

Title 16

BUILDINGS AND CONSTRUCTION

Chapters:

| | |
|--------------|---|
| <u>16.04</u> | <u>Construction Codes</u> |
| <u>16.12</u> | <u>California Fire Code</u> |
| <u>16.14</u> | <u>Burglary, Fire, and Robbery Alarms</u> |
| <u>16.15</u> | <u>Grading and Erosion Control</u> |
| <u>16.16</u> | <u>Structures in Inundated Land</u> |
| <u>16.20</u> | <u>Floodplain Management</u> |
| <u>16.24</u> | <u>Residential Building Records Reports</u> |
| <u>16.28</u> | <u>Demolition Permits</u> |
| <u>16.30</u> | <u>Construction and Demolition Debris Diversion</u> |
| <u>16.32</u> | <u>Small Residential Rooftop Solar Systems</u> |

Chapter 16.04

CONSTRUCTION CODES

Sections:

| | |
|-----------|---|
| 16.04.010 | Construction codes—Adoption by reference. |
| 16.04.020 | Changes to California Building Code and California Residential Code—Findings for. |
| 16.04.030 | California Building Code and California Residential Code—Amendments. |
| 16.04.040 | Violation—Penalty—Nuisance. |
| 16.04.050 | Prior acts. |

16.04.010 Construction codes—Adoption by reference. A. The following parts of Title 24, “California Building Standards Code,” 2019 Edition, of the California Code of Regulations are adopted by reference as construction codes for the City, including the amendments listed in this Chapter, which are made pursuant to the findings of fact set forth in Section 16.04.020 of this Chapter: Part 1 California Administrative Code; Part 2 California Building Code and its Appendices I and J; Part 2.5 California Residential Code and its Appendices H; Part 3 California Electrical Code; Part 4 California Mechanical Code; Part 5 California Plumbing Code and its Appendices A, D, G, and I; Part 6 California Energy Code; Part 8 California Historical Building Code; Part 10 California Existing Building Code; Part 11 California Green Building Code; and Part 12 California Referenced Standards Code.

B. Part 5.3, “Private Residence Elevators,” and Part 5.4, “Private Residence Inclined Elevators,” of Safety Code for Elevators and Escalators (ASME A17.1), 2007 Edition, published by the American Society of Mechanical Engineers, is adopted by reference as a construction code for the City.

C. A copy of each of these documents is maintained in the office of the Building Official, and reference is made to them with like effect as if all the provisions and printed matter therein were herein set forth in full. (Ord. 2019-10 § 3 (part), 2019; Ord. 2016-10 § 3 (part), 2016; Ord. 2013-3 § 3 (part), 2013; Ord. 2010-5 § 3 (part); Ord. 2007-4 § 3 (part), 2007; Ord. 2005-6 §§ 2, 7, 2005; Ord. 2002-04 §§ 2, 3, 6, 8, 2002; Ord. 99-3 § 1A, 1999; Ord. 96-1 §§ 1B, 1J, 1K, 1M, 1N, 1996; Ord. 92-4 § 1 (part), 1992; Ord. 89-03 § 1 (part), 1989; Ord. 87-7 §§ 1, 3, 4, 1987; Ord. 85-6 §§ 1, 3, 4, 1985; Ord. 81-2 §§ 1, 3, 4, 6, 1981; Ord. 77-2 §§ 1, 3, 4, 1977; Ord. 170 NS §§ 1-4, 1971; Ord. 151 NS, §§ 1, 3, 4, 1967; Ord. 132 NS §§ 1-3, 1964; Ord. 115 NS § 1, 1960; Ord. 74 NS § 1, 1952; Ord. 72 NS § 1, 1951; Ord. 46 NS § 1, 1945; Ord. 10 NS § 1, 1938; Ord. 9 NS, § 3, 1938; prior code §§ 5-1, 5-3, 5-4.)

16.04.020 Changes to California Building Code and California Residential Code—Findings for. A. Pursuant to Sections 17958.5 and 17958.7(a) of the State of California Health and Safety Code, the City Council of the City of Belvedere has determined and finds that all the changes or modifications in this Chapter to Part 2, “California Building Code,” and Chapter 2.5, “California Residential Code,” of Title 24, 2019 Edition of the California Code of Regulations are reasonably necessary because of the local climatic, geological and/or topographical conditions within the City of Belvedere as discussed below.

B. The City is densely populated with most structures being of wood frame construction, most having combustible exterior materials.

C. Many buildings were erected prior to the enforcement of zoning and building laws, with the result that many are located extremely close to each other with no provisions for fire protection.

D. The hilly topography of much of the City, often combined with narrow roads, reduces the fire department's ability to respond to emergency situations.

E. Much of the City contains heavy vegetation, including groves of eucalyptus and pine trees with interconnecting canopies.

F. The City is located in an area of high seismic activities as indicated by the U.S. Geological Survey and California Divisions of Mines and Geology.

G. The general marine environment within the City is conducive to organisms which produce dry rot conditions in wood structures.

H. The hillside topography in much of the City results in the susceptibility to earth sliding due to uncontrolled storm water drainage. (Ord. 2019-10 § 3 (part), 2019; Ord. 2016-10 § 3 (part), 2016; Ord. 2013-3 § 3 (part), 2013; Ord. 2010-5 § 3 (part); Ord. 2007-3 § 3 (part), 2007; Ord. 2005-6, § 1, 2005; Ord. 2002-04 § 1, 2002; Ord. 96-1 § 1F, 1I, 1996; Ord. 92-9 § 1 (part), 1992.)

16.04.030 California Building Code and California Residential Code--Amendments. The following changes and modifications are made to the 2016 edition of the California Code of Regulations, Parts 2 and/or 2.5, as indicated.

- A. 1. Subsection 105.2 is amended so as to read as follows:

“105.2 Work exempt from permit. Permits shall not be required or the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City of Belvedere.

“Building:

- “1. Conventionally constructed one-story detached structures accessory to a dwelling, used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet; must comply with Zoning regulations; must have building permit for any associated electrical, plumbing or mechanical.
2. Fences not over 7 feet high.
3. Private residential sidewalks and driveways not more than 30 inches above adjacent grade and supported directly on existing grade, that are not part of a required accessible route.
4. Painting, papering, tiling carpeting, cabinets, counter tops and similar work, except for the purposes of project valuation when a component of a larger project which requires a permit.
5. Swings and other playground equipment.
6. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
7. Decks not exceeding 100 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the conditions described in Subsections 16.04.020(B) through 16.04.020(H) of this Chapter.

- B. 1. Subsection 105.7.1 is hereby added to Parts 2 and 2.5 to read as follows:

“105.7.1 Hours when work is permitted. Work covered by any permit issued under this Code shall be performed only between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Work may not be performed any time on weekends or on holidays recognized by the City: New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day and the day following (fourth Thursday and Friday in November), and Christmas Day (December 25). Delivery of construction material such as lumber and cement may be made to the work site only between these hours. Only work on the interior of a building or

structure, the performance of which creates no noise which is audible from the exterior of the building, may be performed outside these prescribed hours. The City Manager may, upon his discretion, grant written exceptions to this condition whenever such work can be demonstrated to his satisfaction to be necessary to protect the public's health and safety; the City Manager's written permission must be obtained prior to any work being undertaken outside these prescribed hours.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the condition described in Subsections 16.04.020B through 16.04.020(H) of this Chapter.

C 1. Subsections R313.1 and R313.2 of Part 2.5 are hereby amended to read as follows:

“Exception: Deleted, refer to Section 903.2 of Part 2 as amended in Belvedere Municipal Code Section 16.04.030(E).”

2. The City Council finds and determines that this modification is reasonable and necessitated by the condition described in Subsections 16.04.020(B) through 16.04.020(H) of this Chapter.

D 1. Subsections 406.3.3 and 406.3.5 of Part 2 and Subsections R309.1 and R309.2 of Part 2.5 are hereby amended to add the following:

“Where existing carport or garage structures are remodeled or repaired to the extent that fifty percent (50%) or more of the structure is involved, using criteria established by the Building Official, the floor surface must comply with this Section and the structure shall be redesigned to support all vertical and horizontal loads of current code.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the conditions described in Subsection 16.04.020(B) through 16.04.020(G) of this Chapter.

E 1. Subsection 903.2 of Part 2 is hereby amended to read as follows:

“903.2 Where required All occupancies and facilities. An automatic fire sprinkler system shall be installed in all of the following:

“1. Every newly constructed building and facility.

“Exceptions:

“a. Free standing Group U occupancies not more than 1,000 square feet and provided with exterior wall and opening protection as per Table 602 of the Building Code.

