

**PLANNING COMMISSION
RESOLUTION NO. 2024-03**

**A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL ADOPTION
OF AMENDMENTS TO CHAPTER 10.54 (DESIGN REVIEW PROCEDURES) OF TITLE 10 OF THE
SAUSALITO MUNICIPAL CODE.**

WHEREAS, Sausalito Municipal Code (SMC) Title 10 Chapter 10.54 contains standards and criteria for Design Review Procedures and was last amended by the City of Sausalito (City) in 2018; and

WHEREAS, the City desires to amend SMC Title 10 Chapter 10.54 to clean up language, remove standards or requirements that are not consistent with the Government Code and to propose minor revisions to the types of projects that are subject to Design Review; and

WHEREAS, SMC Section 10.80.070 allows for amendments to the Zoning Ordinance when it is determined that public necessity, convenience, or welfare would be served; and

WHEREAS, the Planning Commission is responsible for providing a recommendation to the City Council on amendments of the Zoning Ordinance per Sausalito Municipal Code Section 10.80.070 C. and California Government Code Section 65855; and

WHEREAS, the adoption of the proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guideline Section 15061.b.3; and

WHEREAS, the Planning Commission finds that the adoption of the proposed zoning amendment is in the public interest and is consistent with the City of Sausalito's General Plan; and

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

Based on the information provided for the public hearing, the Planning Commission recommends to the City Council the adoption of the proposed amendments to the Sausalito Municipal Code as set forth in the attached draft ordinance and included as Exhibit A, subject to the requested modification of Section 10.54.060 D. to update plan submittal requirements.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Planning Commission on the 10th day of January 2024, by the following vote:

AYES:	Commissioner Member:	Saad, Graef, Feller, Junius, Luxenberg
NOES:	Commissioner Member:	None
ABSENT:	Commissioner Member:	None
ABSTAIN:	Commissioner Member:	None



Brandon Phipps
Director of Community and Economic Development

ATTACHMENTS:

Exhibit A – Draft Ordinance

EXHIBIT A

ORDINANCE NO. ___-2023

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING CHAPTER 10.54 (DESIGN REVIEW PROCEDURES) OF TITLE 10 OF
THE SAUSALITO MUNICIPAL CODE, AND ADDING SECTION 8.34.020 (TIME
LIMITS FOR CONSTRUCTION)**

WHEREAS, Chapter 10.54 of the Sausalito Municipal Code regulates the design review projects for the protection of public health and safety, and protection of aesthetics and the environment; and

WHEREAS, the City desires to amend Chapter 10.54 to provide that design review of public works projects shall not be subject to design review permitting, so that design considerations may also be weighed against impacts on public finances, timing and availability of grant funding, and the City's rights as property owner; and

WHEREAS, the removal of requirements in Chapter 10.54 for public works projects to obtain a design review permit will not preclude the City Council from seeking recommendations from the Planning Commission or conducting public meetings to seek input from the public regarding design of public works projects; and

WHEREAS, City staff recommend amendments to Chapter 10.54 to clarify existing triggers for design review permitting, and also clarify the City's design review process for conduct of public oversight and design review under new state laws, including SB 35 and AB 2011; and

WHEREAS, the City desires to amend SMC 10.54.100 (Time limits for construction) to clarify enforcement provisions and align with state law, and move such regulations to Chapter 8.34, regulating building permit conditions, and apply construction time limits to all activities requiring a building permit regardless of whether such activities are subject to design review;

NOW, THEREFORE, the City Council of the City of Sausalito does ordain as follows:

Section 1. Chapter 10.54 Amended. is hereby amended, with deletions in strikethrough, and additions in underline, as set forth in Exhibit A.

Section 2. Section 8.34.020 (Time limits for construction) enacted. Section 8.34.020 of the Sausalito Municipal Code is enacted to read in entirety as follows:

8.34.020 Time limits for construction.

A. Purpose and Scope. The purpose of this section is to regulate the duration of construction projects in order to avoid negative impacts on the City resulting from lengthy

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construction activities. Such negative impacts include detrimental effects of lengthy construction on residential neighborhoods, such as construction noise and increased traffic, reduction in available parking, and the presence of portable toilets. In addition to the general purposes of this section, the City has adopted this section because:

1. A continuous stream of large numbers of construction projects on private properties within the City for many years past has resulted in substantial and continuing adverse impacts on the City and its residents from construction activities;
2. Among those adverse impacts are long-term noise disturbances to neighbors of the construction projects, loss of already inadequate on-street parking due to the presence of large numbers of construction vehicles, and frequent closures of the City's narrow streets for construction deliveries and staging, which closures hinder and/or eliminate local and emergency access for varying periods of time;
3. Numerous private individual large-scale projects have been designed and built in the City involving construction for many years, thus prolonging the adverse construction impacts created by those projects;
4. It is in the interests of the health, safety, and welfare of the citizens of Sausalito to place a reasonable time limit on the duration of each construction project, so as to balance the needs of the project site property owner with those of nearby residents and the community generally in the safe and peaceful enjoyment of their properties;
5. The time limits adopted in this section allow an adequate and reasonable amount of time for the kinds of construction projects undertaken in the City; and
6. Substantial penalties should be imposed upon persons who violate the time limits imposed pursuant to this section, so as to encourage compliance with such time limits and achieve the purposes of this section.

This section shall apply to all construction, including all additions, alterations, modifications, repairs, and improvements, that requires a building permit for construction.

B. Construction Time Documentation Required. As part of any application for a building permit for a project, the applicant shall file a reasonable estimate of the value of the project, and based thereon, a construction time limit shall be established for the project in accordance with the criteria set forth in subsection C of this section. The applicant shall submit information reasonably requested by the Community Development Director to support the estimated value of the project such documentation may include without limitation an executed construction contract. For projects exceeding \$500,000 in project valuation, a detailed GANTT chart (or other graphic display acceptable to the Community Development Director) depicting the sequence of steps necessary for completion of the project, including detailed information on the critical path of the project, duration of critical tasks, and predicted inspection dates, shall be submitted prior to the issuance of any

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construction permit. Once a building permit is issued, the permittee shall provide the City with written quarterly job progress reports consistent with the approved chart.

