



PLANNING COMMISSION MEETING AGENDA

7:00 PM - Thursday, October 19, 2023

*Community Meeting Chambers, Los Altos City Hall 1
North San Antonio Road, Los Altos, CA*

Members of the Public may call (253) 215-8782 to participate in the conference call (Meeting ID: 894 3150 8641) or via the web at <https://tinyurl.com/4ds995ka> with Passcode: 703414). Members of the Public may only comment during times allotted for public comments and public testimony will be taken at the direction of the Commission Chair. Members of the public are also encouraged to submit written testimony prior to the meeting at PCPublicComment@losaltosca.gov. Emails received prior to the meeting will be included in the public record.

ESTABLISH QUORUM

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Commission's attention any item that is not on the agenda. Please complete a "Request to Speak" form and submit it to the Staff Liaison. Speakers are generally given two or three minutes, at the discretion of the Chair. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "the Brown Act") items must first be noticed on the agenda before any discussion or action.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Commission or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Chair.

1. Planning Commission Meeting Minutes

Approval of the DRAFT minutes of the regular meeting of September 7, 2023

SPECIAL ITEM

2. Election of Chair and Vice-Chair

PUBLIC HEARING

3. Zone Text Amendments Implementing the 6th Cycle Housing Element

Consideration of Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 1.A: Rezone for RHNA Shortfall; Program 1.B: Facilitate Higher Density Housing in the Commercial Thoroughfare (CT) District; Program 1.C: Allow Housing in the Office Administrative (OA) District; Program 1.E: Update the Loyola Corners Specific Plan; Program 1.F: Rezone Village Court Parcel; Program 1.G: Rezone Housing Sites from Previous Housing Elements; Program 3.I: Allow Residential Care Facilities Consistent with State law; Program 3.J: Explicitly Allow Manufactured Homes Consistent with State law; The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of

the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. *Project Manager: Director Zornes*

DISCUSSION

4. Commissioner Handbook Overview

COMMISSIONERS' REPORTS AND COMMENTS

POTENTIAL FUTURE AGENDA ITEMS

ADJOURNMENT

SPECIAL NOTICES TO PUBLIC: In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2720. Agendas, Staff Reports and some associated documents for Commission items may be viewed on the Internet at www.losaltosca.gov/meetings. In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk at least 48 hours prior to the meeting at (650) 947-2720. If you wish to provide written materials, please provide the Commission Staff Liaison with 10 copies of any document that you would like to submit to the Commissioners in order for it to become part of the public record. If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure. For other questions regarding the meeting proceedings, please contact the City Clerk at (650) 947-2720.



PLANNING COMMISSION MEETING MINUTES

7:00 PM - Thursday, September 7, 2023
Telephone/Video Conference and In-Person
Community Meeting Chambers, Los Altos City Hall
1 North San Antonio Road, Los Altos, CA

CALL MEETING TO ORDER

At 7:00 p.m. Chair Mensinger called the meeting to order.

ESTABLISH QUORUM

PRESENT: Chair Mensinger, Vice-Chair Ahi, Commissioners Roche, Beninato, Disney, and Steinle

ABSENT: Commissioner Doran

STAFF: Development Services Director Zornes, Development Services Deputy Director Williams, and City Attorney Houston.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. Planning Commission Minutes

Approve the minutes of the Regular Planning Commission meeting of August 3, 2023.

Action: Upon motion by Commissioner Roche, seconded by Commissioner Steinle, the Commission recommended approval of the minutes of the Regular Planning Commission meeting of August 3, 2023, as written.

The motion was approved (6-0) by the following vote:

AYES: Ahi, Mensinger, Roche, Steinle, Beninato, and Disney

NOES: None

ABSENT: Doran

PUBLIC HEARING

2. Zone Text Amendments Implementing the 6th Cycle Housing Element

Consideration of Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 3.B: Modify building height in mixed-use zoning districts, Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza, Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family, Program 3.G: Amend Conditional Use Permits findings applicable

to housing Developments, Program 3.N: Modify standards in the R3 zoning districts. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment. *Project Manager: Director Zornes*

Development Services Director Zornes gave a presentation.

Commissioners asked Director Zornes questions.

Chair Mensinger opened the public comment period.

PUBLIC COMMENT

John Daseking, Mark Leonard, Jennifer Lance, Sonov Agrawal, Terry Couture, Merryll Effner, Russel North, Cynthia Carr, Jennifer Griffin, Emma Dawn, Vivian, Janine Valadez, Anne Paulson, and Dan Cohen provided public comment.

Chair Mensinger closed the public comment period.

Commissioner Beninato recused himself from a portion of the agenda pertaining to Housing Element: Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza since he lives within 500 feet of the Rancho Shopping Center.

Commission discussion proceeded on this portion of the item.

Action: Upon a motion by Commissioner Steinle seconded by Commissioner Ahi, the Commission recommended approval of a portion of agenda Item #2. Zone Text Amendments Implementing the 6th Cycle Housing Element: Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza

The motion was approved (4-1) by the following vote:

AYES: Ahi, Mensinger, Roche, and Steinle,

NOES: Disney

ABSENT: Doran

RECUSED: Beninato

5 MINUTE BREAK

The meeting resumed and Commissioner Beninato rejoined the meeting.

Commission discussion proceeded on the remainder of Item #2.

Action: Upon a motion by Commissioner Steinle, seconded by Commissioner Beninato, the Commission recommended approval of agenda item #2. Zone Text Amendments Implementing the 6th Cycle Housing Element: Program 3.B: Modify building height in mixed-use zoning districts, Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family, Program 3.G: Amend Conditional Use Permits findings applicable to housing Developments, Program 3.N: Modify standards in the R3 zoning districts.

The motion was approved (6-0) by the following vote:

AYES: Ahi, Mensinger, Roche, Beninato, Disney, and Steinle,

NOES: None

ABSENT: Doran

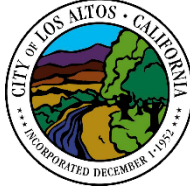
COMMISSIONERS' REPORTS AND COMMENTS

POTENTIAL FUTURE AGENDA ITEMS

ADJOURNMENT

Chair Mensinger adjourned the meeting at 9:45 PM.

Stephanie Williams
Deputy Director



AGENDA REPORT SUMMARY

Meeting Date: October 19, 2023

Subject Housing Element Implementation Ordinance

Prepared by: Nick Zornes, Development Services Director

Attachment(s):

1. Draft Ordinance #1
2. Draft Ordinance #1 – Appendix A
3. Draft Ordinance #1 – Appendix B
4. Draft Ordinance #1 – Appendix C
5. Draft Ordinance #1 – Appendix D
6. Draft Ordinance #2
7. Draft Ordinance #2 – Appendix A
8. Draft Ordinance #3
9. Draft Ordinance #3 – Appendix A
10. Draft Ordinance #3 – Exhibit, Zone Map Change
11. HCD Technical Advisory – Group Homes – December 2022

Initiated by:

The City of Los Altos adopted 6th Cycle Housing Element, Programs 1.A, 1.B, 1.C, 1.E, 1.F, 1.G, 3.I, and 3.J.

Fiscal Impact:

No fiscal impacts are associated with the adoption of these implementing regulations.

Environmental Review:

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Summary:

The draft ordinance incorporates regulations to rezone for the RHNA shortfall, facilitation of higher density housing in the commercial thoroughfare district, allow housing in the office administrative district, repeal of the Loyola Corners Specific Plan in its entirety, rezone Village Court parcel and repeal its entirety the PUD specific to the parcel, rezone housing sites from previous housing elements, allow residential care facilities consistent with State law, and explicitly allow manufactured homes consistent with State law. The draft ordinance integrates regulations

Reviewed By:

Development Services Director

NZ

City Attorney

JH



Subject: Housing Element Implementation Ordinance

into the Los Altos Municipal Code, which address all required provisions from the Housing Element programs previously noted.

Staff Recommendation:

The Planning Commission provides recommendation to the City Council to introduce and adopt the Draft Ordinance as presented tonight.

Background:

On January 24, 2023, the Los Altos City Council adopted the City’s 6th Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city’s specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

The draft ordinance under consideration implementing Programs 1.A, 1.B, 1.C, 1.E, 1.F, 1.G, 3.I, and 3.J is required to be adopted no later than January 31, 2024.

Analysis:

The City’s adopted 6th Cycle Housing Element 2023-2031 included various programs which requires the proposed ordinance amendments to implement the various commitments contained within the Housing Element as Certified by the State of California Housing and Community Development Department (HCD). The following programs are being implemented in various components of the draft ordinance.

The following program has already been partially implemented in that the City of Los Altos has already increased development capacity and overall density in zones such as CN, CRS, CD/R3 to accommodate moderate-income level units, and now in the CT and OA Districts.

Program 1.A: Rezone for RHNA shortfall.

To accommodate the remaining above moderate-income RHNA of 19 units, the City will identify and rezone sufficient vacant land or land with redevelopment potential to provide capacity for this shortfall. Appendix B (Sites Inventory and Methodology) identifies potential parcels for rezoning to address this shortfall and provide excess capacity throughout the planning period. Separate programs detail specifics of various rezoning actions that would provide additional capacity for all income levels.

Responsible Body: Development Services Department, Planning Commission, City Council



Subject: Housing Element Implementation Ordinance

Funding Source: General Fund

Time Frame: Sites rezoned to address shortfall by January 2024 ***Objective:*** The City will amend the Zoning Map and/or Zoning Code to create the opportunity for at least 19 above moderate-income housing units; proposed rezoning would accommodate an assumed capacity of 64 above-moderate income housing units

Geographic Targeting: Create additional opportunities for housing capacity throughout the city, which is identified as high and highest resource by TCAC opportunity maps.

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance removes the zoning code limit on maximum density allowed within the zone (68 units/acre or 179% of maximum allowed density has been the average development trend for recently approved/constructed projects), eliminates excess setback requirements for adjacencies, increases the building heights, and makes residential and mixed-use developments allowed by-right.

Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District.

The Commercial Thoroughfare (CT) Zone is located along El Camino Real with a maximum density of 38 units per acre and a maximum height of 45 feet. Development trends in this area are showing much higher densities and heights being built. To continue to facilitate housing in the CT District, the City will remove or increase the density maximum and increase the height allowed in the CT District by at least 10 feet and one story which will result in a maximum height of 55 feet and 5-stories to ensure the increased maximum density can be accommodated. Objective design standards for the CT District will be modified as necessary to accommodate higher density, and the increased setback standards when across the street from or abutting a residential zoning district will be removed.

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: December 2024

Objective: Approve housing development projects along El Camino Real at densities above 38 units per acre anticipating at least 80 total housing units with at least 20 low-income units.

Geographic Targeting: Increase housing opportunity in a mixed-use, transit-accessible area. See Program 4.J for place-based improvements, specifically relative to the Los Altos Loop, that will be prioritized in this area east of San Antonio Road.



Subject: Housing Element Implementation Ordinance

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance specifies the allowed density of a minimum of 20 units per acre and a maximum of 30 units per acre, modifies the required setbacks to provide ample buffer and spatial distance from single family zoning districts by reducing side and front yard setbacks while increasing the rear yard setback to an acceptable maximum of 30 feet, and makes residential and mixed-use developments allowed by-right.

Program 1.C: Allow housing in the Office Administrative (OA) District.

The Office Administrative (OA) District, primarily located along South San Antonio Road (east of Downtown), does not currently allow residential uses. However, given the high demand for housing in Los Altos and the opportunity to provide for housing in a mixed-use environment with access to transit, the sites identified in the OA District (Appendix B, Table B-11) will be amended to allow multi-family development. Residential uses will be allowed at a minimum density of 20 dwelling units per acre and a maximum density of 30 dwelling units per acre.

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: December 2024 ***Objective:*** Permit housing on OA District parcels during the planning period comprising at least 40 total housing units with at least eight low-income units in the highest resource areas of the city.

Geographic Targeting: Create additional opportunities for housing capacity in a highest resource area located adjacent to Downtown, transit (bus line along San Antonio Road), and single-family neighborhoods.

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance repeals in its entirety the Loyola Corners Specific Plan which has been an impediment to the creation of housing as well as any large-scale revitalization of the area since its inception. Additionally, the action will repeal in its entirety City Council Resolution 2017-41 which was an action that further restricted development potential within the specific plan area.

Program 1.E: Update the Loyola Corners Specific Plan.

The Loyola Corners Specific Plan will be rescinded and revert to underlying zoning (CN District) to facilitate housing production. Regardless of whether the Specific Plan is updated or rescinded, this program includes removal of all standards that are more restrictive than those applicable within the CN District. Standards to be eliminated include the 20-unit density cap (enforcement of this limitation is currently precluded by the Housing Crisis Act), the dwelling unit size requirement of between 1,500 and 8,000 square feet, the two-story height limitation in addition to a 30-foot maximum



Subject: Housing Element Implementation Ordinance

height (Resolution 2017-41), and any subjective design standards applicable to residential. The eliminated standards will provide regulations that allow development at greater densities than what is presently allowed today, increased building heights and greater flexibility in unit sizes. The Loyola Corners Specific Plan is considered a highest resource area with the most positive educational outcomes (see Appendix F, Section F.2.5 (Access to Opportunity)).

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *December 2024 Objective: Eliminate restrictive development standards within Loyola Corners Specific Plan for density, height, and unit size no later than December 2024. Also eliminate any subjective design standards applicable to residential no later than December 2024. Permit housing units in the Loyola Corners Specific Plan above the current 20-unit cap and with a mixture of unit sizes during the planning period. Target approval of at least 40 total housing units with at least eight low-income units.*

Geographic Targeting: *Remove barriers to increase housing opportunity in Loyola Corners neighborhood, a highest resource area with commercial, transit (bus line along Foothill Expressway), and single-family homes.*

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance executes the required Zone Change to one (1) affected parcel at the “Village Court” development. The existing parcel(s) has “split” or “shared” zoning districts which further creates confusion and irregular development potential of the site. Additionally, as a part of the Zone Change Planned Residential Development 62-PUD/C7 is repealed in its entirety which has limited development potential of the site since its inception. Due to the split or shared zoning of the parcel at Village Court there is not feasible or practical way for the PUD to be maintained and carry the new zoning of the Commercial Thoroughfare District on all portions of the parcels.

Program 1.F: Rezone Village Court parcel.

To facilitate housing, the Village Court parcel at 4546 El Camino Real (APN 16712042) will be rezoned from R1-10 to Commercial Thoroughfare (CT), and modifications made to the Planned Unit Development (62-PUD/C7), as necessary for consistency with the CT District. The City will consult with adjacent property owners and interested parties throughout the Village Court rezone program.

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*



Subject: Housing Element Implementation Ordinance

Time Frame: December 2025

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance the rezoning of the sites identified in the program has been accomplished by allowing for the use of residential and mixed-use development by-right within the CT District and by the Zone Change of the Village Court parcel.

Program 1.G: Rezone housing sites from previous Housing Elements.

Under AB 1397, certain rezoning requirements apply if a lower income housing site identified in the sites inventory (Appendix B) was identified as a housing site (for any income level) in a previous housing element's site inventory. The following vacant and nonvacant lower income sites are subject to the rezoning requirements:

- *Vacant lower income sites that have been included in at least two consecutive housing element sites inventories.*
- *Nonvacant lower income sites that have been included in a prior housing element sites inventory.*

The City will make necessary zoning amendments to allow development by right pursuant to Government Code §65583.2(i) when 20 percent or more of the units are affordable to lower income households on sites identified in Table IV-1. These identified sites meet the density requirements for lower-income households and allow at least 30 units per acre.

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: January 2024

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance by the creation of Article 6 of the Specialized Housing Regulations Chapter in the Zoning Code by integration of definitions and allowances which are articulated in State law.

Program 3.I: Allow residential care facilities consistent with State law.

To comply with State law, the City will amend the Zoning Code to permit residential care facilities for six or fewer persons in all residential zoning districts, as well as districts where single-family homes are allowed by-right and treat them as a residential use. The Zoning Code will also be amended to allow large residential care facilities (seven or more persons) in all residential zones without discretionary review



Subject: Housing Element Implementation Ordinance

(i.e., subject only to objective standards). Residential care facilities will not be limited to individuals of 60 years of age or over, and a barrier-free definition of “family” that encompasses unrelated individuals living together as a single residential unit will be added consistent with State law.

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *March 2024*

The following program implements the requirements identified within the adopted housing element in that the proposed ordinance by the creation of Article 5 of the Specialized Housing Regulations Chapter in the Zoning Code by asserting that all manufactured housing shall be considered the same as conventional stick-built construction.

Program 3.J: Explicitly allow manufactured homes consistent with State law.

Government Code §65852.3 requires manufactured and mobile homes on a permanent foundation to be allowed in the same manner and in the same zone as a conventional stick-built structure. While it is the City’s practice to treat manufactured homes on a foundation as a conventional single-family home, the Zoning Code does not reflect this practice. The City will amend the Zoning Code to explicitly allow manufactured homes on a permanent foundation, subject to the same regulations as single-family homes and in the same zones as single-family homes.

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *March 2024*

Discussion:

The actions included within the attached draft ordinance are requirements pursuant to the City’s adopted 6th Cycle Housing Element. Once a jurisdiction takes final action by adopting its housing element this requires immediate action in order to remain compliant with State housing law. The City of Los Altos Housing Element contains **26** major action items or milestones that must be completed within the first 12-months post adoption. The draft ordinance will effectively accomplish the majority of **8 of the 26 items** or milestones to be achieved in the first 12-months.



Subject: Housing Element Implementation Ordinance

Should the Los Altos Planning Commission not recommend approval of the draft ordinance the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- **General Plan Inadequacy:** the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
- **Legal Suites and Attorney Fees:** local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
- **Loss of Permitting Authority:** courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- **Financial Penalties:** court-issued judgement directing the jurisdiction to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
- **Court Receivership:** courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.34, CHAPTER 14.36, CHAPTER 14.50, AND CHAPTER 14.63 OF THE LOS ALTOS MUNICIPAL CODE TO IMPLEMENT PROGRAM 1.A, PROGRAM 1.B, PROGRAM 1.C, PROGRAM 1.G, PROGRAM 3.I, PROGRAM 3.J OF THE SIXTH CYCLE HOUSING ELEMENT UPDATE

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on November 14, 2023, and November 28, 2023; and

WHEREAS, Program 1.A of the Housing Element Update calls for Rezone for RHNA Shortfall; and

WHEREAS, Program 1.A of the Housing Element Update requires the City of Los Altos to increase housing capacity to accommodate the remaining above moderate-income RHNA within the City of Los Altos; and

WHEREAS, Program 1.B of the Housing Element Update calls for Facilitating Higher Density Housing in the Commercial Thoroughfare (CT) District; and

WHEREAS, Program 1.B of the Housing Element Update expressly allows 5-stories, and 55-foot tall buildings with no cap on density limits within the CT District in the City of Los Altos; and

WHEREAS, Program 1.C of the Housing Element Update calls for Allowing Housing in the Office Administrative (OA) District; and

WHEREAS, Program 1.C of the Housing Element Update expressly allows residential uses in the Office Administrative (OA) zoning districts with a minimum density of 20 units per acre and maximum of 30 units per acre within the City of Los Altos; and

WHEREAS, Program 1.G of the Housing Element Update calls for Rezoning Housing Sites from Previous Housing Elements; and

WHEREAS, Program 1.G of the Housing Element Update expressly allows housing sites from the prior housing element cycle to be allowed by-right within the City of Los Altos; and

WHEREAS, Program 3.I of the Housing Element Update calls for Allowing Residential Care Facilities Consistent with State law; and

WHEREAS, Program 3.I of the Housing Element Update expressly allows residential care facilities anywhere that residential zoning is allowed within the City of Los Altos; and

WHEREAS, Program 3.J of the Housing Element Update calls for Explicitly Allowing Manufactured Homes Consistent with State law; and

WHEREAS, Program 3.J of the Housing Element Update expressly allows manufactured homes by-right anywhere residential zoning is allowed within the City of Los Altos; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 14.34 OF THE MUNICIPAL CODE. Chapter 14.34 of the Los Altos Municipal Code are hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 2. AMENDMENT OF CHAPTER 14.36 OF THE MUNICIPAL CODE. Chapter 14.36 of the Los Altos Municipal Code are hereby amended as set forth in Appendix B to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 3. AMENDMENT OF CHAPTER 14.50 OF THE MUNICIPAL CODE. Chapter 14.50 of the Los Altos Municipal Code are hereby amended as set forth in Appendix C to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 4. AMENDMENT OF CHAPTER 14.63 OF THE MUNICIPAL CODE. Chapter 14.63 of the Los Altos Municipal Code are hereby amended as set forth in Appendix D to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 5. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 6. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2023, and was thereafter, at a regular meeting held on __, 2023, passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, MMC, CITY CLERK

**APPENDIX A
AMENDMENTS TO CHAPTER 14.34**

APPENDIX B
AMENDMENTS TO CHAPTER 14.36

**APPENDIX C
AMENDMENTS TO CHAPTER 14.50**

**APPENDIX D
AMENDMENTS TO CHAPTER 14.63**

Chapter 14.34 OA OFFICE-ADMINISTRATIVE DISTRICT

Sections:

14.34.010 OA Districts.

The regulations, general provisions, and exceptions set forth in this chapter and Chapter 14.66 shall apply in all OA Districts.

(Prior code § 10-2.1301)

14.34.020 Specific purposes (OA).

Specific purposes for OA Districts are as follows:

- A. Attract new office development to sites suitable for such use;
- ~~B.~~ Allow the integration of residential uses and a variety of housing types;
- ~~B.C.~~ Allow latitude for creative design and architectural variety within limits established.

(Prior code § 10-2.1302)

14.34.030 Required conditions (OA).

- A. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- B. No property owner, business owner, and/or tenant shall suffer, permit, or allow operation of a business on his or her property or on property upon which his or her business operates to violate the required conditions of this chapter. Enforcement shall be as provided for in Chapter 1.10 of Title 1.
 - 1. General screening standard. Every development shall provide sufficient screening to reasonably protect the privacy, safety, and environment of neighboring residential properties and shield them from adverse external effects of that development.

Walls up to twelve (12) feet in height shall be required for the purpose of attenuating noise, (as determined by an acoustical analysis), odor, air pollution, artificial light, mitigation for grade differential between properties, and providing privacy and safety.
 - 2. Sites for screening of refuse collection. Every development will be required to provide suitable space for solid waste separation, collection, and storage, and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way.
 - 3. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other

- common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
4. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
 5. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions shall be required except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.
 6. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County Health Department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
 7. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.
- C. In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height shall be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

(Prior code § 10-2.1302.5)

14.34.040 Permitted uses (OA).

The following uses shall be permitted in the OA Districts:

- A. ~~Accessory structures and uses customarily incidental to permitted uses;~~
- ~~B. Copy reproduction shops;~~
- ~~C. Office-administrative uses;~~
- ~~D. Parking spaces and loading areas; and~~
- B. Residential Only Development(s);
- C. Mixed Use Development(s); and
- E. Other uses which are determined by the Zoning Administrator ~~commission and the council~~ to be of the same general character.

(Prior code § 10-2.1303)

(Ord. No. 2015-406 , § 2, 2-10-2015; Ord. No. 2015-414 , § 6, 9-8-2015)

14.34.050 Conditional uses (OA).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in OA Districts:

- A. ~~Blueprinting shops; Reprographic Uses;~~
- B. Data processing centers;

(Supp. No. 40, Update 2)

Created: 2023-06-28 07:56:33 [EST]

- ~~C.~~ Drive-in facilities, except car washes;
- ~~D.C.~~ Medical and dental clinics;
- ~~E.~~ Medical and dental offices that are five thousand (5,000) gross square feet or more;
- ~~F.D.~~ Mortuaries; and
- ~~G.E.~~ Other uses which are determined by the commission ~~and the council~~ to be of the same general character.

(Prior code § 10-2.1304)

(Ord. No. 2015-406 , §§ 3, 4, 2-10-2015)

14.34.065 Allowed Density (OA).

Residential uses will be allowed at a minimum density of twenty (20) dwelling units per acre and a maximum density of thirty (30) dwelling units per acre.

14.34.060 Coverage (OA).

The maximum coverage for all structures shall be ~~fifty (50) percent of the total site area; provided, however, the maximum coverage may be increased to~~ seventy-five (75) percent of total gross lot area if required off-street parking is provided underground. Lot coverage measures the portion of a lot that is covered by habitable structures only and excludes all non-habitable exterior improvements or structures.