- b. Agricultural buildings as defined in Appendix C of the Building Code and not exceeding 2,000 square feet, having clear unobstructed side yard of combustible materials, exceeding 60 feet in all directions and not exceeding 25 feet in height, and located within an Agricultural zoned district as defined in the Marin County Planning Code.
- “2. In newly created second units.
“Exception: New Second units classified as a Junior Accessory Dwelling Unit as defined in Municipal Code Chapter 16.12, and California Government Code Section 65852.22, that don’t result in the Junior Accessory Dwelling Unit creation being classified as a “substantial remodel” per item 3.
- “3. In all buildings which have more than fifty percent (50%) floor area added or any “substantial remodel,” as defined in Municipal Code Chapter 16.12, within any 36-month period. Exceptions may be granted by the Fire Code Official when alternate means of protection are installed as approved by the Fire Code Official.
- “4. In all buildings except R-3 occupancies, in excess of 3,000 sq. ft. which have more than 10 percent floor area added within any 36-month period. Exceptions may be granted by the Chief when alternate means of protection are installed as approved by the Chief.
- “5. A change in the use of a structure that results in a higher fire or life safety exposure when the square footage of the area changing use is more than 50% of the square footage of the building.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the conditions described in Subsections 16.04.020(B) through 16.04.020(E) of this Chapter.

F. 1. Subsection 903.3 of Part 2 is hereby amended by adding the following thereto:

“The requirements for fire sprinklers in this code section are not meant to disallow the provisions for area increase, height increase or Fire Resistive substation if otherwise allowed by Section 504 and 506 of the Building Code. All automatic fire sprinkler systems shall be installed in accordance with the written standards of the Fire Code Official and the following:

“a. In all residential buildings where fire sprinklers are required any attached garages shall also require fire sprinklers, and except for single family dwellings, in all residential occupancies the attics shall require fire sprinklers.

“b. In all existing buildings, where fire sprinklers are required by provisions of this Code, they shall be extended into all unprotected areas of the building.

“c. All single family dwellings in excess of 5,000 square feet shall have automatic fire sprinkler systems designed in accordance with NFPA Standard 13 or 13R.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the conditions described in Subsections 16.04.020(B) through 16.04.020(E) of this Chapter.

G. 1. Subsection 1503.4.4 of Part 2 and Subsection 903.4.2 of Part 2.5 are hereby added to read as follows:

“Drainage system. Roof and deck drainage shall be directed to an approved on-site drainage system which terminates at a City drainage facility, gutter, the Belvedere Lagoon or San Francisco Bay.

“Exceptions:

“1. New roof or deck construction less than two hundred square feet in area may discharge at splash blocks, driveways or other appropriate paved surfaces;

“2. When topographic features, NPDES requirements, or other constraints preclude conformance, the City may grant an exception pursuant to approval of an alternate drainage plan approved by the City Engineer.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the condition described in Subsection 16.04.020(H) of this Chapter.

H. 1. Subsection 1505.1.3 of Part 2 and Subsection 902.1.3 of Part 2.5 are hereby amended to read as follows:

“Roof coverings within all other areas. The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering, or assembly, that is at least Class A.”

2. The City Council finds and determines that this modification is reasonable and necessitated by the conditions described in Subsections 16.04.020(B) through 16.04.020(F) of this Chapter. (Ord. 2019-10 § 3 (part), 2019; Ord. 2016-10 § 3 (part), 2016; Ord. 2013-3 § 3 (part), 2013; Ord. 2010-5 § 3 (part), 2010; Ord. 2007-3 § 3 (part), 2007; Ord. 96-1 §§ 1D, 1H, 3C (part), 1996; Ord. 92-9 § 1 (part) 1992; Ord. 92-4

§ 1 (part) 1992; Ord. 92-3 § 1, 1992; Ord. 89-03 § 1 (part), 1989; Ord. 88-1 § 2, 1988; Ord. 87-7 §§ 2, 3 (part), 1987; Ord. 85-6 § 2, 1985; Ord. 1 NS §§ 2 (part), 4(part), 1937.)

16.04.040 Violation—Penalty—Nuisance. A. Any person, firm or corporation violating any of the provisions of this Chapter shall be punishable by any of the remedies provided in Chapters 1.12 and 1.14 of the Belvedere Municipal Code, in the code adopted by Section 16.04.010 of this Chapter, or by any other remedy provided by law.

B. Any work commenced or continued in violation of this Chapter shall be, and is declared unlawful and a public nuisance.

C. No new permits shall be issued for work on a property unless all existing violations and expired permits issued for work on such property are cleared by abatement or reinstatement. (Ord. 2019-10 § 3 (part), 2019; Ord. 2016-10 § 3 (part), 2016; Ord. 2013-3 § 3 (part), 2013; Ord. 2010-5 § 3 (part), 2010; Ord. 2007-3 § 3 (part), 2007; Ord. 2002-04 § 11, 2002; Ord. 99-3 § 1J, 1L, 1M, 1999; Ord. 92-4 § 1 (part), 1992; Ord. 89-03 § 1 (part), 1989; Ord. 77-5 § 1, 1977; Ord. 10 NS § 5, 1938; Ord. 1 NS § 7 (part), 1937; prior code § 5-11.)

16.04.050 Prior acts. The amendments provided for in the preceding Sections of this Chapter shall not affect any offense or act committed or done or any penalty or forfeiture before the effective date of the ordinance codified in this Chapter, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such effective date. (Ord. 2019-10 § 3 (part), 2019; Ord. 2016-10 § 3 (part), 2016; Ord. 2013-3 § 3 (part), 2013; Ord. 2010-5 § 3 (part), 2010; Ord. 2007-3 § 3 (part), 2007; Ord. 92-4 § 1 (part), 1992; Ord. 89-03 § 1 (part), 1989; Ord. 77-2 § 7, 1977.)

Chapter 16.12

CALIFORNIA FIRE CODE

Sections:

- 16.12.010 2019 California Fire Code, 2018 International Fire Code, and Appendix A of the 2018 International Wildland-Urban Interface Code —Adopted.
- 16.12.020 Establishment and duties of the Community Risk Reduction Bureau and Fire Prevention Division.
- 16.12.030 Definitions.
- 16.12.040 Establishment of geographic limits of districts in which storage of Class I, Class II, and Class III liquids in outside aboveground tanks is prohibited.
- 16.12.050 Establishment of geographic limits of districts in which storage of Class I, Class II, and Class III liquids in aboveground tanks is prohibited.
- 16.12.060 Establishment of geographic limits in which the storage of stationary tanks of flammable cryogenic fluids is to be prohibited.

- 16.12.070 Establishment of geographic limits in which storage of liquefied petroleum gases is to be restricted.
- 16.12.080 Establishment of geographic limits of districts in which storage of explosives and blasting agents is to be prohibited.
- 16.12.090 Establishment of geographic limits of districts in which the storage of compressed natural gas is to be prohibited.
- 16.12.100 Establishment of geographic limits of districts in which the storage of hazardous materials is to be prohibited or limited.

16.12.010 2019 California Fire Code, 2018 International Fire Code, and Appendix A of the 2018 International Wildland-Urban Interface Code —Adopted. A. There is hereby adopted by the City Council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the following:

1. The 2019 California Fire Code, which consists of certain portions of the 2018 edition of the International Fire Code as amended by the California Building Standards Commission, including:
 2. The International Fire Code published by the International Fire Code Council, Inc., 2018 Edition, hereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by Section 16.12.050 of this Chapter.
 3. Appendix A of the 2018 edition of the International Wildland-Urban Interface Code.

B. Not less than one (1) copy of the Codes and Standards hereby adopted is filed in the office of the Fire Marshal of the Tiburon Fire Protection District, and the same are hereby adopted and incorporated fully as if set out at length herein, and from the date on which this Ordinance shall take effect, and the provisions thereof shall be controlling within the limits of the City of Belvedere. (Ord. 2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999; Ord. 96-1 § 3 (A, B), 1996; Ord. 92-7 § 1 (part), 1992; Ord. 89-4 §§ 1, 2, 1989; Ord. 87-8 §§ 1, 2, 1987; Ord. 84-3 §§ 1, 2, 1984.)

16.12.020 Establishment and duties of the Community Risk Reduction Bureau and Fire Prevention Division. The 2019 California Fire Code, which consists of certain portions of the 2018 edition of the International Fire Code as amended by the California Building Standards Commission, and the 2018 edition of the International Fire Code, and Appendix A of the 2018 edition of the International Wildland-Urban Interface Code as adopted herein, shall be enforced by the Fire Prevention Bureau of the Tiburon Fire Protection District and shall be operated under the supervision of the Chief of the Tiburon Fire Protection District. (Ord. 2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007.)

16.12.030 Definitions. Wherever they appear in the California Fire Code, the International Fire Code, and International Wildland-Urban Interface Codes, unless otherwise provided, the following words shall have the meanings ascribed to them in this section:

- A. Whenever the words “Fire Code” are used they shall mean those Codes and Standards adopted in Section 16.12.010 of this Chapter.

B. Wherever the word "jurisdiction" is used in the Fire Code, it shall be held to mean the City of Belvedere.

C. Wherever the term "counsel" is used in the Fire Code, it shall be held to mean the attorney for the Tiburon Fire Protection District.

D. Wherever the words "Fire Code Official" are used in the Fire Code, they shall be held to mean the Fire Chief or Fire Marshal of the Community Risk Reduction Bureau and Fire Prevention Division of the Tiburon Fire Protection District. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999.)

