

Part 5

RESPONSIBILITIES AND PROCEDURES

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Chapter 5-05**RESPONSIBILITY AND PROCEDURES**

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5-05-010 Purpose.

To set forth the responsibility and procedures by which the city of Livermore shall administer the requirements and permits of this code. (Ord. 442 § 22.10)

5-05-020 Authority.

A. Planning Commission. The city council grants to the planning commission the responsibility and authority to administer this code. The planning commission shall approve, conditionally approve, or disapprove, when required or upon application, issuance of permits as set forth under the terms of this code.

B. Zoning Administrator. The city council creates and designates the position of the zoning administrator who shall be an employee of said city and be normally available to the general public during the regular office hours. The zoning administrator when required or upon application shall approve, disapprove, or refer to the planning commission for determination such permits as are set forth under the terms of this code. The zoning

administrator shall issue all permits approved under the terms of this code. (Ord. 442 §§ 22.20 – 22.22)

5-05-030 Procedures.

Any use of land, building, or structure or part thereof proposed hereinafter to be created, erected, changed, converted or enlarged shall conform to the terms of this code before said use is established.

A. “Valid applicant” means the property owner or certified agent thereof.

B. Filing Process. Application for all permits and/or approvals as set forth herein shall be made on a form and/or forms prescribed for this purpose by the city of Livermore.

C. Expiration of Permit. If the action for which an entitlement is granted is not begun within two years of the date of final approval of the application, such permit shall be deemed to have expired and of no further effect. The decisionmaking body may establish other expiration requirements consistent with the purpose and intent of the entitlement, and the provisions of this section.

1. One extension for a period of one year may be granted upon written request of the applicant if made prior to the original expiration date.

2. An application for extension shall be evaluated and approved upon determination that the facts and circumstances of the original approval remain valid. (Ord. 1311, 1989; Ord. 442 §§ 22.30 – 22.33)

5-05-040 Effect of action – Establishment of use.

All uses permitted in any district may be established; provided, that any required permits and/or approvals are granted and issued. (Ord. 442 §§ 22.40, 22.41)

5-05-050 Violation.

Initial and continued compliance with all requirements of this code shall be required for each use. If there is any purported violation of any requirement of this code, the planning commission may cause an investigation to be made of the alleged violation. (Ord. 442 § 22.51)

5-05-060 Revocation.

A permit or approval granted under the terms of this code may be revoked by the planning commission when a violation is found to exist or where the conditions of a permit or approval granted have not been complied with. In the event conditions are reported which may be considered grounds for revocation, the zoning administrator shall investigate and report to the planning commission at its next regular meeting the nature of the condition. If it is determined by the planning commission that grounds for revocation exist, the permit shall be automatically suspended for a period of 30 days, and the planning commission shall set a date at which time a hearing shall be held and the applicant notified to appear to show cause why the permit should not be permanently revoked. When determined by the planning commission to be in the public interest, a public hearing may be held. In the event violations are found to exist and are corrected, or in the event a permit is revoked, the violator shall be required to pay all costs incurred by any investigation or public hearing. (Ord. 442 § 22.52)

5-05-070 Use of permits.

The planning commission, in its discretion, may impose any reasonable time limit on any permit authorized by this code. Full compliance of all the terms of the permit must be made by the applicant prior to any occupancy or use of the property, unless the applicant submits a surety bond, in an amount to be determined by the commission, guaranteeing full compliance with all the terms of the permit within the time specified. (Ord. 442 § 22.53)

5-05-080 Unlisted uses.

Unlisted uses, for which the requirements to use, permits, and/or approvals are determined by the planning commission, shall, when such requirements are determined as reasonable and recurrent, be included in the zoning code by proper amendment. The planning commission may, in the interim period before adoption of amendments for specific use, adopt such requirements by resolution. (Ord. 442 § 22.54)

5-05-090 Public hearings.

Public hearings shall be held whenever required by this code, or whenever such hearings are deemed to be necessary in the public interest at the discretion of the planning commission.

A. Body Holding Hearing. Planning commission and/or city council.

B. Deadline for Notice of Hearing. Not less than 10 days prior to date of hearing.

C. Method of Notice of Hearing. Notice of time, place and purpose of the hearing shall be given by mailing of a postcard to the owners of all property within 300 feet of the boundaries of subject property as their names and addresses appear on the current tax roll, then to general delivery, city of Livermore; and publication of notice of hearing at least 10 days prior to said hearing in a newspaper of general circulation printed and published in the city of Livermore.

D. Validity of Findings on Failure of Receipt of Notice. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken. (Ord. 442 §§ 22.60 – 22.65)

5-05-100 Filing fees.