(Prior code § 10-2.1305)

14.34.070 Front yard (OA).

The minimum depth of front yards shall be ~~eighteen five (185) feet, all with a minimum of fifty (50) percent~~ of which shall be landscaped. ~~For purposes of this section, "landscaped" shall mean any combination of plant material ("soft surfaces") and decorative paving, steps, seating, seat-walls, fountains, etc., ("hard surfaces") where the soft surface comprises at least sixty (60) percent of the total landscaped area.~~

(Prior code § 10-2.1306)

14.34.080 Side yards (OA).

The minimum depth of side yards shall be ~~ten five (105) feet percent of the width of the site except where immediately abutting an R1-10 District, in which case the side yard shall be twenty-five (25) feet. Two or more parcels may develop as a combined project with abutting buildings subject to the approval of the commission. Where the yard abuts a residential property fencing, landscaping, and other measures shall be used to reduce the impact.~~

(Prior code § 10-2.1307)

14.34.090 Rear yard (OA).

The minimum depth of rear yards shall be ~~ten-fifteen (1015)~~ feet except where immediately abutting an R1-10 District, in which case the rear yard shall be ~~twenty-five thirty (2530)~~ feet. ~~Where the yard abuts a residential property fencing, ten (10) feet of landscaping, and other measures shall be used to reduce the impact.~~

(Prior code § 10-2.1308)

14.34.100 Site area (OA).

The minimum site area shall be five thousand one hundred (5,100) square feet ~~if the lot was in single ownership on January 13, 1967; otherwise, the minimum lot area shall be nine thousand (9,000) square feet.~~

(Prior code § 10-2.1309)

14.34.110 Off-street parking (OA).

Parking facilities shall be provided in accordance with Chapter 14.74 of this title. In addition, parking facilities built as part of building projects shall:

- A. ~~Reduce the visual impact of p~~Parking structures and surface parking lots ~~shall be by locating them located~~ at the rear of the parcel or below ground; ~~interior portions of building sites~~;
- B. ~~Keep the n~~Number of direct entrances to parking facilities from streets to ~~a minimum with a maximum of two (2) excluding any required emergency access~~;
- C. Provide a landscaped buffer not less than five feet in width between a parking lot or structure and street frontage or buildings. Where the landscaped strip adjoins a public street or pedestrian walkway, the landscaped strip may be required to include a fence, wall, berm, or equivalent feature;
- D. Provide a minimum of interior landscaping for unenclosed parking facilities as follows: Where the total parking provided is located on one site and is fourteen thousand nine hundred ninety-nine (14,999) square feet or less, five percent of total parking area; where the parking is fifteen thousand (15,000) through twenty-nine thousand nine hundred ninety-nine (29,999) square feet, seven and one-half percent of total parking area; and where the facility is thirty thousand (30,000) square feet or greater, ten (10) percent of total parking area.

Parking Area	Minimum Landscaping
(in square feet)	(% of Parking Area)
< 15,000	5
15,000 — 29,999	7.5
≥ 30,000	10

- E. Trees in reasonable number shall be provided; ground cover alone is not acceptable. Interior landscaping shall be distributed throughout the paved area as evenly as possible. ~~Provision shall be made for automatically irrigating all planted area.~~ All landscaping shall be protected with concrete curbs or other acceptable barriers. ~~All landscaping shall be continuously maintained.~~
- F. Provisions of Section 14.34.110 which differ from Chapter 14.74 can be reduced or waived in its entirety by the authority of the Zoning Administrator.

(Prior code § 10-2.1310)

14.34.120 Off-street loading and refuse collection (OA).

- A. Where buildings are sewed by alleys, all service-delivery entrances, loading docks, and refuse collection facilities shall be located to be accessed from the alley. No loading area shall be located at the street frontage or building façade.
- B. A minimum of thirty-two (32) square feet of on-site refuse collection area shall be provided on each lot or premises and shall not be located in any front or street side yard. Where an alley exists, the refuse collection area shall be accessed from the alley.
- C. On sites not served by an alley, service areas shall be located to the rear, side, or at an internal location where visibility from public streets and windows of neighboring buildings will be minimized.
- D. Refuse collection areas and dumpsters shall be enclosed by a screen wall of durable material and planting as necessary to screen views from streets and neighboring properties.

(Prior code § 10-2.1311)

14.34.130 Height of structures (OA).

~~The maximum height of structures shall be two stories of a maximum of thirty (30) feet, whichever is the lesser as measured from the sidewalk. Mechanical equipment and elevator shafts shall be included in the maximum height. The height may be exceeded, up to a maximum of thirty five (35) feet for appurtenances such as towers, spires, cupolas, chimney, and antenna. The height shall not preclude a fully submerged basement.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.
- b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.
- c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and two (2) stories.

(Prior code § 10-2.1312)

14.34.140 Design control (OA).

- ~~A. No structure shall be built or altered including exterior changes in color, materials, and signage in the OA District except upon approval of the city planner for minor changes and architecture and site approval to be obtained as prescribed in Chapter 14.66 of this title for major changes.~~
- ~~B. No building or portion thereof shall project over the public right-of-way above ground level; provided, however, that awnings and canopies may encroach into the public right-of-way.~~
- ~~C. Building surface materials and colors.~~
 - ~~1. Surface materials shall only be those which are in keeping with the traditional materials of the community. These include:~~
 - ~~i. Natural materials such as wood, brick, or natural unpolished stone;~~
 - ~~ii. Roofing materials such as wood shakes or tile;~~
 - ~~iii. Stucco (painted); and~~

(Supp. No. 40, Update 2)

Created: 2023-06-28 07:56:33 [EST]

- iv. — Glass.
2. — Not more than forty (40) percent of any exterior building elevation above the first story shall consist of glass or any other material that resembles glass.
3. — Surface materials that are not in keeping with the existing character of the community are prohibited, including but not limited to:
- i. — Extensive use of metal panels of any kind;
 - ii. — Mirrored or highly reflective glass in any quantity;
 - iii. — Glazed tiles covering more than ten (10) percent of any building elevation;
 - iv. — Polished marble, granite, terrazzo, or similar materials covering more than ten (10) percent of any building elevation;
 - v. — Plain or painted concrete, concrete block, or cinder block;
 - vi. — Plastic materials of any kind except for awnings attached to the building.
4. — Surface colors should be those which are in keeping with the established character of the community and the street, with earth tones dominant. These include:
- i. — White and shades of white, including cream and ivory;
 - ii. — Brown, and shades of brown, including tan and beige; and
 - iii. — Natural red-brick tones, including wood-painted barn reds.
5. — When other colors are permitted, the use of one or more colors described in subsections (C)(4)(i), (C)(4)(ii), and (C)(4)(iii) of this section shall be incorporated. Bright, highly reflective, or garish colors are not in keeping with the established character of the community and are expressly prohibited.
6. — No change in building surface material or color shall be made following architectural and site control committee approval except upon approval of the city planner for minor changes and architecture and site approval to be obtained as prescribed in Chapter 14.78 for major changes.
- D. — Rooftop mechanical equipment must be within the height limit and screened architecturally from public view. By November 30, 1991, existing unconcealed rooftop equipment shall be concealed.
- E. — Scale. Because of the location of this district to a larger region, a mixture of scales may be appropriate, with most elements scaled for appreciation from the street and moving automobile; however, within the context of the residential neighborhood, design for appreciation by pedestrians may be appropriate.
- F. — Design control. The portions of building elements at a commercial/residential interface shall be designed to protect residential privacy (including but not limited to window placement), daylight, and environmental quality.
- G. — Firewalls. Consideration should be given to the aesthetic treatment of firewalls including increased side yard setbacks, contouring the firewall to the building, use of noncombustible roofing materials, and creative use of architectural features in the firewall.
- H. — Presentation materials. Graphics presented to the architectural and site control committee and the planning commission to explain the character of a proposed development shall be adequate to show neighboring buildings and important features of adjacent sites in sufficient detail to enable evaluation of the relationship of the proposed development to its context. Elevations facing the public street shall be drawn at a scale of $\frac{1}{4}'' = 1' 0''$.

(Amended during 2/06 supplement; prior code § 10-2.1313)

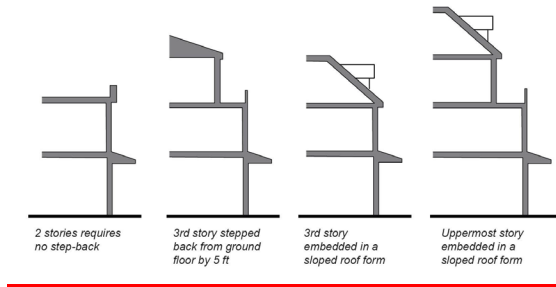
A. Building Placement. A minimum seventy-five (75) percent of ground-floor building frontages must be built at the minimum setback line. This standard applies to the building frontage only (exclusive of side setbacks).

B. Building Massing and Articulation.

1. Upper-story Step-backs, Front and Street Side.

a. Along all frontages, the third story must be either stepped back a minimum five feet from the ground floor façade or embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers.

b. For buildings over three stories along all frontages, the uppermost story must be embedded in a sloped roof form.



2. Upper Story Step-backs, Side Interior and Rear where Abutting an R-1 District.

a. The third story must be either stepped back a minimum five (5) feet from ground floor façade or embedded in a sloped roof form.

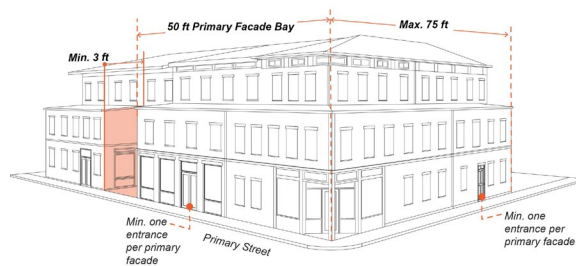
b. For buildings over three stories, the uppermost story must be embedded in a sloped roof form.

3. Vertical Articulation.

a. When a building façade exceeds seventy-five (75) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.

b. A minimum one entrance shall be provided per primary façade bay.

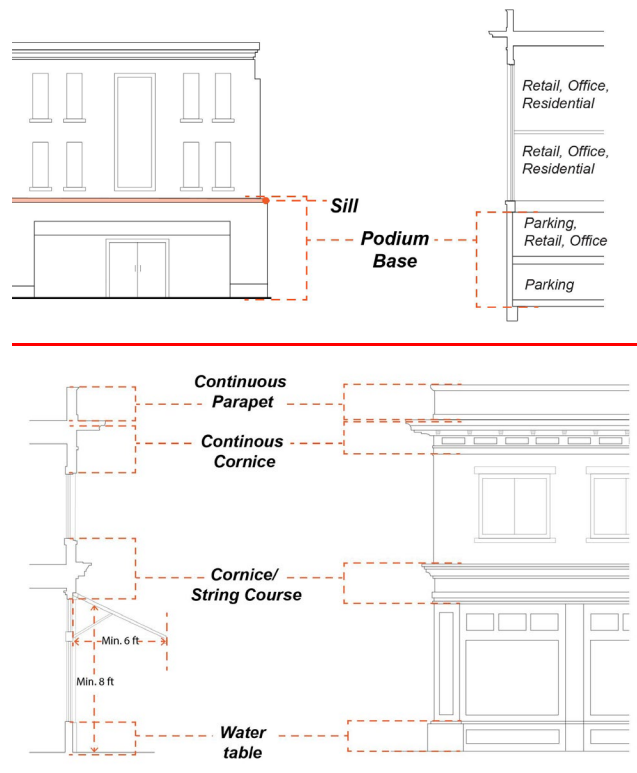
c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



4. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

a. One or more of the following patterns shall be used to define the base:

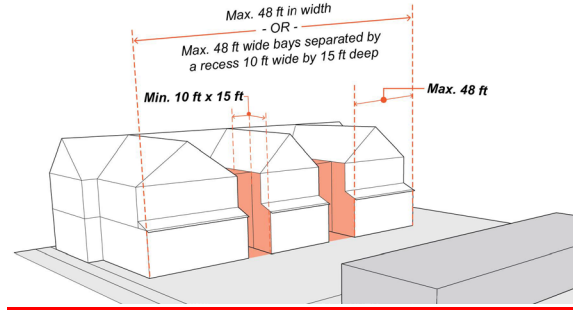
- i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
 - iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
- b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other similar elements. These elements shall be consistent with the overall architectural style of the building mass/bay.



5. Adjacencies.

a. Façades adjacent to an R-1 District.

- i. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
- ii. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess ten (10) feet wide and fifteen (15) feet deep.



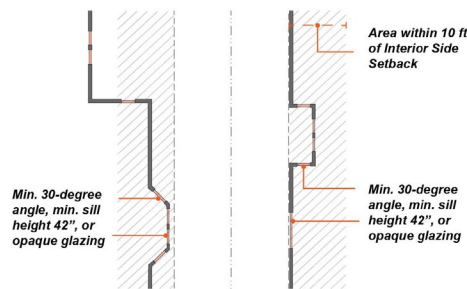
b. Storefront Façades Adjacent to Storefront Façades.

- i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.**
- ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.**
- iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.**



6. Privacy and Line of Sight.

- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.**
- b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.**



7. Roofline and Roof Design.

- a. Roof designs shall be limited to:**
 - i. Hipped.**

ii. Gable.

iii. Shed.

iv. Dormer.

v. Parapet.

(a) Not allowed on frontages facing R-1 District.

(b) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:

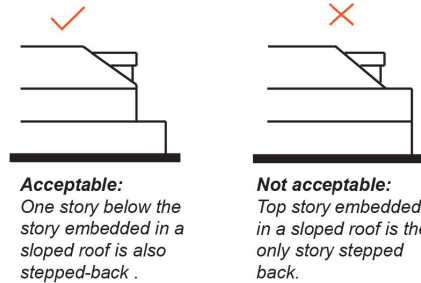
(1) Steps.

(2) Curves.

(3) Angled surfaces.

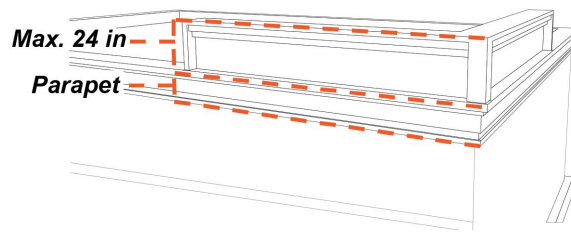
(c) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.

b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.

d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.



C. Building Design.

1. Façade Design.

a. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually

expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

- b. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
- c. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
- d. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.

2. Pedestrian-Scaled Entrances.

a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.

- i. Stoop.
- ii. Dooryard.
- iii. Shopfront.

(a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.

- iv. Gallery.
- v. Arcade.
- vi. Forecourt.

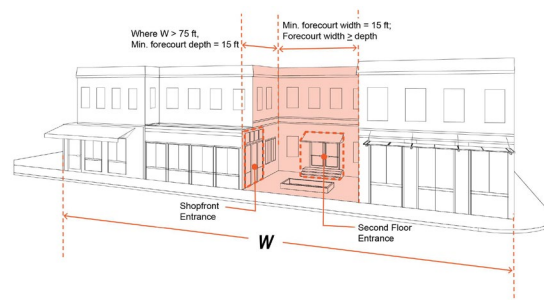
(a) Forecourts must feature at least one entry to a shop and/or second floor use.

(b) Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.

(c) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).

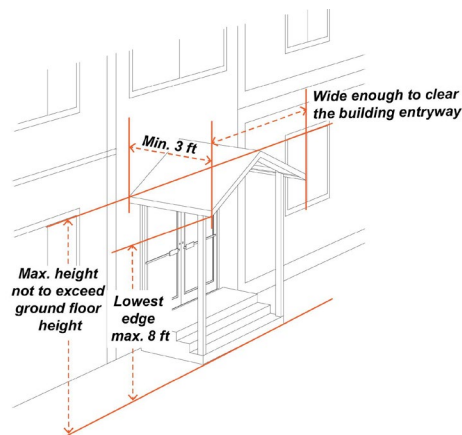
(d) Forecourt must be enclosed on at least three sides by buildings.

(e) Forecourt must remain open to the sky (arbors and trellises are allowed).

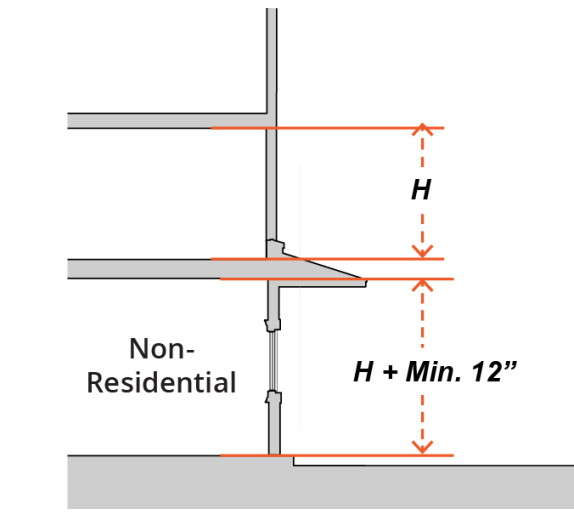


b. Primary Entrance Location(s). The building entrance shall be located along the primary right-of-way.

- c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
- i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
- i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
3. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling.



4. Interior Courtyard. Interior courtyards must be:
 - a. Enclosed on at least two sides by buildings.
 - b. Open to the sky (arbors and trellises are allowed).
 - c. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.

5. Paseos. Paseos must be:

- a. A minimum width of ten (10) feet for through-block paseos.
- b. A minimum width of four feet for entries to courtyards or individual single businesses.

D. Window Design.

1. Window frames, backbands, and sills.

- a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.

2. Vinyl windows are prohibited on façades visible from a right-of-way.

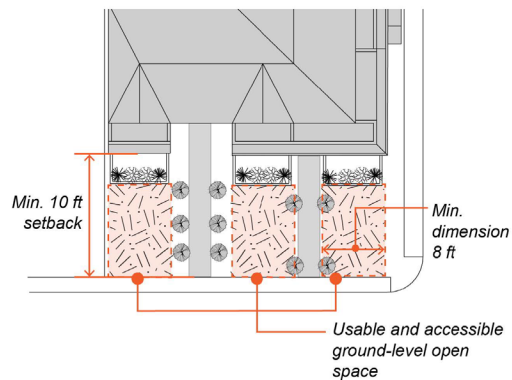
3. Tinted glass is not allowed.

E. Building Materials.

1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:

- a. Stucco (minimum two-coat stucco);
- b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.

- iii. Vinyl and aluminum not permitted.
 - c. Stone.
 - d. Brick.
- 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile (for bulkheads below display windows and decorative accents only).
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- F. Ground Level Open Space. Where any required front, rear, or side yard setback is ten (10) feet or greater, on-site ground-level open space shall be provided within the setback.
 - 1. The ground level open space shall be usable and accessible.
 - 2. The minimum dimension for ground level open space shall be eight feet.



- G. Landscaping, Paving and Pedestrian Amenities.
 - 1. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.

-
- c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.
 - 2. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.
 - H. Site Circulation and Access.
 - 1. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 - 2. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.
 - I. Service Areas and Screening.
 - 1. Service areas must be located at the rear of lot.
 - 2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.

14.34.150 Nonconforming use regulations (OA).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.1314)

Chapter 14.36 OA-1/OA-4.5 OFFICE-ADMINISTRATIVE DISTRICT¹

Sections:

14.36.010 OA-A and OA-4.5 Districts.

The regulations, general provisions, and exceptions set forth in this article and in this chapter and Chapter 14.66 shall apply in the OA-1 and OA-4.5 Districts as specified.

(Prior code § 10-2.1401)

14.36.020 Specific purposes (OA-1, Altos Oaks Avenue).

- A. Ensure the retention of design and scale compatible with the surrounding residential properties;
- B. Promote and retain a residential design reflected in architectural and landscaping style, building orientation, and site amenities;
- C. Enhance landscaping and pedestrian amenities, with particular attention to the front yard.

(Prior code § 10-2.1401.1)

14.36.025 Review Authority of Design Review (OA-1 and OA-4.5).

The development of any housing development within the OA-1 and OA-4.5 zoning districts shall be subject to design review by the zoning administrator only following a noticed public hearing. Notwithstanding any other provision of this code, and unless otherwise required by state law, any additional planning applications for such a project including, without limitation, tentative or parcel maps, variance requests, or conditional use permits, shall be heard and decided by the zoning administrator concurrently with the design permit application. As used in this subsection, a "housing development project" includes a project to construct one or more dwelling units, including a mixed-use development project for which not more than one-third of total floor area is dedicated for commercial use. Review procedures not otherwise covered by this chapter shall be reviewed in accordance with Chapter 14.78 of the Los Altos Municipal Code.

14.36.030 Required conditions (OA-1 and OA-4.5).

- A. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- B. No property owner, business owner, and/or tenant shall suffer, permit, or allow operation of a business on his or her property or on property upon which his or her business operates to violate the "required conditions" of this article. Enforcement shall be as provided for in Chapter 1.10 of this code.

¹Editor's note(s)—Ord. No. 10-346, § 3, adopted March 9, 2010, changed the title of ch. 14.36 from "OA and OA-4.5 Office-Administrative Districts" to "OA-1/OA-4.5 Office-Administrative District."

1. General screening standard. Every development shall provide sufficient screening to reasonably protect the privacy, safety, and environment of neighboring residential properties and shield them from adverse external effects of that development.

Walls up to twelve (12) feet in height shall be required for the purpose of attenuating noise, (as determined by an acoustical analysis), odor, air pollution, artificial light, mitigation for grade differential between properties, and providing privacy and safety.

2. Sites for screening of refuse collection. Every development will be required to provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way.
 3. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
 4. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
 5. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions shall be required except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.
 6. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
 7. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.
- C. In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height shall be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

(Prior code 10-2.1401.2)

14.36.040 Permitted uses (OA-1 and OA-4.5).

The following uses shall be permitted in the OA-1 and OA-4.5 Districts:

- A. Office-administrative uses;
- B. ~~Travel agencies; Residential Only Development(s); and~~
- C. ~~Parking spaces and loading areas; and~~
- D. Other uses which are determined by the ~~Zoning Administrator commission and the council~~ to be of the same general character.

(Prior code § 10-2.1402)

(Ord. No. 2015-406 , § 2, 2-10-2015; Ord. No. 2015-414 , § 7, 9-8-2015)

14.36.050 Conditional uses (OA-1 and OA-4.5).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in OA-1 and OA-4.5 Districts:

- A. Medical and dental offices that are five thousand (5,000) gross square feet or more, ~~except when located in a ground floor building space that fronts directly onto First Street, Main Street or State Street;~~ and
- B. ~~Medical and dental clinics, except when located in a ground floor building space that fronts directly onto First Street, Main Street or State Street;~~
- C. Other uses which are determined by the commission ~~and the council~~ to be of the same general character.

(Ord. No. 2015-406 , § 5, 2-10-2015)

Editor's note(s)—Ord. No. 2015-406 , § 5, adopted Feb. 10, 2015, renumbered §§ 14.36.050—14.36.170 as §§ 14.36.060—14.36.180 and enacted a new § 14.36.050 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

14.36.055 Allowed Density (OA).

Residential uses will be allowed at a minimum density of twenty (20) dwelling units per acre and a maximum density of thirty (30) dwelling units per acre.

14.36.060 Site area (OA-1 and OA-4.5).

The minimum site area shall be as follows:

District	Minimum Site Area
OA-1	14,000 square feet
OA-4.5	4,500 square feet where the lot is in single ownership on December 8, 1959; otherwise the minimum sit area shall be 9,000 square feet.
OA-1 and OA 4.5	4,500 square feet

(Prior code § 10-2.1403)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.070 Coverage (OA-1 and OA-4.5).

The maximum coverage shall be as follows:

District	Maximum Coverage
OA-1	30 percent of total area of area
OA-4.5	40 percent of total area of site
OA-1 and OA 4.5	75 percent of total area of site

(Supp. No. 40, Update 2)

Created: 2023-06-28 07:56:33 [EST]

*Lot coverage measures the portion of a lot that is covered by habitable structures only and excludes all non-habitable exterior improvements or structures.

(Prior code § 100-2.1404)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.080 Floor area ratio (OA-1 and OA-4.5).

The maximum floor area ratio shall be as follows:

District	Maximum Floor Area Ratio
OA-1	None
OA-1 (Altos Oaks Avenue)	35 percent of total area of site None
OA-4.5	None

(Prior code § 10-2.1404.1)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.090 Front yard (OA-1 and OA-4.5).