16.12.040 Establishment of geographic limits of districts in which storage of Class I, Class II, and Class III liquids in outside aboveground tanks is prohibited. The geographic limits referred to in Section 5704.2.9.6.1 of the International Fire Code in which storage of Class I, Class II, and Class III liquids in outside aboveground tanks is prohibited are amended as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999.)

16.12.050 Establishment of geographic limits of districts in which storage of Class I, Class II, and Class III liquids in aboveground tanks is prohibited. The geographic limits referred to in Section 5706.2.4.4 of the International Fire Code in which storage of Class I, Class II and Class III liquids in aboveground tanks is prohibited are amended as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999.)

16.12.060 Establishment of geographic limits in which the storage of stationary tanks of flammable cryogenic fluids is to be prohibited. The geographic limits referred to in Section 5806.2 in which the storage of flammable cryogenic fluids in stationary containers are prohibited are hereby established as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999.)

16.12.070 Establishment of geographic limits in which storage of liquefied petroleum gases is to be restricted. The geographic limits referred to in Section 6104.2 of the International Fire Code, in which storage of liquefied petroleum gas is restricted, are amended as follows: : In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013; Ord. 2010-6 § 3 (part), 2010; Ord. 2007-4 § 3 (part), 2007; Ord. 2002-05 § 3 (part), 2002; Ord. 99-5 § 1 (part), 1999.)

16.12.080 Establishment of geographic limits of districts in which storage of explosives and blasting agents is to be prohibited. The geographic limits in which

storage of explosives and blasting agents is prohibited, are as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013.)

16.12.090 Establishment of geographic limits of districts in which the storage of compressed natural gas is to be prohibited. The geographic limits in which the storage of compressed natural gas is prohibited, are hereby established as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013.)

16.12.100 Establishment of geographic limits of districts in which the storage of hazardous materials is to be prohibited or limited. The geographic limits in which the storage of hazardous materials is prohibited or limited, are hereby established as follows: In all areas within the boundaries of the City of Belvedere. (Ord.2019-12 § 3 (part), 2020; Ord. 2016-9 § 3 (part), 2016; Ord. 2013-4 § 3 (part), 2013.)

Chapter 16.14

BURGLARY, FIRE, AND ROBBERY ALARMS

Sections:

| | |
|-----------|---|
| 16.14.010 | Short title. |
| 16.14.020 | Purpose. |
| 16.14.030 | Definitions. |
| 16.14.031 | Appellant. |
| 16.14.032 | Audible alarm. |
| 16.14.033 | False alarm. |
| 16.14.034 | Fire alarm system. |
| 16.14.035 | Fire emergency. |
| 16.14.036 | Police alarm system. |
| 16.14.037 | Police emergency. |
| 16.14.038 | Prohibited alarm devices. |
| 16.14.050 | Reporting servicing information. |
| 16.14.060 | Outside audible alarm requirements. |
| 16.14.070 | Prohibitions. |
| 16.14.080 | Prohibited alarm systems. |
| 16.14.090 | Exemptions. |
| 16.14.100 | Service charges for false alarms. |
| 16.14.110 | Excessive false alarms. |
| 16.14.120 | Suspension, revocation, or disconnection. |
| 16.14.130 | Exemptions. |
| 16.14.140 | Confidentiality of data. |

16.14.010 Short title. This Chapter shall be known as "The Burglary, Fire, and Robbery Alarm Chapter." (Ord. 79-2 § 2 (part), 1979.)

16.14.020 Purpose. The purpose of this Chapter is to set forth regulations governing burglary, fire, and robbery alarm systems. (Ord. 79-2 § 2 (part), 1979.)

16.14.030 Definitions. For the purpose of this Chapter, certain words and phrases shall be construed herein as set forth in Sections 16.14.031 through 16.14.038, unless it is apparent from the context that a different meaning is intended. (Ord. 79-2 § 2 (part), 1979.)

16.14.031 Appellant. "Appellant" means a person who perfects an appeal pursuant to this Chapter. (Ord. 79-2 § 2 (part), 1979.)

16.14.032 Audible alarm. "Audible alarm" means any mechanical or electrical device designed for the detection of unauthorized entry on the land, building, structure, and/or facility of an alarm owner; or any mechanical or electrical device designed for the detection of smoke and/or heat therein; which generates an audible sound outdoors when it is actuated. (Ord. 79-2 § 2 (part), 1979.)

16.14.033 False alarm. "False alarm" means an alarm signal activated intentionally or through inadvertence, negligence, or malfunction of any segment of the alarm system and to which personnel of the Belvedere police department or Belvedere volunteer fire department respond and there is no fire and/or police emergency as herein defined. (Ord. 79-2 § 2 (part), 1979.)

16.14.034 Fire alarm system. "Fire alarm system" means any mechanical or electrical device which is designed to detect or used for detection of smoke and/or heat within a building, structure, facility, watercraft, or any portion thereof which, when activated, emits a sound, displays a light, or transmits a signal or message for the purpose of alerting occupants or others to the existence of a fire emergency. "Fire alarms systems" include but are not limited to direct-dial telephone devices, audible alarms, and proprietor alarms. Devices which are not designed or used to register alarms that are audible, visible, or perceptible outside of the protected building, structure, facility, or watercraft are not included within this definition, nor are auxiliary devices installed for the telephone company systems which might be damaged or disrupted by the use of alarm system. (Ord. 79-2 § 2 (part), 1979.)

16.14.035 Fire emergency. "Fire emergency" means any incident requiring the response of the fire department to perform fire extinguishing, life saving, rescue or hazard connected with service activity. (Ord. 79-2 § 2 (part), 1979.)

16.14.036 Police alarm system. "Police alarm system" means any mechanical or electrical device which is designed or used for the detection of unauthorized entry into a building, structure, or facility or for alerting others of the commission of an unlawful act within a building, structure, or facility, or both; and which emits a sound or transmits a message or signal when actuated. Alarm systems include, but are not limited to, direct-dial telephone devices, audible alarms, and proprietor alarms. Devices which are not designed to register alarms that are audible, visible, or perceptible outside of the protected building, structure, or facility are not included within this definition, nor are auxiliary devices installed by the telephone company to protect telephone company systems which might be disrupted by the use of alarm system. (Ord. 79-2 § 2 (part), 1979.)

16.14.037 Police emergency. "Police emergency" means any incident requiring the response of the police department during the commission of a breaking and/or

entering of a building, structure, or facility, or an immediate attempted breaking or entering or the immediate commission of a violent act likely to produce great bodily harm or the existence of a life saving medical incident. (Ord. 79-2 § 2 (part), 1979.)

16.14.038 Prohibited alarm devices. "Prohibited alarm device" means any fire alarm system or police alarm system or any combination thereof, which does not conform to the provisions of this Chapter. (Ord. 79-2 § 2 (part), 1979.)

16.14.050 Reporting servicing information. Each police and/or fire alarm user shall maintain a current information card with the City containing his name, address, and telephone number, as well as the name, address, and telephone number of a person or persons who can render service to the alarm within one hour after being called at any hour of the day or night. (Ord. 79-2 § 2 (part), 1979.)

16.14.060 Outside audible alarm requirements. Every person maintaining an outside audible alarm or alarm system shall comply with the provisions of this Section as follows:

A. A posted notice containing the names and telephone numbers of the persons to be notified to render repairs or service and secure the premises during any hour of the day or night that the alarm is actuated; and such notice shall be posted near the alarm in such a position as to be legible from the ground level adjacent to the exterior perimeter to the building where such alarm is located. The wording "POLICE ALARM—call Police 435-2611," shall be placed on the gong covers or immediately below such police alarm gong. Fire alarm gong covers shall be painted red and shall have the wording "FIRE ALARM—call 435-3323," placed on the gong cover or immediately below. Such wording shall be similarly legible as provided above.

B. In lieu of the posting requirement of Subsection A, alarm subscribers or proprietors of alarms may deposit alarm keys and/or alarm combinations with the police chief in addition to information required under Section 16.14.050 to be used by the police or fire departments to reset such alarms or alarm systems whenever false alarms occur and the responsible party is absent.

C. It is unlawful to install or use a police or fire alarm system which, upon activation, emits a sound similar to sirens in use on emergency vehicles, to summon volunteer firefighters, or for civil disaster purposes.

D. All local exterior bells, gongs, noise making devices, or pulsating lights whose subscribers or proprietors have not deposited disabling keys and/or combinations as provided in Subsection B, shall be equipped with a timing device which will silence or turn off such devices or lights within ten minutes of activation. (Ord. 79-2 § 2 (part), 1979.)

16.14.070 Prohibitions. It is unlawful for any person to activate any police alarm system or fire alarm system for the purpose of summoning the police or fire department except in the event of what is reasonably believed to be a police emergency or fire emergency as defined in this Chapter. (Ord. 79-2 § 2 (part), 1979.)

16.14.080 Prohibited alarm systems. It is unlawful for any person to install, alter, or activate any alarm system which does not specify that it is either a police alarm system or a fire alarm system or which transmits by any means a signal or message simultaneously to both the police department and fire department, unless both a police emergency and a fire emergency coincide at the protected premises. (Ord. 79-2 § 2 (part), 1979.)

