

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY MAKING FINDINGS AND ADOPTING ZONING ORDINANCE TEXT AMENDMENTS TO OAKLEY MUNICIPAL CODE SECTIONS 9.1.202 (DEFINITIONS), 9.1.404 (SINGLE-FAMILY RESIDENTIAL DISTRICTS), 9.1.1502 (NONCONFORMING USES), AND 9.1.1604 (DESIGN REVIEW) (RZ 03-15)**

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The City Council of the City of Oakley does ordain as follows:

**SECTION 1.** Subsection 9.1.202(b)36 of Section 9.1.202 of the Oakley Municipal Code, titled "Definitions", is hereby amended in its entirety as follows:

"36. Fence(s) shall mean a vertical, freestanding barrier or enclosure constructed of wood, masonry or metal which supports no load other than its own weight.

a. "Closed Fence" shall mean a fence in which more than 50 percent (50%) of the total surface area of the fence is solid material that cannot be seen through when viewed perpendicular to the face of the fence.

b. "Open Fence" shall mean a fence in which openings between the materials of which the fence is constructed represent not less than fifty percent (50%) of the total surface of the fence when viewed perpendicular to the face of the fence. For the purposes of example only, an open-picket style fence consisting of vertical slats or board measuring four inches across would be considered an open fence if there were at least four inches of open space between each picket."

**SECTION 2.** Subsection 9.1.202(b)84 of Section 9.1.202 of the Oakley Municipal Code, titled "Definitions", is hereby amended in its entirety as follows:

"84. "Structure" means anything permanently or temporarily constructed or erected on land, except: (1) fences as defined in this chapter, (2) sidewalks, gateways, pipes, meters, meter boxes, manholes, and mailboxes, and (3) poles, wires, pipes and other devices, and their appurtenant parts, for the transmission or transportation of electricity and gas for light, heat or power, or of telephone and telegraphic messages, or of water."

**SECTION 3.** Subsection 9.1.404(f)6 of Section 9.1.404, titled "Single-Family Residential Districts", is hereby amended in its entirety, as follows:

"6. In addition to the above minimum requirements, additional setback provisions, included but not limited to the provision for providing larger side yard setbacks adjacent to the garage to provide room for side-yard RV and boat parking, are included in the City of Oakley Residential Design Guidelines."

**SECTION 4.** Subsection 9.1.1502(b) of Section 9.1.1502, titled "Nonconforming Uses", is hereby amended in its entirety, as follows:

"b. Definitions.

1. "Expansion or Intensification" means an enlargement, addition, relocation, repair, remodeling, increase in the number of dwellings or rooming units, any increase in occupancy or tenants, change in use, or any other change in an activity or facility.

2. "Nonconforming Structure" shall mean a structure that was legally constructed prior to the effective date of this ordinance but which does not conform to the current provisions of the Zoning Ordinance or General Plan;

3. "Nonconforming Use" shall mean a use of a structure or land that was legally established prior to the effective date of this ordinance but which does not conform to the current provisions of the Zoning Ordinance or General Plan."

SECTION 5. Section 9.1.1604, titled "Design Review", is hereby amended in its entirety, as follows:

**"9.1.1604 Design Review**

a. Purpose and Findings.

1. Purpose. The purpose of this section is to provide the process for the review and analysis of proposed projects' design, including site plans, architectural elevations, conceptual landscape plans, and other physical development for all lots within all zoning districts. Design review control should be the minimum necessary to ensure compliance with the applicable sections of the zoning ordinance and achieve the purposes, intents, and goals of the Oakley Residential Design Guidelines and Oakley Commercial and Industrial Design Guidelines.

2. Findings. The City Council finds that:

i. The design, appearance, and manner of development of all properties within the City have a substantial relationship with the characteristics of public and private places that make a community visually interesting, functional, and a source of community pride.

ii. Development within the City should be in a manner that is of high quality and allow for flexibility of unique solutions to enhance a project's design so that it can be successfully integrated into the existing fabric of the City, while preserving the City's human scale and sense of place.

iii. The quality of life and stabilization of property values are enhanced by project design that meets the criteria set forth in the Oakley Design Guidelines, Zoning Ordinance, and General Plan, as applicable.

iv. Design review is necessary to enhance project design, ensure quality development, maintain or enhance property values, and add to the visual character of the community and public health, safety, and welfare of Oakley residents.

b. Design Review Application Required.

