



Legislation Details (With Text)

File #: 24-201 **Version:** 1 **Name:** Consideration of an Ordinance Amending Various Chapters of the Zoning Code to Modify Regulations Pertaining to Fencing, Extend Entitlements for Qualified Projects, Replace References to the Board of Zoning Adjustments with the Planning Commission; and an

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Enactment #: Ord 2024-011 & Ord 2024-012

Title: First Reading of Two Ordinances: 1) to Amend Various Chapters of the Zoning Code to Modify Regulations Pertaining to Fencing, Extend Entitlements for Qualified Projects, Replace References to the Board of Zoning Adjustments with the Planning Commission; and 2) to Modify Various Chapters of the Municipal Code to Amend Regulations Pertaining to Private Property Maintenance, Mobile Food Vending, and Noise

Indexes:

Code sections:

Attachments: 1. A - Ordinance Amending Zoning Code, 2. Ex A - Zoning Code Amendments (Clean Version), 3. B - Ordinance Amending Municipal Code, 4. Ex A - Municipal Code Amendments (Clean Version), 5. C - Zoning Code Amendments (Redlined Version), 6. D - Municipal Code Amendments (Redlined Version), 7. E - Draft Mobile Food Vending Guidebook, 8. F - Public Outreach, 9. G - General Plan Conformance, 10. H - Razor Barbed Wire and Electrified Fencing Zoning Code Amendments (not included in PC recommendation), 11. Code Amendments Presentation

Date	Ver.	Action By	Action	Result
7/1/2024	1	City Council	Approved	Pass

First Reading of Two Ordinances: 1) to Amend Various Chapters of the Zoning Code to Modify Regulations Pertaining to Fencing, Extend Entitlements for Qualified Projects, Replace References to the Board of Zoning Adjustments with the Planning Commission; and 2) to Modify Various Chapters of the Municipal Code to Amend Regulations Pertaining to Private Property Maintenance, Mobile Food Vending, and Noise

COUNCIL PRIORITY

- Quality of Life
- Housing and Homelessness

SUMMARY

Staff periodically prepares updates to the City’s Zoning Code and Municipal Code to ensure that regulations remain relevant, accurate and enforceable over time. The attached staff-initiated package of Zoning Code and Municipal Code Amendments has been prepared to address the following:

Zoning Code Amendments

- **Security Fencing.** Modification of development standards related to fencing to provide property owners and business owners with a greater ability to secure their properties, while maintaining the visual character of the community.
- **Extension of Entitlements.** Extension of entitlements for previously approved development projects for two (2) years to grant additional time for construction to proceed.
- **Replacement of “Board of Zoning Adjustments” with “Planning Commission”.** Replacement of references to the “Board of Zoning Adjustments” with the “Planning Commission” based on the recent consolidation of the two advisory bodies in the Administrative Code.

Municipal Code Amendments

- **Private Property Maintenance.** Modifications to the Community Preservation Ordinance to provide clear and enforceable standards for the maintenance of commercial properties, multi-unit properties and vacant lots.
- **Sidewalk Vending.** Modification of mobile food vending regulations to comply with the requirements of Senate Bill (SB) 946, recent legislation aimed at decriminalizing sidewalk vending, which will clarify and enable enforcement of City standards.
- **Noise Regulations.** Modification of the Noise Ordinance to facilitate objective enforcement of disturbing, excessive and offensive noise.

RECOMMENDATIONS

On June 6, 2024, the Planning Commission, by a vote of 4-0-3 (Commissioners Zuber, Tejada and Boldt absent), recommended that the City Council introduce an Ordinance (Attachment A) amending the Zoning Code, as shown in Attachment A, Exhibit A. The only components of the Zoning Amendments that the Planning Commission did not approve per staff recommendations were for electrified fencing and razor/barbed wire due to lack of consensus (see Planning Commission Review section below).

Staff recommends that the City Council introduce an Ordinance (Attachment B) amending the Municipal Code, as shown in Attachment B, Exhibit A.

BACKGROUND AND ANALYSIS

Zoning Code Amendments

Security Fencing

In recent years, staff has received numerous requests from business and property owners to allow for more flexibility in fencing requirements for security purposes. Proposed amendments were developed based on consultation with business owners, as well as best practices employed in other communities. Notably, the amendments would allow increased fence heights in street-fencing setback areas in industrial zoning districts. The allowable fence height within front setback areas would be increased from three foot maximum to eight foot maximum, provided certain standards (e.g., transparency, driveway visibility) are met.

The package of proposed Zoning Code amendments that was presented to the Planning

Commission on June 6, 2024 included several provisions which were excluded from the Planning Commission's motion to recommend City Council adoption:

- **Security Fencing Standards (IL and IG Districts only).** Razor/barbed wire was proposed to be permitted in front setback areas in the City's heaviest industrial districts (IL and IG), provided that safety standards were met (e.g., barbed wire must be angled inwards, a minimum six-foot clearance from the ground be maintained).
- **Electrified Security Fencing (IL and IG Districts only).** Electrified fencing (fencing carrying pulses of electric current to deter potential trespassers) is currently prohibited in the City of San Leandro. Standards were proposed to allow electrified fencing in the IL and IG Districts (not on vacant lots) provided that the fencing was consistent with adopted codes and accepted best practices (e.g., electrified fencing completely surrounded by non-electrified fencing, posting of safety warning signs).