Fees shall be required at the time of filing any application in the amount established by resolution of the city council. (Ord. 1082, 1981; Ord. 442 § 22.70)

5-05-110 Design review – Purpose.

It is the purpose of this section to recognize the interdependence of land values and aesthetics and to provide a method by which the following goals can be achieved:

A. Prevention of inappropriate design or development of structures on industrial, commercial, residential, office or other so designated building sites.

B. Development of a city having “image and character,” which such term shall include beauty, spaciousness, quality, harmony and fitness.

C. Promotion of sound land use development.

D. Assistance in the development of architectural quality for buildings used for industrial, commercial, office, residential or other activities.

E. It is not a purpose of this section to control architectural character so rigidly that individual initiative is stifled in the design of any particular

building. Rather, it is the purpose of this section that any control exercised be that necessary to achieve the overall objectives of this section.

F. Maintain and increase the desirability of other properties within the vicinity for the uses for which they are zoned.

G. Help assure that property values within the vicinity of new and modified development retain their stability.

H. Uphold standards that result in the maintenance or improvement, or both, of surrounding properties so that improvements are not discouraged with the result that properties degenerate resulting in an accompanying deterioration of conditions.

I. Prevent the decline in the taxable value of real property in the vicinity and the cost of municipal services to these properties.

J. Prevent unsightliness which causes a decrease in the value of surrounding properties. (Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 §§ 22.80, 22.81)

5-05-120 Design review required.

No building permit shall be issued for a project requiring design review pursuant to LPZC 5-05-130 through 5-05-150, unless a design review recommendation has been made or final action has been taken pursuant to LPZC 5-05-160. (Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.82)

5-05-130 Projects subject to design review.

The following projects are subject to design review by the planning commission:

A. Construction of any new nonresidential development and additions to those structures exceeding 50 percent of existing floor area or 50,000 square feet, whichever is less, of the structure, or 15 percent where the addition does not match the existing architecture and colors.

B. Additions to nonresidential structures which are less than 15 percent of the existing floor area, which noticeably affect the view from a major street.

C. Initial construction, exterior additions to, alterations of, or modifications to any existing structure or building which is used in whole or in part as a condominium or a multiple-family residence of five or more units.

D. The approval of major residential subdivisions, as that term is defined in the city's subdivision ordinance (LMC Title 18), and the issuance of building permits for single-family homes initially approved as part of a major residential subdivision, as follows:

1. All major residential subdivisions for which applications have been determined to be complete pursuant to Section 65943 of the Government Code on or after July 31, 1996, and which are approved on or after November 27, 1996. Design review for such projects shall take place concurrently with the processing of a tentative map.

2. Construction of more than four single-family homes within the same subdivision within a single calendar year on lots initially approved as part of a major residential subdivision, which subdivision was approved prior to July 31, 1996, and does not have vested rights as conferred by Section 66498.1 of the Government Code.

3. Major residential subdivisions not covered in subsection (D)(1) of this section, and single-family homes initially approved as part of a major residential subdivision, which subdivision was approved prior to July 31, 1996, and has vested rights under Section 66498.1 of the Government Code, may be subject to design review pursuant to this section if, after a public hearing, the city council finds that: (a) a failure to provide such review would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or (b) such review is required in order to comply with state or federal law. Design review pursuant to this section may include, but is not limited to, review of site design, amenities, lot configurations, grading, and individual house plan design.

E. Master sign programs, freeway freestanding signs, and signs included in the application for a development project reviewed by the planning commission.

F. New landscape/hardscape plans for the initial landscaping of all public and private development projects and public landscape projects along major roads as designated by the general plan, along arroyos, and on city-owned property. (Ord. 1861 § 1, 2009; Ord. 1709 § 25, 2004; Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.83.A)

5-05-140 Projects subject to administrative design review.

The following projects are subject to administrative design review:

A. Any new construction, exterior addition to, modification to, or alteration of any existing structure or building which is used in whole or in part as a condominium, duplex or a multiple-family residence for two, three or four families.

B. Additions to existing office, industrial, commercial, or public/quasi-public structures where the addition matches the existing architecture and colors, up to 50 percent of existing floor area or 50,000 square feet, whichever is less.

C. Additions of less than 15 percent of existing floor area to existing office, industrial, commercial, or public/quasi-public structures where the addition does not match the existing architecture and colors.

D. Any sign associated with a project reviewed by administrative design review, signs under an approved master sign program, and signs associated with a development project previously approved by the planning commission.

E. The zoning administrator may refer any administrative design review application to the planning commission for review and final action. (Ord. 1861 § 1, 2009; Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.83.B)

5-05-150 Change in type of design review.