1. Design Review shall be required in any residential, commercial, industrial or public and semi-public zoning district for any permitted or conditionally permitted establishment of use on a property that is not already developed with full frontage improvements and onsite improvements, for new above ground buildings or structures, whether intended to be permanent or temporary, for house plans, elevations and landscaping for any custom home or residential subdivision, for modification of the façade or color of a structure (with the exception of house colors proposed by individual property owners), or for any work that alters the existing grade of a property.

c. Design Review in Residential Zoning Districts.

1. Tentative Parcel Maps (less than 5 lots) and Single Lot Development.

i. Duty to Review.

A. The Zoning Administrator shall review each application for a building permit for a custom home or residential accessory structure on a single lot or for a Design Review application in conjunction with a tentative parcel map (a tentative map creating less than 5 lots) in a residential zoning district.

B. The Planning Commission shall review all Design Review applications related to non-residential uses otherwise permitted or conditionally permitted in residential districts.

ii. Procedure for Zoning Administrator Review.

A. If the Zoning Administrator finds that the application for a building permit or Design Review is consistent with the criteria adopted under OMC Article 4 of Chapter 9.1, Oakley Residential Design Guidelines, and state law, as applicable, the Zoning Administrator shall approve issuance of the building permit or Design Review.

B. If the Zoning Administrator finds the application for a building permit or Design Review is inconsistent with the criteria adopted under OMC Article 4 of Chapter 9.1 or the Oakley Residential Design Guidelines, the Zoning Administrator shall provide comments to the applicant so that the applicant may revise the application for a building permit or Design Review in order to reach consistency with OMC Article 4 of Chapter 9.1 and the Oakley Residential Design Guidelines.

C. If the Zoning Administrator is in doubt as to whether the application for a building permit or Design Review is consistent with the criteria in OMC Article 4 of Chapter 9.1 or the Oakley Residential Design Guidelines, the application for

Design Review shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting where the item may be placed on the agenda.

2. Tentative Maps (5 or more lots).

i. Duty to Review.

A. When an applicant or developer proposes a residential subdivision of five or more lots (tentative subdivision map) and proposes the house design and elevations at the same time of the subdivision approval process, the Design Review process shall be undertaken by the Planning Commission concurrently with the subdivision approval process and be heard as a public hearing item.

B. For residential Design Review applications filed separately from a tentative map, the Planning Commission shall act upon the application at a regularly scheduled meeting. The design review application shall be heard as a public hearing item.

ii. Procedure for Review.

A. If the Planning Commission finds that the Design Review application meets the Standards of Review for Design Review Application (section 9.1.1604(f) (OMC)), and is consistent with the criteria under OMC Article 4 of Chapter 9.1 and the Oakley Residential Design Guidelines or commercial and industrial guidelines, if applicable, the Planning Commission shall approve the design review application through adoption of a resolution.

d. Design Review in Commercial, Industrial and Public and Semi-Public Zoning Districts.

1. Duty to Review.

i. The Planning Commission or Zoning Administrator shall review each application for a building permit and/or Design Review application for any structure that is above ground or alters the existing grade in any commercial, industrial or public and semi-public zoning district, including plans to modify the façade or color of a structure significantly. The application for design review shall be referred to the Planning Commission for review and approval as a public hearing item, except for applications that fit the criteria in section 9.1.1604(d)(2)(ii), which may be reviewed and approved by the Zoning Administrator.

2. Procedure for Review.

i. If the Planning Commission finds that the Design Review application meets the Standards of Review for Design Review Application (section 9.1.1604(f) (OMC)), and is consistent with the criteria under OMC Articles 5, 6 and 7 of Chapter 9.1 and the Oakley Commercial and Industrial Design Guidelines, as

applicable, the Planning Commission shall approve the design review application through adoption of a resolution.

ii. The Zoning Administrator may review and approve an application for design review filed in compliance with section 9.1.1604 if it falls within any of the following categories:

A. A detached accessory structure on a lot with an occupied main building where the detached accessory structure is not highly visible from public view and built for the purposes of storage of materials rather than occupancy.

B. An addition to a main building where the gross floor area of the addition is less than 10,000 square feet or 25% of the existing gross floor area of the main building, whichever is less. (Ex. The maximum addition size to an existing 20,000 sq. ft. building that could be reviewed and approved by the Zoning Administrator is 5,000 sq. ft (25%)).

C. Re-facades or re-paints where the intent of the architecture and/or colors is significantly the same as existed on the building prior to the need for renovation. Significant changes in architecture or colors shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting where the item may be placed on the agenda.

iii. If the Zoning Administrator finds that the application for a building permit meets the Standards of Review for Design Review Application (section 9.1.1604(f) (OMC)), and is consistent with the criteria under OMC Articles 5, 6 and 7 of Chapter 9.1 and the Oakley Commercial and Industrial Design Guidelines, as applicable, the Zoning Administrator shall approve issuance of the building permit.

iv. If the Zoning Administrator is in doubt as to whether the application for a building permit is consistent with the criteria in this subsection, the application for design review shall be heard by the Planning Commission as a regular calendar item. The Planning Commission shall act upon the application at its next regularly scheduled meeting where the item may be placed on the agenda.

e. Design Review Application Requirements.

1. Application for a design review shall be filled by the owner of the property for which the permit is sought, or by the authorized representative of the owner; provided, however, that the City Council, upon written request of the owner's authorized representatives of the owners of the majority of the property in an area for which a development is being proposed, may authorize the filing of an application without the approval of all the property owners or their authorized representatives if the City Council determines that to do so is in the best interest of the City. Application shall be made to the Planning Division on forms furnished by the Community Development Department and shall be full and complete.

f. Standards for Review of Design Review Applications.

1. The Planning Commission or Zoning Administrator shall consider the following aspects of each application (found in the Commercial and Industrial Design Guidelines) to the extent they are applicable to each project:

i. Site planning, including building siting (location), setback and orientation; entries, circulation and parking; landscape setbacks and buffers; and location of trash, loading and service areas, and mechanical equipment.

ii. Architecture, including massing and grouping; facades, entries and roofs; materials and colors; and screening of trash, loading and service areas, and mechanical equipment.

iii. Landscaping and site elements, including general landscape areas; entry and plaza enhancements; parking lot landscaping; walls and fences; and lighting.

iv. Streetscapes, including major community entries; highlighted intersections; and district entries.

g. Duration of Design Review Approval.

1. A design review approval shall terminate according to its terms, if any, or upon the expiration of one year from the approval date, unless a building permit or grading permit related to the project associated with the design review approval has been issued. An extension of time may be granted by the same decision making body that approved the original design review approval upon written request by the applicant filed within the effective period of the original approval.

h. Noticing and Hearing Procedures.

1. Noticing requirements.

i. For hearings by the Planning Commission, notice of the time and place when the application will be considered shall be given as follows:

A. The time and place of the hearing;

B. A general explanation of the matter to be considered, including a description of the area affected;

C. Any other information the Zoning Administrator considers necessary or desirable.

2. Time and manner for giving notice.

i. Unless otherwise specified, the notice of the time and place of the hearing shall be given by mailing notice postage prepaid at least 10 days prior to the date of the scheduled hearing to the applicant, each person who has filed a request for the notice, and to each owner of property within 300 feet of the subject property's property lines. In the case of an appeal, a notice shall also be mailed to the person filing the appeal.

3. Written findings required.

i. For design review applications requiring Planning Commission review, written findings shall be made for the decision, whether for approval or denial. Written findings for the decision shall also be made in the case of an appeal.

ii. For design review applications that fall under the review of the Zoning Administrator, written findings for the decision to approve the building permit shall not be required.

4. Authority to adopt conditions of approval.

i. The Planning Commission may adopt conditions of approval in the approving resolution for design review if it finds that the proposed design does not meet the applicable design review standards.

5. Appeal procedures.

i. Any person aggrieved by the action of the reviewing authority, whether it be the Zoning Administrator or Planning Commission, may file a written notice to appeal the action to the next highest reviewing authority as prescribed in this article. If no written appeal is filed, the action taken on the application is final.

ii. A written appeal shall be filed with the Planning Division within 10 days of the decision to approve the design review. Incomplete appeals or appeals submitted after 10 days of the decision to approve the design review will not be accepted.

iii. A written appeal shall be accompanied by a written statement explaining the grounds for appeal and payment of the appeal fee, as prescribed in the City's adopted fee schedule at the time the appeal is filed.

iv. In the case where the City Council acts on behalf of the Planning Commission, an appeal of the decision may not be filed.

i. Penalty for Violations.

1. A person who builds or maintains a building or structure in violation of the requirement of design review approval prescribed in this article is guilty of an infraction

and shall be punished as provided in section 1.5.102 et. al. Each day or a portion thereof that a violation exists is a separate offense and shall be punished as such.

SECTION 6. California Environmental Quality Act (CEQA)

This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15601(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

SECTION 7. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on \_\_\_\_\_, 2015 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
Doug Hardcastle, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date