C. Construction Time Limit. Except where an extension of the construction time period is approved pursuant to subsection D of this section, the maximum time for completion of permitted alterations, additions, modifications, repairs, or new construction, shall not exceed the following limits. The construction time limit shall be measured between the issuance of the building permit and the date that the permittee completes construction activities and satisfactorily completes final inspection. These limits shall not be altered or extended by work delays or stoppages due to the enforcement actions resulting from other violation(s) of the municipal code. The time for completion of the construction shall be indicated on the building permit.

Estimated Value of Project	Construction Time Limit
\$0 to \$500,000	18 months
\$500,001 to \$1,000,000	24 months
Greater than \$1,000,000	30 months

D. Construction Time Limit Extension.

1. Construction Activities. Prior to or following the commencement of construction an applicant may apply for one or more extension(s) of the established construction time limit; provided, however, in no event shall any single extension granted exceed 180 days, nor shall the total time for extension(s) granted exceed the following limits:

Estimated Value of Project	Construction Time Limit Extension
\$0 to \$500,000	270 days
\$500,001 to \$1,000,000	360 days

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Estimated Value of Project	of	Construction Time Limit Extension
Greater than \$1,000,000		360 days

2. Application Contents. An application for an extension of the construction time limit shall be accompanied by complete working drawings for the construction, a written explanation of the reasons for the requested extension, and a fee as established by resolution of the City Council.

3. Findings. The Community Development Director may grant an extension if the following findings can be made:

- a. Such extension will not have a material deleterious effect on the neighborhood in which the project is located; and
- b. Any one or more of the following factors is present and presents an unusual and substantial obstacle to complying with the standard construction time limit:
 - i. Site topography;
 - ii. Site access;
 - iii. Geologic issues;
 - iv. Weather-related grading restrictions; or
 - v. Other unusual factors (except lack of financing).

E. Violations; Penalties

1. Each day that a project subject to a construction time limit remains uncompleted shall constitute a separate violation subject to penalty under this code.

2. Civil penalties. If a property owner fails to complete construction by the applicable construction time limit established in this section, the property owner shall be subject to the following civil penalties payable to the City:

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Period of Time That Project Remains Incomplete Beyond Applicable Time Limit	Penalty
First 60 days	\$400.00 per day (i.e., \$24,000 maximum penalty applicable to this 60-day period)
61st through 120th day	\$600.00 per day (i.e., \$36,000 maximum penalty applicable to this 60-day period)
121st day and every day thereafter	\$800.00 per day (to a maximum of the lesser of 20% of project value or \$200,000)

A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this section, as well as recover such penalties. In a civil action brought pursuant to this section in which the City prevails, the court may award to the City all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorneys' fees.

2. Criminal penalties. A violation of this section is a misdemeanor and shall be punished as provided in SMC Chapter 1.05, but may be cited as an infraction in the discretion of the enforcing officer, or may, in the discretion of the attorney having prosecutorial functions, be charged and prosecuted as an infraction. If charged as a misdemeanor, fines imposed shall not exceed \$1,000 per violation, nor shall imprisonment exceed 6 months.

Upon any guilty plea or judgment or conviction in any criminal proceeding brought for the violation of this section, where the defendant is entitled by law to probation, then the court may require the payment to the City of the civil penalties as described above as one of the conditions of such probation or judgment.

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3. The Building Official or the Community Development Director is authorized to order work stopped whenever work is being done contrary to the provisions of this section.

4. Any violation of this section shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided by law.

F. Appeals.

1. A civil penalty imposed pursuant to this section may be appealed to the Planning Commission on the grounds that the property owner was unable to comply with the applicable time limit as a result of circumstances beyond the property owner's control. Any person aggrieved by the decision of the Planning Commission on the appeal may appeal to the City Council in accordance with the procedures of Chapter 10.84 SMC.

2. At the time the appeal is filed or within two weeks thereafter, the appellant shall submit documentary and other evidence sufficient to establish that design decisions, construction drawings and documents, bids and construction contracts, permit applications, and compliance with all required permit conditions were undertaken in a diligent and timely manner.

Documentary evidence shall include, but not be limited to, dated design contracts, date-stamped plans, dated construction contracts and material orders, and proof of timely payment of any deposits or fees required pursuant to any of the foregoing items. The documentary and other evidence shall demonstrate that construction delays resulted from circumstances beyond the property owner's control and despite diligent and clearly documented efforts to achieve construction completion within the applicable time limit. Penalties imposed pursuant to this section shall not be modified or cancelled unless all evidence required by this subsection (F)(2) is submitted at the time of appeal.

Section 3. Severability.

If any section, sub-section, sentence, clause, phrase or portion of this Ordinance or the application thereof to any person or circumstances is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, sub-section, sentence, clause, phrase or portion thereof, irrespective of not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

Section 4. Compliance with the California Environmental Quality Act.

The Sausalito City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3), which provides that CEQA does not apply if it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

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Section 5. Effective Date and Posting.

This Ordinance shall be effective thirty (30) days following its adoption by the City Council.

Section 6. Posting and Publication.

The City Clerk shall post and/or publish this ordinance as may be required by Government Code section 36933.

