the site, district or any structure on the site or in the district.

(Ord. No. 1316, § 4.86.120, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.265. Application for permit.**

Prior to issuance of a building permit, a Notice to Contractor form must be signed by the contractor and posted at the job site stating that the property is on the Historic Resources Inventory and no deviations from the approved plans are allowed without prior review and approval. This information shall be affixed on the approved building plans.

(Ord. No. 1316, § 4.86.130, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 2041, § IV, 2-2-98; Ord. No. 2083, § I, 5-7-01)

**Sec. 29.80.270. Reserved.**

Editor's note(s)—Ord. No. 1914, § I, adopted Oct. 19, 1992, deleted former § 29.80.270, relative to the procedure for architecture and site approval, which derived from Ord. No. 1316, § 4.86.140, adopted June 7, 1976 and Ord. No. 1375, adopted Nov. 21, 1977.

**Sec. 29.80.275. Reserved.**

Editor's note(s)—Ord. No. 2083, § II, adopted May 7, 2001, repealed former § 29.80.275 of the Code entitled Notice which derived from Ord. No. 2041, § IV, adopted Feb. 2, 1998.



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### **Sec. 29.80.280. Decision.**

The Planning Commission shall consider any report from the Historic Preservation Committee and shall ascertain whether the proposed work conforms to this chapter and to the provisions of the designating ordinance.

(Ord. No. 1316, § 4.86.160, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 1626, 8-6-84; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.285. Suspended action.**

To obtain sufficient time for steps necessary to preserve the structure concerned, the Planning Commission may suspend action on an architecture and site approval application to permit construction, alteration, demolition or removal for a period not to exceed one hundred eighty (180) days. The Council may, by resolution, extend the suspension for an additional period not to exceed one hundred eighty (180) days, if the resolution is adopted not more than ninety (90) days and not less than thirty (30) days prior to the expiration of the original one-hundred eighty-day period. During the suspension period, the Planning Commission may consult with the Historic Preservation Committee, the Los Gatos Heritage Preservation Society and other civic groups, public agencies and interested citizens, make recommendations for acquisition of property by public or private bodies or agencies, explore the possibility of moving one (1) or more structures or other features, and take any other reasonable measures.

(Ord. No. 1316, § 4.86.170, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 1626, 8-6-84)

### **Sec. 29.80.290. Standards for review.**

In evaluating applications, the deciding body shall consider the architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. Applications shall not be granted unless:

- (1) On landmark sites, the proposed work will neither adversely affect the exterior architectural characteristics or other features of the landmark (and, where specified in the designating ordinance for a publicly owned landmark, its major interior architectural features) nor adversely affect the character of historical, architectural or aesthetic interest or value of the landmark and its site.
- (2) In historic districts, the proposed work will neither adversely affect the exterior architectural characteristics or other features of the property which is the subject of the application, nor adversely affect its relationship, in terms of harmony and appropriateness, with its surroundings, including neighboring structures, nor adversely affect the character, or the historical, architectural or aesthetic interest or value of the district.
- (3) For pre-1941 structures, the proposed work will neither adversely affect the exterior architectural characteristics or other features of the property which is the subject of the application.

In any event applications shall not be granted for work which violates standards included in the designating ordinance or pre-1941 design guidelines.

(Ord. No. 1316, § 4.86.180, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1914, § II, 10-19-92; Ord. No. 2041, § IV, 2-2-98)

### **Sec. 29.80.295. Exemptions for reconstruction.**

Reconstruction of a designated structure shall be exempt from setback and height requirements if it is rebuilt as originally constructed, except for modifications approved in the permit.

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(Ord. No. 1316, § 4.86.185, 6-7-76; Ord. No. 1546, 8-16-82; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.297. State Historical Building Code.**

The California State Historical Building Code (SHBC) provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as cultural resources. As required by state law, the SHBC shall be used if the property owner requests its use for historic buildings in the Town's building permit procedure.

(Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.300. Showing of hardship in cases of proposed alterations, demolitions or construction.**

If the applicant presents facts clearly demonstrating to the satisfaction of the Planning Commission that failure to approve the application will work immediate and substantial hardship because of conditions peculiar to the particular structure or other feature involved, the Planning Commission may approve the application even though it does not meet the standards set forth in either the enabling or designating ordinance.

(Ord. No. 1316, § 4.86.190, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.305. Applicability for proposed historic designation.**

- (a) No application for a permit to construct, alter, demolish or remove any structure or other feature on a proposed landmark site or in a proposed historic district, filed subsequent to the date of initiation of proceedings to designate the landmark site or historic district, shall be approved while the proceedings are pending; provided, however, that if final action on the designation has not been completed one hundred eighty (180) days after initiation of designation proceedings, the permit application may be approved.
- (b) The regulations of this division do not apply to the construction, alteration, demolition or removal of any structure or other feature on a landmark site or in a historic district, where a permit for the performance of such work was validly issued and used before initiation of proceedings for designation of the landmark site or historic district. For the purpose of this subsection, a permit is used if substantial construction work specifically for the purpose for which the permit is issued is lawfully performed after the permit is issued, and in reliance on the permit. (The term "construction" includes grading.)

(Ord. No. 1316, § 4.86.200, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.310. Unsafe or dangerous conditions.**

None of the provisions of this division shall prevent any measures of construction, alteration, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or part thereof, where such condition has been declared unsafe or dangerous by the Building Official or the Fire Marshal, and where the proposed measures have been declared necessary, by such official to correct the condition; provided, however, that only such work as is absolutely necessary to correct the unsafe or dangerous condition and as is done with due regard for preservation of the appearance of the structure involved may be performed pursuant to this section. If any structure or other feature is damaged by fire, or other calamity, or by act of God, to such an extent that in the opinion of the aforesaid officials it cannot be reasonably repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

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(Ord. No. 1316, § 4.86.210, 6-7-76; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.315. Duty to keep in good repair.**

The owner, lessee, and any other person in actual charge or possession of a pre-1941 structure, designated landmark or structure in the LHP or landmark and historic preservation overlay zone shall keep all of the exterior portions in good repair as well as all of the interior portions which are subject to control by the terms of the designating ordinance, and all portions whose maintenance is necessary to prevent deterioration or decay of any exterior portion.

(Ord. No. 1316, § 4.86.220, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 2041, § IV, 2-2-98)

**Sec. 29.80.320. Reserved.**

Editor's note(s)—Ord. No. 1981, § I, adopted July 5, 1994, repealed former § 29.80.320, relative to filing fees, which derived from Ord. No. 1610, § I(4.86.230), adopted March 5, 1984 and Ord. No. 1952, § IV, adopted Aug. 2, 1993.

**Secs. 29.80.330—29.80.400. Reserved.**

***DIVISION 4. PS OR PUBLIC SCHOOL OVERLAY ZONE***

**Sec. 29.80.405. Application.**

The provisions of this division apply in the PS (Public School Overlay) zone. Land in any zone, but only land owned by a public school district, may be zoned PS. The rules of the PS zone allow uses that are not necessarily allowed by the rules of the underlying zone. Only land owned by a public school district may be used according to the rules of the PS zone.

(Ord. No. 1316, § 4.88.010, 6-7-76; Ord. No. 1452, 12-17-79)

**Sec. 29.80.410. Intent.**

Where practical, the Town wants public school offices, buildings and grounds to remain in public ownership and to be available for present or future public use. The PS or public school overlay zone is intended to allow school buildings to be used, without extensive exterior modifications, in ways which will make it unnecessary to sell schools.

(Ord. No. 1316, § 4.88.020, 6-7-76; Ord. No. 1452, 12-17-79)

**Sec. 29.80.415. Permitted uses.**

In addition to activities allowed in the underlying zone the following activities are allowed in buildings in the PS or public school overlay zone. However, no activity shall be conducted in a manner which would unreasonably interfere with nearby residential uses.

- (1) Public building, police, fire, community center.
- (2) Library, art gallery, museum.