The minimum depth of front yards shall be as follows:

District	Minimum Depth of Front Yard
OA-1	20 10 feet
OA-4.5	10 feet

(Prior code § 10-2.1405)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.100 Side yards (OA-1 and OA-4.5).

A. —The minimum ~~width~~ depth of side yards shall be ~~ten five (105) feet~~ percent of the width of the site, subject to the following exceptions: except where immediately abutting an R1-10 District, in which case the side yard shall be ten (10) feet.

1. —~~On a corner lot in an OA-1 District, the minimum width of the side yard adjoining the street shall be twenty (20) feet.~~

2. —~~On a corner lot in an OA-4.5 District, the minimum width of the side yard adjoining the street shall be ten (10) feet.~~

~~B. Five feet shall be added to each minimum side yard for each story above the first story or for each ten (10) feet of height, or fraction thereof, above the lowest twelve (12) feet of the height of the structure, whichever requires the lesser addition.~~

(Prior code § 10-2.1406)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.110 Rear yard (OA-1 and OA-4.5).

The minimum depth of rear yards shall be twenty-five (25) feet except where the rear yard abuts on an alley, the minimum depth of the rear yard shall be ten (10) feet. One-story garages, carports, and other accessory structures may be located in the required rear yard provided not more than twenty (20) percent of the area of the required rear yard shall be covered by structures. ~~Where the property abuts an alley, no structure shall be permitted in the rear yard.~~

(Prior code § 10-2.1407)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.120 Off-street parking (OA-1 and OA-4.5).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1408)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.130 Height of structures (OA-1 and OA-4.5).

~~The maximum height of structures shall be two stories or thirty (30) feet, whichever is the lesser. This shall not preclude a basement.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.
- b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.
- c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and two (2) stories.

(Prior code § 10-2.1409)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.140 Screening and landscaping (OA-1 and OA-4.5).

- A. ~~To ensure privacy, screen unsightliness, and insulate against noise, adequate screening shall be provided where the site of a professional or administrative office adjoins a dwelling in an R1-10 District, a vacant site in an R1-10 District, or R1-10 structures in a planned unit development. In OA-1 Districts such screening shall be at least ten (10) feet wide where abutting the R1-10 District.~~
- B. ~~The screening required by this section shall consist of masonry walls, board fences, compact evergreen hedges, or any combination of such elements which may be found appropriate by the building and planning department.~~
- C. ~~On sites of professional or administrative offices, the required front yard, the required rear yard on a double frontage lot, and the required side yard on the street side of a corner lot shall be landscaped and permanently maintained. All areas in which landscaping is required shall be used exclusively for landscaping purposes.~~

(Prior code § 10-2.1410)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

14.36.150140 Design control (OA-1 and OA-4.5).

~~As provided in Chapter 14.66 of this title and as follows:~~

- A. ~~No structure shall be built or altered including exterior changes in color, materials, and signage except upon approval of the city planner for minor changes and architectural and site approval to be obtained as prescribed in Chapter 14.78 of this title for major changes.~~
- B. ~~Scale. When the location of this district is to a larger region such as the OA-1 District in the El Camino corridor, a mixture of scales may be appropriate with some elements scaled for appreciation from the street and moving automobile and others for appreciation by pedestrians.~~
- ~~In Altos Oaks OA-1 District, elements of design shall retain the low profile residential appearance and surface materials shall only be those which are in keeping with the traditional materials of the district.~~
- C. ~~The proportions of building elements, especially those at ground level, should be kept close to human scale by using recesses, courtyards, entries, or outdoor spaces.~~
- D. ~~The proportions of building elements at a commercial/residential interface shall be designed to protect residential privacy (including but not limited to window placement), daylight, and environmental quality.~~
- E. ~~Rooftop mechanical equipment must be within the height limit and screened architecturally from public view.~~
- F. ~~Firewalls. Consideration should be given to the aesthetic treatment of firewalls including increased side yard setback, contouring the firewall to the building, use of noncombustible roofing materials, and creative use of architectural features in the firewall.~~
- G. ~~Presentation materials. Graphics presented to the architectural and site control committee and planning commission to explain the character of a proposed development shall be adequate to show neighboring buildings and important features of adjacent sites in sufficient detail to enable evaluation~~

of the relationship of the proposed development to its context. Evaluations facing the public street shall be drawn at a scale of ¼" = 1' 0".

(Amended during 2/06 supplement; prior code § 10-2.1411)

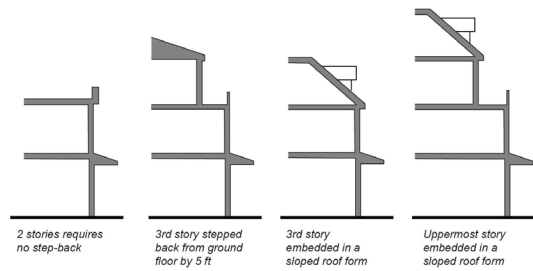
A. Building Placement. A minimum seventy-five (75) percent of ground-floor building frontages must be built at the minimum setback line. This standard applies to the building frontage only (exclusive of side setbacks).

B. Building Massing and Articulation.

1. Upper-story Step-backs, Front and Street Side.

a. Along all frontages, the third story must be either stepped back a minimum five feet from the ground floor façade or embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers.

b. For buildings over three stories along all frontages, the uppermost story must be embedded in a sloped roof form.



2. Upper Story Step-backs, Side Interior and Rear where Abutting an R-1 District.

a. The third story must be either stepped back a minimum five (5) feet from ground floor façade or embedded in a sloped roof form.

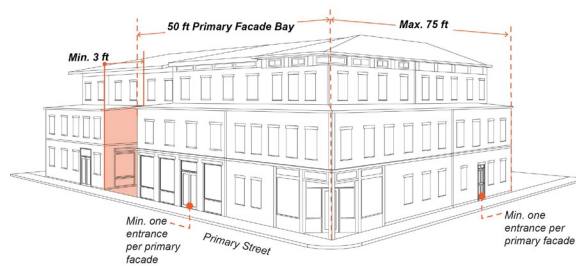
b. For buildings over three stories, the uppermost story must be embedded in a sloped roof form.

3. Vertical Articulation.

a. When a building façade exceeds seventy-five (75) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.

b. A minimum one entrance shall be provided per primary façade bay.

c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.

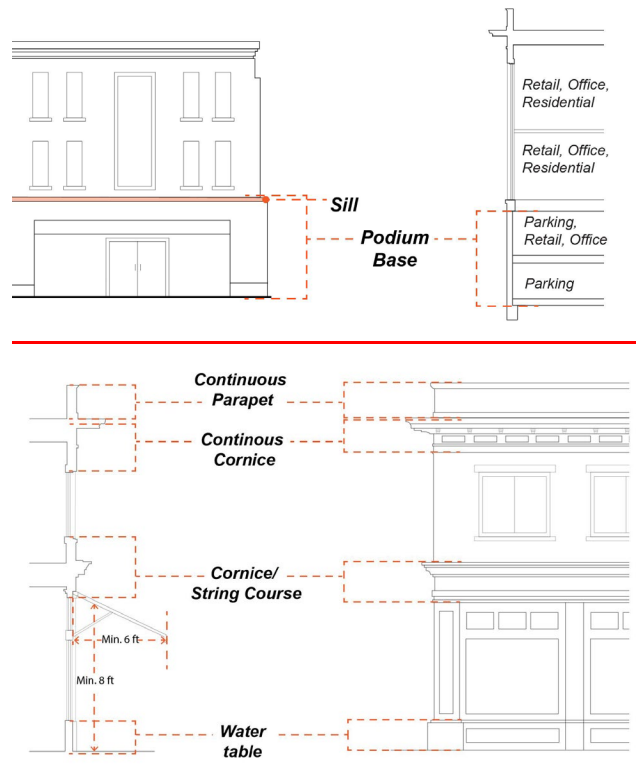


4. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

a. One or more of the following patterns shall be used to define the base:

- i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
- ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
- iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).

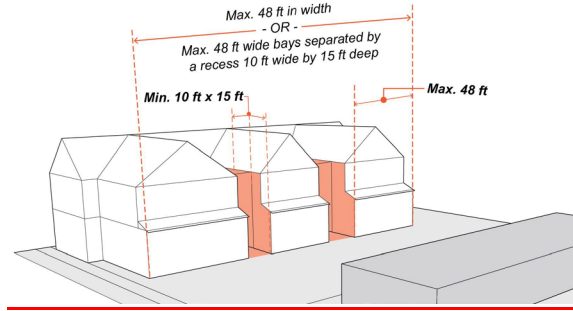
b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other similar elements. These elements shall be consistent with the overall architectural style of the building mass/bay.



5. Adjacencies.

a. Façades adjacent to an R-1 District.

- i. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
- ii. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess ten (10) feet wide and fifteen (15) feet deep.



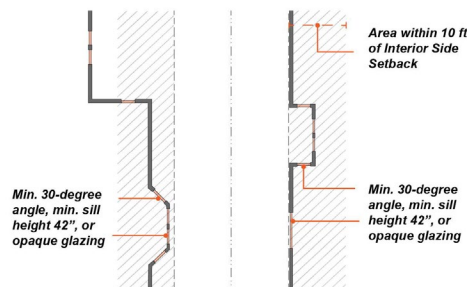
b. Storefront Façades Adjacent to Storefront Façades.

- i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.**
- ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.**
- iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.**



6. Privacy and Line of Sight.

- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.**
- b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.**



7. Roofline and Roof Design.

- a. Roof designs shall be limited to:**
 - i. Hipped.**

ii. Gable.

iii. Shed.

iv. Dormer.

v. Parapet.

(a) Not allowed on frontages facing R-1 District.

(b) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:

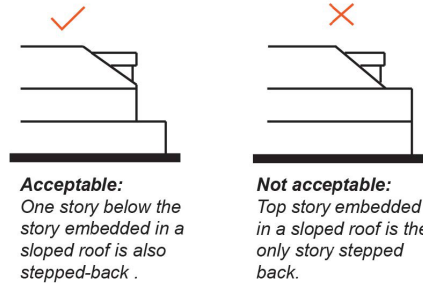
(1) Steps.

(2) Curves.

(3) Angled surfaces.

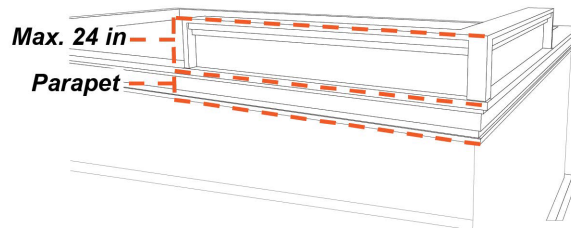
(c) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.

b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.

d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.



C. Building Design.

1. Façade Design.

a. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually

expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

- b. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
- c. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
- d. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.

2. Pedestrian-Scaled Entrances.

a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.

- i. Stoop.
- ii. Dooryard.
- iii. Shopfront.

(a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.

- iv. Gallery.
- v. Arcade.
- vi. Forecourt.

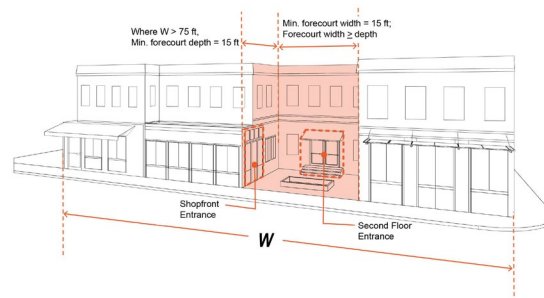
(a) Forecourts must feature at least one entry to a shop and/or second floor use.

(b) Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.

(c) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).

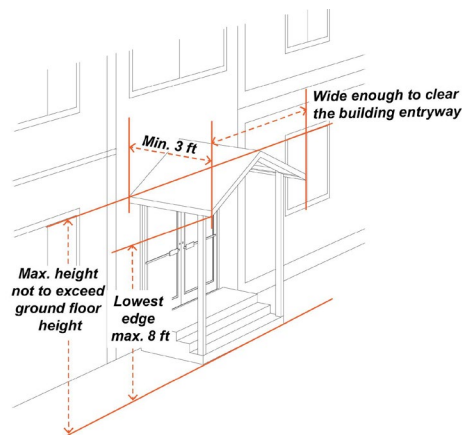
(d) Forecourt must be enclosed on at least three sides by buildings.

(e) Forecourt must remain open to the sky (arbors and trellises are allowed).

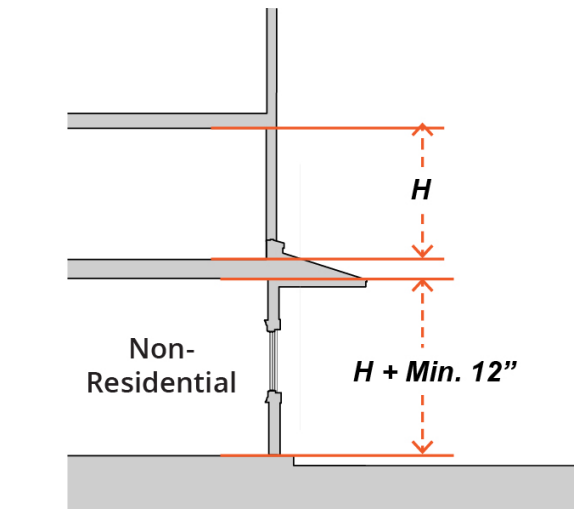


b. Primary Entrance Location(s). The building entrance shall be located along the primary right-of-way.

- c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
- i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
- i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
3. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling.



4. Interior Courtyard. Interior courtyards must be:
 - a. Enclosed on at least two sides by buildings.
 - b. Open to the sky (arbors and trellises are allowed).
 - c. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.

5. Paseos. Paseos must be:

- a. A minimum width of ten (10) feet for through-block paseos.
- b. A minimum width of four feet for entries to courtyards or individual single businesses.

D. Window Design.

1. Window frames, backbands, and sills.

- a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.

2. Vinyl windows are prohibited on façades visible from a right-of-way.

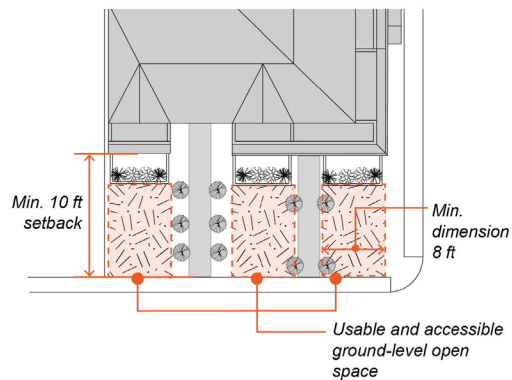
3. Tinted glass is not allowed.

E. Building Materials.

1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:

- a. Stucco (minimum two-coat stucco);
- b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.

- iii. Vinyl and aluminum not permitted.
 - c. Stone.
 - d. Brick.
- 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile (for bulkheads below display windows and decorative accents only).
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- F. Ground Level Open Space. Where any required front, rear, or side yard setback is ten (10) feet or greater, on-site ground-level open space shall be provided within the setback.
 - 1. The ground level open space shall be usable and accessible.
 - 2. The minimum dimension for ground level open space shall be eight feet.



- G. Landscaping, Paving and Pedestrian Amenities.
 - 1. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.

c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.

2. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

H. Site Circulation and Access.

1. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.

2. Bicycle racks shall be provided:

a. In or within fifty (50) feet of every parking area; and

b. Within twenty (20) feet of at least one building entrance.

I. Service Areas and Screening.

1. Service areas must be located at the rear of lot.

2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

~~14.36.160 Signs (OA-1 and OA-4.5).~~

~~(As provided in Chapter 14.68 of this code.)~~

~~(Prior code § 10-2.1412)~~

~~(Ord. No. 2015-406 , § 5, 2-10-2015; Ord. No. 2015-413, § 12, 9-8-2015)~~

~~Note(s)—See the editor's note to § 14.36.050.~~

~~14.36.170 Fences (OA-1 and OA-4.5).~~

~~(As provided in Chapter 14.72 of this title.)~~

~~(Prior code § 10-2.1413)~~

~~(Ord. No. 2015-406 , § 5, 2-10-2015)~~

~~Note(s)—See the editor's note to § 14.36.050.~~

14.36.180~~150~~ Nonconforming use regulations (OA-1 and OA-4.5).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.1414)

(Ord. No. 2015-406 , § 5, 2-10-2015)

Note(s)—See the editor's note to § 14.36.050.

Chapter 14.50 CT COMMERCIAL THOROUGHFARE DISTRICT*

Sections:

14.50.010 CT District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 of this title shall apply in the CT District.

(Ord. 04-259 § 1 (part))

14.50.020 Specific purposes (CT).

Specific purposes for CT Districts are as follows:

- A. To encourage a variety of residential developments, including affordable housing development;
- B. To promote the economic and commercial success of Los Altos;
- C. To encourage aggregation of parcels;
- D. To buffer the impacts of commercial and multi-family land uses on neighboring residential properties;
- E. To emphasize a healthy proportion of retail uses as opposed to office and service uses; and
- F. To allow for mixed uses of commercial and residential

(Ord. 04-259 § 1 (part))

Ord. No. 2017-436 , § 1, 10-10-2017)

14.50.030 Permitted uses (CT).

The following uses shall be permitted in the CT District:

- A. Professional and office-administrative services;
- B. Restaurants, excluding drive-through facilities;
- C. Retail and personal services;
- ~~D.~~ D. Residential Only Development(s);
- ~~E.~~ E. Mixed Use Development(s);
- ~~F.~~ F. Single Room Occupancy (SRO) Housing;
- ~~D-G.~~ Emergency shelters; and
- ~~E-H.~~ E-H. Uses which are determined by the city planner Zoning Administrator to be of the same general character.

(Ord. 05-280 § 8 (part): Ord. 04-259 § 1 (part))

(Ord. No. 2015-406 , § 2, 2-10-2015; Ord. No. 2015-408 , § 2, 6-9-2015)

14.50.040 Conditional uses (CT).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CT District:

- A. Animal clinics, hospitals, and kennels;
- B. Business, professional, and trade schools;
- ~~C. Cocktail lounges;~~
- ~~D.C.~~ Commercial recreation;
- ~~E.D.~~ Day care centers;
- ~~F.E.~~ Hotels and motels;
- ~~G.F.~~ Medical and dental clinics;
- ~~H. Medical and dental offices that are five thousand (5,000) gross square feet or more;~~
- ~~I. Mixed-use projects, including a combination of multiple family dwelling units and nonresidential uses;~~
- ~~J.G.~~ Mortuaries;
- ~~K. Multiple family housing;~~
- ~~L.H.~~ Pet shops;
- ~~M.I.~~ Printing shops;
- ~~N. Single-room occupancy housing;~~
- ~~O.J.~~ Upholstery shops; and
- ~~P.K.~~ Uses which are determined by the planning commission ~~and the city council~~ to be of the same general character.

(Ord. 05-280 § 8 (part); Ord. 04-259 § 1 (part))

(Ord. No. 2015-406 , §§ 3, 4, 2-10-2015; Ord. No. 2015-409 , § 2, 6-9-2015)

14.50.050 Limited conditional uses (CT).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted except on parcels within fifty (50) feet of an R District:

- A. Automotive display or salesrooms, servicing and repair;
- B. Cabinet and carpenter shops;
- C. Drive-through facilities, including car washes;
- D. Service stations provided the site has at least one hundred (100) feet of frontage on a street with a minimum site area of twenty thousand (20,000) square feet;
- E. Sheet metal shops;
- F. Sign painting shops; and
- G. Theaters and auditoriums.

(Ord. 04-259 § 1 (part))

(Ord. No. 10-348, § 6, 4-13-2010)

14.50.060 Required conditions (CT).

The following conditions shall be required of all uses in the CT District:

- A. All businesses, services, and processes shall be conducted within a completely enclosed structure, except for recycling facilities, parking and loading areas, outdoor dining areas, nurseries, the sale of gasoline and oil at service stations, bus depots, or as permitted under the terms of a permit issued pursuant to Chapter 14.80 of this title.
- B. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- C. No property owner, business owner, or tenant shall permit or allow activities, which violate the requirements of this chapter, including the following general criteria:
 1. General screening standard. Every development shall provide sufficient screening to reasonably protect the privacy, safety, and environment of neighboring residential properties and shield them from adverse external effects of that development.

Walls up to twelve (12) feet in height shall be required for the purpose of attenuating noise, odor, air pollution, artificial light, mitigation for grade differential between properties, and providing privacy and safety.
 2. Access and screening of refuse collection. Every development will be required to provide suitable space on-site for solid waste separation, collection, storage, and pick up and shall site these in locations that facilitate access, collection, and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way.
 3. Lighting. Lighting within any lot that unnecessarily illuminates any other lot or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting shall be designed to minimize the glare and intensity of external illumination, and to respect the privacy of neighbors by avoiding direct and reflected illumination onto adjacent properties.
 4. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area Air Quality Management District shall comply with applicable state standards concerning air pollution.
 5. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions shall be required except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.
 6. Odors. No use may generate any odor that reasonably may be found objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area Air Quality Management District beyond the boundary occupied by the enterprise generating the odor. All mechanical, venting, and/or exhausting equipment that generates odors shall be located away from residential properties.
 7. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level, when measured on any other

property, either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code. All mechanical, venting, and/or exhausting equipment that generates noise shall be located away from residential properties. Exterior heating, venting, and air-conditioning facilities shall be muffled.

In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height shall be required at a commercial or residential interface.

(Ord. 04-259 § 1 (part))

(Ord. No. 2017-436 , § 1, 10-10-2017)

14.50.070 Site area (CT).

The minimum site area shall be twenty thousand (20,000) square feet. The minimum site frontage shall be seventy-five (75) feet.

(Ord. 04-259 § 1 (part))

14.50.080 Residential density (CT).

~~The maximum permitted residential density shall be thirty-eight (38) dwelling units per net acre of land.~~

No residential density shall be applicable within the Commercial Thoroughfare Zoning District.

(Ord. 04-259 § 1 (part))

14.50.090 Front yard (CT).

The minimum front yard depth shall be twenty-five (25) feet, with a minimum of fifty (50) percent of which shall be landscaped.

(Ord. 04-259 § 1 (part))

14.50.100 Side yards (CT).

~~Side yard width shall average seven feet six inches with a minimum setback of four feet over the length of the wall of the structure at the side yard, except that on a corner lot, the width of the side yard adjoining the street shall average fifteen (15) feet with a minimum setback of four feet. For a property that abuts an R-District (excluding access corridors), the following requirements shall apply:~~

- ~~A. — When the side property line of the site is across a street or alley from property in an R-District, in which instance the minimum width of that side yard shall be thirty (30) feet;~~
- ~~B. — When the side property line of the site abuts on property in an R-District, in which instance the minimum width of that side yard shall be forty (40) feet for any portion of a structure thirty (30) feet or less in height and one hundred (100) feet for any portion of a structure over thirty (30) feet in height;~~
- ~~C. — A minimum twenty (20) foot landscape buffer of evergreen trees and shrubs to provide screening shall be provided, all of which shall be permanently maintained by the property owner. No below grade garage construction or excavation is permitted within this landscape buffer.~~

(Ord. 04-259 § 1 (part))

- a. The minimum interior side yard depth shall be ten (10) feet, with a minimum of fifty (50) percent of which shall be landscaped.
- b. The minimum exterior side yard depth shall be fifteen (15) feet, with a minimum of fifty (50) percent of which shall be landscaped.

(Ord. No. 2017-436 , § 1, 10-10-2017)

14.50.110 Rear yard (CT).

~~No rear yard shall be required, unless the property abuts an R district (excluding access corridors) in which case the following requirements shall apply:~~

- A. ~~When the rear property line of the site is across a street or alley from property in an R-District, the rear yard setback shall be thirty (30) feet for all structures thirty (30) feet or less in height and seventy (70) feet for all structures over thirty (30) feet in height;~~
- B. ~~When the rear property line of the site abuts on property in an R-District, the rear yard setback shall be forty (40) feet for all structures thirty (30) feet or less in height and one hundred (100) feet for all structures over thirty (30) feet in height;~~
- C. ~~A minimum twenty (20) foot landscape buffer of evergreen trees and shrubs to provide screening shall be provided, all of which shall be permanently maintained by the property owner. No below grade garage construction or excavation is permitted within this landscape buffer.~~

The minimum rear yard depth shall be twenty-five (25) feet, with a minimum of fifty (50) percent of which shall be landscaped.

(Ord. 04-259 § 1 (part))

(Ord. No. 10-351, § 1, 5-25-2010)

14.50.120 Off-street parking (CT).

As provided in Chapter 14.74 of this title.