INTRODUCED at the a regular meeting of the City Council on _____. PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito held on the ___ day of January, 2024, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK

ATTACHMENTS:

Exhibit A – Chapter 10.54 Design Review Procedures

EXHIBIT A

Chapter 10.54

DESIGN REVIEW PROCEDURES

Sections:

- 10.54.010 Purpose.
- 10.54.020 Applicability.
- 10.54.030 Guiding principles of design review.
- 10.54.040 Administrative design review permits.
- 10.54.050 Design review permits.
- 10.54.060 Submittal requirements.
- ~~10.54.070 Additional submittals required.~~
- ~~10.54.080 070 Referral.~~
- ~~10.54.090 Conditions of approval.~~
- ~~10.54.100 Time limits for construction.~~

10.54.010 Purpose.

Design review provides for review of the architectural and site plans of selected projects, as specified in SMC 10.54.040 (Administrative design review permits) and SMC 10.54.050 (Design review permits). In addition to the general purposes of this title, the specific purposes of this chapter establishing procedures and criteria for design review are as follows:

- A. To promote the preservation of Sausalito's unique visual character;
- B. To preserve land values and investment through thoughtful architectural and site design;
- C. To prevent the erection of unsightly or obnoxious structures, additions, alterations or signage;
- D. To incorporate site considerations, adjacent uses, and area traffic circulation into the review of new construction or alterations to existing structures;
- E. To minimize obstruction of public views and primary views from private property;
- F. To minimize obstruction of light, air and privacy;
- G. To minimize property clearing, excessive grading and destruction of trees and shrubbery; and
- ~~H. To provide for street and alley dedication and adequate maintenance and improvements to public rights of way.~~

10.54.020 Applicability.

This chapter establishes thresholds for administrative design review and Planning Commission design review. Administrative design review permits shall be required and processed in accordance with SMC 10.54.040 (Administrative design review permits). Planning Commission design review permits shall be required and processed in accordance with SMC 10.54.050 (Design review permits). Properties designated on the local/State/National Historic Register and/or in a historic overlay district shall also receive a certificate of appropriateness pursuant to SMC 10.46.060 (Property and review requirements). No design review shall be required for projects that fall under the design review outside of thresholds contained in this chapter. Minor revisions to approved projects are not subject to this chapter and are instead governed by SMC 10.50.180 (Changes to an approved project).

Proposals that do not require an administrative design review permit or design review permit and fall below the thresholds stated in this chapter and meet or exceed all zoning requirements shall require a building permit, shall be

subject to regulation under Chapter 10.52 SMC (Zoning Permits), and are exempt from design review under this chapter.

10.54.030 Guiding principles of design review.

In carrying out the purpose of this chapter with respect to the external design of buildings, the decision maker(s) shall apply the following principles:

- A. Architectural control shall be minimal, ensuring that purposes and objectives of this title are met, individual initiative is encouraged in building design, and substantial additional expense is not required.
- B. Good architectural character is based upon the suitability of a building for its purposes; upon the appropriate use of sound materials; and upon the principles of harmony and proportion in the elements of the building.
- C. Good architectural character is not, in itself, more expensive than poor architectural character, and is not dependent upon the particular style of architecture selected.
- D. The relationship of a building to its surroundings is of greater importance than the quality of design of the individual structure.

10.54.040 Administrative design review permits.

~~Proposals that fall below the thresholds contained in subsection B of this section (Applicability), either incrementally or cumulatively over a three-year period, and meet or exceed all zoning requirements shall require a building permit, are subject to Chapter 10.52 SMC (Zoning Permits), and are exempt from design review.~~

~~A. Purpose and Authority. Administrative design review permits allow for administrative design review of selected projects where clear design review guidelines and criteria exist. Administrative design review permits may be approved, conditionally approved or denied by the Community Development Department. When administrative design review permits are requested in conjunction with one or more permits requiring Zoning Administrator review, administrative design review permits may be approved, conditionally approved, or denied by the Zoning Administrator. If a proposal meets the requirements of subsection B of this section (Applicability) and requires Planning Commission review for a concurrent application, the proposal shall be subject to design review, pursuant to SMC 10.54.050 (Design review permits).~~

B. Applicability. Selected project proposals require a lesser level of design review which shall be conducted by the Community Development Department (or Zoning Administrator where applicable). The Community Development Department shall review and act on applications ~~which are made solely for~~ the following classifications of projects, for which Planning Commission review is not required for another concurrent application, ~~and for provided that the sites property that are is not subject to the provisions of Chapter 10.46 SMC (Historic Preservation) nor considered affects a historical resource as defined in CEQA Guidelines section 15064.5 under CEQA. In the event of concurrent application for which Planning Commission review is required, or that the site is subject to the provisions of Chapter 10.46 or the project is found to affect a historical resource, the application shall be subject to design review under SMC 10.54.050 (Design review permits).~~

1. Additions to single-family or two-family (duplex) residences where the addition results in a setback from any adjacent structure on a neighboring property of less than 10 feet.
2. Additions to multifamily residences, commercial structures, and industrial structures which increase the size of the structure by less than 10 percent, not to exceed 300 square feet, and which are consistent with the architectural style of existing buildings on the site.
3. Replacement of awning fabric on existing frames with fabric of a different color or modified signage.
4. Any elevated structures wherein subfloor plumbing, utility ducts, or mechanical equipment is exposed to view from adjacent properties or the public right-of-way.

5. Driveways in required side yard open spaces if not a part of an application which requires review by the Planning Commission.

6. Encroachment agreements (improvements in the public right-of-way) for the following items, if not part of other improvements requiring design review:

- a. Major landscaping;
- b. Stairs not on grade;
- c. Driveways involving cut or fill of more than six feet;
- d. Fences not exceeding 42 inches in height; and
- e. Retaining walls not exceeding six feet in height.

7. Signs and awnings consistent with criteria developed by the Planning Commission and City Council as adopted by resolution.

8. Installation or reconstruction, other than repairing and re-striping, of a parking area of five or more spaces.

~~9. Capital improvement projects appropriate for staff review, as determined by the Planning Commission—review of the annual capital improvement program.~~

~~10.~~ Application for building permits for the construction, renovation or extension of any pier or dock, or application to establish floats or dolphins, for private pleasure craft in the R-2-2.5 zoning district.

~~11.~~ Application for zoning permits for all buildings, decks, yards, and other improvements proposing a change in existing grade by cutting or filling greater than six feet in height.

~~12.~~ Applications to construct fences that require the issuance of a building permit.

~~13.~~ Applications to construct terraced or multiple retaining walls or slope stabilization projects that retain an aggregate of six feet or more of slope within any 10-foot horizontal interval.