16.14.090 Exemptions. The provisions of this Chapter are not applicable to audible alarms affixed to automobiles. (Ord. 79-2 § 2 (part), 1979.)

16.14.100 Service charges for false alarms. In the event that a false alarm, as defined in this Code, is activated by any alarm system within the City, a citation shall be issued immediately by the police department responding to that false alarm, whether such false alarm is a police alarm system or a fire alarm system. The citation shall set forth the nature and time of the false alarm and state that a charge of twenty-five dollars for the second false alarm or fifty dollars for the third false alarm or one hundred dollars for every false alarm thereafter from an alarm system is due and payable within fifteen days after service of the citation. The citation may be served personally at the time of the false alarm on the alarm owner or any adult representative of the owner who is present at the time. If neither such person is present, the citation shall be mailed by regular first-class United States mail, postage prepaid, to the address at which the alarm is installed, and the mailing of such citation shall be deemed to constitute service thereof.

If such citation is not paid within the time specified, a second notice shall be sent by certified United States mail, postage prepaid, with return receipt requested. In the event that the alarm owner or some adult representative thereof does not accept this second notice, it shall then be personally served upon such owner or some adult representative at his/her home and an additional service fee of twenty-five dollars shall be assessed against the owner.

A. Determination of False Alarm: Appeal. The determination of any false alarm made; be appealed by the alarm owner by a written request to the police chief and/or fire chief within five days after such determination. The police chief and/or fire chief shall hold a hearing within seven days of receipt of such appeal, at which time the alarm owner may appear and give testimony. Within two days, the police chief and/or fire chief shall issue a written statement announcing their decision, which shall be final. Notice of such decision will be mailed by first-class United States mail to the alarm owner.

B. Alarm Owner Away from Home. In the event that the alarm owner has previously notified the police department of his/her absence from the protected premises, and no one is living there during such alarm, any suspension provided for under this Code shall be deferred for fifteen days following the owner's return. (Ord. 79-2 § 2 (part), 1979.)

16.14.110 Excessive false alarms. In the event that any alarm within the City shall activate as a false alarm more than three times in any one month, or shall activate as a false alarm more than six times in any twelve consecutive months, or shall activate as a false alarm during a time when a charge is due and payable under the provisions of Section 16.14.100, such system shall be designated as a source of excessive false alarms. (Ord. 79-2 § 2 (part), 1979.)

16.14.120 Suspension, revocation, or disconnection. Upon the suspension, revocation, or disconnection of any alarm system pursuant to the electrical code of the City after the system has been shown to be the source of excessive false alarms, the City shall be relieved of all responsibility for responding to any alarm other than a direct notification by a natural person unaided by mechanical or electronic voice reproduction on the premises of a police or fire emergency thereon. (Ord. 79-2 § 2 (part), 1979.)

16.14.130 Exemptions. The United States Government, the state of California, counties, municipal corporations, and departments thereof or of other governmental entities are exempt from the provisions of this Chapter. Private corporations who shall secure alarms or alarm systems pursuant to federal banking laws, securities, and exchange regulations or national security regulations shall be similarly exempt from this Chapter. (Ord. 79-2 § 2 (part), 1979.)

16.14.140 Confidentiality of data. The information furnished and secured pursuant to this Chapter shall be confidential in nature and shall not be subject to public inspection or disclosure under the Public Records Act. Such records and the contents thereof shall not be known to persons other than those charged with the administration of this Chapter. (Ord. 79-2 § 2 (part), 1979.)

Chapter 16.15

GRADING AND EROSION CONTROL

Sections:

- 16.15.010 Purpose and intent.
- 16.15.020 Findings.
- 16.15.030 Authority.
- 16.15.040 Exemptions.
- 16.15.051 Adverse soil conditions—Recordation of notice.
- 16.15.052 Site map and grading plan.
- 16.15.053 Soils engineering (soils and engineering geology report).
- 16.15.054 Foundation design.
- 16.15.055 Work schedule.
- 16.15.056 Security.
- 16.15.060 Erosion control plans—Required submittals.
- 16.15.065 Inspection.
- 16.15.070 Modifications.
- 16.15.080 Rainy season grading.
- 16.15.090 Permit denial, revocation or suspension.

16.15.010 Purpose and intent. A. The purpose of this Chapter is to establish controls on the earthwork permitted by the City in the course of construction. The controls are established for reasons of aesthetics, sound soil engineering practice, erosion control, and water quality protection.

B. It is the intent of the City to limit grading operations whenever possible. Grading necessary to construct structures should be confined within the footprint of the structure. Applicants for grading permits will be encouraged to construct retaining walls if it is apparent that graded cut and fill banks cannot be integrated into the natural surroundings in an acceptable manner. Exposed banks will be landscaped rather than merely seeded for erosion control.

C. Nothing within this Chapter shall void the provisions of Chapter 70 of the Uniform Building Code, adopted by the City pursuant to Section 16.04.010 of this Title. (Ord. 89-1 § 2 (part), 1989.)

16.15.020 Findings. The City Council finds that the adoption of the ordinance codified in this Chapter is made necessary for the following reasons:

A. The topography in Belvedere is characterized by densely wooded hillsides. Inadequately controlled grading will result in permanent scarring and excessive erosion.

B. Also a characteristic of Belvedere is the high amount of rainfall and excessive runoff. These features, combined with inadequately controlled grading, can increase the possibility of earth slides and poor water quality from excessive erosion.

(Ord. 89-1 § 2 (part), 1989.)

16.15.030 Authority. The authority of promulgating administrative procedures and standards is based in the Uniform Building Code, Chapter 70, Excavation and Grading. All activities subject to the City's subdivision map requirements and/or building permit shall meet the standards set forth in this Section. These provisions are adopted in addition to, and not as a substitute for, current grading regulations. (Ord. 89-1 § 2 (part), 1989.)

16.15.040 Exemptions. Activities within the scope of this Chapter may be exempted from the standards if the Public Works Director determines that the activities do not pose a significant erosion problem, and they meet all of the following conditions:

- A. The area to be graded or filled does not exceed one thousand square feet;
- B. Volume of material to be graded or filled does not exceed two hundred cubic yards;
- C. Volume of soil or other earthen material to be stockpiled does not exceed fifty cubic yards;
- D. Natural and finished slopes are less than ten percent;
- E. The earthwork does not occur within one hundred feet of a natural or manmade watercourse or body of water;
- F. Excavations are for footings, piers, or utilities only;
- G. Exploratory excavations are prepared under direction of soils engineers or engineering geologists. (Ord. 89-1 § 2 (part), 1989.)

16.15.051 Adverse soil conditions—Recordation of notice. When application is made to any department or agency of the City for an entitlement to improve or develop any real property in an area of suspected soils instability, the City may require that the applicant submit a report of soil investigation prepared by a registered civil engineer specializing and recognized in soil mechanics and foundation engineering or a geologist whose qualifications are satisfactory to the City. If the report discloses adverse soils conditions, the City may require that as a condition to the issuance of an entitlement to improve or develop real property, there shall be recorded in the office of the county recorder a "notice of adverse soils conditions" in a form satisfactory to the City. (Ord. 89-1 § 2 (part), 1989.)

16.15.052 Site map and grading plan. A site map and grading plan shall be required for all applications for the construction of new residences, subdivisions, or the construction of any structure or addition to a structure exceeding one thousand square feet in area, or on slopes exceeding forty percent or in any area identified in the general plan of the City as being subject to soil or slope instability. Said map and plan shall be prepared by any professional licensed to prepare surveys, and shall be based upon an accurate topographic survey. The site map and grading plan shall contain all of the following information:

- A. Existing and proposed topography of the site taken at a contour interval sufficiently detailed to define the topography and the drainage pattern over the entire site. Ninety percent of the contours shall be plotted within one contour interval of the true location;
- B. Two contour intervals that extend a minimum of one hundred feet off-site (or sufficient to show on- and off-site drainage);
- C. Location and graphic representation of all existing and proposed natural and man-made drainage facilities, trees (showing size and species), structures and paved areas, and utilities;
- D. Detailed plans of all surface and subsurface drainage devices, walls,

cribbing, dikes, and other protective devices to be constructed with, or as part of the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drain;

E. Location and graphic representation of proposed excavations and fills, on-site storage of soil and other earthen material, and on-site disposal;

F. Location of proposed temporary and final surface runoff, erosion and sediment control measures;

G. Quantity of soil and earthen materials in cubic yards to be excavated, filled, stored or otherwise utilized on site;

H. Proposed sequence and schedule of excavation, filling and other land-disturbing and filling activities, and soils or earthen material storage and disposal. (Ord. 89-1 § 2 (part), 1989.)

16.15.053 Soils engineering (soils and engineering geology report). A soils and engineering geology report, prepared by a licensed geotechnical engineer, shall be required for all construction for which a site map and grading plan is required under Section 16.15.052 above, unless specifically waived by the director of public works. A soils and engineering geology report shall be based on adequate and necessary test borings, and shall contain all the following information:

A. Data regarding the nature, particle size, distribution, location, strength and erodibility of existing soils;

B. Data regarding the nature, distribution, strength and erodibility of soils to be placed on the site, if any;

C. Conclusions and recommendations for grading procedures;

D. Conclusions and recommended designs for interim soil stabilization devices and measures and for permanent soils stabilization after construction is completed;

E. Design criteria for corrective measures when necessary;

F. Opinions and recommendations covering adequacy of site to be developed by the proposed grading;

G. An adequate description of the geology of the site;

H. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;

I. Opinions and recommendations included in the report and approved by the director or the building inspector shall be incorporated into the grading plans or specifications. (Ord. 89-1 § 2 (part), 1989.)