(Ord. 04-259 § 1 (part))

14.50.130 Off-street loading (CT).

As provided in Chapter 14.74 of this title.

(Ord. 04-259 § 1 (part))

14.50.140 Height of structures (CT).

~~No structure shall exceed forty five (45) feet in height. Commercial and mixed use projects that include ground floor commercial floor area shall provide a ground floor with a minimum interior ceiling height of twelve (12) feet.~~

- a. Residential Only Development(s) building height shall be a maximum of fifty-five (55) feet and five (5) stories.
- b. Mixed Use Development(s) building height shall be a maximum of sixty (60) feet and five (5) stories.

(Supp. No. 40, Update 2)

Created: 2023-06-28 07:56:37 [EST]

- c. Non-Residential Use Only Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.

(Ord. 08-323 § 1: Ord. 04-259 § 1 (part))

(Ord. No. 10-351, § 2, 5-25-2010)

14.50.150 Open space (CT).

All multiple-family residential projects, including mixed-use projects with multiple-family dwelling units, except duplexes, shall provide permanently maintained outdoor open space, subject to the following requirements:

- A. Although not required for each dwelling unit, an average of fifty (50) square feet of private open space shall be provided for the total number of dwelling units within a project.
- B. Any private open space provided shall be at the same level and immediately accessible from the unit it serves. The provision of private open space shall not reduce the common open space requirements of this section.
- C. Depending on the number of dwelling units in a multiple-family project, common open space shall be provided to meet the following criteria:
 1. Two to ten (10) units: a minimum of eight hundred (800) square feet of common open space shall be provided.
 2. Eleven (11) to twenty-five (25) units: a minimum of one thousand six hundred (1,600) square feet of common open space shall be provided.
 3. Twenty-six (26) to fifty (50) units: a minimum of two thousand four hundred (2,400) square feet of common open space shall be provided.
 4. Fifty-one (51) or more units: a minimum of three thousand two hundred (3,200) square feet of common open space shall be provided.
- D. Common open space areas:
 1. Shall be designed to be easily accessible and shall be available for passive and active outdoor recreational purposes for the enjoyment of all residents of the project;
 2. Shall be provided as continuous, usable site elements of sufficient size to be usable by residents that may be within the rear yard setback;
 3. Shall not include driveways, public or private streets, or utility easements where the ground surface cannot be used appropriately for open space.
 4. Common open space areas shall be surfaced with any practical combination of landscaping, paving, decking, concrete, or other serviceable material with no more than fifty (50) percent of the area at grade level covered with a non-permeable surface.
- E. Required common open space shall be controlled and permanently maintained by the owner of the property or by a homeowners' association. Provisions for control and maintenance shall be included in any property covenants of common interest developments.

(Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—Ord. No. 2017-436 § 1, adopted October 10, 2017, enacted new provisions set out as §§ 14.50.150, 14.50.160, and 14.50.180, and subsequently renumbered former §§ 14.50.150 through 14.50.180

as 14.50.170 and 14.50.190 through 14.50.210. Historical notation to the former sections have been retained for reference purposes.

14.50.160 Rooftop uses (CT).

Rooftop activities or uses are permitted within the perimeter walls of a structure that meet all setback standards provided also that any such activities or uses are accessory to the principal use or uses of the development, and provided further, activities shall comply with the following performance standards:

- A. No use shall be established or activity conducted that violates the noise standards and limits identified in Chapter 6.16, Noise Control, of the Municipal Code.
- B. No activity shall be conducted which causes ground vibrations perceptible at the property line.
- C. No lighting or illuminated device shall be operated so as to create glare which creates a hazard or nuisance on other properties.
- D. No use or activity shall be conducted without first obtaining any required permit from the county air pollution control district. Uses shall be conducted to prevent dust or other airborne material from crossing property lines.
- E. Solid wastes shall be handled and stored so as to prevent nuisances, health and fire hazards, and to facilitate recycling. Suitable containers shall be provided to prevent blowing or scattering of trash and screened by an enclosure. Suitable concealed space and containers shall be provided at the roof top to encourage the appropriate sorting and collection of discarded materials.
- F. No use may generate any odor that reasonably may be found objectionable as determined by an appropriate agency such as the Santa Clara County Health Department and the Bay Area Air Quality Management District beyond the boundary occupied by the enterprise generating the odor. All mechanical, venting, and/or exhausting equipment that generates odors shall be located away from residential properties.
- G. The use of conventional energy sources for space heating and cooling, water heating, and illumination shall be minimized by means of proper design and orientation, including provision and protection of solar exposure.
- H. These performance standards are general requirements and shall not be construed to prevent the council, boards or commission with review authority or staff from imposing, as part of project approval, specific conditions which may be more restrictive, in order to meet the intent of these regulations.

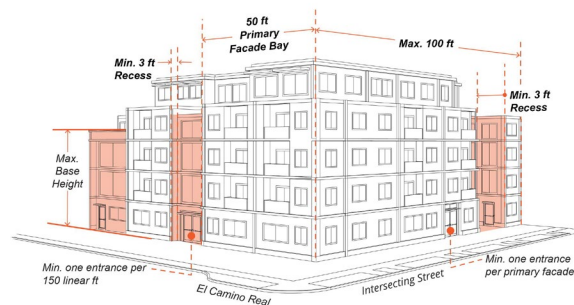
(Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—See Editor's Note § 14.50.150.

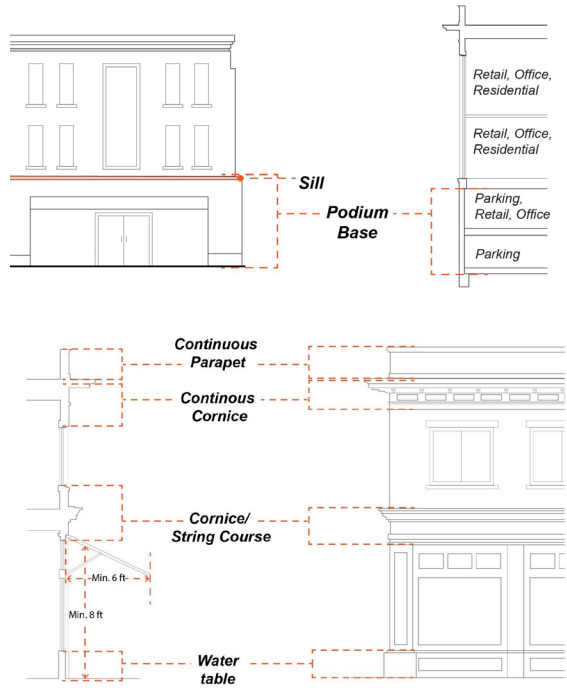
14.50.170 Design control (CT).

- A. **Building Placement.** A minimum seventy-five (75) percent of ground-floor building frontages facing El Camino Real must be built at the minimum setback line. This standard applies to the building frontage only (exclusive of side setbacks).
- B. **Building Massing and Articulation.**
 - 1. **Upper-story Step-backs.**

- a. Front: Minimum ten (10) feet from ground floor façade for stories above forty-five (45) feet in height.
 - b. Street Side: Minimum ten (10) feet from ground floor façade for stories above forty-five (45) feet in height.
2. Vertical Articulation.
- a. When a building façade exceeds one hundred (100) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.
 - b. A minimum one entrance shall be provided per one hundred fifty (150) linear feet along El Camino Real and per primary façade bay along all other rights-of-way.
 - c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



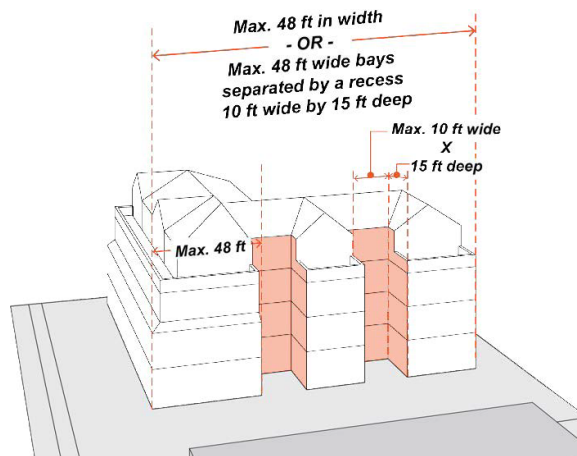
3. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
 - iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
 - b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.50.170.B.6. These elements shall be consistent with the overall architectural style of the building mass/bay.



4. Adjacencies.

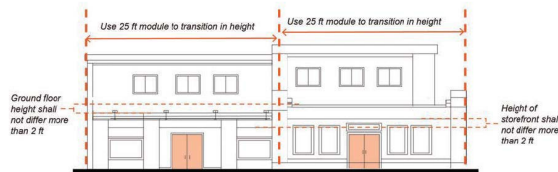
a. Façades Adjacent to an R-1 District.

- i. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
- ii. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess ten (10) feet wide and fifteen (15) feet deep.
- iii. Balconies, roof decks and other habitable outdoor space are not allowed on upper-story façades abutting R-1 zones.
- iv. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.



b. Storefront Façades Adjacent to Storefront Façades.

- i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
- ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
- iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.

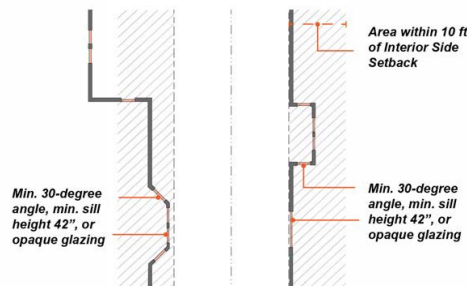


c. Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More. When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:

- i. Incorporate the uppermost floor into the roof form.
- ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
- iii. Match window heights and/or proportions.
- iv. Relate roof cornices and moldings at floor lines.

5. Privacy and Line of Sight.

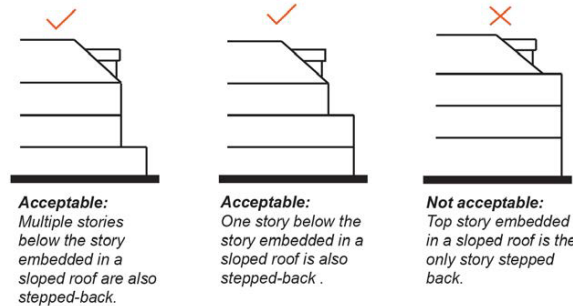
- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
- b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
- c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.



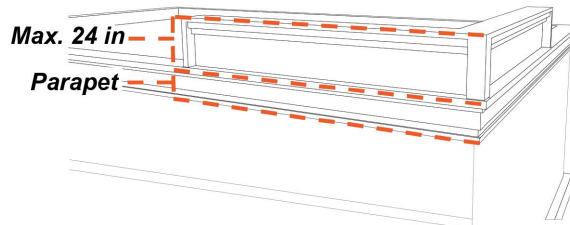
6. Roofline and Roof Design.

- a. Roof designs shall be limited to:
 - i. Hipped.

- ii. Gable.
- iii. Shed.
- iv. Dormer.
- v. Parapet.
 - (a) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (b) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.



- b. When the top story is stepped back and embedded in a sloped roof form, the floor below must (and other floors may) be stepped back to meet the slope of the top story.
- c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.
- d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.

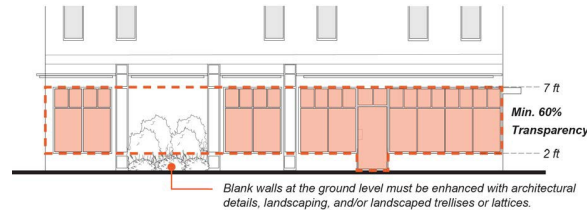


C. Building Design.

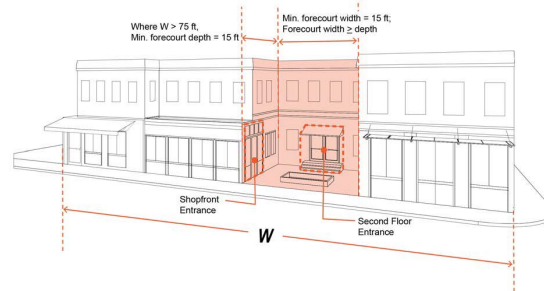
1. Façade Design.

- a. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

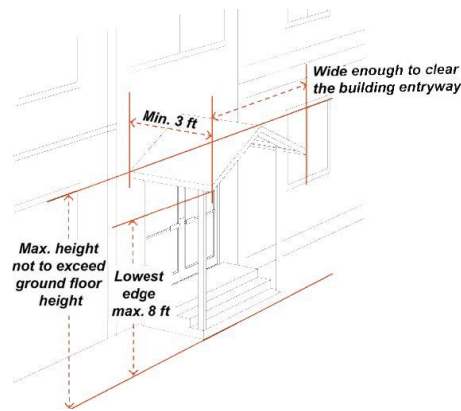
- b. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
 - c. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
 - d. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
2. Ground Level Transparency. A minimum sixty (60) percent of commercial ground floor street-facing façades between two and seven feet in height shall be transparent window surface. Opaque, reflective, or dark tinted glass is not allowed.



3. Pedestrian-Scaled Entrances.
- a. Buildings more than seventy (70) feet in length along a right-of-way must incorporate at least one forecourt frontage on the right-of-way-facing façade. Required forecourts must also comply with the standards of Section 14.50.170.C.3.b.v. below.
 - b. Each street-facing building façade must incorporate at one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Stoop.
 - ii. Shopfront.
 - (a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.
 - iii. Gallery.
 - iv. Arcade.
 - v. Forecourt.
 - (a) Forecourts must feature at least one entry to a shop and/or second floor use.
 - (b) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).
 - (c) Forecourt must be minimum fifteen (15) feet in width.
 - (d) Forecourt must be enclosed on at least three sides by buildings.
 - (e) Forecourt must remain open to the sky (arbors and trellises are allowed).



- vi. Terrace.
- c. Primary Entrance Location(s). Locate primary entrance on the front right-of-way.
- d. Individual Entries. Ground floor residential units facing a street must provide individual entries along the street frontage.
- e. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- f. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- g. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
 - i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.

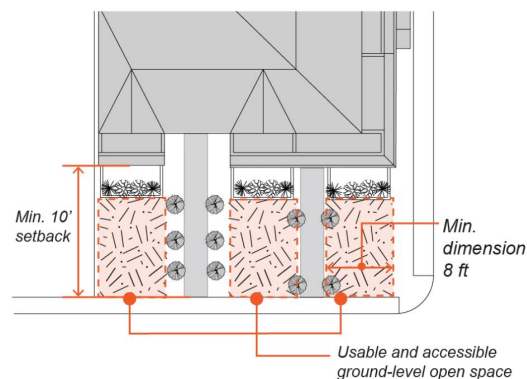


- h. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
4. Ground Floor Floor-to-Ceiling Height.
- Minimum twenty-four (24) inches taller than typical upper floor floor-to-ceiling height where ground floor is non-residential.
 - Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling where ground floor is residential.



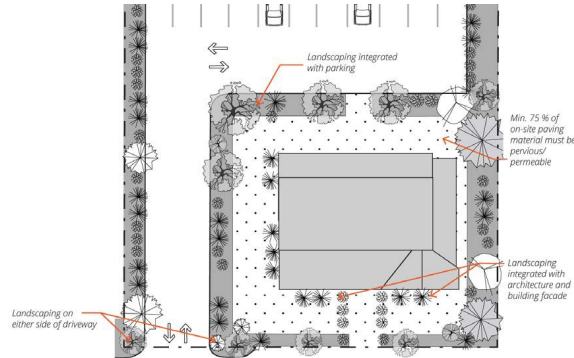
5. Interior Courtyard. Interior courtyards must be:
- Partially visible from the street and linked to the street by a clear accessible path of travel.
 - Enclosed on at least two sides by buildings.
 - Open to the sky (arbors and trellises are allowed).
 - A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
6. Paseos. Paseos must be:
- A minimum width of ten (10) feet for through-block paseos.
 - A minimum width of four feet for entries to courtyards or individual single businesses.
- D. Window Design. Vinyl windows are prohibited on façades visible from a right-of-way.
- E. Building Materials.
- Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - Siding (lap, vertical, panelized, or shingle).
 - All siding shall be wood, composite wood, or cement fiberboard.

- ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
- c. Stone.
- d. Brick.
- e. Concrete (board-form only).
- 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile.
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- 3. On attached elements, such as bay windows, orioles, and balconies.
- F. Ground Level Open Space. Where any required front, rear, or side yard setback is ten (10) feet or greater, on-site ground-level open space shall be provided within the setback.
 - 1. The ground level open space shall be usable and accessible.
 - 2. The minimum dimension for ground level open space shall be eight feet.



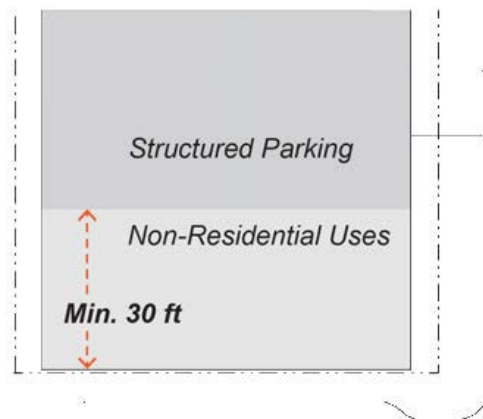
- G. Landscaping and Paving.

1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
2. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.
3. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

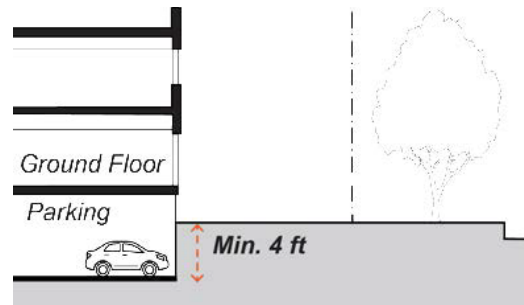


H. Parking Design and Access.

1. Where structured parking is provided, the parking area must be either:
 - a. "Lined" with ground-floor non-residential uses at least thirty (30) feet deep as measured from the front façade; or



- b. Designed such that the floor elevation is a minimum four vertical feet below the elevation of the adjacent sidewalk.



2. Visible structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular punched openings designed to resemble windows of habitable spaces.
 - b. Trellis/living wall.
 - c. Custom textured or decorative screening.
3. Entrances to Parking Facilities.
 - a. A maximum of two curb cuts for one-way traffic and one curb cut for two-way traffic may be permitted per street frontage per lot.
 - b. Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum ten (10) feet from the back of sidewalk.
 - c. Entrances to parking facilities along a street frontage shall be separated by a minimum of sixty (60) feet.
 - d. Where possible, curb cuts serving adjacent parking facilities shall be shared.
- I. Site Circulation and Access.
 1. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 2. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.
- J. Service Areas and Screening.
 1. Service areas must be located at the rear of lot.
 2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.
- K. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CT District.

(Ord. 04-259 § 1 (part))

(Ord. No. 2017-436 , § 1, 10-10-2017; Ord. No. 2021-478 , § 1, 9-14-2021)

Editor's note(s)—See Editor's Note § 14.50.150.

14.50.180 Off-street loading for residential (CT).

In order to accommodate the delivery or shipping of goods at a multiple-family residential project, on-site loading/unloading space shall be provided:

- A. There shall be at least one loading/unloading space provided, which shall have minimum dimensions of at least ten (10) feet by twenty-five (25) feet, with fourteen (14) feet of vertical clearance;
- B. Loading and unloading spaces shall be located and designed so that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way without interfering with the orderly movement of traffic and pedestrians on any public way and complete the loading and unloading operations without obstructing or interfering with any parking space or parking lot aisle;
- C. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any of off-street parking area be used to satisfy the area requirements for loading and unloading facilities;
- D. A loading/unloading space may be located in the front yard setback, but shall comply with other required setbacks;
- F. All loading spaces shall be designed and maintained so that vehicles do not back in from, or onto, a public street;
- G. Loading spaces shall be striped indicating the loading spaces and identifying the spaces for "loading only." The striping shall be permanently maintained by the property owner/tenant in a clear and visible manner at all times; and
- H. Adequate signage shall be provided that directs delivery vehicles to the loading space.

(Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—See Editor's Note § 14.50.150.

14.50.190 Signs (CT).

As provided in Chapter 14.68 of this code.

(Ord. 04-259 § 1 (part); Ord. No. 2015-414, § 12, 9-8-2015; Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—See Editor's Note § 14.50.150.

14.50.200 Fences (CT).

As provided in Chapter 14.72 of this title.

(Ord. 04-259 § 1 (part))

(Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—See Editor's Note § 14.50.150.

14.50.210 Nonconforming use regulations (CT).

As provided in Chapter 14.66 of this title.

(Ord. 04-259 § 1 (part))

(Ord. No. 2017-436 , § 1, 10-10-2017)

Editor's note(s)—See Editor's Note § 14.50.150.

CHAPTER 14.63 – SPECIALIZED HOUSING REGULATIONS

Article 1. Supportive and Transitional Housing

Section 14.63.010 – Purpose

The purpose of this Section is to establish provisions for the review of supportive and transitional housing. The established provisions of this chapter shall allow for all proposed supportive and transitional housing to be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses.

Section 14.63.020 – Definitions

“Supportive housing” shall mean a housing development project as defined in Government Code section 65582(g), as may be amended or renumbered from time to time, as being housing with no limit on length of stay, that is occupied by the target population, and that is linked to an on-site or off-site service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use and is subject to only those restrictions that apply to other residential uses of the same type in the same zone. “Target population” means persons with low incomes who have one or more disabilities as described in section 65582(i) of the Government Code.

“Transitional housing” shall mean a housing development project as defined in Government Code section 65582(j), as may be amended or renumbered from time to time, as being building(s) configured as a rental housing development, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance. Transitional housing is a residential use and is subject to only those restrictions that apply to other residential uses of the same type in the same zone.

Section 14.63.030 – Allowed Zoning

The districts established by this section shall allow supportive and transitional housing and are designated as follows:

- Multiple-Family District (R3-4.5)
- Multiple-Family District (R3-5)
- Multiple-Family District (R3-3)
- Multiple-Family District (R3.1.8)
- Multiple-Family District (R3-1)
- Commercial Downtown/Multiple-Family District (CD/R3)
- Commercial Thoroughfare District (CT)

Section 14.63.040 – Development Standards

Development Standards shall be the same for supportive and transitional housing as they are for any residential housing development located within the zoning district. Additional standards specific for supportive and transitional housing developments are as follows:

- A. Units within the development are subject to a recorded affordability restriction for fifty-five (55) years.
- B. One hundred percent (100%) of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income residents. For purposes of this paragraph, "lower income households" has the same meaning as defined in section 50079.5 of the Health and Safety Code.
- C. At least twenty-five percent (25%) of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet the criteria of the target population. If the development consists of fewer than 12 units, then one hundred percent (100%) of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.
- D. The developer provides the planning agency with the information required by Section 65652 of the Government Code.
- E. Nonresidential floor area shall be used for onsite supportive services in the following amounts:
 - 1. For a development with twenty (20) or fewer total units, at least 90 square feet shall be provided for onsite supportive services.
 - 2. For a development with more than twenty (20) units, at least three percent (3%) of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.
- F. The developer replaces any dwelling units on the site of the supportive housing development in the manner provided in paragraph (3) of subdivision (c) of Section 65915 of the Government Code.
- G. Units within the development, excluding managers' units, include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- H. Parking.
 - 1. Parking stall requirement shall be one-half (0.5) per unit and one (1) for each onsite management/staff.
 - 2. No Parking shall be required within one half mile of a public transit stop.

Section 14.63.050 – Application Review

- 1. The Development Services Department shall notify the project applicant whether the application is complete within thirty (30) days of receipt of an application.
- 2. After the application is deemed complete, the Development Services Department shall complete its review of the application within sixty (60) days for projects of fifty (50) or

fewer units and one hundred and twenty (120) days for projects of fifty-one (51) and greater.

Article 2. Low-Barrier Navigation Center

Section 14.63.060 – Purpose

The purpose of this chapter is to establish development standards for low-barrier navigation centers and to ensure this use is constructed and operated in a manner that is consistent with the requirements and allowances of state law, specifically Article 12 of Chapter 3 of Division 1 of Planning and Zoning Law commencing with Government Code Section 65660.

Section 14.63.070 – Definitions

“Low-barrier navigation center” means a housing-first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low barrier” means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

1. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
2. Pets.
3. The storage of possessions.
4. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

Section 14.63.080 – Applicability & Review

The provisions of this chapter shall apply to all low-barrier navigation center projects.