~~14. Applications to construct vehicular traffic safety guardrails deemed necessary by the City Engineer.~~

~~15.~~ Applications for properties identified on the local historic resources inventory proposing the following scopes of work require an administrative design review permit:

- a. Demolition or removal of non-original features of a building or site, including, but not limited to, additions, garages, and accessory structures.
- b. Replacement of incompatible, previously replaced windows, doors or facade siding material if the replacement material is not compatible in appearance, color and profile to the existing or original material.
- c. Removal or modification of original window or door openings on the primary or visible secondary facades.
- d. Replacement or modification of side or rear stairs and railings if the replacement or modification material is not compatible in appearance, color and profile to the existing or original material.
- e. The installation of a rooftop feature that is visible from the public right-of-way, including HVAC systems, and skylights.
- f. Any other work determined by the Community Development Director that will materially alter the significant features of a building.

In addition to the above applications, the Community Development Department shall have authority to approve design review permits that may otherwise be required under SMC 10.54.050 for any projects that are eligible for streamlined or ministerial review based on provisions of state law, and where a public hearing for oversight or design review is prohibited by state law.

C. Public Notice. The Community Development Department shall give public notice of the application, pursuant to SMC 10.82.020(B) (Public Notice – Administrative Design Review and Changes to an Approved Project).

D. Conditions. The Community Development Department may apply reasonable conditions of approval, in addition to those identified in SMC 10.54.090 (Conditions of approval) and consistent with SMC 10.50.100 (Recommended conditions of approval).

E. Findings. The Community Development Department may approve or conditionally approve an administrative design review permit if the findings specified in SMC 10.54.050(D) (Findings), and SMC 10.54.050(E) (Heightened Review Findings) as applicable, can be made.

F. Resolution and Notice of Decision. The Community Development Department shall prepare a written resolution which shall include all findings and applicable conditions of approval. Notice of decision shall be distributed to the owner, applicant, and all persons who submitted written comment on the application.

G. Appeal. Administrative design review permit decisions may be appealed to the Planning Commission within 10 days of the decision date. Appeals must be submitted in writing and shall be processed in accordance with Chapter 10.84 SMC (Appeals). Notice of appeals of staff decisions to the Planning Commission and the City Council shall be sent to all properties within 300 feet of the subject property.

H. Effective Date. Community Development Department staff and Zoning Administrator decisions of approval or denial of administrative design review permit applications shall become final 10 days after date of resolution, unless an appeal has been filed.

I. Referral to Planning Commission. The Community Development Director may refer an administrative design review permit application to the Planning Commission. Such referral shall be subject to public hearing, consideration, and approval or denial pursuant to the procedures specified by SMC 10.54.050 (Design review permits). Referral shall be at the discretion of the Community Development Director dependent upon policy implications, unique or unusual circumstances, the size of the project, or other factors determined by the Community Development Director to be significant enough to warrant Planning Commission review.

J. Expiration of Permit. Administrative design review permits shall expire two years following the effective date of the permit, provided no extension has been filed prior to the expiration date.

10.54.050 Design review permits.

~~Proposals that do not require an administrative design review permit, are not subject to the provisions of Chapter 10.46 SMC (Historic Preservation) nor considered a historical resource under CEQA, and fall below the design review thresholds contained herein, either incrementally or cumulatively over a three-year period, and meet or exceed all zoning requirements shall require a building permit, are subject only to Chapter 10.52 SMC (Zoning Permits), and are exempt from design review.~~

A. Purpose and Authority. Design review permits provide for discretionary review of the architectural and design features of selected projects for which design review is required, as established by this section. The Planning Commission may approve, conditionally approve or deny design review permit applications.

B. Applicability. Design review permits shall be required for the following applications for the following listed projects, or any projects that incrementally or cumulatively over a three-year period would result in any of the following:

Building Permits:

- I. Any single-family, two-family (duplex), or any multifamily residential structure proposed for construction.

2. Any replacement or substantial reconstruction of a single-family, two-family (duplex), or multifamily residential structure which does not substantially replicate the original structure.
3. Any alteration to existing secondary dwellings.
4. Projects for any two-family (duplex) or any multifamily residence which have any of the following effects:
 - a. Add more than 10 percent of the total floor area of the structure(s) or more than 300 square feet of floor area to the structure(s) (whichever is less with respect to adding new floor area square footage); or
 - b. Increase the height of the structure(s); or
 - c. Have the potential to impair views from other properties.
5. Any commercial, industrial, public building, or similar structure proposed for construction.
6. Projects for exterior remodeling of any commercial or industrial structure which have any of the following effects:
 - a. Add more than 10 percent of the total floor area to the structure(s) or add more than 300 square feet of floor area to the structure(s) (whichever is less with respect to adding new floor area square footage); or
 - b. Increase the height of the structure(s); or
 - c. Have the potential to impair views from other properties.
7. Projects for existing single-family residence or construction or expansion of an accessory structure which have any of the following effects:
 - a. Add more than 300 square feet of floor area to any building on the parcel where the additional floor area will add new building coverage to the subject parcel where building coverage did not previously exist; or
 - b. Add more than 25 percent of the total floor area of the existing structure or add more than 600 square feet of floor area (whichever is less with respect to adding new floor area square footage) to any building on the parcel where the addition will not add any new building coverage to the subject parcel where building coverage did not previously exist; or
 - c. Have the potential to impair views from other properties; or
 - d. Increase the height of any building.
8. Construction of structures with a distance of more than six feet from the ground to the lowest point of complete enclosure. (Design review shall address the potential visual impact of unsightly exposed underframing and utility ducts.)
9. Any addition or remodeling that causes the structure to exceed the height limits established by SMC 10.40.060 (Height requirements).
10. Covering parking spaces, causing the existing structure to exceed the maximum height limit pursuant to SMC 10.40.060(C)(3) (Downhill).
11. Construction of a structure on an uphill parcel which will have a sloped roof in excess of the maximum height limit within the first 15 feet of the property pursuant to SMC 10.40.060(C)(1) (Uphill).