16.15.054 Foundation design. All new and substantially altered foundations must be designed by a licensed foundation designer, with such design based upon the recommendations and opinions of the soils and engineering geology report required in Section 16.15.053 above. (Ord. 89-1 § 2 (part), 1989.)

16.15.055 Work schedule. The applicant must submit a master work schedule showing the following information:

A. Proposed grading schedule;

B. Schedule for construction of final improvements, if any;

C. Schedule for installation of temporary and permanent erosion and sediment control devices where required;

D. Schedule for maintenance of temporary and permanent erosion and sediment control measures. (Ord. 89-1 § 2 (part), 1989.)

16.15.056 Security. Where major grading is approved subject to the provisions of this Chapter, security for the performance of the work shall be provided as required in

the City's subdivision map ordinance, and the State of California Subdivision Map Act, in an amount and form acceptable to the City engineer and director of public works. (Ord. 89-1 § 2 (part), 1989.)

16.15.060 Erosion control plans—Required submittals. A. Temporary Erosion Control Plans.

1. When determined by the director of public works, the applicant shall submit plans for temporary erosion control for approval. Temporary erosion control plans for the construction period must be equal to, or more effective than, the equivalent best management practices adopted by the Public Works Director.

2. Temporary erosion control plans will be required when any of the following conditions exist:

a. There is a probability that runoff from graded areas cannot be contained on the subject property;

b. There is a major watercourse which will be adversely affected by runoff from the graded area.

3. Temporary erosion control plans shall be substituted and approved at the time the grading or building permit is obtained.

4. The applicant shall be responsible for maintaining temporary erosion control measures to the satisfaction of the Public Works Director at all times. To guarantee conformance to requirements, the director of public works may require appropriate bonding and/or cash deposits.

B. Permanent Erosion Control Plans.

1. Each grading plan submitted to the City for approval must include provisions for permanent erosion control. Erosion control techniques proposed for the post-construction period must be equal to or more effective than the equivalent best management practices adopted by the Public Works Director.

2. Plans shall include detailed design and installation specifications for both temporary and permanent erosion and sediment control measures. Supporting calculations, including runoff calculations, shall also be submitted. To insure compliance with the approved plans, the director of public works may require appropriate bonding and/or cash deposits.

C. Guidelines for Information to be Submitted. In addition to or supplementing the information requested above, the applicant shall provide the following:

1. A narrative description of the proposed work and erosion problem areas;

2. Descriptions and design specifications for all forms of erosion and sediment control measures which may include sediment retention basins, surface runoff and vegetative measures;

3. A cost estimate for implementing and maintaining all of the above. (Ord. 89-1 § 2 (part), 1989.)

16.15.065 Inspection. The director may require the applicant to obtain a registered civil engineer to inspect any portion of work undertaken on a project who would then report the results of the inspection to the City, certifying compliance with the grading or erosion control plans and specifications. (Ord. 89-1 § 2 (part), 1989.)

16.15.070 Modifications. The Public Works Director may require modification of previously approved plans to accommodate unanticipated conditions on the site. Modifications to a previously approved plan may also be required, if the plan is found to be inadequate, or work does not proceed as scheduled. The Public Works Director may require the permittee to submit work schedules, contingency plans, or status reports as

deemed necessary. The Public Works Director shall notify permittee in writing of the requirements and specify a reasonable time period for compliance. (Ord. 89-1 § 2 (part), 1989.)

16.15.080 Rainy season grading. A. Special authorization must be received from the director of public works prior to any grading activity during the rainy season (October 15th to April 15th). If there appears to be a likelihood of unavoidable damage from rainy season grading, the Public Works Director may refuse to issue a permit, may revoke a permit already issued, or temporarily suspend grading operations.

B. Regardless of whether grading is or is not permitted during the period from October 15th to April 15th, all temporary and permanent erosion control measures shall be in place prior to October 15th. (Ord. 89-1 § 2 (part), 1989.)

16.15.090 Permit denial, revocation or suspension. A. The applicant may request a hearing before the Planning Commission within five work days of notification of a permit denial, revocation or suspension. The hearing shall be held at the next regularly scheduled Planning Commission meeting following the date of the request for a hearing. Grounds for revoking or suspending a permit include failure to follow approved plans, failure to follow any conditions attached to the permit, failure to implement provision in timely fashion, and failure to properly maintain erosion control features.

B. The Public Works Director shall have the authority to order immediate cessation of all grading or improvement work and, further, to order immediate correction and/or installation of any or all erosion control measures described in this Chapter. The Public Works Director may use the security provided by the permittee in order to finance corrective measures if the permittee is unwilling to do so as ordered by the Public Works Director. (Ord. 89-1 § 2 (part), 1989.)

Chapter 16.16

STRUCTURES IN INUNDATED LAND

Sections:

| | |
|-----------|---|
| 16.16.010 | Definitions. |
| 16.16.020 | Findings. |
| 16.16.030 | Permit required. |
| 16.16.040 | Permit—Application—Information required—Investigation— Issuance—Appeal procedures. |
| 16.16.050 | Permit—Application—Criteria for consideration. |
| 16.16.055 | Hours of operation—Exception granted by City Manager—Fine— Revocation of permit. |
| 16.16.060 | Permit—Expiration. |
| 16.16.065 | Noise levels. |
| 16.16.070 | Permit—Scope. |
| 16.16.080 | Violation—Penalty—Other remedies. |

16.16.010 Definitions. The following words and phrases, when used in this Title, shall, for the purpose of this Title, have the meanings respectively ascribed to them in this

Section:

A. "City property" means all property owned by the City, including inundated lands, shown as owned by the City on the county assessor's parcel map.

B. "Dredging or excavating" means the removal of earth and/or plant material in inundated lands with the use of a mechanical scooping or suction device designed to deepen or widen harbors, mooring and berthing areas, and waterways.

C. "Person" means and includes natural persons, corporations, partnerships and all associations of persons of every kind and character. (Ord. 99-4 § 1(A), 1999; Ord. 143 NS § 7, 1966.)

16.16.020 Findings. The governing body of the City finds that a substantial area in the City limits consists of lands inundated, or from time to time inundated, and that indiscriminate filling of such lands, excavating or placing piling or other structures therein or thereon can create a hazard to persons and property not only in the immediate area thereof, but furthermore, by changing the action of currents, tides and movements of water by various means, can create a hazard to other lands in the City and to the occupants thereof and, therefore, that the public health, safety, welfare and convenience require that the filling or excavating of such lands or placing of piling or other structures in such places should be so regulated as to eliminate such hazards if possible and, otherwise, should be prohibited. (Ord. 143 NS § 1, 1966.)

16.16.030 Permit required. It is unlawful for any person to fill or cause to be filled any inundated lands or lands within the corporate limits of the City that are subject to inundation, or to dredge or excavate therein, or to construct any piling or other structure thereon or therein without first obtaining a permit from the City as hereinafter provided. (Ord. 99-4 § 1(B), 1999; prior code § 11-1; Ord. 143 NS § 2, 1966.)

16.16.040 Permit—Application—Information required—Investigation—Issuance—Appeal procedures. An application for the permit referred to in Section 16.16.030 shall be filed with the City Clerk and the applicant shall at the time of filing the application pay to the City Clerk such filing fee as shall hereafter be fixed by City Council resolution to cover the City's cost of investigating the application. The application shall be accompanied by two sets of plans and specifications showing the proposed fill, the materials to be used therein, the method and procedures to be used for such filling, and the bulkheads, revetments or other structures to be installed to hold such fill in place; and, if the application be for excavation, the location, area and depth thereof and the place in which the excavated material will be placed; and, if the application be for placing piling or other structures therein, plans and specifications therefor showing the size, materials, location and depth to which the same will be imbedded. Within five days from the receipt of such application and fee, the City Clerk shall submit the application and accompanying papers to the City engineer who shall, within fifteen days thereafter, either grant or deny the permit or grant it upon such conditions, to be stated in the permit, as are deemed necessary to effect the purpose of this Chapter. The City engineer shall forthwith notify the applicant of his action and the applicant, if he is dissatisfied with the action of the City engineer, may within five days thereafter file with the City Clerk a notice of appeal accompanied by a list of the names and addresses of all owners of property abutting on the Bay or other inundated land within a distance of one thousand feet on each side of the property which applicant purposes to fill or place pilings or other structures therein. The appeal shall be accompanied by such filing fee as shall be hereafter fixed by City Council resolution. The City Clerk shall set such appeal for

hearing before the City Council on the second succeeding regular meeting. after the date of filing such appeal and shall mail written notice of such hearing at least ten days prior thereto to all such property owners. The hearing may be continued from time to time, and at its conclusion the Council shall make its findings and shall grant or deny the application or grant it on such terms as it, in its discretion, deems necessary for the protection of the public health, welfare and safety. (Ord. 82-5 § 8, 1985; prior code § 11-2; Ord. 143 NS § 3, 1966.)