The permit shall be a ministerial action without discretionary review or a hearing. The city will notify a developer whether the developer’s application is complete within 30 days, pursuant to Government Code section 65943. Action shall be taken within 60 days of a complete application being filed.

Section 14.63.090 – Permit Required

A planning permit is required prior to the establishment of any low-barrier navigation center project meeting the following criteria:

1. It offers services to connect people to permanent housing through a services plan that identifies services staffing.
2. It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January

1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

3. It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
4. It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

14.63.100 – Allowed Zoning

The districts established by this Section shall allow low-barrier navigation centers and are designated as follows:

Commercial Downtown/Multiple-Family District (CD/R3)
 Commercial Neighborhood District (CN)
 Commercial Downtown District (CD)
 Commercial Retail Sales District (CRS)
 Commercial Thoroughfare District (CT)
 Commercial Retail Sales/Office District (CRS/OAD)

14.63.110 – Development Standards

All low-barrier navigation center development shall meet the following requirements:

- A. **Connected Services.** It offers services to connect people to permanent housing through a services plan that identifies services staffing.
- B. **Coordinated Entry System.** It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
- C. **Code Compliant.** It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
- D. **Homeless Management Information System.** It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

Article 3. Reasonable Accommodation

Section 14.63.120 – Purpose

The purpose of reasonable accommodations is to provide provisions in accordance with federal and state fair housing laws (42 USC § 3600 et seq. and Government Code §§ 65008 and 12900 et seq., together referred to as “Fair Housing Laws”) for persons with disabilities seeking fair access

to housing in the application of the city's zoning laws. The term “disability” as used in this article shall have the same meaning as the term’s “disability”, “handicapped”, or similar terms, as defined in the Fair Housing Laws, as may be amended from time to time. The purpose of this article is to establish the procedure by which a request for a reasonable accommodation shall be made and processed.

Section 14.63.130 – Applicability

- A. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice, or procedure acts as a barrier to housing opportunities.
- B. A request for reasonable accommodation may include a modification or exception to the rules, standards, development, and use of housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity for the housing of their choice.
- C. A request for reasonable accommodation in regulations, policies, practices, and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. Reasonable accommodation does not affect the obligations of an individual or a developer of housing for an individual with disabilities to comply with other applicable regulations not necessary to achieve the purposes set forth in paragraph (B).
- D. If a request for reasonable accommodation is granted, the request shall be granted to an individual and shall not run with the land unless it is determined that (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with applicable city or state codes, or (2) the accommodation is to be used by another individual with a disability.

Section 14.63.140 – Request for Reasonable Accommodation

- A. Application for a request for reasonable accommodation shall be made in writing on a form provided by the Development Services Department. The form shall be signed by the property owner or authorized agent. The application shall state the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans and all other materials as specified by the Development Services Director. The application shall include the zoning, land use and/or building code provision, regulation, policy or practice from which modification or exception for reasonable accommodation is being requested, including an explanation of how application of the existing zoning, land use or building code provision, regulation, policy or practice would preclude the provision of reasonable accommodation, along with documentation that demonstrates the reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- B. If any information provided is identified by an applicant as confidential then the city shall endeavor to withhold that information from copying and inspection by members of the public, to the extent reasonably determined by the city to be authorized or required by applicable law, including Government Code sections 7926.000 to 7926.500 and 7927.705, and Section 1 of Article 1 of the California Constitution.

Section 14.63.150 – Review Authority and Procedure

- A. Within 60 days of receipt of a completed application, the Development Services Director, or designee, shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation, and the modification or revocation thereof in compliance with this chapter. The request shall be processed independently of any other required development permits. However, approval of reasonable accommodation may be conditioned upon approval of other related permits.
- B. The filing of an application for request for reasonable accommodation shall not require public notice.
- C. If necessary to reach a determination on the request for reasonable accommodation, the Development Services Director, or designee, may request further information from the applicant consistent with Fair Housing Laws, specifying in detail the information that is required.
- D. The decision on a request for reasonable accommodation shall be final and not appealable.

Section 14.63.160 – Findings

- A. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Fair Housing Laws and shall be based on consideration of the following factors:
 1. The housing which is the subject of the request for reasonable accommodation will be occupied by an individual, or individuals, with a disability protected under Fair Housing Laws;
 2. The requested accommodation is necessary to make specific housing available and/or accessible to an individual with a disability protected under the Fair Housing Laws;
 3. The requested accommodation would not impose an undue financial or administrative burden on the City; and
 4. The requested accommodation would not require a fundamental alteration in the nature of the city’s land use and zoning and building regulations, policies, practices, and procedures.
- B. In granting a request for reasonable accommodation, the Development Services Director, or designee may impose any conditions of approval deemed reasonably necessary to ensure that the reasonable accommodation would comply with the findings required above.

Article 4. Qualified Employee Housing

Section 14.63.180 – Purpose

The Employee Housing Act allows for flexibility in housing types for employee housing, including conventional and nonconventional structures, such as: living quarters, boardinghouse, tent, bunkhouse, mobilehome, manufactured home, recreational vehicle, and travel trailers. The laws and regulations governing these structures depend on the housing type; however, all qualified employee housing must comply with: the Employee Housing Act (Health and Safety Code Section 17000 et seq.) and the Employee Housing Regulations (California Code of Regulations Title 25, Division 1, Chapter 1, Subchapter 3—Employee Housing), which outline specific requirements

for the construction of housing, maintenance of grounds, buildings, sleeping space and facilities, sanitation and heating; and the provisions of this section.

Section 14.63.190 – Definitions

“Qualified employee housing” means employee housing defined in Health & Safety Code section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Health & Safety Code section 50101. Any housing development project approved pursuant to Health & Safety Code section 17021.8 is also “qualified employee housing,” and shall be a permitted use notwithstanding anything to the contrary in this code.

Section 14.63.200 – Review Authority and Procedure

- A. Qualified employee housing for seven (7) or more employees shall be considered an agricultural use and shall not require any discretionary approval not required of other agricultural activity in the same zone, provided that:
1. The qualified employee housing should not consist of more than thirty-six (36) beds in a group quarters or twelve (12) units or spaces designed for use by a single family or household.
 2. All temporary or permanent structures that contain qualified employee housing shall meet the setback, lot coverage, height, and other development standards applicable to the zone in which it is located.
 3. Parking shall be provided in accordance with chapters 14.74 and 14.75 of this code, unless the applicant provides substantial evidence demonstrating that the actual parking need is lower, subject to the approval of the Development Services Director.
 4. Qualified employee housing shall comply, as applicable, with the following: (1) Employee Housing Act (California Health and Safety Code Sections 17000—17062); (2) Mobilehome Parks Act (California Health and Safety Code Sections 18200—18700); and Special Occupancy Parks Act (California Health and Safety Code Sections 18860—18874), as may be amended from time to time.
 5. Qualified employee housing shall be reviewed and approved subject to the same requirements as other agricultural uses within the same zone.
 6. If an existing agriculture use does not have any required permit, a permit for both the agricultural use and qualified employee housing must be obtained.
 - a. The property owner shall obtain and maintain any required permit to operate pursuant to Health & Safety Code section 17030 et seq.
 7. The property owner shall: (1) complete and submit to the Development Services Director a verification form no later than thirty (30) days after receiving a permit to operate from HCD; (2) a verification form shall be submitted to the Development Services Director annually to ensure compliance with this Chapter 14.63; and (3) the verification form shall include: information regarding the agricultural use, housing type, number of dwelling units or beds, number of occupants, occupants’ employment information, and proof that a permit to operate has been obtained and maintained.

8. Qualified employee housing – seven or more employees shall be removed or converted to another permitted use at such time as the agricultural activity to which it relates ceases operation for more than twelve (12) consecutive months.
- B. Qualified employee housing providing accommodations for six (6) or fewer employees, pursuant to Health and Safety Code section 17021.5, shall be deemed a single-family dwelling and is allowed in residential zones. Qualified employee housing for six (6) or fewer employees is subject to all municipal codes, regulations, and other standards generally applicable to other residential dwellings of the same type in the same zone.

Article 5. Manufactured Homes and Factory-Built Housing

14.63.200 – General Provisions

The City of Los Altos shall allow the installation of manufactured homes certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code, on lots zoned for conventional single-family residential dwellings. Except with respect to architectural requirements, the city shall only subject the manufactured home and the lot on which it is placed to the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking, aesthetic requirements, and minimum square footage requirements. Any architectural requirements imposed on the manufactured home structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. These architectural requirements may be imposed on manufactured homes even if similar requirements are not imposed on conventional single-family residential dwellings. However, any architectural requirements for roofing and siding material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot. In no case may the city apply any development standards that will have the effect of precluding manufactured homes from being installed as permanent residences.

14.63.210 – Review Authority

Manufactured Homes and Factory-Built Housing shall be reviewed and approved in accordance with the provisions of all single-family housing development within the City of Los Altos.

Article 6. Residential Care Facilities

Section 14.63.220 – Purpose

The purpose of this section is to establish provisions for the review of residential care facilities. The established provisions of this chapter shall allow for all proposed residential care facilities to be a use by right in zones where residential structure(s) and use(s) are allowed or existing at the time this code was established.

Section 14.63.230 – Definitions

“Residential Care Facility” or “Residential Care Facilities” shall be defined consistent with the California Health & Safety Code Section 1502 which may be amended from time to time. The following shall constitute a Residential Care Facility within the City of Los Altos:

1. “Community care facility” means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:
 - a. “Residential facility” means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.
 - b. “Adult day program” means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.
 - c. “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.
 - d. “Foster family agency” means any public agency or private organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care. Private foster family agencies shall be organized and operated on a nonprofit basis.
 - e. “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.
 - f. “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

- g. “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.
- h. “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code.

14.63.240 – Allowed Zoning

The districts established by this section shall allow residential care facilities by-right and are designated as follows:

Single-Family District (R1-10);
Single-Family District (R1-H);
Single-Family District (R1-20);
Single-Family District (R1-40);
Single-Story Single-Family Overlay District (R1-S);
Multiple-Family District (R3-4.5);
Multiple-Family District (R3-5);
Multiple-Family District (R3-3);
Multiple-Family District (R3.1.8);
Multiple-Family District (R3-1);
Office-Administrative District (OA);
Office-Administrative District (OA-1 and OA-4.5);
Commercial Downtown/Multiple-Family District (CD/R3);
Commercial Neighborhood District (CN);
Commercial Downtown District (CD);
Commercial Retail Sales District (CRS);
Commercial Thoroughfare District (CT);
Commercial Retail Sales/Office District (CRS/OAD);
Planned Community (PC);
Planned Unit Development (PUD).

Section 14.63.250 – Permit Required

- A. No Residential Care Facility regardless of size shall require discretionary review to establish use and operation within the City of Los Altos. This provision is only applicable to the allowed use and does not apply to any discretionary review required by other chapters within the code for the establishment or modification of any structure within the City of Los Altos.

- B. Any required building permit shall be obtained from the Development Services Department prior to establishing the use and operation within the City of Los Altos.
- C. Any required license or permit by the California Department of Social Services (CDSS) or the California Department of Health Care Services (DHCS) that is required shall be obtained prior to establishing use and operation within the City of Los Altos.

14.63.260 – Development Standards

All residential care facilities shall meet the standard development standards for the zone in which it is located. No additional or special development standards shall be imposed on any residential care facility.

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS REPEALING IN ITS ENTIRETY THE LOYOLA CORNERS SPECIFIC PLAN, CHAPTER 14.42 OF THE LOS ALTOS MUNICIPAL CODE, AND CITY COUNCIL RESOLUTION NO. 2017-41 AND REINSTATING THE UNDERLYING ZONING DISTRICTS TO ALL EFFECTED PARCELS TO IMPLEMENT PROGRAM 1.E OF THE SIXTH CYCLE HOUSING ELEMENT UPDATE

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on November 14, 2023, and November 28, 2023; and

WHEREAS, Program 1.E of the Housing Element Update calls for Update of the Loyola Corners Specific Plan; and

WHEREAS, Program 1.E of the Housing Element Update requires the City of Los Altos to rescind and revert to underlying zoning districts to facilitate housing production; and

WHEREAS, Program 1.E of the Housing Element Update requires the City of Los Altos repeal all conflicting land use regulations present in the Loyola Corner area; and

WHEREAS, Program 1.E of the Housing Element Update requires the City of Los Altos repeal all land use regulations that are in opposition to Housing law; and

WHEREAS, the City Council repeals in its entirety the Loyola Corners Specific Plan; and

WHEREAS, Upon repeal of the Loyola Corners Specific Plan all effected parcels shall return to the underlying zoning districts as identified on the adopted City of Los Altos Zoning Map; and

WHEREAS, the City Council repeals in its entirety City Council Resolution 2017-41 which enacted development standards which violate the Housing Crisis Act and are not enforceable; and

WHEREAS, the City Council repeals in its entirety Chapter 14.42 – LC/SPZ Loyola Corners Specific Plan Zone District; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 14.42 OF THE MUNICIPAL CODE. Chapter 14.42 of the Los Altos Municipal Code are hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2023, and was thereafter, at a regular meeting held on __, 2023, passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, MMC, CITY CLERK

**APPENDIX A
AMENDMENTS TO CHAPTER 14.42**

Chapter 14.42 ~~RESERVED LC/SPZ LOYOLA CORNERS SPECIFIC PLAN ZONE DISTRICT~~

Sections:

14.42.010 ~~RESERVED FOR FUTURE USE LC/SPZ District.~~

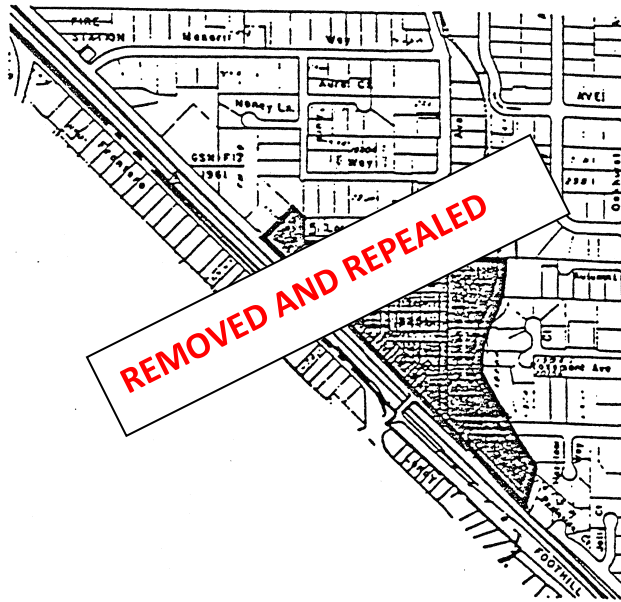
~~The regulations, general provisions, and exceptions set forth in this chapter, Chapter 14.40, and Chapter 14.66 shall apply in the LC/SPZ District. The zoning district regulations implement the Loyola District. The zoning district regulations implement the Loyola Corners neighborhood commercial center specific plan. These district regulations incorporate by reference Chapter 14.40 — Neighborhood Commercial District Regulations except as indicated below. Where a conflict occurs between this chapter and Chapter 14.40, this chapter shall take precedence.~~

~~(Prior code § 10-2.1701)~~

14.42.020 ~~Specific purposes (LC/SPZ).~~

~~Specific purposes for LC/SPZ Districts are as follows:~~

- ~~A. — To maintain a neighborhood convenience commercial orientation supplemented on a limited basis with retail service and office-administrative services uses;~~
- ~~B. — To implement the objectives, policies and commercial center specific plan;~~
- ~~C. — To assist in the re-establishment of business momentum for Loyola Corners;~~
- ~~D. — To protect nearby residents from unreasonable intrusions from the shopping area;~~
- ~~E. — To apply to the area delineated below:~~



(Prior code § 10-2.1702)

(Ord. No. 2015-406, § 2, 2-10-2015)

14.42.030 Limited permitted uses (LC/SPZ).

- A. — Re-establishment of business momentum in the Loyola Corners Neighborhood Commercial Center is important to retain its economic vitality. Long term vacancies can significantly adversely impact the area's success.
- B. — For those properties in the LC/SPC Zoning District a use permit for office use in the above-described area may be permitted for a period of up to ten (10) years to be determined on a case-by-case basis provided the city council can make a positive finding to each of the following issues:
1. — That the space proposed to be occupied by the office use is developed space which has been vacant for the previous twelve (12) months;
 2. — That the property owner has demonstrated to the satisfaction of the city council that during the previous twelve (12) months the space to be occupied has been actively but unsuccessfully marketed as retail space at fair market value;
 3. — That the proposed office is of a type that receives significant clientele visitations;
 4. — That the owner of the proposed office use has agreed to maintain a pedestrian friendly exterior by maintaining visual access into the building interior through windows which are not permanently blocked during business hours; and
 5. — Such use does not significantly remove the area from an ideal cost/benefit ratio of seventy (70) percent retail and thirty (30) percent office which is determined necessary to (i) provide a retail center whose function it is to provide retail services to the surrounding community; (ii) provide a lively, active and diversified shopping experience; and (iii) ensure that a reasonable portion of the commercial activities are generating taxable retail sales.

C. ~~Voluntary discontinuance of the office use shall require conversion of such use to a permitted use, a conditionally permitted use found to meet the criteria of Chapter 14.80 of this title of the Los Altos Municipal Code, or a limited permitted use based on the findings of this section.~~

D. ~~Any request for an extension of time shall be subject to the provisions outlined in Chapter 14.80 of this title.~~
(Prior code § 10-2-1703)

~~14.42.040 Conditional expansion.~~

A. ~~In order to allow moderate expansion to enhance economic vitality, twenty three thousand (23,000) square feet of expansion (over and above the approximately ninety one thousand (91,000) square feet, one hundred ten thousand (110,000) including the Post Office, of existing square feet in December 1990) shall be permitted subject to a use permit pursuant to Chapter 14.80 of this title of the Los Altos Municipal Code. The additional square footage shall be aggregated as follows:~~

- ~~1. New ground level retail fifteen thousand (15,000) square feet;~~
- ~~2. Second level retail service four thousand (4,000) square feet;~~
- ~~3. Second level office use four thousand (4,000) square feet.~~

B. ~~The following definitions apply in allocating space for expansion;~~

- ~~1. Retail stores are commercial establishments which predominantly sell products rather than services, directly to the general public, generally for household use, on a daily basis. Examples include groceries, produce markets, liquor stores, furniture stores, sporting goods and gas stations and other types of establishments which tend to draw other people into the area.~~
- ~~2. Retail services are commercial establishments which predominantly sell services directly to the general public, generally for household use, on a daily basis. Examples include beauty and barber shops, banks, dry cleaners and repair shops.~~
- ~~3. Office administrative services are commercial establishments which predominantly sell to the general public or to businesses and other customers as well. The contact with the general public is not as frequent as with retail services and a significant portion of the business may take place at other locations. Examples include law offices, accountants, medical, advertising and software computer programming.~~

C. ~~This section shall apply to all properties within the Loyola Corners planning area except for those defined in the specific plan as "specific parcels" which have policies contrary to this section, as approved by the city.~~

(Prior code § 10-2-1704)

(Ord. No. 2015-406, § 2, 2-10-2015)

~~14.42.050 Off-street parking (LC/SPZ).~~

~~Not less than one parking space for each three hundred (300) square feet of gross floor area shall be required. Properties whose existing ground floor space is occupied by a nonconforming use shall not be permitted second level office use expansion based upon a parking ratio of one space for each three hundred (300) square feet of gross floor area unless an amount of ground floor space equivalent to the second floor addition is converted to a conforming permitted or conditionally permitted use, unless the nonconforming use is found by the city council to be an undesirable retail location, and there is a parking study from which the city council may determine that on-site parking is adequate.~~

~~(Prior code § 10-2.1705)~~

~~(Ord. No. 10-348, § 9, 4-13-2010)~~

ORDINANCE NO. 2023-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTER 14.88 OF THE LOS ALTOS MUNICIPAL CODE
PERTAINING TO REZONING OF A PARCEL LOCATED AT 4546 EL CAMINO REAL
(APN: 16712042) FROM R1-10 TO COMMERCIAL THOROUGHFARE (CT) AND
REPEALING IN ITS ENTIRETY PLANNED UNIT DEVELOPMENT (62-PUD/C7) TO
IMPLEMENT PROGRAM 1.F REZONE VILLAGE COURT PARCEL OF THE SIXTH
CYCLE HOUSING ELEMENT UPDATE**

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on November 14, 2023, and November 28, 2023; and

WHEREAS, Program 1.F of the Housing Element Update calls for Rezone Village Court Parcel; and

WHEREAS, Program 1.F of the Housing Element Update requires the City of Los Altos to rezone the Village Court Parcel from R1-10 to Commercial Thoroughfare (CT); and

WHEREAS, Program 1.F of the Housing Element Update requires the City of Los Altos to remove modifications made by Planned Unit Development (62-PUD/C7) for consistency with the Commercial Thoroughfare (CT) District; and

WHEREAS, the City Council amends the Zoning Designation of the property located at 4546 El Camino Real, APN: 16712042, commonly referred to as “Village Court” from R1-10 to Commercial Thoroughfare (CT);

WHEREAS, the City Council repeals in its entirety the Planned Unit Development (62-PUD/C7) and reverts to the underlying zoning district of Commercial Thoroughfare (CT) District; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 14.88 OF THE MUNICIPAL CODE. Chapter 14.88 of the Los Altos Municipal Code are hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 2. AMENDMENT OF CHAPTER 14.88 OF THE MUNICIPAL CODE. Chapter 14.88 of the Los Altos Municipal Code are hereby amended as set forth in Exhibit A to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 3. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 4. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2023, and was thereafter, at a regular meeting held on __, 2023, passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, MMC, CITY CLERK

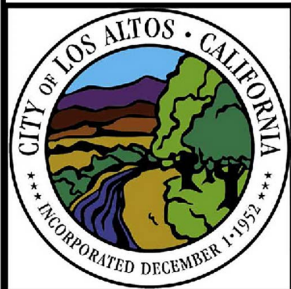
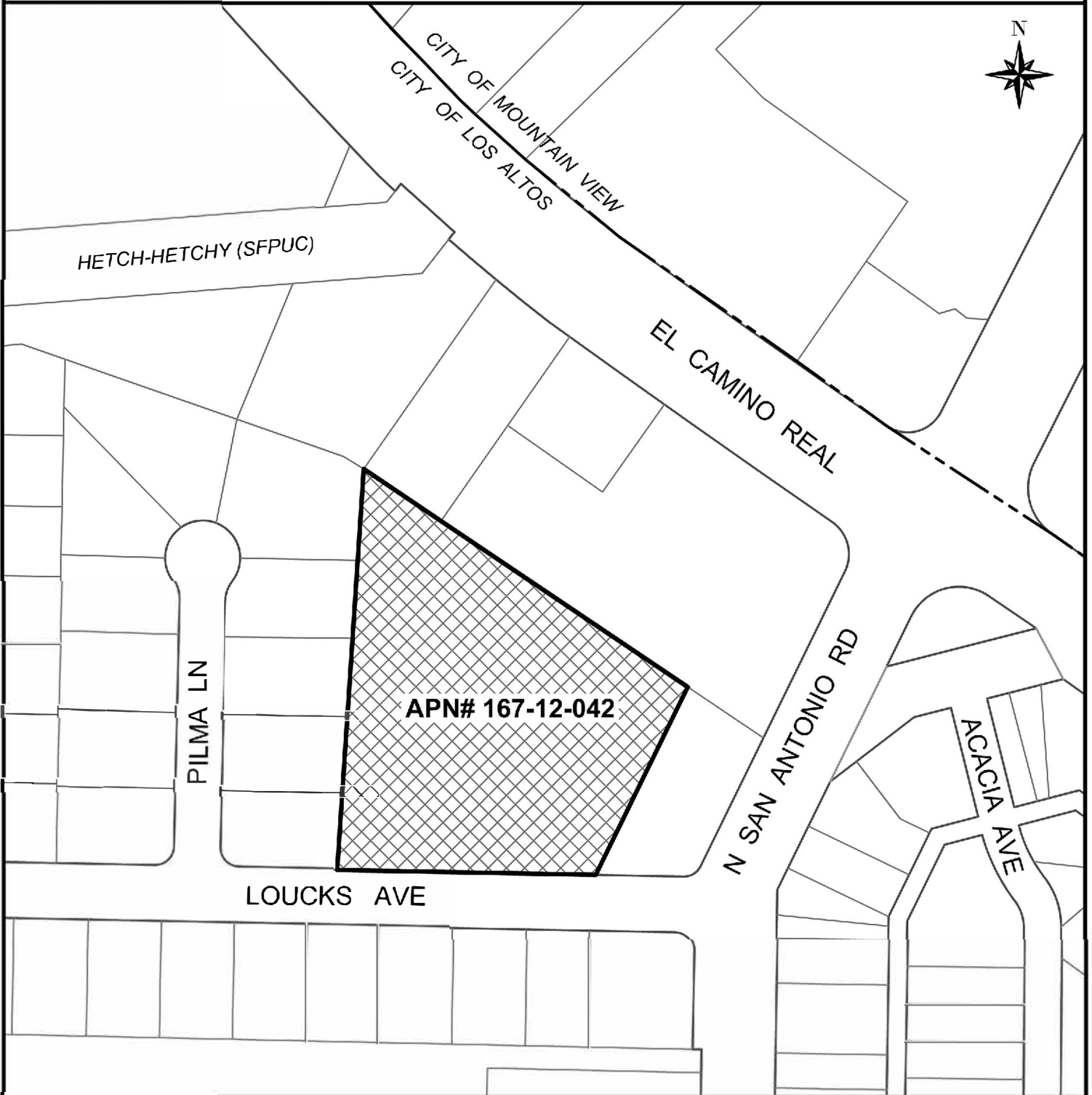
EXHIBIT A
AMENDMENTS TO CHAPTER 14.88

ORDINANCE #3, APPENDIX A

14.88.730 – Zoning map amended.