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- (3) Park, plaza, playground.
  - (4) School or college not otherwise specified.
  - (5) Nursery school.
  - (6) Vocational or trade school.
  - (7) Business or professional school or college.
  - (8) Art, craft, music, dancing school.

(Ord. No. 1316, § 4.88.030, 6-7-76; Ord. No. 1452, 12-17-79; Ord. No. 1511, 8-3-81)

#### **Sec. 29.80.420. Uses permitted by conditional use permit.**

The following uses are permitted in the PS or public school overlay zone by conditional use permit:

- (1) All uses, not listed in section 29.80.415, specified as allowable with a conditional use permit by regulations of the underlying zone.
- (2) Multiple-family dwellings.
- (3) Activities involving controlled manufacturing, research and development, wholesaling and other light industrial uses.
- (4) Warehousing.
- (5) Offices, business, professional, or executive.

(Ord. No. 1316, § 4.88.040, 6-7-76; Ord. No. 1452, 12-17-79; Ord. No. 1511, 8-3-81)

#### **Sec. 29.80.425. Other regulations.**

All other regulations of the underlying zone and the general provisions applicable to all zones apply to a PS or public school overlay zone.

(Ord. No. 1316, § 4.88.050, 6-7-76; Ord. No. 1452, 12-17-79)

#### **Sec. 29.80.430. Playgrounds and playing fields.**

The extent of the school playground and playing fields to be reserved for public use shall be designated at the time the public school zoning is adopted.

(Ord. No. 1316, § 4.88.060, 6-7-76; Ord. No. 1452, 12-17-79; Ord. No. 1511, 8-3-81)

#### **Secs. 29.80.435—29.80.500. Reserved.**

- CODE  
Chapter 29 - ZONING REGULATIONS  
ARTICLE VIII. - OVERLAY ZONES AND HISTORIC PRESERVATION  
DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

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***DIVISION 5. HOUSING ELEMENT OVERLAY ZONE<sup>2</sup>***

**Sec. 29.80.505. Intent.**

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

(Ord. No. 2353, § II, 3-5-24)

**Sec. 29.80.510. HEOZ and underlying zoning.**

- (a) "By right" residential developments on sites with underlying zoning of RM, CH, or NF-SP (Table 1A below). Pursuant to Government Code Section 65583.2, subsections (h) and (i), in the HEOZ, residential developments with at least twenty (20) percent of the units proposed for "low income" households are subject to "by right approval." These developments are subject to the following:
- (1) The developments must be developed within the density ranges specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of thirty (30) units per acre.
  - (2) The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," of the Town Code.
  - (3) No California Environmental Quality Act review shall be required.
  - (4) Any subdivision of sites in the HEOZ shall be subject to all laws, including, but not limited to, Chapter 24, "Subdivision Regulations," and sections 29.10.067—29.10.087 of the Town Code implementing the Subdivision Map Act.
  - (5) Residential units shall occupy at least fifty (50) percent of the floor area in all mixed-use projects.
  - (6) For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

**Table 1A HEOZ Development Standards for "By Right" Residential Development**

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area	Maximum Height Limit (ft)	Density Units Per Acre
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<sup>2</sup>Ord. No. 2353, § II, adopted March 5, 2024, repealed the former Div. 5, §§ 29.80.505—29.80.515, and enacted a new Div. 5 as set out herein. The former Div. 5 pertained to affordable housing overlay zone and derived from Ord. No. 2224, § I, 11-18-13; Ord. No. 2277, II, 8-21-18; Ord. No. 2347, § I, 11-21-23.

				Ratio (FAR)		
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30—40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30—40
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30—40

- (b) For all other residential developments other than those described in subsection (a), the standards set forth in Table 1B below shall apply.

**Table 1B HEOZ Development Standards for Other Residential Development**

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0—5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14—22 or 5—12 in Very High Fire Hazard Severity Zones
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10—20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20—30
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10—20

- (c) The underlying zoning development standards will remain in effect for all other development without a residential component.
- (d) Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.

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(e) Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

(Ord. No. 2353, § II, 3-5-24)

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