~~Signs and Awnings:~~

12. Signs and awnings subject to design review as specified by Chapter 10.42 SMC (Sign and Awning Regulations).

Capital Improvement Projects:

- ~~13. Local public capital improvement projects and local public enhancement projects excluding:~~
- ~~a. Capital improvement projects which are maintenance projects or do not appreciably change the appearance of the area being maintained; and~~
 - ~~b. Vehicular traffic safety guardrails deemed necessary by the City Engineer.~~

Other Permits:

- ~~14~~13. Encroachment agreements for garages, fences, buildings, dwelling units, structures, and parking spaces.
- ~~15~~14. Demolition permits to demolish 51 percent or more of any single-family, two-family, or multifamily structure as defined in Chapter 10.88 SMC (Definitions) except where the structure has been irreparably damaged due to forces of nature.
- ~~16. Permits to construct wireless communication facilities (antennas and ground equipment).~~
- ~~15~~7. Permits to install satellite dish antennas which have a diameter greater than 40 inches (one meter).
- ~~18~~16. Administrative design review for proposals made in conjunction with other applications requiring Planning Commission review and approval.
- ~~17~~9. Administrative design review when the Community Development Director determines a project warrants Planning Commission review and approval.
- ~~18~~20. Any project proposing side yard structural projections (see SMC 10.40.090(D)).
- ~~24~~19. Any project requesting a one-time 200-square-foot maximum floor area exception to expand an existing single-family residence in R-2-2.5 and R-3 zoning districts, not to exceed the maximum floor area ratio allowed in the respective zoning district (see SMC 10.44.330(D)).

In addition to the above projects, a design review permit is required under this section for any project where the property is subject to the provisions of Chapter 10.46 SMC (Historic Preservation) or the project affects a historical resource as defined in CEQA Guidelines section 15064.

C. Public Notice and Hearing. Design review permit applications require public hearing by the Planning Commission. Public hearing shall be noticed and conducted consistent with Chapter 10.82 SMC (Public Notice and Hearings). Design review for signs and awnings shall not be subject to the noticing requirement.

D. Findings. The Planning Commission shall approve design review permit applications only if the following findings can be made:

1. The proposed project is consistent with the general plan, any applicable specific plans, any applicable design guidelines, and this chapter. (The adopted historic design guidelines can be found in the Community Development Department or the office of the City Clerk.)
2. The proposed architecture and site design complements the surrounding neighborhood and/or district by either:
 - a. Maintaining the prevailing design character of the neighborhood and/or district; or
 - b. Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.
3. The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

4. The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.
5. The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.
6. The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.
7. The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.
8. Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise, and air quality impacts to adjacent properties and the general public.
9. The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window, deck and patio configurations.
10. Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.
11. The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.
12. The project site is consistent with the guidelines for heightened review for projects which exceed 80 percent of the maximum allowed floor area ratio and/or site coverage, as specified in subsection E of this section (Heightened Review Findings).
13. The project has been designed to ensure on-site structures do not crowd or overwhelm structures on neighboring properties. Design techniques to achieve this may include, but are not limited to: stepping upper levels back from the first level, incorporating facade articulations and divisions (such as building wall offsets), and using varying rooflines.

E. Heightened Review Findings. The site development standards contained in Table 10.22-2 are not entitlements; the approved size, setbacks or other physical conditions of a proposed new home or expansion of an existing home subject to design review shall be at the discretion of the Planning Commission. In order to meet the findings of design review, including the following heightened review findings, the Planning Commission may approve a home smaller, or with greater setbacks, or otherwise impose requirements that are more restrictive than those set forth in this chapter. For residential projects that require a discretionary design review (either administrative design review or a design review permit) and exceed 80 percent of the permitted floor area ratio (FAR) and/or building coverage limitations, the decision-making body must determine whether or not the site can support maximum build-out, consistent with the following:

1. Proposed development of the site maximizes preservation of protected trees.
2. The site is configured with adequate width and depth to provide yard spaces and setbacks, proportional to the size of the structure.
3. The site will be developed in a manner that minimizes the obstruction of views from surrounding properties and public vantage points, with particular care taken to protect primary views.
4. The proposed development of the site presents no potential hazard to public safety in terms of vehicle traffic, pedestrian circulation, slope and tree stability, runoff, and public utilities.
5. The slope and topography of the site allow for limited excavation and minimal alteration to the site topography outside the footprint of structures.
6. The site will provide adequate guest parking either on site or within the immediate street frontage.

7. The proposed plan provides adequate landscaping to maximize privacy and minimize the appearance of bulk.

Although these findings are only required for projects that would otherwise require a discretionary design review public hearing, all projects that result in or exacerbate floor area and/or building coverage of over 80 percent shall require the Community Development Department to give public notice of the application, pursuant to SMC 10.82.020(A) (Public Hearing). If such notice is required for a project that does not require a public hearing, the notice shall be mailed to notify neighbors that a zoning permit has been issued, including a description of the project, and shall include information regarding the appeal period for the zoning permit.

F. Public Oversight for Streamlined Permitting Under State Law. The Planning Commission shall conduct a public hearing for design review for projects that are subject to Government Code sections 65913.4, 65912.114, or 65912.124, or any other state laws that require streamlined permitting but authorize design review or public oversight by a planning commission. In such event, the Planning Commission may approve a design review permit notwithstanding the findings that may otherwise be required by this section if approval of a project is required under applicable state law. Any such design review shall be conducted in the manner required by applicable state law.

~~FG. Conditions. The Planning Commission may impose conditions of approval on design review permits, to meet the purposes of this title, the general plan and any applicable specific plan, and to mitigate impacts of development. Conditions may include but not be limited to maximum floor area, building coverage limit, maximum height, and minimum open space. In addition, the conditions specified in SMC 10.54.090 (Conditions of approval) and SMC 10.50.100 (Recommended conditions of approval) shall be imposed.~~

~~GH. Resolution. Planning Commission decision shall be in the form of a written resolution and shall include all findings and conditions of approval.~~

~~HJ. Appeal. Except for design review permits approved under subsection F, a~~All decisions of the Planning Commission, with respect to design review permits, may be appealed to the City Council within 10 days of the Planning Commission decision. Appeals shall be filed and processed in accordance with Chapter 10.84 SMC (Appeals).