- A. The property located at 4546 El Camino Real, APN: 16712042 also known as “Village Court”, as delineated on Rezoning Map No. 23-Z-01, attached hereto and incorporated herein by reference, are hereby included within the Commercial Thoroughfare (CT) Zoning District.
- B. The zoning map is amended in accordance with the provisions of the section and the district boundaries are so designated.

Exhibit to Ordinance No. TBD



DRAWN	VW
CHECKED	NZ
APPROVED	NZ
DATE	10/12/2023
SCALE	1" = 150'
DWG NO.	23-Z-01

PLANNING DIVISION
CITY OF LOS ALTOS SANTA CLARA COUNTY, CALIFORNIA

Rezoning Map No. 23-Z-01
APN 167-12-042 - R1-10 to CT



GROUP HOME TECHNICAL ADVISORY

CA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT



TABLE OF CONTENTS

1. Executive Summary	1
2. Terms Used	5
3. Background	6
4. Framework for Assessing if Local Land Use Policies and Practices Comply with State Housing Laws' Protections of Group Homes	8
A. Do the Policies and Practices Comply with Housing Element Law and AFFH Requirements?	9
B. Do the Policies and Practices Unlawfully Discriminate Based on Disability or Other Protected Characteristics?	12
i. Intentional Discrimination	14
ii. Discriminatory Effects	17
iii. Reasonable Accommodations	18
5. Supportive Housing and Transitional Housing Requirements	20
6. State Law Provides Broader Protections Than Federal Law	22
7. Common Issues In Local Ordinances That Regulate Group Homes	23
A. Definitions of Single Housekeeping Units or Single-Family Homes	24
B. Requirements that All Group Homes with More than Six Residents Must Obtain Permits to Locate in Single-Family Zones	25
C. Retroactive Compliance	27
D. Spacing Requirements	27
E. Occupancy Limits and Building, Fire, or Other Health and Safety Code Requirements	30
F. Requirements For Operators and Residents	30
G. Civil Actions for Operating Without a Required State License	33
H. Enforcing Generally Applicable Municipal Codes and Other Laws	36
8. Resource Materials and State Contacts	36

1. EXECUTIVE SUMMARY

Group homes are an especially important type of housing for persons with disabilities. By supporting their residents' individualized needs while providing flexible and affordable housing options, group homes help persons with disabilities live in deinstitutionalized settings that facilitate their integration into local communities.

In recent years, some local governments have amended their zoning ordinances to add new regulations for group homes, particularly for recovery residences—group homes that provide housing for persons recovering from alcoholism or drug addiction. These amendments have raised concerns that local governments are not complying with their affirmative obligations under state planning and zoning laws to promote more inclusive communities and affirmatively further fair housing (AFFH). These amendments have also generated disputes and confusion over whether local governments are violating fair housing laws by discriminating against persons with disabilities or other protected characteristics.

Among other concerns, local land use policies and practices can block new group homes from opening, force existing ones to close, and impose costs, legal fees, and administrative burdens that make it difficult for group homes to operate. These concerns arise in the context of a shortage of adequate housing for persons with disabilities, which is a particularly acute problem within California's broader housing crisis.

With concerns, disputes, and confusion continuing to grow, this Group Home Technical Advisory (Group Home TA) provides guidance on how state planning and zoning and fair housing laws apply when local governments attempt to regulate group homes through land use policies and practices. It is designed to help local governments comply with their obligations under these state laws, including, for example, the Planning and Zoning Law,¹ Housing Element Law,² AFFH provisions,³ Anti-Discrimination in Land Use Law,⁴ and the Fair Employment and Housing Act (FEHA)⁵ (collectively, state housing laws).

The California Department of Housing and Community Development (HCD) is issuing the Group Home TA under its authority to provide guidance about housing law and

¹ Gov. Code, § 65000 et seq.

² Gov. Code, §§ 65580 - 65589.11.

³ See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (c)(5),(10).

⁴ Gov. Code, § 65008.

⁵ Gov. Code, § 12900 et seq.

policy.⁶ The primary intended users are local planning agencies and their staff, but group home operators, advocates, and residents may also benefit from this information.

Contents

- **Background information about group homes** and the essential role they play in providing housing for persons with disabilities (pp. 6-8);
- **General guidance about overall state housing law standards** that (1) require local governments to remove constraints on group homes and affirmatively support them, and (2) prohibit local land use policies and practices that discriminate against group home owners, operators, and residents (pp. 8-23);
- **Specific guidance about how these standards apply to common issues** that arise when local governments attempt to regulate group homes through local land use policies and practices (pp. 23-36);
- **Lists of state government resource materials and contacts** (pp. 36-37).

Policy Guidance Summary

The Group Home TA's guidance for how local governments can comply with state housing laws regarding group homes includes the following:

- **Housing Element Law and AFFH.** Assess whether a policy or practice complies with Housing Element Law and AFFH requirements to avoid constraining housing for persons with disabilities and to affirmatively support this housing and its residents' fair housing choices (pp. 8-12). Consider the Group Home TA's examples of specific questions to guide local governments' analysis of these issues (pp.11-12).
- **Discriminatory Purpose or Effect.** Ensure that the policy or practice does not discriminate on the basis of disability or other characteristics protected by state law. Apply the Group Home TA's analysis on how to determine if a policy or practice has a discriminatory purpose or effect and how to implement flexible reasonable accommodation procedures that promptly and efficiently resolve accommodation requests in compliance with state housing laws and regulations. (pp. 12-20).

⁶ See, e.g., Health & Saf. Code, §§ 50152, 50406, subds. (e), (n), 50456, subd. (a), 50459, subd. (a); Gov. Code, § 65585, subd. (a). The Group Home TA is intended to provide general informational guidance only. It does not constitute legal advice.

- **Supportive and Transitional Housing.** Comply with the specific protections for group homes that fall within the definitions of supportive or transitional housing (pp. 20-22).
- **State and Federal Law Distinctions.** Confirm that a policy or practice complies with state housing laws even if it complies with federal law, because California law provides broader and different protections than federal law (pp. 22-23).
- **Definition of Single-Family Residence.** Avoid restrictive definitions of single housekeeping units or single-family homes that impermissibly constrain group homes from locating in single-family zones. This includes, for example, avoiding definitions that equate group homes with boardinghouses, require all residents to share a common deed or lease, overly scrutinize residents' living arrangements, or automatically exclude group homes that are owned by for-profit businesses or pay staff to help manage a home's operations (pp. 24-25).
- **Group Homes that Do Not Provide Licensable Services.** Allow group homes that operate as single-family residences and that do not provide licensable services to locate in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences (pp. 25-26).
- **Group Homes that Provide Licensable Services to Six or Fewer Residents.** Allow group homes that operate as single-family residences and that provide licensable services to six or fewer residents to locate in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences (pp. 25-26).
- **Group Homes that Provide Licensable Services to Seven or More Residents.** Ensure that any permitting or approval requirements for group homes that provide licensable services to seven or more residents are consistent with state housing laws (pp. 25-26).
- **Preexisting Nonconforming Uses.** Avoid retroactively applying a new zoning provision to group homes that were already operating before the provision was enacted (p. 27).
- **Spacing Requirements.** Avoid requirements for minimum spacing between group homes that go beyond those the Legislature has specified for limited types of licensed facilities and that conflict with state housing laws (pp. 27-29).

- **Occupancy Limits and Building, Fire, or Other Health and Safety Code Requirements.** Apply the same, generally applicable, nondiscriminatory occupancy limits and other building, fire, health, and safety requirements to group homes that apply to other housing, subject to reasonable accommodation requirements or the Legislature’s requirements for specific types of licensed facilities, such as those serving persons with limited mobility (p. 29).
- **Other Requirements for Group Home Operators and Residents.** Avoid the other examples of special requirements for operators and residents discussed that can overly constrain group homes, conflict with the duty to affirmatively support this housing, and discriminate on the basis of disability and other protected characteristics. Examples discussed include, among other things, parking requirements, restrictions on residents or staff, neighborhood notice requirements, and local law enforcement registration requirements (pp. 30-33).
- **State Administrative Procedures for Investigating Licensing Issues.** Use the Department of Health Care Services (DHCS) or California Department of Social Services (CDSS) processes for investigating and resolving complaints that unlicensed group homes are providing services that require licenses from these departments (pp. 33-35).
- **Public Nuisance and Other Code Enforcement Actions.** Use generally applicable, nondiscriminatory laws and code enforcement procedures to investigate and, if appropriate, prosecute group home operators that are creating public nuisances; violating building, housing, fire, or other public health and safety codes; committing fraud; or engaging in other unlawful activities (p. 36).

This summary and the Group Home TA are not intended as all-inclusive guides to every issue that might arise when local governments attempt to regulate group homes. But by following the Group Home TA’s framework and considering how it applies to the examples of common issues, local governments can ensure that their land use policies and practices comply with state housing laws.

Conclusion

Local governments that follow the Group Home TA’s guidance can still address concerns about group homeowners or operators that mistreat or abuse their residents, engage in insurance fraud or other illegal practices, or operate their homes in unsafe manners or in ways that create public nuisances. But research has shown that these problems are limited to a small minority of group homes, with the majority of group homes being well managed and operating compatibly with their surrounding neighborhoods, while providing essential housing resources. Focusing on individual

group homes that are problematic is more consistent with state law and helps avoid adopting overly broad and constraining zoning regulations for all group homes.

2. TERMS USED

Different laws use the term “group homes” to refer to different types of housing for different populations covered by different regulatory schemes. The following terms refer to various types of residences in which unrelated persons share the residence:

- **Shared Living Residences**—any housing shared by unrelated persons, including, for example, group homes, recovery residences, some community care residential facilities, some supportive and transitional housing, emergency shelters, boardinghouses, dormitories, etc.
- **Group Homes**—housing shared by unrelated persons with disabilities that provide peer and other support for their residents’ disability related needs and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housekeeping, and other communal living activities.
- **Licensed Group Homes**—group homes that provide services that require licenses under state law.
- **Unlicensed Group Homes**—group homes that may provide some supportive services for their residents but not services that require licenses under state law.
- **Recovery Residences** or **Sober Living Homes**—group homes for persons recovering from alcoholism or drug addiction in which the residents mutually support each other’s recovery and sobriety and that do not require licenses from DHCS because they do not provide alcoholism or drug addiction recovery and treatment services.
- **Alcohol or Other Drug (AOD) Facilities**—residential facilities that must obtain licenses from DHCS because they provide alcoholism or drug addiction recovery and treatment services.⁷

⁷ See, e.g., Health & Saf. Code, § 11834.02.

- **Community Care Residential Facilities**—residential facilities that must obtain licenses from CDSS because they provide 24-hour nonmedical care and supervision for adults or children.⁸

3. BACKGROUND

Among the many reasons that group homes are essential housing for persons with disabilities is the support these homes provide for their residents' individualized, disability-related needs. This includes the peer support that group homes encourage their residents to provide to each other when sharing a home, as well as the services these homes can provide. These services range from basic support for independent living to more intensive care and supervision services that require state licenses. By providing peer support, services, or both, group homes help their residents live in deinstitutionalized settings and integrate into local communities. For these and other reasons, as the California Legislature has recognized, “persons with disabilities . . . are significantly more likely than other persons to live with unrelated persons in group [homes].”⁹

Because group homes are such important housing resources for persons with disabilities, state law not only protects them from discriminatory land use policies and practices, it mandates that local governments affirmatively support group homes locating in their communities.¹⁰ Federal law also protects group homes, leading courts across the country to conclude that “encourag[ing] and support[ing] handicapped persons' right to live in a group home in the community of their choice” is “the public policy of the United States.”¹¹

The communities of choice for many group homes are often single-family neighborhoods. Recovery residences, for example, often locate in single-family

⁸ See, e.g., Health & Saf. Code, §§ 1502, 1568.01, 1569.2, subs. (o)-(p).

⁹ *Broadmoor San Clemente Homeowners Ass'n v. Nelson*, (1994) 25 Cal.App.4th 1, 6, quoting Stats. 1993, ch. 1277, § 18; 12 West Cal.Legis.Services, p. 6038.

¹⁰ See, e.g., Gov. Code, §§ 8899.50, 65583, subs. (a)(1), (a)(7), (c)(10).

¹¹ *Broadmoor*, 25 Cal.App.4th at 9, quoting *Rhodes v. Palmetto Pathway Homes, Inc.* (South Carolina 1991) 303 S.C. 308, 400 S.E.2d 484, 486.

neighborhoods because this helps “recovering addicts’ reintegration into society and redevelopment of self-sufficiency.”¹²

But “for every group home that is successfully established, experts estimate that another closes or never opens because of community opposition.”¹³ The legislative history of the Fair Employment and Housing Act (FEHA), Government Code section 12900 et seq., and federal Fair Housing Act (“FHA”), 42 U.S.C. section 3601 et seq., show that the Legislature and Congress considered local governments’ longstanding practices of using land use ordinances to exclude group homes when amending these civil rights laws to protect housing for persons with disabilities.¹⁴

Local opposition to group homes is often based on fears that they will disrupt neighborhoods, increase crime rates or drug use, generate excessive traffic and parking, or lower property values. But numerous studies, representing decades of research, have found that fears like these are unfounded.¹⁵ In fact, studies have shown that group homes are often the best maintained properties on their blocks and function so much like other homes “that most neighbors within one to two blocks . . . do not even know that a group home . . . is nearby.”¹⁶

This is not to minimize very real problems that have arisen at some group homes. In particular, some local governments have raised concerns based on problems at some recovery residences operated by unscrupulous owners seeking to maximize their profits

¹² Laurie C. Malkin, *Troubles at the Doorstep: The Fair Housing Amendments Act of 1988 and Group Homes for Recovering Substance Abusers* (1995) 144 U. Pa. L. Rev. 757, 772-73 & nn. 55-60; *Oxford House, Inc. v. Township of Cherry Hill* (“Cherry Hill”) (D. New Jersey 1992) 799 F.Supp. 450, 453.

¹³ Malkin, *supra*, n. 12 at 795 & n. 171.

¹⁴ See, e.g., *Broadmoor, supra*, 25 Cal. App. 4th at 6, quoting Stats.1993, ch. 1277, § 18; 12 West Cal.Legis.Services, p. 6038; H.R. Rep. 100-711, 23-24, reprinted in 1988 U.S.C.C.A.N. 2173, 2184-2185.

¹⁵ See, e.g., Malkin, *supra*, n. 12 at 797-798 & nn. 181-184; Council of Planning Librarians, *There Goes the Neighborhood - A Summary of Studies Addressing the Most Often Expressed Fears about the Effects Of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990); Senate Comm. on Health Analysis of SB 786, Feb. 17, 2017 at 3, 5.

¹⁶ Daniel Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & n. 50-52.

at the expense of their residents' wellbeing. These problems have included neglecting and abusing residents, engaging in insurance fraud, and creating public nuisances.¹⁷

While these are very real concerns, the examples of exploitive, abusive, and illegal practices appear to be limited to a small minority of recovery residences.¹⁸ Moreover, in contrast to laws specially designed to address fraud, violations of state licensing laws, or health and safety violations and public nuisances, local land use policies are often too blunt and too broadly sweeping for properly addressing these problems. They risk continuing the history of discrimination against group homes by doing more to constrain and exclude well-functioning ones than they do to abate problems at dysfunctional ones.

Before local governments amend their zoning ordinances to regulate group homes, they should first determine if the proposed amendments will comply with state housing laws. They should apply the Group Home TA's framework and consider its examples of common issues that arise when local governments attempt to use land use laws to regulate group homes.

4. FRAMEWORK FOR ASSESSING IF LOCAL LAND USE POLICIES AND PRACTICES COMPLY WITH STATE HOUSING LAWS' PROTECTIONS OF GROUP HOMES

Confirming that local land use policies and practices for group homes comply with state housing laws involves assessing whether they comply with requirements for local governments to affirmatively support this housing in their communities and whether they discriminate on the basis of disability or other protected characteristics. Both assessments are necessary to confirm that a local land use policy or practice complies with state housing laws. Although the Group Home TA discusses Housing Element Law

¹⁷ See, e.g., Samantha Schmidt, *Drug Rehab 'Mogul' Convicted of Sexually Assaulting 7 Female Patients at Treatment Centers*, Washington Post, Feb. 27, 2018, <https://www.washingtonpost.com/news/morning-mix/wp/2018/02/27/drug-rehab-mogul-convicted-of-sexually-assaulting-7-female-patients-at-treatment-centers/>; Danielle L. Liberman, Current Development, *Not Too Sunny in the Sunshine State: The Need to Improve Florida's Opioid Abuse Treatment Centers to Combat the National Public Health Crisis*, 31 Geo. J. Legal Ethics 723, 735-738 (2018).

¹⁸ See, e.g., Government Accounting Office, *Report to Congressional Requesters: Substance Use Disorder – Information on Recovery Housing Prevalence, Selected States' Oversight, and Funding* ("GAO Report") (March 2018) at 7-9 & n.18, available at <https://www.gao.gov/assets/gao-18-315.pdf>; see also studies cited *supra*, nn. 15-16.

and AFFH requirements before fair housing laws, local governments can assess their compliance with these laws in any order.

A. DO THE POLICIES AND PRACTICES COMPLY WITH HOUSING ELEMENT LAW AND AFFH REQUIREMENTS?

California law has long promoted more inclusive communities, such as by requiring local governments to protect and promote housing for persons with special needs, including, among others, lower income households and persons with disabilities or who have experienced homelessness.¹⁹ Housing Element Law requires local governments to analyze the special housing needs of these populations and develop policies and programs to address those needs.²⁰

As of January 1, 2019, AB 686 built upon these existing obligations to broadly require all state or local governments involved in programs or activities related to housing or community development to affirmatively further fair housing and take no actions inconsistent with this requirement.²¹ The Legislature defined AFFH, to mean:

taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.²²

In AB 686, the Legislature also amended Housing Element Law to include new, specific AFFH requirements starting in 2021 for local governments when they prepare and implement housing elements. These requirements include, for example, identifying and addressing fair housing issues; analyzing integration and segregation patterns;

¹⁹ See, e.g., Gov. Code, § 65583, subds. (a)(1), (a)(7); Housing Elements Building Blocks, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks>.

²⁰ See, e.g., Gov. Code, § 65583, subds. (a)(7), (c).

²¹ Gov. Code, § 8899.50, subd. (a)(2).

²² *Id.* at (a)(1).

analyzing patterns and trends of disparate housing needs and disproportionate access to housing opportunities; and setting specific goals, adopting responsive policies, and taking effective actions that will affirmatively further fair housing.²³

Taken together, the earlier Housing Element Law provisions and the newer AFFH requirements clarify local governments' affirmative responsibilities regarding group homes. As the historical record and California and federal legislative histories confirm, local land use laws have too often treated group homes as problems to be avoided or restricted. Local governments' obligations under state law have been misunderstood as being limited to avoiding discrimination and meeting a minimum threshold for fulfilling the locality's share of regional housing needs for persons with disabilities.

But local governments must go beyond these basic requirements by actively supporting the inclusion of group homes in their communities and removing constraints on this housing. This includes, for example, supporting the housing choices of individuals with protected characteristics.²⁴ Persons with disabilities have the right to live in accessible housing in the most integrated setting appropriate to their needs, which includes having access to disability-related support and services that individuals need to live in deinstitutionalized settings.²⁵ Local governments must also avoid policies that unjustifiably displace group home occupants from their homes.²⁶

HCD has previously issued guidance about local governments' obligations under older Housing Element Law provisions and the more recently enacted AFFH provisions. These guidance documents are available through links listed under the Planning and Community Development tab on HCD's website.²⁷ Local governments should read the detailed guidance provided in these documents, which include:

- Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements (April 2021 Update),²⁸
- Housing Element Building Blocks,²⁹

²³ See, e.g., Gov. Code, § 65583, subd. (c)(10).

²⁴ See, e.g., Gov. Code, § 65583, subd. (c)(10)(A)(iv); 24 C.F.R. § 5.151 (2022).

²⁵ See, e.g., *Olmstead v. Zimring* (1999) 527 U.S. 581, 602, 607; 24 C.F.R. § 5.151 (2022); 28 C.F.R. § 35.130(d), (e)(1) (2022).

²⁶ Gov. Code, § 65583, subd. (c)(10)(A)(v).

²⁷ Available at <https://www.hcd.ca.gov/>.

²⁸ Available at http://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

²⁹ Available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks>.

- Housing Element Building Blocks – Persons with Disabilities,³⁰ and
- Housing Element Building Blocks – Constraints for People with Disabilities.³¹

HCD's earlier guidance documents discuss in more detail how local governments can assess their compliance with Housing Element Law and AFFH requirements. The following types of questions can help local jurisdictions assess if they are meeting their affirmative obligations to protect and promote the housing rights of persons with disabilities:³²

- **Has the jurisdiction analyzed the special housing needs of persons with disabilities** by including in this analysis, among other things:
 - data about the number of persons and households in this group?
 - quantifiable and qualitative descriptions of their housing needs and descriptions of existing resources or programs for them?
 - assessments of unmet needs?
- **Has the jurisdiction analyzed and explained how it will meet those needs** by, among other things:
 - identifying potential programs, policy options, and resources?
 - discussing local resources and service providers?
 - identifying housing types that can accommodate persons with disabilities?
 - developing housing programs or strategies to address identified needs?
- **Has the jurisdiction analyzed and removed constraints on housing for persons with disabilities** by, among other things:
 - analyzing potential governmental constraints to the development, improvement, and maintenance of housing for persons with disabilities?
 - examining ordinances, policies, or practices that are unjustifiably having the effect of constraining or excluding housing variety and availability for persons with disabilities?
 - providing reasonable accommodations for persons with disabilities through programs that remove constraints?
 - ensuring that its reasonable accommodation procedures comply with state fair housing laws and regulations?
 - in general, demonstrating local efforts to remove constraints?

³⁰ Available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/people-disabilities-including-developmental-disabilities>.

³¹ Available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/constraints-people-disabilities>.

³² See, e.g., Gov. Code, §§ 8899.50, 65583, subds. (a)(4), (7), (c)(3), (5), (10).

- **Has the jurisdiction met its AFFH obligations for persons with disabilities** by, among other things:
 - actively supporting their integration into the local community?
 - actively supporting their fair housing rights, including their right to choose where to live and to access housing opportunities with services and support for their disabilities?
 - considering whether policies and practices are displacing persons with disabilities from their homes?
 - examining and redressing segregated living patterns?
 - fostering the integration of persons with disabilities into the community?
 - conducting outreach and education in the community to support the fair housing rights of persons with disabilities?
 - identifying and analyzing any policies or practices that have the purpose or effect of discriminating against persons with disabilities, perpetuating their segregation, or impeding their integration?
 - examining any justifications for policies or practices with discriminatory effects and identifying and implementing less discriminatory alternatives?