A project subject to design review by the planning commission may instead be subject to administrative design review by majority vote of the planning commission. A project subject to administrative design review may instead be subject to planning commission review if the planning division determines that there are special circumstances with respect to design, location, or conformance with the design guidelines which necessitate review by the planning commission. (Ord. 1861 § 1, 2009; Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.83.C)

5-05-160 Findings.

A. Design review recommendations and final actions shall be based on written findings relating to conformance with the city's design guidelines, including, but not limited to, the following:

1. The site plan relates to land use and development of adjacent properties, including topographic and other physical characteristics of the land.

2. The site plan exercises proper site utilization and establishes a physical and architectural relationship to existing and proposed structures on the site.

3. The overall structure, including buildings, walls, screens, towers, signs, exposed equipment, and similar structures, as they pertain to height, bulk or mass, open space, and similar factors, is consistent with the design guidelines.

4. The architectural design of the buildings, including materials, textures, color, and architectural features of the exterior, is consistent with the design guidelines.

5. The architectural style of the buildings relates to the character of the surrounding area, both to avoid repetition of identical design where not desired and is compatible in design where desired.

6. The development has a harmonious relationship with existing and proposed developments and avoids both excessive variety and monotonous repetition.

7. Location and type of landscaping, to include the preservation of any specimen or landmark trees is satisfactory.

8. Compatibility in material, color, and composition of those exterior elevations of the structure that are visible simultaneously is consistent with the design guidelines.

9. Exterior lighting intensity will provide for public safety, will not be of a nature that will constitute a hazard or nuisance to adjacent properties, and will be appropriate to the function of the development or use.

10. The project overall is consistent with the intent and purpose of the design guidelines of the city of Livermore.

B. Similarity of Style May Be Required. When a neighborhood or district has assumed a distinct character or style, and it is found that it is desirable to continue such character or style in the architectural features of the proposed structure, such similarity may be required. (Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.84)

5-05-170 Nature of action – Appeal.

A. Administrative design review actions may be appealed to the planning commission per the appeal procedures of this code.

B. Design review actions by the planning commission are final, except design review that is considered concurrently with an entitlement subject to city council approval shall be reviewed and approved by the city council.

C. Final design review actions by the planning commission may be appealed to the city council pursuant to the procedures of this code. (Ord. 1861 § 1, 2009; Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.85)

5-05-180 Application and accompanying materials.

Applications for design review approval shall be made by the property owner or an authorized agent for the property owner on a form prescribed for this purpose by the city. Accompanying materials of a quantity and type specified by the planning division shall be submitted for review in accordance with the requirements established by the planning division. Failure to provide the proper materials as prescribed may result in delay in the processing of the application until the required materials are submitted or rejection of the application as incomplete.

A. For the initial construction of a nonresidential structure, applications shall include a site plan showing the location of all structures and property boundaries; building elevations for all structures, colors and materials; landscaping plans including water efficient landscaping calculations; lighting plans; and any accessory structures or design elements including, but not limited to, signs or the master sign program, fencing, or lighting.

B. For major subdivisions proposing single-family residential dwelling units, provide site design; on-site amenities; lot configurations; grading; individual house plan design, colors, materials and architectural features; and landscaping design.

C. For single-family residential dwelling units, provide site plan; grading; individual house plan design, colors, materials, and architectural features; and landscaping design. (Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 § 22.86)

5-05-190 Administrative design review.

The community development director shall establish procedures for the design review of projects identified for administrative design review. These procedures may involve the review of project design by city staff member(s), professional design consultant(s), or a combination of staff and/or design consultants. (Ord. 1861 § 1, 2009; Ord. 1521, 1998; Ord. 1487, 1996; Ord. 1410, 1993; Ord. 442 §§ 22.87 – 22.96)

Chapter 5-10

PERFORMANCE STANDARDS APPROVAL

Sections:

- 5-10-010 Purpose.
- 5-10-020 Procedure.
- 5-10-030 Required data.
- 5-10-040 Report by expert consultants.
- 5-10-050 Findings – Planning commission.
- 5-10-060 Action – Planning commission.

5-10-010 Purpose.

The purpose of this chapter is to provide procedures and methods to permit nuisances to be measured in terms of the potential dangerous or objectionable elements rather than by classification of use which may not reflect actual conditions or nuisances; to provide control methods to protect the community from dangerous or objectionable elements; and to protect any potential use from arbitrary exclusion. (Ord. 442 § 24.10)

5-10-020 Procedure.

No land or building or structure in any district shall be used or occupied in any manner as to create any dangerous or objectionable elements in such a manner or such amount as to adversely affect the surrounding area or adjoining premises; provided, that any use in any district otherwise permitted by this code may be undertaken and maintained if it conforms to performance standards. Those uses specified in the industrial districts as subject to performance standards are required to obtain performance standards approval; provided, that any use in any district, in the opinion of the zoning administrator and so determined by the planning commission, may be required to obtain performance standards approval. (Ord. 442 § 24.20)

5-10-030 Required data.

