

CITY OF ALAMEDA ORDINANCE No. _____

New Series

AMENDING SECTION 30-25 APPEALS OR CALLS FOR REVIEW

BE IT ORDAINED by the City Council of the City of Alameda:

Findings.

In enacting this Section, the City Council finds as follows:

The amendments maintain the integrity of the General Plan. The proposed zoning text amendments are necessary to ensure a balance between the rights of individual property owners with the obligations of the City to protect the health, safety, and general welfare of the community through land use regulations and processes.

The amendments will support the general welfare of the community. The proposed zoning text amendment preserve the rights of the property owners and the City's ability to ensure that land use decisions regarding private property support the general welfare of the community through a public process.

The amendments are equitable. The proposed zoning amendment is equitable in that it balances the rights of individual property owners with the obligations of the City to protect the health, safety, and general welfare of the community through land use regulations and processes.

California Environmental Quality Act. The proposed zoning text amendment is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061 subsection b.3, which is the general rule that CEQA does not apply to a proposed action which does not have the potential for causing a significant effect on the environment. The proposed amendments pertain to procedures for additional review of decisions that have already been reviewed for impacts on the environment

Section 1. Section 30-25 Appeals and Calls for Review shall be amended as follows:

30-25 - APPEALS OR CALLS FOR REVIEW.

30-25.1 - Purpose and Authorization for Appeals and Calls for Review.

- a. *Appeals.* To avoid results inconsistent with the purposes of this chapter as stated in subsection 30-1.2, decisions of the Planning Community Development Director or Zoning Administrator may be appealed to the Planning Board and decisions of the Planning Board, Public Art Commission, or Historical Advisory Board may be appealed to the City Council by any

person aggrieved or by any officer, agency or department of the City affected by any decision, determination or requirement.

- b. *Calls for Review.* As an additional safeguard to avoid results inconsistent with the purposes of this chapter as stated in subsection 30-1.2, decisions of the Planning Community Development Director or Zoning Administrator may be called up for review to the Planning Board by a member of the Planning Board or by a member of the City Council for review by the Planning Board and decisions of the Planning Board, Public Art Commission, or Historical Advisory Board may be called up for review to the City Council by the City Council or a members of the City Council for review by the City Council

30-25.2 - Final Decisions and Time Limits for Appeals and Calls for Review.

- a. *Final Decision of the Community Development Director or Zoning Administrator.* Any decision of the Community Development Director or Zoning Administrator shall be final on the date of the decision, unless any person aggrieved by or by any officer, agency, or department of the City affected by any decision of the Community Development Director or Zoning Administrator, files a Notice of Appeal with the Community Development Planning Department no later than ten (10) days following the decision or at least one (1) City councilmember or at least one (1) Planning Board member files a call for review with the Community Development Planning Department no later than ten (10) days following the decision. Decisions that are appealed or called for review shall not become effective until the appeal or call for review is resolved by the appropriate City body Planning Board. Decisions by the Planning Board to uphold, overturn, or modify a decision of the Community Development Director or Zoning Administrator are appealable to the City Council.
- b. *Final Decision of the Planning Board, Public Art Commission, or Historical Advisory Board.* Any decision of the Planning Board, Public Art Commission, or Historical Advisory Board shall be final on the date of the decision, unless any person aggrieved by or by any officer, agency, or department of the City affected by any decision of the Planning Board, Public Art Commission, or Historical Advisory Board, files a Notice of Appeal with the Planning Community Development Department no later than ten (10) days following the decision or at least two (2) a City councilmembers files a call for review with the Planning Community Development Department no later than ten (10) days following the decision. In the event that the Community Development Department receives a call for review from a single City Council member within the ten (10) day call for review period, the Community Development Department will forward the call for review to the other four (4) City Council members. Upon circulation of the call for review to the other four City Council members, the ten (10) day call for review period shall be automatically extended if necessary to allow at least five (5) business days for a second City Council member to file a call for review. If the fifth day falls on a day that City Hall is closed, the five day deadline shall extend to the next regular business day. Decisions that are appealed or called

for review shall not become effective until the appeal or call for review is resolved by the appropriate City Council body.

- c. *Final Decision of the City Council.* A decision by the City Council regarding an appeal or call for review shall become final on the date of the decision subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5. Any petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6 after the date of the City Council's decision.
- d. *End of Appeal or Call for Review Period.* When the end of an appeal or call for review period falls on a weekend or a statutory holiday, the period shall continue until the first working day thereafter.