- **Has the jurisdiction conducted individualized, evidence- and data-based research and analysis**, including for:
 - any specific benefits that it believes a land use policy or practice regarding group homes will provide to persons with disabilities?
 - any specific health or safety issues that a jurisdiction believes justify land use policies or practices regarding group homes?³³

B. DO THE POLICIES AND PRACTICES UNLAWFULLY DISCRIMINATE BASED ON DISABILITY OR OTHER PROTECTED CHARACTERISTICS?

In addition to the laws requiring local governments to affirmatively support group homes, state fair housing laws prohibit jurisdictions from discriminating against them.³⁴ For example, the Anti-Discrimination in Land Use Law, Government Code section 65008,

³³ See, e.g., Cal. Code Regs., tit. 2, §§ 12042, subd. (f), 12179, subd. (b)(3).

³⁴ Fair housing laws protect group homes. See, e.g., Cal. Code Regs., tit. 2, § 12005, subd. (o); *Lakeside Resort Enterprises, LP v. Board of Sup's of Palmyra Twp.* (3d Cir. 2006) 455 F.3d 154, 159–60. See also *infra* at pp. 22-23 (explaining that while federal fair housing cases can provide important guidance for interpreting state fair housing laws, California's fair housing and disability rights laws provide broader protections than federal laws).

prohibits discriminatory local land use policies and practices and declares any such discriminatory policies or practices null and void.³⁵ This includes discrimination based on any characteristic protected by the FEHA and other state civil rights laws.³⁶

Disability rights protections extend to persons with disabilities, persons regarded or treated as having, or having had, a disability, or persons with a record or history of a disability.³⁷ Complying with fair housing requirements for individuals with certain types of disabilities, such as individuals with developmental disabilities, will not excuse unlawful discrimination against other individuals with other types of disabilities, such as individuals recovering from alcoholism or drug addiction.³⁸

The Anti-Discrimination in Land Use Law also includes protections not specified in the FEHA, such as prohibitions against land use policies and practices that discriminate against housing for “persons or families of very low, low, moderate, or middle income.”³⁹ Therefore, depending on a group home’s intended occupants, jurisdictions must consider whether their policies discriminate against not only persons with disabilities, but, for example, very low- or low income households if the residence is designed for persons with disabilities who have experienced homelessness.

State fair housing laws protect not only group homes’ occupants, but other persons associated with them or other persons who may be harmed by discriminatory land use policies and practices, such as group homes’ operators, owners, and landlords.⁴⁰

³⁵ Gov. Code, § 65008, subs. (a), (b)(1). The FEHA similarly prohibits discriminatory land use policies and practices. Gov. Code, § 12955, subd. (l); Cal. Code Regs., tit. 2, §§ 12161, 12162. See also Government Code section 11135 (prohibiting discrimination by recipients of state funding or financial assistance).

³⁶ See, e.g., Gov. Code, §§ 65008, subs. (a)(1)(A), (b)(1)(B)(i), 65583, subd. (c)(5).

³⁷ Gov. Code, § 12926, subs. (j), (m); 42 U.S.C. § 3602(h); Joint Statement of the Department of Housing and Urban Development and the Department of Justice – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act (Nov. 10, 2016) at 6 (“HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws”), available at <https://www.justice.gov/opa/file/912366/download>.

³⁸ Recovering from alcoholism or drug addiction is a disability protected by fair housing laws. See, e.g., *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 803 (9th Cir.1994), *aff’d City of Edmonds v. Oxford House* (1995) 514 U.S. 725; *Cherry Hill*, *supra*, 799 F.Supp. at 459; HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 6.

³⁹ Gov. Code, § 65008, subs. (a)(3), (b)(1)(C).

⁴⁰ Gov Code § 65008, subs. (a)(1)(A), (b)(1)(B)(ii), incorporating Gov. Code, § 12955, subd. (m).

Identifying and correcting discriminatory land use policies and practices requires understanding three general types of discrimination:

1. intentional discrimination,
2. discriminatory effects, and
3. failure to provide reasonable accommodations.⁴¹

i. INTENTIONAL DISCRIMINATION

Intentional discrimination includes “an act or failure to act” in which any protected characteristic “is a motivating factor . . . even though other factors may have also motivated the practice.”⁴² Unlike employment discrimination law, in which plaintiffs must prove that a defendant’s action or inaction was substantially motivated by a discriminatory purpose, under fair housing law, a “housing practice” can be found illegal if it “demonstrates an intent to discriminate in any manner.”⁴³

Intentional discrimination is best understood as purposeful discrimination because it “does not require proof of personal prejudice or animus.”⁴⁴ Even if local officials are not hostile towards persons with disabilities or act with benign intents to help them, a discriminatory policy or practice can still be unlawful. It is also unlawful for government officials to acquiesce to members of the public’s prejudicial views even if the officials themselves do not share those views.⁴⁵

Establishing intentional discrimination often involves evidence that persons with protected characteristics were treated worse than others without those characteristics. But this is only one way to prove discrimination.⁴⁶ Intentional discrimination does not require “the existence of a similarly situated entity who or which was treated better”⁴⁷ A local land use policy or practice that “inflicts collateral damage by harming some, or even all, individuals from a favored group in order to successfully

⁴¹ Although these are some of the most common, general types of discrimination issues that arise with local land use policies and practices, this is not an exhaustive list. See, e.g., Cal. Code Regs., tit. 2, §§ 12161-62 (listing more detailed examples).

⁴² Gov. Code, § 12955.8; *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 217-218; Cal. Code Regs., tit. 2, § 12041, subd. (b).

⁴³ Gov. Code, § 12955.8.

⁴⁴ Cal. Code Regs., tit. 2, § 12041, subd. (b).

⁴⁵ Cal. Code Regs., tit. 2, § 12161, subd. (c).

⁴⁶ *Pacific Shores Properties, LLC v. City of Newport Beach* (9th Cir. 2013) 730 F.3d 1142, 1158-1159.

⁴⁷ *Id.* at 1158.

harm members of a disfavored class does not cleanse the taint of discrimination.”⁴⁸ Sometimes it “simply underscores the depth of the defendant’s” discriminatory intent.⁴⁹

Intentional discrimination can be established through facial discrimination, direct evidence, or circumstantial evidence.

FACIAL DISCRIMINATION

Facially discriminatory laws or policies explicitly regulate housing or take an adverse action based on a protected characteristic.⁵⁰ Local governments can engage in facial discrimination even when a law or policy does not expressly refer to, for example, group homes or persons with disabilities. “Proxy discrimination is a form of facial discrimination” in which a jurisdiction:

enacts a law or policy that treats individuals differently on the basis of seemingly neutral criteria that are so closely associated with the disfavored group that discrimination on the basis of such criteria is, constructively, facial discrimination against the disfavored group. For example, discriminating against individuals with gray hair is a proxy for age discrimination because the fit between age and gray hair is sufficiently close.⁵¹

To avoid liability for a law or policy that facially discriminates against persons with disabilities, a local government must show that the policy:

- (1) either (a) actually benefits persons with disabilities or (b) is justified by individualized safety concerns raised by the persons the policy affects, and
- (2) is “the least restrictive means of achieving” one or both of these goals.⁵²

⁴⁸ *Id.* at 1159.

⁴⁹ *Id.* See also *id.* at 1158 – 1162 & n. 23.

⁵⁰ Cal. Code Regs., tit. 2, § 12040, subd. (c).

⁵¹ *Pacific Shores Properties*, 730 F.3d at 1160 n. 23, internal quotations and citations omitted.

⁵² Cal. Code Regs., tit. 2, §§ 12042, subd. (f), 12161, subd. (d); *Larkin v. State of Mich. Dept. of Social Services* (6th Cir. 1996) 89 F.3d 285, 290.

These justifications for facial discrimination are “extremely narrow exception[s],” and jurisdictions should be wary of relying on them.⁵³ Jurisdictions must support them with at least, if not more than, the specific and thorough analysis and evidence required by Housing Element Law, including its AFFH provisions. Generalized concerns or ones based on stereotypes will not suffice.⁵⁴ Jurisdictions should also consider less discriminatory alternatives.⁵⁵ And in light of jurisdictions’ obligations to “protect existing residents from displacement” and otherwise affirmatively further fair housing, laws or policies that displace group home occupants from their current, chosen residences warrant especially thorough scrutiny.⁵⁶

DIRECT EVIDENCE

Direct evidence includes written or oral statements showing in themselves that a protected characteristic was a motivating factor in a local jurisdiction’s decision. Direct evidence can itself establish a violation. The affirmative defenses for facial discrimination claims do not apply to direct evidence claims.⁵⁷

CIRCUMSTANTIAL EVIDENCE

Even when policies or statements in themselves do not establish a discriminatory intent, local land use policies and practices can still be found discriminatory based on circumstantial evidence, which can include: (1) the policy’s or practice’s impact, (2) its historical background, (3) the more recent, specific sequence of events leading up to it, (4) departures from usual procedures, (5) departures from usual substantive standards, and (6) the legislative or administrative history.⁵⁸

⁵³ *Dothard v. Rawlinson* (1977) 433 U.S. 321, 334; *Bangerter v. Orem City Corp.* (10th Cir. 1995) 46 F.3d 1491, 1504; see also *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, 31 nn. 7, 8 (explaining that public policy exceptions to Unruh Act’s prohibitions of discrimination are “rare” and “should be carefully and narrowly construed”).

⁵⁴ *Larkin*, 89 F.3d at 291-292 (rigorously examining and rejecting an agency’s justifications and evidence for spacing and community notice requirements for group homes in holding that they violate the FHA).

⁵⁵ Cal. Code Regs., tit. 2, § 12042, subd. (f).

⁵⁶ See, e.g., Gov. Code, § 65583, subds. (c)(10)(A)(iv), (v).

⁵⁷ See, e.g., Cal. Code Regs., tit. 2, § 12042, subds. (c)-(e).

⁵⁸ HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 4, citing *Village of Arlington Heights v. Metro. Hous. Dev. Corp.* (1977) 429 U.S. 252, 265-68.

These factors are not the only ones that may be considered.⁵⁹ And “very little evidence” is needed to “raise a genuine issue” of a discriminatory intent.⁶⁰ Procedural or substantive departures from AFFH or housing element requirements when regulating group homes would be relevant evidence to consider in assessing if local officials acted for discriminatory purposes.

ii. DISCRIMINATORY EFFECTS

Even if a local government has not acted with a discriminatory purpose, its land use policies or practices can be found unlawful if they have an unjustified discriminatory effect. A discriminatory effect is generally established through statistical evidence showing that a policy or practice actually or predictably results in a disparate impact on a group of persons with protected characteristics or that it perpetuates segregation.⁶¹

If a local land use practice is found to have a discriminatory effect, a jurisdiction can avoid liability if it shows there is a legally sufficient justification for its policy or practice.⁶² A jurisdiction must establish each of the following:

- (1) The practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory purposes;
- (2) The practice effectively carries out the identified purpose;
- (3) The identified purpose is sufficiently compelling to override the discriminatory effect; and
- (4) There is no feasible alternative practice that would equally or better accomplish the identified purpose with a less discriminatory effect.⁶³

Generalized or hypothetical analysis of these elements will not suffice. They must be “supported by evidence.”⁶⁴

To comply with Housing Element Law, including its AFFH provisions, a jurisdiction should not wait for group home occupants or operators to bring discriminatory effects claims but should research on its own whether its policies or practices have discriminatory effects on these residences. If so, the jurisdiction should also complete

⁵⁹ *Pacific Shores Properties*, 730 F.3d at 1159.

⁶⁰ *Id.*; Gov. Code, § 12955.8; Cal. Code Regs., tit. 2, § 12041, subd. (b).

⁶¹ Cal. Code Regs., tit. 2, § 12060, subd. (b).

⁶² Cal. Code Regs., tit. 2, § 12062, subd. (b).

⁶³ *Id.*

⁶⁴ Cal. Code Regs., tit. 2, § 12062, subd. (c).

the evidence-based analysis needed to determine whether there are legally sufficient justifications for these discriminatory policies or practices, including analyzing less discriminatory alternatives.

iii. REASONABLE ACCOMMODATIONS

Discrimination can also arise from a jurisdiction failing “to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.”⁶⁵ A request for a reasonable accommodation may only be denied if:

- (1) The individual on whose behalf the accommodation was requested is not an individual with a disability;
- (2) There is no disability-related need for the requested accommodation (in other words, there is no [connection] between the disability and the requested accommodation);
- (3) The requested accommodation would constitute a fundamental alteration of the services or operations of the person who is asked to provide the accommodation.
- (4) The requested accommodation would impose an undue financial and administrative burden on the person who is asked to provide the accommodation; or
- (5) The requested accommodation would constitute a direct threat to the health or safety of others (i.e., a significant risk of bodily harm) or would cause substantial physical damage to the property of others, and such risks cannot be sufficiently mitigated or eliminated by another reasonable accommodation⁶⁶

Three common issues, among others, can arise when group home operators or occupants request reasonable accommodations in local land use policies and practices:

1. **While a jurisdiction should adopt a formal reasonable accommodations process so that, among other reasons, the public knows how to request accommodations, these processes should be flexible enough to promptly and efficiently resolve accommodations requests without creating**

⁶⁵ Gov. Code, § 12927, subd. (c)(1).

⁶⁶ Cal Code Regs., tit. 2, § 12179.

unnecessary procedural barriers.⁶⁷ These processes should allow group home operators to request reasonable accommodations “at any time . . . while seeking or enjoying a housing opportunity,” including, for example, when: (1) considering whether to buy or lease a home; (2) filing a permit application, or (3) responding to allegations they have violated a zoning code or other ordinance.⁶⁸ If local governments are repeatedly denying accommodation requests or delaying resolving them, they should analyze whether this is due to the requestors failing to provide sufficient information and support or to procedures erecting impermissible barriers to accommodations.⁶⁹

2. “[I]n most cases, an individual’s medical records or detailed information about the nature of a person’s disability is not necessary” to establish that a person has a disability or that this disability requires a reasonable accommodation in a land use policy or practice.⁷⁰ A reliable third party with knowledge of a person’s disabilities can usually provide sufficient information for assessing a request for an accommodation in a local land use policy or practice.⁷¹ For example, it is well established that persons recovering from alcoholism or drug addiction have disabilities and that recovery residences support their recoveries. Thus, information provided by a recovery residence operator, such as its occupancy or other policies, for example, should generally suffice to establish its occupants have disabilities and the justifications for the

⁶⁷ See, e.g., *id.* at §§ 12176, subd. (c), 12178.

⁶⁸ See, e.g., *id.* at § 12176, subd. (f).

⁶⁹ See, e.g., *id.* at § 12177; see also these examples of reasonable accommodation ordinances: Oakland Mun. Code, ch. 17.131, available at https://library.municode.com/ca/oakland/codes/planning_code?nodeId=TIT17PL_CH17.131REACPOPR; Model Ordinance for Providing Reasonable Accommodation Under Federal and State Fair Housing Laws (“Model Reasonable Accommodation Ordinance”), Mental Health Advocacy Services, Inc. (September 2003), available at https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/address-remove-mitigate-constraints/docs/model_reasonable_accomodation_ordinance.pdf.

⁷⁰ Supplement to Initial Statement of Reasons for FEHC’s Fair Housing Regulations at 26, quoting HUD DOJ May 17, 2004 Joint Statement on Reasonable Accommodations, available at <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2019/07/FairHousingReg-SupplementInitialStatementReasons.pdf>.

⁷¹ Cal. Code Regs., tit. 2, § 12178.

requested accommodations, allowing local officials to assess the request without probing into the occupants' private medical records or histories.⁷²

3. **Denials of reasonable accommodation requests must be based on individualized assessments, and specific evidence, not generalized or speculative concerns about group homes or persons with disabilities.** The state's fair housing regulations provide specific guidance about the type of evidence required to meet this standard.⁷³

5. SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING REQUIREMENTS

If a group home operates in ways that fall within the statutory definitions of supportive housing or transitional housing, jurisdictions must also comply with Housing Element Law's specific protections of these types of housing. This section summarizes these protections, which are explained more fully in other HCD guidance documents, including:

- Housing Accountability Act Technical Assistance Advisory (Sep. 15, 2020),⁷⁴
- Housing Element Building Blocks – Zoning for a Variety of Housing Types,⁷⁵
- Senate Bill 2 – Legislation Effective January 1, 2008: Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing (Apr. 10, 2013 update),⁷⁶ and
- Transitional and Supportive Housing, Chapter 183, Statutes of 2013 (SB 745) (Apr. 24, 2014).⁷⁷

⁷² *Id*; *Regional Economic Community Action Program, Inc. v. City of Middletown* (2d Cir. 2002) 294 F.3d 35, 47-48 & n.3, superseded on other grounds as stated in *Brooker v. Altoona Housing Authority* (W.D. Penn 2013) 2013 WL 2896814 at *9 n. 8.

⁷³ Cal. Code Regs., tit 2, § 12179.

⁷⁴ Available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf>.

⁷⁵ Available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types>.

⁷⁶ Available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf>.

⁷⁷ Available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb745memo042414.pdf>.

Supportive Housing Definition. Government Code section 65582, subdivision (g), defines supportive housing to mean housing that:

- has no limit on the length of stay;
- is linked to onsite or offsite services that assist residents in improving their health status, retaining the housing, and maximizing their ability to live and, where possible, work in the community; and
- is occupied by the “target population,” which “means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act . . . and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans and homeless people.”⁷⁸

Transitional Housing Definition. Government Code section 65582, subdivision (j), defines “transitional housing” to mean “buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.” Therefore, in contrast to supportive housing, transitional housing may limit the length of stay, is not required to provide supportive services (though may be linked to them), and is not limited to residents within the “target population.”

Key Protections for Supportive and Transitional Housing. If a group home operates in ways that qualify it as either supportive or transitional housing, jurisdictions must comply with Housing Element Law’s additional protections for these types of housing.

This includes the requirement that supportive and transitional housing “shall be considered a *residential use of property* and shall be *subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.*”⁷⁹ In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single-family home, apartments) in the

⁷⁸ Gov. Code, § 65582, subd. (i).

⁷⁹ Gov. Code, § 65583, subd. (c)(3), emphasis added.

same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone, and supportive housing located in a single-family home in a single-family zone is permitted in the same manner as a single-family home in the same zone.

In addition, if supportive housing meets the specifications of Government Code section 65650 et seq, it must be treated as “a use by right in all zones where multifamily and mixed uses are permitted”⁸⁰ By-right approval means that the use cannot require a conditional use permit or other discretionary review, even if a permit is required for other residential dwellings of the same type in the same zone.⁸¹ This nondiscretionary (i.e., ministerial) approval requirement renders the proposed use statutorily exempt from the California Environmental Quality Act if the project “complies with written, objective development standards and policies.”⁸²

When supportive or transitional housing does require a permit of any type, the Housing Accountability Act limits jurisdictions’ authority to deny the permit.

These limits are discussed at length in HCD’s Housing Accountability Act Technical Assistance Advisory (Sep. 15, 2020).⁸³

6. STATE LAW PROVIDES BROADER PROTECTIONS THAN FEDERAL LAW

The Legislature has specified that the FEHA may be interpreted broadly to provide “greater rights and remedies” than federal laws.⁸⁴ The Legislature has also emphasized that “[t]he law of this state in the area of disability provides protections independent from those in [federal law],” noting that California law “has always, even prior to passage of the federal [ADA], afforded additional protections.”⁸⁵

Examples of California providing “greater rights and remedies” than federal law include, among other things, state law’s broader definitions of disabilities (e.g., only requiring a mere limitation of a major life activity for a mental or physical condition to qualify as a

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Gov. Code, § 65651, subd. (b)(2); Pub. Resources Code, § 21080, subd. (b)(1); Cal. Code Regs., tit. 14, §§ 15002, subds. (i)(1), 15268(a).

⁸³ See *supra*, n. 74.

⁸⁴ Gov. Code, §§ 12955.6, 12993.

⁸⁵ Gov. Code, § 12926.1, subd. (a).

disability compared to federal law requiring a substantial limitation); prohibition of land use policies and practices that discriminate against housing designed for persons or families of very low, low, moderate, or middle income; requirements for how local governments must affirmatively support housing for persons with disabilities; specific requirements for supportive and transitional housing; and reasonable accommodations regulations.⁸⁶

Therefore, federal laws set a floor, not a ceiling, for the fair housing rights that the state may provide through the FEHA, Anti-Discrimination in Land Use Law, and other state laws.⁸⁷ Likewise, although federal court decisions about federal fair housing laws can provide important guidance for interpreting state fair housing laws, their interpretations of state laws are not binding authority.⁸⁸ Confusion can arise if local governments assume that resolving whether a local land use policy or practice complies with federal law automatically resolves whether it complies with state law.

To avoid this confusion, local governments should follow these two general guidelines:

- **If a policy or practice violates federal fair housing law, it also likely violates state law.**
- **But the converse is not necessarily true.** If a policy or practice complies with federal fair housing laws, local governments should independently determine whether it complies with state law's broader protections.

7. COMMON ISSUES IN LOCAL ORDINANCES THAT REGULATE GROUP HOMES

HCD cannot anticipate all the issues that might arise if local governments attempt to regulate group homes through local land use laws. But the following are examples of some common ones that can arise.

⁸⁶ See, e.g., Gov. Code, §§ 12926.1; 65008, subds. (a), (b); 65583, subds. (a), (c); Cal. Code Regs., §§ 12176-12185.

⁸⁷ See, e.g., Gov. Code, § 12926.1, subd. (a); *California Federal Sav. and Loan Ass'n v. Guerra* (1987) 479 U.S. 272, 285; 42 U.S.C. § 3615.

⁸⁸ See, e.g., Cal. Code Regs, tit. 2, § 11001, subd. (b).

A. DEFINITIONS OF SINGLE HOUSEKEEPING UNITS OR SINGLE-FAMILY HOMES

Zoning ordinances sometimes attempt to restrict or limit group homes in single-family residential zones (e.g., R-1) through definitions of single housekeeping units or single-family homes. Overly restrictive definitions risk violating not only state housing laws, but the California Constitution's protections of the rights of unrelated persons to live together in communal housing.⁸⁹

Persons with disabilities choose to live in group homes because these homes provide peer and other support for their residents' disability-related needs, while helping to integrate residents into their communities. Group homes should be treated as single-housekeeping units if they are designed to foster these mutually supportive peer relationships; allow open-ended stays or at least, on average, stays of more than a few weeks; and provide shared kitchen, dining, living, and other spaces in which residents may, in certain homes, participate in basic, shared cooking and housekeeping activities.

In general, localities should avoid including provisions in definitions of shared-housekeeping units, single-family homes, or other single residential dwellings that:

- **Equate group homes with boardinghouses.** Group homes' shared communal purposes to provide peer and other support for their occupants' disability-related needs and to help integrate them into their local communities makes this an inapt comparison. Boardinghouses do not provide communal housing designed to support the needs of persons with disabilities.
- **Require all residents to share a common deed or lease.** The California Constitution's protections of personal privacy extend to individuals' choices to live together even when they are not joint owners or tenants.⁹⁰ And group homes can still provide a communal setting that supports their residents' needs without all residents being joint owners or tenants.
- **Automatically exclude group homes that are owned by for-profit businesses or that pay a house manager or resident to help manage a**

⁸⁹ See, e.g., *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.

⁹⁰ See, e.g., *Coalition Advocating Legal Housing Options v. City of Santa Monica* (2001) 88 Cal.App.4th 451, 458-459.

home's operations. These are well-established models for group homes.⁹¹ And persons with certain types of disabilities may need supportive, in-house staff to be able to live in a group home.

- **Overly scrutinize living arrangements** by, for example, requiring residents to take care of all housekeeping tasks, share all bathrooms and refrigerators, and eat all meals together, or by prohibiting locks on bedroom doors. Localities do not impose such conditions on families of related persons, who may live in R-1 neighborhoods even if they can afford to hire housekeepers or gardeners, do not share all bathrooms, decline or lack the time to eat all meals together, or choose to install locks on parents', teenagers', or other relatives' bedroom doors. And different types of group homes may require different living arrangements and provide different levels of housekeeping or other services based on their residents' individualized needs or other considerations.

B. REQUIREMENTS THAT ALL GROUP HOMES WITH MORE THAN SIX RESIDENTS MUST OBTAIN PERMITS TO LOCATE IN SINGLE-FAMILY ZONES

Some local zoning ordinances require all group homes with more than six residents to apply for conditional use permits or obtain other special approvals to locate in single-family zones. These ordinances appear to be based on Health and Safety Code statutes that require local governments to treat many types of licensed group homes with six or fewer residents the same as single-family homes and prohibit requiring these small, licensed group homes to obtain conditional use permits or other special approvals to locate in single-family zones.⁹²

But local policies that require *all* group homes with more than six residents to obtain conditional use or other permits inappropriately turn state laws designed to remove constraints on small, licensed group homes into constraints on the many other group homes that do not require state licenses.

⁹¹ Douglas L. Plocin and Diane Henderson, *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Homes*, 40 *J Psychoactive Drugs* (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2556949/> (discussing how a “strong manager” model of operations” can function in ways that provide the same or similar benefits of a communal environment and peer support as group homes that residents own and operate themselves).

⁹² See, e.g., Health & Saf. Code, §§ 1566.3, 1569.85, 11834.23.

To comply with the Health and Safety Code’s exemptions for small, licensed group homes and with housing element, AFFH, and fair housing requirements to remove constraints on and prevent discrimination against group homes, local governments should follow these guidelines:

- **Group homes that operate as single-family residences and that do not provide licensable services should be allowed in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.** This is true even if these homes have more than six residents. Because these homes are not providing licensable services, they should be treated the same as other residences.⁹³
- **Group homes that operate as single-family residences and that provide licensable services to six or fewer residents should be allowed in single-family neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.** This complies with, among other things, the Health and Safety Code protections for these smaller, licensed group homes.
- **Group homes operating as single-family residences that provide licensable services to more than six residents may be subject to conditional use or other discretionary approval processes.** Local governments must still provide flexible and efficient reasonable accommodations in these permitting processes. This means that some requests for exceptions to permitting processes should be resolved through reasonable accommodation procedures instead of conditional use procedures.⁹⁴ In addition, any substantive requirements for these group homes must still comply with the local government’s obligations to remove constraints on housing for persons with disabilities, affirmatively support it, and prevent discrimination against it. The next sections provide further guidance on how to meet these obligations.⁹⁵

⁹³ See also *supra* at pp. 20-22 (discussing specific protections for supportive and transitional housing).

⁹⁴ See, e.g., Letter from Attorney General Bill Lockyer to The Hon. William Hartz, Mayor of Adelanto (May 15, 2001) (explaining that relying on conditional use procedures to address reasonable accommodation requests can lead to fair housing violations).

⁹⁵ Although the Group Home TA focuses on group homes operating as single-family residences, the same principles apply to those operating, for example, as multifamily residences in multifamily zones.

C. RETROACTIVE COMPLIANCE

Zoning codes typically allow uses that began lawfully before a new zoning provision was adopted or amended to continue after these new requirements are imposed, with the concept of legal nonconforming existing uses found in almost all zoning codes. For example, a local government may change zoning requirements to disallow auto repair uses in the downtown area. An existing auto repair shop would continue to be allowed to continue to operate because at the time when the use began it was an allowable use.⁹⁶

Local governments should generally treat existing group homes similarly when amending their zoning codes. Retroactive application of new zoning provisions should be avoided, especially if it will displace persons with disabilities from the homes they have chosen. Any exception to the well-established practice of allowing legal nonconforming uses to continue should be supported by substantial analysis and evidence showing that it is required to protect public health, safety, and welfare. This analysis and evidence should include specific local data and evidence, not merely anecdotal reports about problems that have arisen at some group homes or generalized descriptions of the public health, safety, and welfare interests that the new amendments are designed to serve.

D. SPACING REQUIREMENTS

Spacing requirements restrict group homes from locating within a specific distance of other group homes. Local governments should be very wary about imposing spacing requirements that extend beyond the limited requirements the Legislature has deemed necessary to prevent the overconcentration of certain licensed facilities to ensure their residents are integrated into their communities.

The Legislature has found spacing requirements justified only for specific types of licensed facilities. Community care facilities, intermediate care facilities serving persons with developmental disabilities who require intermittent but recurring skilled nursing care, and pediatric day health and respite care facilities that provide services to children with particularly acute or chronic healthcare needs and their parents or guardians must be separated by at least 300 feet. Congregate living health facilities serving persons with terminal or life-threatening illnesses or with catastrophic or severe disabilities

⁹⁶ See, e.g., *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 552; *Edmonds v. Los Angeles County* (1953) 40 Cal.2d 642, 651.

acquired through trauma or nondegenerative neurologic illness must be separated by at least 1,000 feet.⁹⁷

Further limiting these spacing requirements, the Legislature has specified that they:

- apply to some types of licensed facilities, but not to others. For example, the spacing requirements apply only to some types of intermediate care facilities but not to AOD facilities or to residential care facilities for the elderly;
- apply to proposed, new facilities, not existing ones;
- only require separation of facilities with similar licenses; and
- allow closer spacing based on local needs and conditions.⁹⁸

Contrary to these carefully crafted limitations on spacing requirements, some local governments have imposed spacing requirements on recovery residences, including those already in operation. These spacing requirements are very unlikely to withstand scrutiny under state housing laws. Among other things:

- **They are at odds with the Legislature’s narrowly crafted spacing requirements in section 1267.9.**
- **They can conflict with local governments’ obligations to, for example, remove constraints on housing for persons with disabilities, affirmatively support such housing, avoid policies that displace persons with protected characteristics, and affirmatively support their right to live where they choose.**⁹⁹
- **They are very hard to justify based on the narrow exceptions that state fair housing laws allow for facial discrimination.** Justifications based on the goal of avoiding overconcentration are difficult to establish and require substantial and detailed statistical evidence establishing that an overconcentration of recovery residences has reached the point where it is, for example, creating an institutionalized living environment or perpetuating segregation within specific

⁹⁷ Health & Saf. Code, §§ 1267.9, subd. (b) (setting spacing requirements for these types of community care residential facilities), 1502 (defining facilities that are subject to 300-foot spacing requirements), 1250 (defining facilities subject to 1000-foot spacing requirements).

⁹⁸ Health & Saf. Code, § 1267.9.

⁹⁹ See, *supra*, at pp. 9-12.

neighborhoods or communities. Merely comparing the number of recovery residences in one city with the number in others generally will not suffice.¹⁰⁰

- **They can lack the flexibility required to reasonably accommodate recovery residences and their occupants' disability-related needs.**
- **The Legislature has repeatedly rejected attempts to impose spacing requirements on recovery residences.** As recently as 2018, for instance, the Legislature declined to adopt SB 786, a bill that would have imposed a 300-foot spacing requirement on recovery residences.¹⁰¹ The legislative history shows that the Legislature considered the lack of clear data showing that this spacing requirement would benefit persons recovering from alcohol and drug addiction. The Legislature also considered concerns that this spacing requirement would discriminate on the basis of disability, impede opening new recovery residences, reduce access to much needed recovery and treatment services, and stigmatize recovery residences and their occupants.¹⁰²

In sum, local governments should avoid imposing spacing requirements that extend beyond those specified in Health and Safety Code section 1267.9.¹⁰³

¹⁰⁰ See, *supra*, at pp. 15-16. Spacing requirements like this also need to withstand scrutiny under other standards for assessing intentional discrimination or discriminatory effects. See, *supra*, at pp. 12-19.

¹⁰¹ Sen Bill No. 786 (2017-2018 Reg. Session). This bill is one of many times that the Legislature has declined to enact, or the Governor has vetoed bills attempting to regulate recovery residences. See, e.g., Sen. Com. on Health, analysis of Sen. Bill 786 (2017-2018 Reg. Sess.) at 7-8 (listing several other bills with similar provisions that the died in the Legislature between 2006 and 2007); California Research Bureau, *Sober Living Homes in California: Options for State and Local Regulation* (October 2016) at 14-16 (listing over 20 bills affecting recovery residences introduced between 1998 and 2016 that the Legislature did not pass or the Governor vetoed).

¹⁰² Sen. Com. on Health Analysis of Sen. Bill 786 at 6, 8-9.

¹⁰³ Recent federal court decisions rejecting challenges under federal and California laws to spacing requirements for recovery residences have not considered the important differences between state and federal laws. See, e.g., *Yellowstone Women's First Step House, Inc. v. City of Costa Mesa* (C.D. Cal. Oct. 8, 2015) 2015 WL 13764131 at *7-8, affirmed in part and vacated in part, 2021 WL 4077001 (9th Cir. Sep. 8, 2021) (unpublished, nonprecedential decision). These differences include, for example, the affirmative duties that California's Housing Element Law imposes on local governments and the broader rights and remedies for persons with disabilities under California's fair housing laws. See, *supra*, at pp. 22-23.

E. OCCUPANCY LIMITS AND BUILDING, FIRE, OR OTHER HEALTH AND SAFETY CODE REQUIREMENTS

Subject to the Legislature's requirements for specific types of licensed facilities, such as those serving persons with limited mobility, and to requests for reasonable accommodations, local governments should apply the same generally applicable occupancy limits to group homes that they do to other housing. Under the Uniform Housing Code section 503.2, at least one room in a dwelling unit must have a floor area of at least 120 square feet, with other habitable rooms, except kitchens, required to have a floor area of at least 70 feet. When more than two people occupy a room for sleeping purposes, the required floor area increases by 50 square feet. For example, a bedroom intended for two people could be as small as 70 square feet, while a bedroom would need to be at least 120 square feet to accommodate three people or at least 170 square feet to accommodate four people.

Likewise, to avoid imposing overly costly and burdensome constraints on group homes, the best practice is to apply the same general building, fire, and other health and safety codes that apply to other residences, subject to state health and safety code provisions specific to certain types of residential facilities.¹⁰⁴ Although group home operators may request reasonable accommodations from public health and safety standards, fair housing laws allow local governments to deny these requests if, among other things, they would cause direct threats to public health and safety.

F. REQUIREMENTS FOR OPERATORS AND RESIDENTS

Requirements for operators and residents often take the form of specific services or management practices that the local jurisdiction feels are necessary for the successful operation of group homes. These requirements tend to deal with the internal affairs of the operations and frequently involve issues beyond those in typical land use regulations. For example, local jurisdictions do not typically regulate the number of daily visitors to a single-family home or other residential property.

When applied to group homes, these types of regulations raise concerns that a local government is imposing conditions on them that are contrary to its duties to support housing for persons with disabilities, prevent discrimination on the basis of disability or other protected characteristics, and provide reasonable accommodations.

¹⁰⁴ See, e.g., Health & Saf. Code, § 13113 (requiring sprinkler systems in certain licensed residential facilities).

Before adopting or applying any such regulations even for licensed group homes, local governments should analyze whether they are consistent with state housing laws and document this analysis. Local governments should also consider whether such regulations are consistent with the Health and Safety Code's provisions and regulations for licensed facilities.

Although this Group Home TA cannot address all potential issues regarding potential regulations of operators and residents, the following are examples of requirements taken from recent local ordinances:

Imposing Special Parking Requirements on Group Homes. Requiring group homes to have or construct additional off-street parking spaces can impose considerable costs that constrain housing opportunities for persons with disabilities. These special parking requirements will often conflict with the right to privacy under the California Constitution,¹⁰⁵ as well as local governments' obligations to affirmatively support housing for persons with disabilities and avoid discriminating against them. Jurisdictions imposing additional parking requirements assume that group homes serving adults will have more residents who drive and will therefore use more on-street parking than other households. But these assumptions should at the very least be tested by studying the actual causes and extent of on-street parking shortages in an area.¹⁰⁶ Local governments should also consider less discriminatory alternatives, such as street-parking permit systems for all households or other generally applicable parking and vehicle regulations.

Restricting Recovery Residence Occupants to Persons Actively Participating in Recovery Programs. While most occupants of recovery residences participate in recovery programs, local governments should not impose this as a condition of living in a recovery residence. There are different models of recovery, not all of which involve participating in 12-step or similar programs. And recovering from alcoholism or drug addiction is legally recognized as a protected disability regardless of whether someone has participated or is currently participating in a recovery or treatment program.¹⁰⁷

¹⁰⁵ *Adamson, supra*, 27 Cal.3d at 133 (concluding that parking concerns are best addressed by limitations that "appl[y] evenly to all households" and concluding that zoning ordinances are suspect when they focus on users instead of uses).

¹⁰⁶ See, e.g., Lauber, *supra*, n. 16 at 385 & n. 52 (citing studies finding that group homes do not generate undue amounts of parking or traffic).

¹⁰⁷ *Hernandez v. Hughes Missile System Co.* (9th Cir. 2004) 362 F.3d 564, 568; HUD – DOJ 2016 Jt. Stmt. on Local Land Use Laws at 7-8.

Restricting Occupancy Exclusively to Persons with Disabilities. Regulations restricting group home occupancy exclusively to persons with disabilities or with a specific disability may sometimes intrude on individuals' fair housing choices and privacy rights. They also risk discriminating on the basis of other protected statuses. Inflexible occupancy restrictions, for example, could preclude group homes designed for families in which one member has a disability or recovery residences designed for parents in recovery who are seeking to reunite with their children.

Restricting Occupants or Staff from Homes Based on Their Criminal History Records. Policies that prohibit individuals from living in or working at group homes based on individuals' criminal history records may be intended to protect the occupants of these homes. But local governments contemplating adopting or applying such policies should carefully review California Code of Regulations, title 2, sections 11017.1; 12162, subdivision (b); and 12264-12271, which set parameters on using criminal history information that, among other things, restrict access to employment or housing. Local governments should also consider state laws and regulations that apply to criminal background checks for licensed facilities' employees.¹⁰⁸

Requiring Recovery Residences or AOD Facilities to Immediately Remove Occupants Who Violate Policies Prohibiting Alcohol or Drug Use. Although Health and Safety Code section 11834.26, subdivision (d), requires AOD facilities to plan how to address a resident's relapse, that subdivision clarifies that this "does not require a licensee to discharge a resident." This recognizes that approaches to addressing someone's relapse may vary depending on a recovery residence's or AOD facility's program, the circumstances of the relapse, and an individual's personal history and needs. Local policies should allow the same flexibility. Moreover, requirements to immediately remove relapsing residents with tenancy rights may conflict with landlord-tenant laws.

Other Examples

- **House Manager Requirements**—requiring group homes to have a house manager on site around the clock or always available to come to the residence within 30 or 45 minutes.
- **Visitor Restrictions**—requiring group homes to limit who can visit and under what conditions.

¹⁰⁸ See, e.g., Health & Saf. Code §§ 1522, 1569.17, 11834.27; Cal. Code Regs., tit. 9, §§ 10564, 10615, 10624, tit. 22, §§ 80019-19.2.

- **Records Maintenance**—requiring group homes to maintain specific records about the internal affairs or occupants of the house.
- **Codes of Conduct**—requiring group homes to have special conduct codes for their residents.
- **Neighborhood Notice Requirements**—imposing special neighborhood notice requirements on group homes.
- **Law Enforcement Registration Requirements**—requiring group homes to register with the local sheriff’s office or other law enforcement offices.

Regulations like these can be based on mistaken or prejudicial fears about group homes, instead of actual data and evidence. Particularly in light of research finding that fears about group homes endangering neighbors’ health and safety are unfounded,¹⁰⁹ such provisions may in themselves be regarded as evidence that a local government is not complying with its requirements to affirmatively support housing for persons with disabilities and prevent discrimination against group homeowners, operators, and residents.

Regulations like these can also create unnecessary constraints on group homes by imposing overbroad, additional costs and burdens on the many group homes that capably serve their occupants’ needs and seamlessly integrate into their communities. They can intrude on privacy rights. They can discriminate on the basis of disability or other protected characteristics if, for example, requirements like these are imposed on group homes but not on other housing. For these reasons, among others, regulations like these generally conflict with state housing laws.

G. Civil Actions for Operating Without a Required State License

Some categories of group homes, such as all those serving children, require state licenses. But many, if not most, group homes do not require state licenses to operate. These include, for example, group homes that provide peer support and limited services to residents but not the more extensive care and supervision that requires obtaining a license. Recovery residences that do not provide alcoholism or drug addiction recovery or treatment services are other examples of group homes that do not require licenses.

Examples of group homes that do require licenses include the ones in this table:

¹⁰⁹ See, *supra*, nn. 15-16.

Use	Health and Safety Code Sections	Licensing Agency
Community Care Residential Facilities (including various subcategories)	§ 1500 et seq. & § 1569 et seq., e.g.,	California Department of Social Services (CDSS)
AOD Facilities	§ 11834.01 et seq.	California Department of Health Care Services (DHCS)

Some local governments have amended their zoning ordinances to declare that operating a business without a required state license is a public nuisance. Some of these ordinances single out recovery residences that are providing recovery or treatment services without a license. These jurisdictions file civil actions seeking to abate these nuisances by closing some noncompliant recovery residences, requiring others to obtain the required license, or imposing limitations on recovery residences that were not providing recovery or treatment services.

Local governments have discretion to define as public nuisances’ business or construction activities that are undertaken without a required permit or license. And at least one California appellate court has upheld a city’s public nuisance action against a recovery residence where the owners’ own website advertised that they provided on-site drug addiction treatment services.¹¹⁰

But jurisdictions considering adopting this practice should still carefully assess the issues and problems that can arise under state law. Guidelines for local governments considering this include the following:

- Avoid targeting these nuisance actions on group homes operating without required licenses while ignoring other businesses operating in residences without required licenses.** Although public prosecutors have broad discretion to prioritize which violations or violators to prosecute, they cannot use this discretion in ways that discriminate on the basis of disability or other protected characteristics. Jurisdictions should not single out group homes unlawfully operating without required licenses while ignoring businesses doing the same thing in other residences.

¹¹⁰ *City of Dana Point v. New Method Wellness, Inc.* (2019) 39 Cal.App.5th 985.

- **Give group homes the same opportunities to respond to and resolve alleged code violations as other alleged violators.** For example, if other property owners or businesses are allowed to respond to and resolve alleged code violations during investigations or administrative hearings, those same procedures should apply to group homes that are allegedly providing services that require a license without having obtained one.
- **Use the processes available through DHCS and CDSS, for example, for resolving allegations that a group home is operating without a required license.** If a locality has evidence that a residence is providing unlicensed recovery or treatment services in facilities under DHCS's jurisdiction or unlicensed care or supervision for residents in facilities under CDSS's jurisdiction, it should use these departments' processes for investigating such complaints and abating them if they have merit.¹¹¹ This is especially important when group home operators have not openly admitted that they are providing unlicensed services on-site.

Determining what activities at a group home rise to the level of licensable services, in contrast to common policies or mutual support activities that do not require licenses, can involve nuanced and technical issues that are beyond the expertise of most local planning or code enforcement staff. DHCS's and CDSS's staff have the expertise and experience to investigate these claims, make these determinations, and abate violations of the licensing laws they enforce.

If jurisdictions are filing their own, more costly civil actions to resolve disputes over whether a group home requires a license, this runs the risk of courts issuing mistaken rulings without the benefit of DHCS's or CDSS's findings and expertise.¹¹² It also raises questions under state housing laws about why a local government is not availing itself of DHCS's or CDSS's procedures and opting instead to subject a group home to more expensive and burdensome civil litigation.

¹¹¹ See, e.g., Cal. Code Regs., tit. 9, § 10542, tit. 22, § 80006.

¹¹² *Cf. Farmers Ins. Exchange v. Superior Court* (1992) 2 Cal.4th 377, 390 (explaining that under primary jurisdiction doctrine, courts may suspend proceedings to allow an administrative agency with specialized expertise to determine an issue within the scope of its regulatory authority).

H. ENFORCING GENERALLY APPLICABLE MUNICIPAL CODES AND OTHER LAWS

If group home operators are engaging in activities that constitute public nuisances; violating generally applicable building, housing, or other health and safety laws; committing fraud; or engaging in other illegal activities, local governments can address these issues through the same code enforcement and other legal processes they apply to others who violate municipal codes and other laws. This may still require considering if reasonable accommodations are appropriate in some circumstances. And local governments should avoid overbroad or discriminatory applications of nuisance laws, such as basing nuisance actions on 911 calls for emergency services.¹¹³ But if a group home is found to have violated local or state law, local governments may seek equitable relief that could include more stringent oversight and other affirmative relief to prevent further violations.

Focusing on individual group homes that are actually causing problems is a better practice than adopting overly broad and constraining regulations for all group homes that conflict with state housing laws.

8. RESOURCE MATERIALS AND STATE CONTACTS

Resource Materials

Affirmatively Furthering Fair Housing: Guidance for All Public Entities and for Housing Elements (April 2021 Update), available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

Housing Accountability Act Technical Assistance Advisory, HCD (Sep. 15, 2020), available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/hcd-memo-on-haa-final-sept2020.pdf>

Housing Element Building Blocks, HCD, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks>

¹¹³ See, e.g., Cal. Code Regs., tit. 2, § 12162, subd. (a); United States Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances (Sep. 13, 2016), available at <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.

Housing Element Building Blocks – Constraints for People with Disabilities, HCD, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/constraints-people-disabilities>

Housing Element Building Blocks – Persons with Disabilities, HCD, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/people-disabilities-including-developmental-disabilities>

Housing Element Building Blocks – Zoning for a Variety of Housing Types, HCD, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/zoning-variety-of-housing-types>

Joint Statement of the Department of Housing and Urban Development and the Department of Justice – State and Local Land Use Laws and Practices and the Application of the Fair Housing Act, HUD - DOJ (Nov. 10, 2016), available at <https://www.justice.gov/opa/file/912366/download>

Senate Bill 2—Legislation Effective January 1, 2008: Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing, HCD (Apr. 10, 2013 update), available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf>

Transitional and Supportive Housing, Chapter 183, Statutes of 2013 (SB 745), HCD (Apr. 24, 2014), available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb745memo042414.pdf>

Contacts

HCD

HCD accepts requests for technical assistance from local jurisdictions and requests for review of potential violations from any party. All comments submitted to HCD are subject to the California Public Records Act. Send email requests to: ComplianceReview@hcd.ca.gov.

California Department of Health Care Services (DHCS)

Information about DHCS's complaint process for licensing issues at AOD facilities is available at <https://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx>, by emailing sudcomplaints@dhcs.ca.gov, or by calling (877) 685-8333.

California Department of Social Services (CDSS)

Information about CDSS's complaint process for licensing issues at facilities that it regulates is available at <https://www.cdss.ca.gov/reporting/file-a-complaint/ccld-complaints> or by calling (844) 538-8766.



October 17, 2023

Re: October 19, 2023, Meeting, Agenda Item # 3 (Zone Text Amendments)

Dear Chair Mensinger and Members of the Planning Commission:

The League of Women Voters (LWV) supports policies that encourage the development of housing, particularly affordable housing.

The LWV supports the staff recommendations to the Planning Commission, as set forth in the staff report.

These amendments should encourage housing development that will allow Los Altos to meet its Regional Housing Needs Allocation (RHNA) goals. Additional height limits in the Commercial Thoroughfare zone, allowing residential uses in the Office Administration zone, changing the zoning for Village Court, and repealing the Loyola Corners Specific Plan were all included in the Housing Element Update (HEU) approved by the State of California. It is critical that Los Altos pass ordinances implementing the commitments it made in its HEU and we anticipate that these changes will incentivize housing production.

Given the extensive proposed changes, we are pleased that the City is planning a public informational meeting on November 1st with an opportunity for questions and answers so that the public can become better informed before these zoning changes are reviewed by the City Council.

(Please send any questions about this email to Sue Russell, Co-Chair of the Housing Committee, at housing@lwvlamv.org)

Sincerely,

Katie Zoglin, President
LWV of Los Altos/Mountain View Area

C: Gabe Engeland, City Manager
Melissa Thurman, City Clerk
Nick Zornes, Development Services Director
PCPublicComment@losaltosca.gov



October 19, 2023

Dear Chair Mensinger and Planning Commissioners,

LAAHA strongly supports the zoning changes proposed by Staff in accordance with the Housing Element Update for various programs. We also support these actions so that our Element remains in compliance with State laws.

More specifically –

The CT district has capacity for higher density housing and is the logical place to add housing due to access to transit and amenities. We approve of changing our code to allow 5 stories before a density bonus in the CT zone.

Housing should be allowed in the OA district, and we support increasing the maximum densities there to 30 du/acre.

The Loyola Corners Plan should be rescinded as it has stifled meaningful development and upgrades. We appreciate getting rid of the 20 unit density cap, the dwelling size requirement, and the height limitation. In all, creating a Loyola Corners that is consistent with all other CN districts makes sense.

Village Court should be consistent with other CT zones, and we support the rezoning at this major intersection.

While change is difficult, we see that these zoning changes on the whole create greater consistency within our city's specified zones, eliminate ambiguity, and increase density in areas of our city that can accommodate more density. These are strategic changes that we hope will lead to more units of housing.

Respectfully,
LAAHA Steering Committee

Los Altos Affordable Housing Alliance

Committed to educating and inspiring the Los Altos community to build housing that is affordable for those who live and work in Los Altos

<https://losaltosaffordablehousing.org/>