~~IJ. Effective Date. Design review permits shall become effective at the end of the appeal period, provided no appeal has been submitted.~~

~~JK. Expiration of Permit. Design review permits shall expire two years following the effective date of the permit, provided no extension has been filed prior to the expiration date.~~

~~KL. Extension. The applicant may request an extension of a design review permit prior to the expiration of the permit. The Zoning Administrator or the Planning Commission (upon receipt of a referral from the Zoning Administrator) may grant one extension for up to one year, in accordance with SMC 10.50.140 (Extension of approved permits).~~

10.54.060 Submittal requirements.

In addition to the information specified by SMC 10.50.050 (Required application contents), applications for administrative design review permits and design review permits shall be accompanied by information specified by administrative guidelines. The administrative guidelines shall be a detailed list of submittal requirements to include, but not be limited to, the following:

- A. Administrative design review permit or design review permit application;
- B. Applicable fee, as established by resolution of the City Council;
- C. A narrative project description, providing rationale for proposed architectural and site design solutions;
- D. ~~One~~Two sets of full-size plans, and one digital copy. Plans shall include:
 1. Vicinity map;
 2. Site plan;

3. Elevations;
4. Floor plans;
5. Roof plan;
6. Grading plan;
7. Sectional drawings;
8. Landscape plans;
9. Statistics and descriptive information;

E. Materials sample board;

F. Geotechnical report;

G. Tree removal/alteration permit, or written request for exemption, as applicable;

H. Current topographic and record of survey;

I. Story pole plan and certification;

J. Site photographs;

K. Demolition plan; and

L. A conceptual site diagram that demonstrates the feasibility to construct additional dwelling unit(s), if any, as allowed on the project site by illustrating their possible location on the parcel as well as required on-site parking and access. The conceptual site diagram does not grant any rights nor bind any future development of the property. This submittal is applicable only to Planning Commission design review permits which result in a project site developed at less than the maximum density allowed on the respective site. For the purposes of this subsection, accessory dwelling units shall count towards fulfilling the density requirement.

~~The Community Development Director may waive specific submittal requirements where not applicable.~~

~~**10.54.070 — Additional submittals required.**~~

~~Prior to making a final decision, the Community Development Department, Zoning Administrator, or Planning Commission may require the applicant to provide any other data deemed useful or necessary for permit approval. Such requirements may include, but not be limited to:~~

M. As determined necessary, the Community Development Director may require the following additional items:

A. Models;

B. Photomontages;

C. Computer-generated imaging; and/or

D. Reports by expert consultants to address potential issues of concern, such as noise, odor, glare, sunlight, drainage, and traffic.

The Community Development Director may waive specific submittal requirements where not applicable.

10.54.080070 Referral.

Prior to making a final decision, the Community Development Department, Zoning Administrator, or Planning Commission may refer any design review application for reports and recommendations from the Fire Chief, City Engineer, Building Inspector, Health Officer or any other officer of the City or County regarding matters in their fields of competence or under their jurisdiction and which would be affected by the proposed development.

10.54.090 Conditions of approval.

The following may be included as conditions of approval for design review:

A. Public Rights of Way.

1. ~~Dedication. All required arterials and major collectors shall be dedicated to the full width required by the circulation element of the general plan. The dedication of minor collectors, local streets, pedestrian ways, and bicycle routes and paths adjoining any property line of the subject property may be required. Dedication shall extend to the street or pathway centerline bordering the property.~~

2. ~~Improvements. For a project involving any increase in floor area, addition of bedroom or bathrooms, addition of dwelling units, substantial reconstruction of dwelling units, or partial reconstruction of dwelling units the value of which exceeds 10 percent of the valuation of the existing improvements, adjoining rights of way shall be improved to City standards, per the discretion of the City Engineer. Improvements may include but not be limited to curb, gutter, sidewalk, street and alley paving, street trees, street signs, shoulder parking improvements, streetlights, and all required utilities. Existing improvements which are damaged and/or hazardous to the public safety must also be corrected.~~

B. Landscape and Mitigation Bond Requirements.

1. ~~Landscape Performance and Maintenance Bond. Within the waterfront area east of Bridgeway bounded by El Portal on the south and the north City limits, a maintenance bond shall be required to insure that landscaped areas are maintained for a period of two years from the date of final approval for occupancy. Other projects which require installation of landscaping may, at the discretion of the Planning Commission and/or Community Development Director, be required to submit to the City a refundable performance bond or an equivalent security to guarantee the installation and survival of required landscaping for a period of two years, prior to the issuance of a building permit. This bond may also be used to ensure the success and stability of mitigation measures required pursuant to a California Environmental Quality Act initial study/mitigated negative declaration or environmental impact report, if applicable. The bond or security to be used is as follows:~~

a. ~~The performance security may be provided, at the discretion of the City, by cash, by placing the assessed dollar amount in a certificate of deposit made payable to the City of Sausalito, or by securing a performance bond.~~

b. ~~The dollar amount of the performance security will be based on an estimate from a nursery which includes plant material, irrigation equipment, and labor costs, or for mitigation measures, in a manner to be determined by the Community Development Director based on the characteristics of the required mitigation measure.~~

10.54.100 Time limits for construction.

A. ~~Purposes. The purpose of this section is to regulate the duration of construction projects in order to avoid negative impacts on the City resulting from lengthy construction activities. Such negative impacts include detrimental effects of lengthy construction on residential neighborhoods, such as construction noise and increased traffic, reduction in available parking, and the presence of portable toilets. In addition to the general purposes of this section, the City has adopted this section because:~~

1. ~~A continuous stream of large numbers of construction projects on private properties within the City for many years past has resulted in substantial and continuing adverse impacts on the City and its residents from construction activities;~~

~~2. Among those adverse impacts are long-term noise disturbances to neighbors of the construction projects, loss of already inadequate on-street parking due to the presence of large numbers of construction vehicles, and frequent closures of the City's narrow streets for construction deliveries and staging, which closures hinder and/or eliminate local and emergency access for varying periods of time;~~

~~3. Numerous private individual large-scale projects have been designed and built in the City involving construction for many years, thus prolonging the adverse construction impacts created by those projects;~~

~~4. It is in the interests of the health, safety, and welfare of the citizens of Sausalito to place a reasonable time limit on the duration of each construction project, so as to balance the needs of the project site property owner with those of nearby residents and the community generally in the safe and peaceful enjoyment of their properties;~~

~~5. The time limits adopted in this section allow an adequate and reasonable amount of time for the kinds of construction projects undertaken in the City; and~~

~~6. Substantial penalties should be imposed upon persons who violate the time limits imposed pursuant to this section, so as to encourage compliance with such time limits and achieve the purposes of this section.~~

~~B. Construction Time Limit Required. As part of any application for a construction permit for a project which obtained a design review permit, obtained an amendment of an existing design review permit, or should have obtained a design review permit (including, without limitation, any such application with respect to improvements that have been constructed without or in violation of an existing valid design review permit, or administrative design review permits for the purposes of this section), the applicant shall file a reasonable estimate of the value of the project, and based thereon, a construction time limit shall be established for the project in accordance with the criteria set forth in subsection C of this section. The applicant shall submit information reasonably requested by the Community Development Director to support the estimated value of the project such documentation may include without limitation an executed construction contract. Compliance with such time limit shall become a condition of the design review permit. The time for completion of the construction shall also be indicated on the construction permit. For projects exceeding \$500,000 in project valuation, a detailed GANTT chart (or other graphic display acceptable to the Community Development Director) depicting the sequence of steps necessary for completion of the project, including detailed information on the critical path of the project, duration of critical tasks, and predicted inspection dates, shall be submitted prior to the issuance of any construction permit. Once approved, the property owner shall provide the City with written quarterly job progress reports consistent with the approved chart.~~

~~C. Construction Time Limit. Except where a longer time period is approved pursuant to subsection D of this section, the maximum time for completion of approved alterations, additions, modifications, repairs, or new construction, following issuance of the construction permit, shall not exceed the following limits. These limits are not altered or extended by work delays or stoppages due to the enforcement actions resulting from violation(s) of the municipal code.~~

Estimated Value of Project	Construction Time Limit²
\$0 to \$500,000	18 months
\$500,001 to \$1,000,000	24 months
Greater than \$1,000,000	30 months

~~² For landscaping work (including retaining walls and grading) approved as part of the construction project, the applicant shall have an additional 90 days to complete the landscaping work after final building inspection approval or issuance of an occupancy permit (whichever occurs later) for the main construction project. This additional 90 days shall not apply to construction projects solely comprised of landscaping.~~

~~D. Construction Time Limit Extension.~~

~~1.a. Construction Activities. Prior to or following the commencement of construction an applicant may apply for one or more extension(s) of the established construction time limit; provided, however, in no event shall any single extension granted exceed 180 days, nor shall the total extension(s) granted exceed the following:~~

Estimated Value of Project	Construction Time Limit Extension
\$0 to \$500,000	270 days
\$500,001 to \$1,000,000	360 days
Greater than \$1,000,000	360 days

b. Landscaping Activities. For landscaping work (including retaining walls and grading) approved as part of the construction project, the applicant may apply for an extension not to exceed 30 days beyond the 90-day landscaping time limit specified in subsection C of this section. Such application shall be filed prior to the expiration of the 90-day time limit and shall be considered by the Community Development Director, who shall have the authority to grant said extension only if, in his or her opinion, such extension beyond the 90-day landscaping time limit is warranted because of delays caused by inclement weather or circumstances beyond the property owner's control.

2. Application Contents. An application for an extension of the construction time limit shall be accompanied by complete working drawings for the construction, a written explanation of the reasons for the requested extension, and a fee as established by resolution of the City Council.

3. Public Hearing and Notice. Within 15 working days of receipt of a complete application for an extension in accordance with subsection (D)(1)(a) of this section, the Zoning Administrator shall hold a public hearing on the said application. The Zoning Administrator may obtain input from the Building Inspector and the City Engineer.

4. Findings. The Zoning Administrator may grant an extension if the following findings can be made:

a. Such extension will not have a material deleterious effect on the neighborhood in which the project is located; and

b. Any one or more of the following factors is present and presents an unusual and substantial obstacle to complying with the standard construction time limit:

- i. Site topography;
- ii. Site access;
- iii. Geologic issues;
- iv. Neighborhood considerations;
- v. Weather related grading restrictions; or
- vi. Other unusual factors (except lack of financing);

5. Conditions of Approval. The Zoning Administrator may apply reasonable conditions of approval deemed necessary to fulfill the purposes of this section.

6. Notice of Decision. The decision of the Zoning Administrator shall be in the form of a written resolution and shall include the findings upon which the decision is based, applicable conditions of approval, and a summary of the appeal process. A written decision shall be mailed to the applicant and all parties who participated in the process via oral or written comments.

7. Appeals. The decision of the Zoning Administrator may be appealed to the Planning Commission in accordance with the procedures of Chapter 10.84 SMC.

E. Penalties.

~~1. If a property owner fails to complete construction by the applicable time limit established in this section, the property owner shall be subject to the following penalties payable to the City:~~

Period of Time That Project Remains Incomplete Beyond Applicable Time Limit	Penalty
First 60 days	\$100.00 per day (i.e., \$24,000 maximum penalty applicable to this 60-day period)
61st through 120th day	\$600.00 per day (i.e., \$36,000 maximum penalty applicable to this 60-day period)
121st day and every day thereafter	\$800.00 per day (to a maximum of the lesser of 20% of project value or \$200,000)

~~2. Penalties, fees and costs due to the City pursuant to this subsection E are due each day as the penalties accrue.~~

~~F. Deposits.~~

~~1. Upon reaching the time limits set out in subsections C and D of this section, if construction has not been completed, or if no final inspection has been made or a certificate of occupancy issued, the property owner or his representative shall deliver to the Community Development Department a refundable deposit (in cash or other security instrument acceptable to the City and valid for a minimum time period of two years) in the amount of \$24,000, plus a nonrefundable administrative fee as established by resolution of the City Council.~~