16.16.050 Permit—Application—Criteria for consideration. In taking action upon the application, the City engineer shall take into consideration all pertinent matters concerning the proposed fill, excavation, piling or other structure which may affect the public health, safety and welfare. He shall deny the application if he finds from the evidence, in accordance with sound engineering practice, that the fill, excavation, piling or other structure will create a hazard to persons or property in the immediate area, or because of change of movement of waters, or for other reasons, will create a hazard to persons and property in any other portion of the City. If he decides that such operations may under certain conditions be carried out, he may grant the permit on such conditions. (Prior code § 11-3; Ord. 143 NS § 4, 1966.)

16.16.055 Hours of operation—Exception granted by City Manager—Fine—Revocation of permit. The hours during which dredging or excavating in inundated lands may occur shall conform to those set forth in Section 16.04.015. Any dredging or excavating that occurs outside of the prescribed times without prior written authorization by the City Manager shall subject the responsible person to a fine of \$100 per occurrence and an immediate cease and desist order. Three violations of this Section by any person operating under a permit issued pursuant to this Chapter shall be grounds for the immediate revocation of the permit. (Ord. 99-4 § 2, 1999.)

16.16.060 Permit—Expiration. If the work authorized by any permit is not commenced within six months from the date of issuance, the permit shall automatically expire. (Prior code § 11-4; Ord. 143 NS § 5, 1966.)

16.16.065 Noise levels. It is unlawful to operate any dredging device within the corporate City limits without a properly functioning muffler for noise suppression. (Ord. 99-4 § 3, 1999.)

16.16.070 Permit—Scope. Nothing in this Chapter, or in any permit granted hereunder, shall be deemed to authorize the doing or commission of any act contrary to the terms or provisions of any other ordinance of this City or without any license or permit required by any such other ordinance. (Prior code § 11-5; Ord. 143 NS § 6, 1966.)

16.16.080 Violation—Penalty—Other remedies. A. Any person, firm or corporation who violates any of the provisions of this Chapter shall be punishable as provided in Chapter 1.12 of this Code.

B. Any person, firm or corporation who shall commence any work for which a permit is required by this Chapter without first having obtained such permit shall pay an amount equal to five times the permit fee established by the City Council. This provision shall not apply to emergency work when it shall be proved to the satisfaction of the City engineer that such work was urgently necessary and that it was not practical to obtain a permit before commencement of such work. Whenever the City is required to obtain an inspection warrant, all costs necessary to secure such warrant shall be borne by the property owner. (Ord. 99-4 § 1(C), 1999; Ord. 143 NS § 8, 1966.)

Chapter 16.20

FLOODPLAIN MANAGEMENT

Sections:

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| 16.20.010 | Statutory authorization. |
| 16.20.020 | Findings of fact. |
| 16.20.030 | Statement of purpose. |
| 16.20.035 | Methods of reducing flood losses. |
| 16.20.040 | Definitions. |
| 16.20.100 | General provisions—Lands to which this Chapter applies. |
| 16.20.110 | General provisions—Basis for establishing the areas of special flood hazard. |
| 16.20.120 | General provisions—Compliance. |
| 16.20.130 | General provisions—Abrogation and greater restrictions. |
| 16.20.140 | General provisions—Interpretation. |
| 16.20.150 | General provisions—Warning and disclaimer of liability. |
| 16.20.200 | Administration—Establishment of development permit. |
| 16.20.210 | Administration—Designation of the Floodplain Administrator. |
| 16.20.220 | Administration—Duties and responsibilities of the Floodplain Administrator. |
| 16.20.230 | Administration—Appeals. |
| 16.20.300 | Provisions for flood hazard reduction—Standards of construction. |
| 16.20.310 | Provisions for flood hazard reduction—Standards for utilities. |
| 16.20.320 | Provisions for flood hazard reduction—Standards for subdivisions. |
| 16.20.330 | Provisions for flood hazard reduction—Standards for manufactured homes. |
| 16.20.340 | Provisions for flood hazard reduction—Standards for recreational vehicles. |
| 16.20.350 | Provisions for flood hazard reduction—Floodways. |
| 16.20.400 | Variances—Nature. |
| 16.20.410 | Variances—Appeals board. |
| 16.20.420 | Variances—Conditions. |
| 16.20.500 | Enforcement. |

16.20.010 Statutory authorization. The Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Belvedere does hereby adopt the following floodplain management regulations. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.020 Findings of fact. A. The flood hazard areas of the City of Belvedere are subject to periodic inundation which results in loss of life and property, health and

safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.030 Statement of purpose. It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10, § 1 (part), 1987.)

16.20.035 Methods of reducing flood losses. In order to accomplish its purposes, this Chapter includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10, § 1 (part), 1987.)

16.20.040 Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

- A. "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
- B. "Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

C. "Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

D. "Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this Chapter.

E. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

F. "Area of special flood hazard"—see "Special flood hazard area."

G. "Base flood" means a flood which has a 1 percent chance of being equaled or exceeded *in any given year* (also called the "100-year flood"). Base flood is the term used throughout this Chapter.

H. "Basement" means any area of the building having its floor below ground level on all sides.

I. "Building"—see "Structure."

J. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

K. "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

L. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

M. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

N. "Flood, flooding, or flood water" means:

1. a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows)—see "Mudslides;" and

2. the condition resulting from flood-related erosion—see "Flood-related erosion."

O. "Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

P. "Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

Q. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

R. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the

Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

S. "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source—see "Flooding."

T. "Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

U. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

V. "Floodplain management regulations" means this Chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

W. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

X. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

Y. "Floodway fringe" is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

Z. "Fraud and victimization" as related to Sections 16.20.400 through 16.20.420 of this Chapter regarding variances, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for 50 to 100 years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

AA. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes *only* docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does *not* include long-term storage or related manufacturing facilities.

AB. "Governing body" is the local governing unit, i.e. county or municipality that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

AC. "Hardship" as related to Sections 16.20.400 through 16.20.420 of this Chapter regarding variances means the *exceptional* hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or

requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

AD. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

AE. "Historic structure" means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

AF. "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

AG. "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

AH. "Lowest floor" means the lowest floor of the lowest enclosed area, *including basement* (see "Basement"):

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor *provided it conforms to applicable non-elevation design requirements, including, but not limited to:*

a. the wet floodproofing standard in Subsection 16.20.300C3 of this Chapter;

b. the anchoring standards in Subsection 16.20.300A of this Chapter;

c. the construction materials and methods standards in Subsection 16.20.300B of this Chapter; and

d. the standards for utilities in Section 16.20.310 of this Chapter.

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

AI. "Manufactured home" means a structure, transportable in one or more Sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does *not* include a "recreational vehicle."

AJ. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

AK. "Market value" means the appraised valuation for the property minus the land value as determined by an independent appraisal by a certified appraiser.

AL. "Mean sea level" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which

base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

AM. "New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

AN. "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

AO. "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

AP. "100-year flood"—see "Base flood."

AQ. "Public safety and nuisance" as related to Sections 16.20.400 through 16.20.420 of this Chapter regarding variances, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

AR. "Recreational vehicle" means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light-duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

AS. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

AT. "Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Chapter or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

AU. "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

AV. "Sheet flow area"—see "Area of shallow flooding."

AW. "Special flood hazard area (SFHA)" means:

1. an area having special flood, mudslide (i.e., mudflow), and shown on a FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, E, M.
2. areas subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action and shown on FHBM or FIRM as Zone V, VE, V1-30.

AX. "Start of construction" includes substantial improvement and other

proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

AY. "Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

AZ. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

BA. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

BB. "Variance" means a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

BC. "Violation" means the failure of a structure or other development to be fully compliant with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

BD. "Water surface elevation" means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

BE. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 2016-1 §§ 2, 3, 4, and 5, 2016; Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.100 General provisions—Lands to which this Chapter applies. This Chapter shall apply to all areas of special flood hazards within the City of Belvedere. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.110 General provisions—Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency

Management Agency (FEMA) in the *Flood Insurance Study (FIS)* dated March 16, 2016, and accompanying Flood Insurance Rate Maps (FIRMs) dated March 16, 2016, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Chapter. This FIS and attendant mapping is the minimum area of applicability of this Chapter and may be supplemented by studies for other areas which allow implementation of this Chapter and which are recommended to the City Council by the Floodplain Administrator. The study and FIRM are on file at Belvedere City Hall, 450 San Rafael Avenue, Belvedere, CA. (Ord. 2016-1 § 6, 2016; Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.120 General provisions—Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this Chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City of Belvedere from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.130 General provisions—Abrogation and greater restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.140 General provisions—Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

- A. considered as minimum requirements;
- B. liberally construed in favor of the governing body; and
- C. deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.150 General provisions—Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Belvedere, any officer or employee thereof, the State of California, or the Federal Insurance Administration or Federal Emergency Management Agency, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.200 Administration—Establishment of development permit. A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 16.20.110 of this Chapter. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. proposed elevation in relation to base flood, of the lowest floor (including basement) of all structures in the AE Zone—including the elevation of highest

adjacent grade and the proposed elevation of lowest floor. In the VE Zone, the proposed elevation, in relation to base flood, of the bottom of the lowest structural member supporting the lowest floor; or

B. proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, if required in Subsection 16.20.300C3 of this Chapter; and

C. all appropriate certifications listed in Subsection 16.20.220D of this Chapter; and

D. description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.210 Administration—Designation of the Floodplain Administrator. The Building Official of the City of Belvedere is hereby appointed to administer, implement, and enforce this Chapter by granting or denying development permits in accord with its provisions. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.220 Administration—Duties and responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

A. Permit Review. Review all development permits to determine that:

1. permit requirements of this Chapter have been satisfied,
2. all other required state and federal permits have been obtained,
3. the site is reasonably safe from flooding, and
4. the proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

B. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 16.20.110 of this Chapter, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 16.20.300 through 16.20.350 of this Chapter. Any such information shall be submitted to the City Council for adoption.

C. Notification of Other Agencies. In alteration or relocation of a watercourse:

1. notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
2. submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and
3. assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

D. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

1. certification required by Subsection 16.20.300C1 of this Chapter (lowest floor elevations);
2. certification required by Subsection 16.20.300C2 of this Chapter (elevation or floodproofing of nonresidential structures);
3. certification required by Subsection 16.20.300C3 of this Chapter (engineered foundation openings);
4. certification of elevation required by Section 16.20.320 of this

Chapter(subdivision standards); and

5. certification required by Section 16.20.350 of this Chapter (floodway encroachments).

E. Map Determinations. Make interpretations where needed as to the locations of the boundaries of the areas of special flood hazard. For example, where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevation data shall be used to determine the boundaries of the Special Flood Hazard Area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16.20.230 of this Chapter.

F. Remedial Action. Take action to remedy violations of this Chapter as specified in Section 16.20.120 of this Chapter, or other applicable law. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.230 Administration—Appeals. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter. (Ord. 2004-1 § 3 (part), 2004.)

16.20.300 Provisions for flood hazard reduction—Standards of construction. In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. All manufactured homes shall meet the anchoring standards of Section 16.20.330 of this Chapter.

B. Construction materials and methods. All new construction and substantial improvement shall be constructed:

1. with materials and utility equipment resistant to flood damage;

2. using methods and practices that minimize flood damage;

3. with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if

4. within Zones AE or VE, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and floodproofing. (See Section 16.20.040 of this Chapter—definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement.")

1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:

a. in an AE zone, above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.

b. in a VE zone, the bottom of the lowest structural member supporting the lowest floor elevated at least one foot above the base flood elevation, as determined by the community.

c. in all other Zones, elevated at least one foot above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor,

including basement, in the AE Zone, or the bottom of the lowest structural member, excluding pilings and columns, supporting the lowest floor, in the case of the VE Zone, shall be certified by a registered professional engineer or land surveyor to meet the elevation requirements as contained in this Section. Such certification shall be provided to the Floodplain Administrator and recorded in the City's floodplain records.

2. Nonresidential construction, new or substantial improvement, shall either be elevated to conform to Subsection 16.20.300C1 of this Chapter, or together with attendant utility and sanitary facilities, shall:

a. be floodproofed below the elevation specified in Subsection 16.20.300C1 of this Chapter so that the structure is watertight with walls substantially impermeable to the passage of water, shall:

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. be certified by a registered professional engineer or architect that the standards of this Subsection (16.20.300C2) are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

a. be certified by a registered professional engineer or architect to comply with the requirements of FEMA technical Bulletin 1-93; or

b. have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

4. Manufactured homes shall also meet the standards in Section 16.20.330 of this Chapter.

D. V Zone setback for new construction. All new structures constructed within Zones V, V1-30, and VE shall be located on the landward side of the reach of mean high tide (also known as mean high water). (Ord. 2016-1 §§ 7 and 8, 2016; Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.310 Provisions for flood hazard reduction—Standards for utilities. A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

1. infiltration of flood waters into the systems, and
2. discharge from the systems into flood waters.

B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.320 Provisions for flood hazard reduction—Standards for subdivisions. A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

B. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

C. All subdivision proposals shall be consistent with the need to minimize

flood damage.

D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.330 Provisions for flood hazard reduction—Standards for manufactured homes. A. All manufactured homes that are placed or substantially improved, within Zones A1-30, AH, AE and VE on the community's Flood Insurance Rate Map, on sites located:

1. outside of a manufactured home park or subdivision,
2. in a new manufactured home park or subdivision,
3. in an expansion to an existing manufactured home park or subdivision, or
4. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Subsection 16.20.330A will be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement, and elevated so that either the:

1. lowest floor of the manufactured home is at least one foot above the base flood elevation, or
2. manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.340 Provisions for flood hazard reduction—Standards for recreational vehicles. All recreational vehicles placed on sites within Zones A1-30, AH, AE and VE on the community's Flood Insurance Rate Map will either:

A. be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use—a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

B. meet the permit requirements of Subsection 16.20.200 of this Chapter and the elevation and anchoring requirements for manufactured homes in Section 16.20.330(A) of this Chapter. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.350 Provisions for flood hazard reduction—Floodways. Located within areas of special flood hazard established in Section 16.20.110 of this Chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not

result in any increase in [the base] flood elevation during the occurrence of the base flood discharge.

B. If Subsection 16.20.350A is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Sections 16.20.300 through 16.20.340 of this Chapter. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.400 Variances—Nature. The variance criteria set forth in this Chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners. It is the duty of the City of Belvedere to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood chapter are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. (Ord. 2004-1 § 3 (part), 2004.)

16.20.410 Variances—Appeals board. A. The City Council shall hear and decide appeals and requests for variances from the requirements of this Chapter. In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter, and the:

1. danger that materials may be swept onto other lands to the injury of others;
2. danger of life and property due to flooding or erosion damage;
3. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. importance of the services provided by the proposed facility to the community;
5. necessity to the facility of a waterfront location, where applicable;
6. availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. compatibility of the proposed use with existing and anticipated development;
8. relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. safety of access to the property in time of flood for ordinary and emergency vehicles;
10. expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Any applicant to whom a variance is granted shall be given written notice

over the signature of a community official that:

1. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 2. such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Marin County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- C. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency. (Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.420 Variances—Conditions. A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 16.20.200 through 16.20.230 and 16.20.300 through 16.20.350 of this Chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 16.20.040 of this Chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this Chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

E. Variances shall only be issued upon a:

1. showing of good and sufficient cause;
2. determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 16.20.040 of this Chapter) to the applicant; and

3. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 16.20.040 of this Chapter—see "public safety or nuisance"), cause fraud and/or victimization (as defined in Section 16.20.040 of this Chapter) of the public, or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Subsections 16.20.420A through E are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors of Section 16.20.410 of this Chapter and the purposes of this Chapter, the City Council may attach such conditions to the granting

of variances as it deems necessary to further the purposes of this Chapter. (Ord. 2011-1 § 1 (part), 2011; Ord. 2004-1 § 3 (part), 2004; Ord. 87-10 § 1 (part), 1987.)

16.20.500 Enforcement. Violation of any provision of this Chapter may be enforced by the procedures outlined in Belvedere Municipal Code Chapters 1.12 and/or 1.14. (Ord. 2004-1 § 3 (part), 2004.)

Chapter 16.24

RESIDENTIAL BUILDING RECORDS REPORTS

Sections:

- 16.24.010 Intent of provisions.
- 16.24.020 Definitions.
- 16.24.030 Report—Required prior to sale or exchange of certain property.
- 16.24.040 Report—Application—Fee—Information contained.
- 16.24.045 Report—Sewer lateral inspection.
- 16.24.050 Report—Delivery to buyer or grantee when.
- 16.24.070 Report—Duties of agents.
- 16.24.080 Exceptions to chapter applicability.
- 16.24.090 Liability limitations.
- 16.24.100 Failure to comply—Effect on property sale or exchange.

16.24.010 Intent of provisions. Pursuant to Article 6.5 (commencing with Section 38780), Chapter 10, Part 2, Division 3, Title 4 of the Government Code of the state, it is the intent of the Council to assure that the grantee of a residential building or residential lot within the City is furnished a report of matters of City record pertaining to the authorized use, occupancy and zoning classification of real property prior to sale or exchange thereof. It is the further intent to protect the unwary buyer of residential property against undisclosed restrictions on the use of the property and conditions in violation of the life safety requirements as set forth by the City's Municipal Code. (Ord. 2004-3 § 2, 2004; prior code § 178-1; Ord. 183 NS § 1 (part), 1973.)

16.24.020 Definitions. A. "Agent" means any person, copartnership, association, corporation or fiduciary representing an owner with respect to any sale, exchange or transfer covered under this Chapter.

B. "Owner" means any person, copartnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

C. "Residential building" means any improved real property designed or permitted to be used for dwelling purposes, situated in the City, and shall include the building or structures located on said improved real property.