30-25.3 - ~~Time Limits for appeals or Calls for Review.~~

~~a. *Appeals of Actions of the Planning Board or Historical Advisory Board.* Appeals to the City Council concerning actions of the Planning Board or Historical Advisory Board may be taken by any person aggrieved or by any officer, agency, or department of the City affected by any decision, determination or requirement of the Planning Board or Historical Advisory Board. Such appeal shall be filed no later than ten (10) days following the decision of the Planning Board or Historical Advisory Board.~~

~~b. *Appeals of Actions of the Planning Board.* Appeals to the City Council concerning actions of the Planning Board may be taken from any person aggrieved or from any officer, agency or department of the City affected by any decision, determination or requirement of the Planning Board. Such appeal shall be filed no later than ten (10) days following the decision of the Planning Board.~~

~~c. *Calls For Review of Planning Director, Zoning Administrator, or Planning Board.* Calls for review to the Planning Board concerning actions of the Zoning Administrator or Planning Director may be made by the Planning Board, City Council, or a member of either body. Such calls for review shall be filed no later than ten (10) days following the decision of the Planning Director or Zoning Administrator. Calls for review concerning decisions of the Planning Board may be taken from the City Council or a member of the City Council. Such calls for review shall be filed no later than ten (10) days following the decision of the Planning Board.~~

30-25.4 - Initiation of Appeals and Calls for Review.

- a. *Appeals of Actions of the Planning Community Development Director or Zoning Administrator.* An appeal to the Planning Board concerning actions of a Planning Community Development Director or the Zoning Administrator decision shall be filed in writing with the Planning Community Development Department and shall be accompanied by the required fees. In filing an appeal, the appellant shall specifically state the reasons or justification for an appeal.

- ~~b. *Appeals of Actions of the Zoning Administrator.* An appeal to the Planning Board concerning actions of the Zoning Administrator shall be filed in writing with the Planning Department and shall be accompanied by the required fees. In filing an appeal, the appellant shall specifically state the reasons or justification for an appeal.~~
- c. *Appeals of Actions of the Planning Board, Public Art Commission, or Historical Advisory Board.* An appeal to the City Council concerning actions of the Planning Board Public Art Commission, or Historical Advisory Board decision shall be filed in writing with the Planning Community Development Department and shall be accompanied by the required fees. In filing an appeal, the applicant shall specifically state the reasons or justification for an appeal.
- d. *Calls for Review.* ~~A call for review shall be filed with the Planning Department by the Planning Board, the City Council, or a member of either body by stating the reasons or justification for the review. No fee shall be required for a call for review. A call for review shall be filed in writing with the Community Development Department and shall state the reasons or justification for the call for review. All City of Alameda costs associated with the call for review, including staff time, technical assistance, and noticing the public hearing shall be funded by the General Fund and shall not be charged to the project applicant.~~

30-25.5 - Procedures for Appeals and Calls for Review.

- a. *Hearing Date.* Appeals or calls for review shall be scheduled for public hearing and decision by the Planning Board or Historical Advisory Board no later than the second regularly scheduled and held meeting following submittal of the appeal or call for review. Appeals or calls for review shall be scheduled for public hearing and decision by the City Council no later than the third regularly scheduled and held meeting following submittal of the appeal or call for review. An alternative date for the hearing may be selected by mutual agreement of the original applicant, the City and appellant.
- b. *Notice and Public Hearing.* An appeal or call for review shall be a public hearing if the decision being appealed or reviewed required a public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed.
- c. *Evidence.* The hearing shall be conducted as a de novo hearing. At the hearing, the Planning Board or City Council may consider the introduction of all pertinent material, including all documents constituting the administrative record.
- d. *Hearing.* At the hearing, any party or person may appear in person or by agent or attorney to provide testimony.
- e. *Decision and Notice.* The Planning Board or City Council may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination of the Planning Community Development Director or Zoning Administrator or Planning

Board, Public Art Commission, or Historical Advisory Board and may make such order, requirement, decision, or determination as is appropriate.

Section 2. Severability Clause. It is the declared intent of the City Council of Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provision of this ordinance.

Section 3. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____, 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2017.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda