

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FOSTER CITY AMENDING SECTION 17.06.180 WITHIN CHAPTER 17.06, "ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT," AND SECTION 17.36.110 WITHIN CHAPTER 17.36, "PD PLANNED DEVELOPMENT COMBINING DISTRICT," OF TITLE 17, "ZONING" OF THE FOSTER CITY MUNICIPAL CODE TO ALLOW EXTENSIONS TO PLANNING ENTITLEMENTS AND FINDING THE AMENDMENTS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINE SECTION 15061(B)(3) - RZ2024-0006

CITY OF FOSTER CITY

WHEREAS, Chapter 17.06 Administration, Construction and Enforcement governs, among other things, the issuance, expiration and extension of Use Permits; and

WHEREAS, section 17.06.180 of Foster City Municipal Code currently states in relevant part, "...No extensions of use permit, variances, or architectural reviews shall be considered or granted, except that use permits and variances issued in conjunction with a tentative subdivision map for a planned unit development would expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later."; and

WHEREAS, section 17.36.110 Development schedule and extensions of Foster City Municipal Code currently states in relevant part, "...Extensions may be granted at the discretion of the planning commission, not to exceed a cumulative total of two years, in annual extensions not to exceed one year."; and

WHEREAS, time extensions for discretionary approved entitlements provide a mechanism for applicants to reasonably extend the expiration of planning entitlements; and

WHEREAS, the City desires to amend section 17.06.180 within Chapter 17.06 Administration, Construction and Enforcement to include a provision allowing for extensions to discretionary approved entitlements that are not being processed in conjunction with subdivision maps subject to the California Subdivision Map Act and Title 16 for extensions; and

WHEREAS, the City desires to amend section 17.36.110 within Chapter 17.36 PD Planned Development Combining District to refer to section 17.06.180; and

WHEREAS, on July 3, 2024, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider a Resolution regarding the amendments to section 17.06.180 within Chapter 17.06 Administration,

Construction and Enforcement of the Foster City Municipal Code and section 17.36.110 within Chapter 17.36 PD Planned Development Combining District, and after conducting the public hearing, adopted Resolution No. 15-24_ with the Planning Commission recommending City Council approval of the amendments to Title 17; and

WHEREAS, on July 24, 2024, a public hearing notice was published posted in three public places, and mailed pursuant to California Code Section 65090 for the City Council public hearing on August 5th, 2024.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES ORDAIN AS FOLLOWS:

Section 1. The City Council does hereby find and determine based upon the aforementioned Record as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by this reference; and
2. The ordinance making text amendments to Title 17 would be exempt under the “common sense” exception (14 Cal. Code Regs. § 15061(b)(3)) because these revisions only make administrative changes to the administration of Use Permits and it can be seen with certainty that there is no possibility that these administrative changes may have a significant effect on the environment.
3. The proposed amendments are internally consistent with all other provisions of the General Plan and do not conflict with any of the previously adopted goals, policies, or programs of the General Plan.
4. The proposed amendments will not be detrimental to the public interest, convenience, and general welfare of the City.

Section 2. Amendment. Section 17.06.180 within Chapter 17.06 “Administration, Construction and Enforcement” of Title 17, “Zoning” of the Foster City Municipal Code is hereby repealed and replaced in its entirety to read as follows:

**Amendments to Chapter 17.06
ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT**

Sections:

- 17.06.010 Scope.
- 17.06.020 Exclusionary zoning.
- 17.06.030 Planning director.
- 17.06.040 Enforcement officer.
- 17.06.045 Applications—Completeness.

- 17.06.047 Applications—Deemed withdrawn after six months.
- 17.06.050 Use permit—Regulations generally.
- 17.06.060 Use permit—Application.
- 17.06.070 Use permit—Grant or denial.
- 17.06.080 Variance—Regulations generally.
- 17.06.090 Variance—Limitations.
- 17.06.100 Variance—Application.
- 17.06.110 Variance—Grant.
- 17.06.120 Hearing—Required.
- 17.06.130 Hearing—Notice.
- 17.06.140 Appeal period—Issuance.
- 17.06.150 Appeal procedures.
- 17.06.155 Reconsideration within one year.
- 17.06.160 Violation—Infraction.
- 17.06.170 Violation—Nuisance declaration—Abatement.
- 17.06.175 Violation—Penalty fees.
- 17.06.180 Expiration and Extensions.
- 17.06.190 Revocation—Generally.
- 17.06.200 Revocation—Procedure.

17.06.180 Expiration and Extensions.

A. Expiration.

1. Except as otherwise provided herein, any use permit, variance, or architectural review approval granted in accordance with the terms of this title shall, without further action, become null and void if not used within two years from the date of approval thereof, or within any shorter or longer period of time specifically stated in the conditions of approval. However, within one year of the date on which the use permit, variance, or architectural review approval was originally granted and prior to the improvement or structure being constructed, the decision making body may review all conditions of approval attached to the original approval and, if it so determines, attach new conditions of approval which may be necessary due to receipt by the city of new information or changed circumstances affecting the property and/or project. Use permits, variances, or architectural reviews issued in conjunction with a tentative subdivision map would expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later. Extensions of subdivision maps shall be considered in accordance with Title 16 of the Foster City Municipal Code.

B. Extensions.

1. Applications for extensions of time of any use permit, variance, architectural review, or other entitlement not issued in conjunction with tentative subdivision map may be filed prior to the expiration date of the use permit, variance, architectural review, or other entitlement and shall be processed in the following manner:

a. If the extension request(s) involves no changes to the original project approvals or conditions of the use permit, variance, architectural review or other entitlement, a maximum of two (2) one-year extensions may be granted for projects or entitlements described in this chapter upon written request and payment of the required fee.

b. Review and approval or denial of the extension of time shall be conducted by the Planning Director based on the findings in section 17.06.180(B)(2).

c. If the extension request(s) include changes to the project that affect its design or use or would result in changes to the original conditions of approval of the use permit, variance, architectural review, or other entitlement then those requests shall be reviewed and approved or denied by the Planning Commission.

2. Findings required. The decision-making body shall grant an extension if it finds that:

a. The approved project is still consistent with the City's General Plan and Zoning Ordinance; and,

b. The extension will not result in any new environmental impacts or an increase in severity of previously identified environmental impacts.

3. In granting an extension pursuant to this subsection, the decision-making body may modify or add new conditions of approval as deemed necessary to address potential impacts as a result of the extension.”

Section 3. Amendment. Section 17.36.110 within Chapter 17.36 “” of Title 17, “Zoning” of the Foster City Municipal Code is hereby repealed and replaced in its entirety to read as follows:

“17.36.110 Development schedule and extensions.

An approval of a use permit in a PD district shall include a condition of approval that the use permit will expire two years from the date of approval, unless subject to time limits for a tentative map or development agreement. Extensions may be granted in accordance with Section 17.06.180 Expiration and Extensions.”

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this

Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 6. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 5th day of August, 2024, and passed and adopted on the ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PATRICK SULLIVAN, MAYOR

ATTEST:

PRISCILLA SCHAUS, CITY CLERK