



Planning & Transportation Commission

Staff Report (ID # 11058)

Report Type: Action Items **Meeting Date:** 2/26/2020

Summary Title: Periodic Ordinance Update of Title 18 (Zoning)

Title: Consideration of and Recommendation on an Ordinance Amending Title 18 (Zoning) to Update Five Sections Related to Enforcement, Hearing Procedures, and to Reflect the New Name of the Planning and Development Services Department

From: Molly Stump

Recommendation

Staff recommends the Planning and Transportation Commission (PTC):

1. Recommend that the City Council adopt the proposed ordinance (Attachment A) to update five sections of Title 18 (Zoning) related to enforcement, hearing procedures, and to reflect the new name of the Planning and Development Services Department.

Discussion

Staff periodically identify sections of the municipal code that need to be updated for technical reasons or to better conform with current practice. In this round of periodic updates to Title 18 (Zoning), staff recommends updating the five sections below.

18.01.080 Violations – Penalties

Section 18.01.080 is the general charging section for zoning violations in Title 18. The proposed edits clarify that violations of Title 18 can be enforced through the administrative citation (Chapter 1.12) and administrative compliance order (Chapter 1.16) processes. While administrative enforcement of Title 18 is already authorized by Title 1 of the Code, the new language identifies the various enforcement methods within the charging section itself. This reduces potential confusion that violations of the zoning code must be handled as criminal misdemeanors.

Also, the new language matches the charging sections contained in each of the newly adopted 2019 Building Code updates found in Title 16.

18.01.085 Enforcement - Criminal Enforcement Authority

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Planning & Development Services
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The California Penal Code allows the City to designate specific employees to enforce municipal ordinances with criminal penalties. The proposed language updates the staff positions authorized to do this to include the chief building official and code enforcement officers.

18.04.030 Definitions

The definition of “Director” is updated to reflect the new name of the combined Department of Planning and Development Services.

18.40.170 Deferral of Director's Action

Section 18.14.170 allows the Director to refer items to the City Council for decision without first issuing a Director’s decision. For some application processes, the code currently only provides for a public hearing before the Architectural Review Board (ARB) or PTC on appeal of a Director’s decision. The proposed update to Section 18.14.170 clarifies that an application referred to the City Council may still be presented to the ARB or PTC for a recommendation, even though an appeal or hearing request is not possible in such circumstances as there is no Director’s decision. The proposed update also adds a category of projects that may be referred to the City Council – those that require a statement of overriding considerations under the California Environmental Quality Act.

18.77.060 Standard Staff Review Process

This update to Section 18.77.060 deletes the language that there shall be “no fee for requesting a hearing.” This language was inconsistent with the City Council’s directive that Planning applications be administered on a cost recovery basis. While the City still does not charge a fee for requesting a hearing, it does hold a project applicant responsible for the costs incurred by the City in holding a hearing on the project.

Next Steps

After receiving the PTC’s input and recommendation, staff will present this ordinance to Council for its consideration in March 2020.

Environmental Review

These updates to the sections of Title 18 are not a “project” under CEQA.

Attachments:

- Attachment A - Ordinance Amending Five Sections of Title 18 (Zoning) of the Palo Alto Municipal Code (PDF)

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Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Update Five Sections Related to Enforcement, Hearing Procedures, and to Reflect the New Name of the Planning and Development Services Department

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 18.01.080 of Chapter 18.01 (Adoption, Purposes, and Enforcement) of the Palo Alto Municipal Code is hereby amended as follows (~~striktethrough~~ text is deleted, underlined text is added):

18.01.080 Violations - Penalties

~~Any person, firm, or corporation violating any provision of this title is guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Section 1.08.010 of this code. Such person, firm, or corporation is guilty of a separate offense for each and every day during any portion of which such violation of this title is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as provided in this section.~~

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Chapter or any permits, conditions, or variances granted under this Chapter, and shall be subject to any penalty or penalties authorized by law, including but not limited to: administrative enforcement pursuant to Chapters 1.12 and 1.16 of this code; and criminal enforcement pursuant to Chapter 1.08 of this code. Each separate day or any portion thereof during which any violation of this Chapter occurs or continues shall be deemed to constitute a separate offense.

When the code enforcement officer determines that a violation of this Chapter has occurred, he/she may record a notice of pendency of code violation with the Office of the County Recorder stating the address and owner of the property involved. When the violation has been corrected, the code enforcement officer shall issue and record a release of the notice of pendency of code violation.

SECTION 2. Section 18.01.085 of Chapter 18.01 (Adoption, Purposes, and Enforcement) of the Palo Alto Municipal Code is hereby amended as follows:

18.01.085 Enforcement - Criminal Enforcement Citation Authority

~~The following designated employee positions may enforce the provisions of this chapter by the issuance of citations. Persons employed in such positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter. The designated employee positions are: chief building official, plan check engineer; ordinance compliance inspector.~~

The employee positions designated in this section are authorized to exercise the authority provided in California Penal Code section 836.5 for violations of this Chapter. The designated

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employee positions are: (1) chief building official; and (2) code enforcement officer.

SECTION 3. Subsection (a)(44.8) of section 18.04.030 (Definitions), of Chapter 18.04 (Definitions) of the Palo Alto Municipal Code is hereby amended as follows:

(a)(44.8) "Director" means the director of planning and development services ~~community environment~~, unless indicated otherwise.

SECTION 4. Section 18.40.170 of Chapter 18.40 (General Standards and Exceptions) of the Palo Alto Municipal Code is hereby amended as follows:

18.40.170 Deferral of Director's Action

The director shall have the authority to forward projects to City Council for final action in the circumstances listed below. No action by the Director shall be required, and the appeal process and or request for hearing process shall not apply to such referred actions, provided, however, that the Director may seek a recommendation from the Architectural Review Board or Planning and Transportation Commission prior to action by the City Council.

(a) In the case of projects having multiple entitlements, where one requires City Council approval, all entitlements may be referred to City Council for final action;

(b) Projects involving leases or agreements for the use of City-owned property;

(c) Projects requiring a statement of overriding considerations, pursuant to Section 18.31.010; and

(ed) Projects, as deemed appropriate by the director.

SECTION 5. Subsection (c)(4) of section 18.77.060 (Standard Staff Review Process), of Chapter 18.77 (Processing of Permits and Approvals) of the Palo Alto Municipal Code is hereby amended as follows:

(4) Any party, including the applicant, may request a hearing of the planning and transportation commission on the proposed director's decision by filing a written request with the planning division. ~~There shall be no fee required for requesting such a hearing.~~

SECTION 6. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 7. CEQA. The City Council finds and determines that this Ordinance is not a "project" within the meaning of section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately.

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SECTION 8. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney or Designee

City Manager

Director of Planning and Development
Services