~~2. If no deposit is made as provided in subsection (F)(1) of this section, the Building Official shall issue a stop-work order.~~

~~3. On or before the sixtieth day that the project has remained incomplete, and no final inspection has been made and no certificate of occupancy issued, the property owner or his representative shall deliver to the Community Development Department an additional refundable deposit (in cash or other security instrument acceptable to the City and valid for a minimum time period of two years) in the amount of \$36,000, plus a nonrefundable administrative fee as established by resolution of the City Council.~~

~~4. If no deposit is made as provided in subsection (F)(3) of this section, the Building Official shall issue a stop-work order.~~

~~5. On or before the one hundred twentieth day that the project has remained incomplete, and no final inspection has been made and no certificate of occupancy issued, the property owner or his representative shall deliver to the Community Development Department an additional refundable deposit (in cash or other security instrument acceptable to the City and valid for a minimum time period of two years) in the amount of \$140,000, plus a nonrefundable administrative fee as established by resolution of the City Council.~~

~~6. If no deposit is made as provided in subsection (F)(5) of this section, the Building Official shall issue a stop-work order.~~

~~7. If the property owner fails to complete construction by the applicable time limit, the applicable penalties shall accrue daily up to the maximum set out in subsection E of this section.~~

~~8. If the property owner believes that the failure to meet the applicable time limit was caused by circumstances beyond the property owner's control, the property owner may file a written statement to that effect with the Community Development Director at the time of making the deposit as described in subsections (F)(1), (3) and/or (5) of this section and provide any documentation substantiating such grounds of appeal and the effect on the construction. If the property owner makes such filing, no part of the deposit cash or other security instrument shall be forfeited to the City if construction is completed within 30 days of the deposit. If~~

~~construction is completed after the 30 days and the Community Development Director concurs with the property owner's statement as to the cause of the failure to meet the deadline, the Community Development Director shall waive the penalty and return the cash deposit or other security instrument to the property owner. If the Community Development Director does not concur with the property owner's statement, such statement shall be treated as an appeal under subsection G of this section and all the provisions of that subsection shall apply. As used in this section, the term "circumstances beyond the property owner's control" shall mean events outside the property owner's reasonable control that are not caused by the property owner's willful or unlawful misconduct or gross negligence (or that of the property owner's contractor or subcontractors), such as acts of God, earthquake, labor disputes that are not caused, directly or indirectly, by the property owner or the property owner's contractor or subcontractors, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers. A failure of a lender to make or fund a loan commitment shall not be deemed to be "circumstances beyond the property owner's control."~~

~~9. If construction is completed after the applicable time limit, and the Community Development Director does not concur with the property owner's statement pursuant to subsection (F)(8) of this section, the City shall draw on the deposit or other security instrument in the amount of the applicable penalties; provided, however, that in the event of an appeal, the City shall not draw on the deposit or other security instrument until the Planning Commission and, if applicable, the City Council has rendered its decision as set forth in subsection G of this section.~~

~~10. After construction is completed and all applicable penalties received by the City, any remaining cash or security instrument deposit shall be refunded or returned to the account of the property owner.~~

~~G. Appeals.~~

~~1. A penalty imposed pursuant to subsections B through F of this section may be appealed to the Planning Commission on the grounds that the property owner was unable to comply with the applicable time limit as a result of circumstances beyond the property owner's control. There shall be no right to appeal until construction is completed. Any person aggrieved by the decision of the Planning Commission on the appeal may appeal to the City Council in accordance with the procedures of Chapter 10.84 SMC.~~

~~2. At the time the appeal is filed or within two weeks thereafter, the appellant shall submit documentary and other evidence sufficient to establish that design decisions, construction drawings and documents, bids and construction contracts, permit applications, and compliance with all required permit conditions were undertaken in a diligent and timely manner. Documentary evidence shall include, but not be limited to, dated design contracts, date stamped plans, dated construction contracts and material orders, and proof of timely payment of any deposits or fees required pursuant to any of the foregoing items. The documentary and other evidence shall demonstrate that construction delays resulted from circumstances beyond the property owner's control and despite diligent and clearly documented efforts to achieve construction completion within the applicable time limit. Penalties imposed pursuant to this section shall not be modified or cancelled unless all evidence required by this subsection (G)(2) is submitted at the time of appeal.~~

~~H. Enforcement.~~

~~1. This section shall apply to all construction, including all additions, alterations, modifications, repairs, and improvements, that requires a design review permit, including a design review permit for such construction undertaken before the application for the design review permit or an amended design review permit with respect to such construction previously undertaken without a design review permit or outside a previously issued design review permit. The time limit for completion of any design review permit issued after January 1, 2009, shall be extended from the effective date of the ordinance codified in this section pursuant to the time limits specified in subsections C and D of this section.~~

~~2. Any penalty due under subsection E of this section in excess of the deposit made under subsection F of this section shall be a personal debt owed to the City by the property owner(s) and, in addition to all other means of enforcement and collection, shall become a lien against the property and shall be subject to the same penalties (including interest thereon at the maximum rate allowed by law from the date the lien attaches until the date of payment) and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.~~

~~I. Violations:~~

~~1. A violation of this section is a misdemeanor and shall be punished as provided in Chapter 1.05 SMC. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this section. In a civil action brought pursuant to this section in which the City prevails, the court may award to the City all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorneys' fees.~~

~~2. As part of a civil action brought by the City, a court may assess against any person who commits, allows, or maintains a violation of any provision of this section a civil penalty in an amount not to exceed \$5,000 per daily violation. The civil penalty is separate and distinct from penalties imposed pursuant to this section.~~

~~3. Upon any guilty plea or judgment or conviction in any criminal proceeding brought for the violation of this section, where the defendant is entitled by law to probation, then the court may require the payment to the City of the costs and expenses as described above and the code provision incorporated by reference as one of the conditions of such probation.~~

~~4. The Building Official or the Community Development Director is authorized to order work stopped whenever work is being done contrary to the provisions of this section.~~

~~5. Any violation of this section shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided by law.~~