Where performance standards approval is required, the application shall be accompanied by a description of the proposed machinery, processes and products, and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements as set forth in LPZC 5-10-020, sufficient to show evidence of compliance with performance standards. (Ord. 442 § 24.30)

5-10-040 Report by expert consultants.

The planning commission may require of the applicant such additional evidence and clarification as may be necessary to establish that the proposed use will conform to the performance standards specified in LPZC 5-10-020. (Ord. 442 § 24.40)

5-10-050 Findings – Planning commission.

The planning commission shall determine whether the proposed use conforms to the applicable performance standards. (Ord. 442 § 24.50)

5-10-060 Action – Planning commission.

If the planning commission approves the performance standards, the zoning use permit may then be issued; provided, that any other requirements, permits, and/or approvals set forth herein are also approved. (Ord. 442 § 24.60)

Chapter 5-15**APPEAL**

Sections:

- 5-15-010 Purpose.
- 5-15-020 Applicability.
- 5-15-030 Procedure.
- 5-15-040 Action.
- 5-15-050 Review.

5-15-010 Purpose.

The purpose of this chapter is to provide recourse in case it is alleged that there is error in any order, requirement, permit, decision, or determination, approval or disapproval, made in the administration or enforcement of this code. (Ord. 442 § 29.10)

5-15-020 Applicability.

Any person may appeal the decision of the zoning administrator, planning commission, historic preservation commission, or other administrative official in the administration or enforcement of this code in the manner provided herein. (Ord. 1861 § 1, 2009; Ord. 442 § 29.20)

5-15-030 Procedure.

A. Appeal of Decisions of the Historic Preservation Commission, Zoning Administrator or Other Administrative Officials. Application for appeal may be made to the planning commission by filing with the secretary of the planning commission on a form prescribed by the city of Livermore within 14 days following the decision. In addition, an appeal pursuant to the provisions of this section may be initiated on motion of the planning commission or the city council. An application or motion for appeal shall automatically suspend the action appealed.

B. Appeal of Decisions of the Planning Commission. Application for appeal may be made to the city council by filing with the city clerk on a form prescribed by the city of Livermore within 14 days following the decision. In addition, an appeal pursuant to the provisions of this section may be initiated on motion of the city council. An application or motion for appeal shall automatically suspend the action appealed.

C. Required Data. Application for appeal must be accompanied by a written statement of the basis upon which the appeal is filed.

D. Set Hearing. Within 60 days following the filing of an appeal or the next regular meeting thereafter, the planning commission or the city council, whichever has jurisdiction, shall hold a hearing on the appeal.

E. Notification. At the hearing, the planning commission or the city council, whichever has jurisdiction, shall notify and request a full report from the officer or body whose action is appealed, setting forth the findings and recommendation on the action being appealed. The applicant and/or appellant shall be notified of the date of hearing. If the appealed item requires public notice, the same notification shall be required for the appeal. (Ord. 1861 § 1, 2009; Ord. 1069, 1981; Ord. 442 §§ 29.30 – 29.35)

5-15-040 Action.

The planning commission or city council may affirm, reverse, or modify the decision appealed as deemed just and equitable, provided such action is not contrary to any provision set forth in this code. (Ord. 442 § 29.40)

5-15-050 Review.

Action of the city council may be reviewed by competent courts. (Ord. 442 § 29.50)

Chapter 5-20

AMENDMENT

Sections:

- 5-20-010 Initiation.
- 5-20-020 Processing.
- 5-20-030 Information required.
- 5-20-040 Fees.

5-20-010 Initiation.

Any person may request an amendment to the zoning code by letter to the city council, submitted to the city clerk. A request may also be submitted to the director of planning for forwarding to the planning commission and city council. (Ord. 894, 1976; Ord. 442 § 30.10)

5-20-020 Processing.

The director of planning may at his discretion establish an administrative procedure for the processing of rezoning requests which are submitted to him directly or referred to him by the city council. (Ord. 894, 1976; Ord. 442 § 30.20)

5-20-030 Information required.

The director of planning may require any person whose rezoning request is to be processed administratively to provide all information that is needed. (Ord. 894, 1976; Ord. 442 § 30.30)

5-20-040 Fees.

The director of planning is authorized to establish a fee schedule to cover the necessary and reasonable costs of public hearings, environmental impact reports, staff reports, and similar requirements. The fees so established shall be charged to the person requesting the zoning action. (Ord. 894, 1976; Ord. 442 § 30.40)