The Planning Commission failed to reach a consensus on the provisions pertaining to razor/barbed wire and electrified fencing, and consequently excluded these provisions from their recommendation. Additional discussion regarding the Planning Commission's action is provided in the Planning Commission Review section of this staff report.

Extension of Existing Entitlements

Staff proposes amendments to the Zoning Code to automatically extend active development project entitlements for two (2) years. The purpose of the automatic extension is to grant additional time for construction to proceed in recognition of current challenging economic conditions for residential, commercial and industrial development. The extension would delay the expiration of entitlements for numerous projects that are critical to the City's new housing supply and economic development goals.

Consolidation of the Board of Zoning Adjustments and the Planning Commission

The proposed amendments to the Zoning Code update all references to the "Board of Zoning Adjustments" to the "Planning Commission." On June 17, 2024, the City Council adopted amendments to the City's Administrative Code to officially combine the Board of Zoning Adjustments and the Planning Commission into one singular advisory body (the Planning Commission). The proposed amendments would create consistency between the Administrative Code and Zoning Code.

Municipal Code Amendments

Private Property Maintenance

Proposed amendments to the Municipal Code would create clear and enforceable property maintenance standards for commercial properties and multi-family housing with five or more units. The amendments would set increased standards for the maintenance of buildings, landscape areas, parking areas and common areas. The proposed amendments would also include maintenance standards for vacant, undeveloped lots to ensure proper security and maintenance are in place and the site is maintained in an appropriate condition.

Sidewalk Vending

SB 946 was enacted in 2018 to decriminalize and promote sidewalk vending as an economic enterprise. Staff proposes minor amendments to the City's mobile food vending regulations to comply with SB 946, including the elimination of an existing prohibition on vending from pushcarts and amendment of enforcement requirements so that violations are punishable by administrative fines only. Following the approval of the ordinance, staff will circulate an informational handout ("Mobile Food Vending Guidebook") to educate the public on the City's updated mobile vending requirements. A draft of the Mobile Food Vending Guidebook is attached as Attachment E. The final handout will be translated into other languages to support education efforts.

Noise Regulations

The City's noise ordinance describes noise violations in subjective terms, which has made identification and enforcement of noise violations challenging. Staff proposes the establishment of objective measurable noise standards by decibel levels rather than relying on the judgement of an enforcing official. The proposed measurable decibel standards are based on a review of noise standards from other jurisdictions and policy guidance in the General Plan Environmental Hazards Element.

Public Outreach

Presentations on property maintenance and fencing were provided to the Planning Commission, San Leandro Chamber of Commerce Board, the Downtown San Leandro Improvement Association (SLIA) Board and the Washington Manor Homeowners' Association. Staff posted draft property maintenance and fencing amendments on the City's website and reached out to various stakeholders to solicit public comments, including notifying Homeowners Associations. During public outreach, concerns were expressed about allowing electrified fencing, specifically that they may create safety hazards and that widespread use could contribute to a negative image of the city. Other concerns have been expressed that the amendments relating to vacant buildings are needed, while others were concerned that the threshold for a public nuisance is too low as proposed. Summary of public outreach is provided as Attachment F.

Planning Commission Review

On June 6, 2024, the Planning Commission held a public hearing on the proposed Zoning Code Amendments and voted 4-0 to recommend City Council adoption with modifications. The only areas of disagreement among the commission were regarding electrified fencing and security fencing (razor/barbed wire). Members of the public from the electrified fencing industry requested amendments to electrified fencing standards related to maximum height and separation distance from the perimeter fence. Of the four commissioners present at the meeting, Commissioners Solis, Tabjulu and Rich were supportive of providing additional tools to business owners to secure their properties, but Commissioner Mendoza expressed concern that the increased use/visibility of security fencing would be detrimental to the image of the City and would not ultimately lead to a more secure environment. Due to a lack of consensus, the Commission excluded the provisions related to razor/barbed wire and electrified fencing from the recommendation for adoption to the City Council.

The deleted provisions related to razor/barbed wire and electrified fencing are provided in Attachment H if the City Council desires to return these provisions to the Ordinance.

Environmental Review

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect on the environment under CEQA Guidelines Section 15061(b)(3). No further environmental review is necessary.

General Plan Conformance

The proposal is consistent with numerous goals and policies in the City's General Plan, as listed in Attachment G.

Financial Impacts

The proposed amendments would establish administrative fines for violations to the City's mobile food vending regulations. The amount of administrative fines are set by state law. The collection of these administrative fines is anticipated to have a negligible financial impact for the City. No additional financial impacts are anticipated from the other proposed amendments to the Zoning Code and Municipal Code.

ATTACHMENTS

Attachment A: Ordinance Amending the San Leandro Zoning Code

Exhibit A: Amended Zoning Code (clean version)

Attachment B: Ordinance Amending the San Leandro Municipal Code

Exhibit A: Amended Municipal Code (clean version)

Attachment C: Amended Zoning Code (redlined version)

Attachment D: Amended Municipal Code (redlined version)

Attachment E: Draft Public Handout - Mobile Food Vending

Attachment F: Summary of Public Outreach

Attachment G: General Plan Conformance

Attachment H: Razor/Barbed Wire and Electrified Fencing Zoning Code Amendments (not included in Planning Commission recommendation)

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