D. "Residential lot" means any unimproved real property in any residential zone of the City.

E. "Sewer lateral" means that portion of the residential sanitary sewer beginning at the building foundation and extending up to and including the connection to the City sewer main. (Ord. 2004-3 § 3, 2004; prior code § 17B-2; Ord. 183 NS § 1 (part), 1973.)

16.24.030 Report—Required prior to sale or exchange of certain property. Prior to the sale or exchange of any residential building or residential lot, the owner shall

obtain from the City, a report of the residential building record. The report shall have two parts: the first, showing the regularly authorized use, occupancy and zoning classification of such property; the second, an inspection, which provides an opportunity to identify potentially hazardous conditions or zoning or building code violations. The City shall be allowed 30 days to issue the report once a complete application is filed as provided in Section 16.24.040. Any potential hazards or zoning or building code violations identified in the report shall require remediation pursuant to Section 1101.2 of the Uniform Housing Code as adopted by Section 16.04.010 of this Title. The report shall be valid for a period not to exceed 12 months from the date of issue. (Ord. 2007-1 § 2, 2007; Ord. 2004-3 § 4, 2004; prior code § 17B-3; Ord. 183 NS § 1 (part), 1973.)

16.24.040 Report—Application—Fee—Information Contained. Upon application of the owner and the payment of such fee as shall hereafter be fixed by City Council resolution, the City shall conduct an inspection of the property and review pertinent City records and deliver to the applicant a report of residential building records which shall contain the following information insofar as it is available:

A. The regularly authorized use, occupancy and zoning classification of such property, including the following information:

1. The street address or other appropriate description of the subject property;
2. The zone classification, authorized use, and particular zoning regulations and restrictions applicable to the property;
3. Variances, use permits, revocable licenses, exceptions, and other pertinent legislative acts of record;
4. Any known special restrictions on use or development, which may apply to the subject property;
5. The location of the parcel on the Federal Emergency Management Agency's Flood Insurance Rate Map;
6. The expiration dates of any building, electrical, plumbing, heating or construction permits, which have been issued for work not yet completed on the premises.

B. Information gathered from the inspection, including identification of potentially hazardous conditions, zoning or building code violations. Any hazards or zoning or building code violations identified in the report shall require remediation within sixty days of the date of the inspection. (Ord. 2007-1 § 3, 2007; Ord. 2004-3 § 5, 2004; Ord. 82-5 § 9, 1985; Ord. 193 NS § 1, 1974; prior code § 17B-4; Ord. 183 NS §1(part), 1973.)

16.24.045 Report—Sewer lateral inspection. As part of the application for a residential building records report, the owner shall provide the City public works superintendent with a current videotaped or DVD report of the entire sanitary sewer lateral serving the building. The report shall include at least a written and graphic description of the sewer lateral as well as a compact disc containing photographs of any notable features of the sewer lateral. Based on the information contained in the report, the City may require repair or modification of the sewer lateral. The City Manager, or his designee, may waive the requirement of a report under this Section for any sewer lateral, or portion thereof, for which he determines that, because of its size or other condition, it would be technically unfeasible to obtain a videotaped or DVD report. (Ord. 2007-1 § 4, 2007; Ord. 2004-3 § 6, 2004.)

16.24.050 Report—Delivery to buyer or grantee when. The report of residential building record shall be delivered by the owner to the buyer or grantee of the residential

building or residential lot prior to the close of escrow. The buyer or grantee shall execute a receipt therefor as furnished by the City, and said receipt shall be delivered by the owner to the City Clerk, as evidence of compliance with the provisions of this Chapter. (Ord. 2004-3 § 7, 2004; prior code § 17B-5; Ord. 183 NS § 1 (part), 1973.)

16.24.070 Report—Duties of agents. Any agent of the owner is required to obtain the report, and deliver it to the buyer, and deliver the buyer's receipt to the City in exactly the same manner as the owner, to the extent that the owner does not do so. (Prior code § 17B-7; Ord. 183 NS § 1 (part), 1973.)

16.24.080 Exceptions to chapter applicability. The provisions of this Chapter shall not apply to the first sale of a residential building or any sale of a residential lot located in a subdivision whose final map has been approved and recorded in accordance with the Subdivision Map Act not more than two years prior to such sale. (Prior code § 17B-8; Ord. 183 NS § 1 (part), 1973.)

16.24.090 Liability limitations. The City shall have no liability whatsoever on account of its enactment of this Chapter or on account of the preparation and/or delivery, or the nonpreparation and/or nondelivery, of any report required hereunder, or for any errors or omissions contained in said report; and the City shall in no way be deemed to have waived, or be stopped from asserting, any violation of any City order or enactment or otherwise due to noncompliance or error or omission. (Prior code § 17B-10; Ord. 183 NS § 1 (part), 1973.)

16.24.100 Failure to comply—Effect on property sale or exchange. No sale or exchange of residential property shall be invalidated solely because of the failure of any person to comply with any provisions of this Chapter unless such failure is an act or omission which would be a valid ground for rescission of such sale or exchange in the absence of this Chapter. (Prior code § 17B-9(b) Ord. 183 NS § 1 (part), 1973.)

Chapter 16.28

DEMOLITION PERMITS

Sections:

| | |
|-----------|--|
| 16.28.010 | Purpose. |
| 16.28.020 | Permit required. |
| 16.28.030 | Buildings having historical and/or architectural significance. |
| 16.28.040 | Application for permit. |
| 16.28.050 | Fee for demolition permit. |
| 16.28.070 | Demolition permit bond. |
| 16.28.080 | Standard conditions. |
| 16.28.090 | Special conditions. |
| 16.28.100 | Hearing required. |
| 16.28.110 | Findings. |
| 16.28.120 | Appeal. |

16.28.010 Purpose. The purpose and scope of this Chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating

the demolition of buildings or structures pursuant to the Uniform Building Code as adopted by the City and as defined in Section 19.08.136, “Demolition.” (Ord. 2011-4 § 29, 2011; Ord. 86-8 § 2 (part), 1986.)

16.28.020 Permit required. It is unlawful for any person, firm, or corporation to demolish or cause to be demolished any building or structure for which a building permit would have been required in the City without first having obtained a demolition permit from the Planning Commission. A separate permit shall be obtained for each separate lot or parcel of land. Permits may be approved or denied with or without conditions. (Ord. 86-8 § 2 (part), 1986.)

16.28.030 Buildings having historical and/or architectural significance. When a determination has been made by the Planning Commission that a building or structure may have historical and/or architectural significance, no demolition permit shall be issued therefor until such permit has been authorized by the City Council of the City of Belvedere. (Ord. 86-8 § 2 (part), 1986.)

16.28.040 Application for permit. Application for a demolition permit shall be made upon forms furnished by the Planning Department and shall contain the following information:

- A. Applicant's name, address and phone number;
- B. That the demolition contractor is properly licensed under the state contractor's licensing law or is properly exempt from this law;
- C. That the demolition contractor is a holder of a valid City business license;
- D. That the demolition contractor has on file with said City, a bond as may be required by Section 16.28.070;
- E. That the demolition contractor has on file with said City a certificate of insurance;
- F. The location where the demolition debris and rubbish will be dumped;
- G. The route over which the trucks will travel to and from the proposed demolition site and the dumping site;
- H. The location of, size, and period of time that any debris boxes will be located on City streets;
- I. The period of time the demolition is expected to take;
- J. The size and location of any trees or other vegetation proposed to be removed and any drainage system to be removed;
- K. A plan for the control of erosion and sedimentation from the site following demolition;
- L. A statement concerning the proposed future development of the site, including a proposed timetable for such development;
- M. A statement concerning provision made for tenants of the building or structure, if the building or structure is rented at the time the permit is applied for;
- N. The address and legal description or assessor's parcel number of the demolition site;
- O. Name and address of the legal owner of the property and written consent of the owner for applicant to act on his/her behalf, if application is made by another party;
- P. The year the structure was constructed;
- Q. The square footage of the structure and its use;
- R. Whether or not the building or structure has been officially designated as historical or having architectural significance;
- S. Other information as may be required by the City, including but not limited to, maps, drawings, and additional engineering or other studies. (Ord. 86-8 § 2

(part), 1986.)

16.28.050 Fee for demolition permit. A. No permit shall be issued until a fee has been paid to the City, said fee to be established by resolution of the City Council.

B. Any person who shall commence the demolition of any building or structure without first having obtained a permit therefor shall, if subsequently permitted to obtain a permit, pay double the fee fixed for such work; provided however, that this provision shall not apply to emergency work when it shall be demonstrated to the satisfaction of the City that such work was urgently necessary and that it was not practical first to obtain a permit before the commencement of the work. In all such cases, a permit must be obtained as soon as it is practical to do so, and if there is an unreasonable delay in obtaining such permit, a double fee as herein provided shall be charged. (Ord. 86-8 § 2 (part), 1986.)

16.28.070 Demolition permit bond. The posting of a cash, surety, or performance bond may be required as a condition of issuance of a demolition permit. Said cash, surety, or performance bond shall be posted with the City Clerk by the applicant, and the City, as obliged, in an amount to be determined by the City Manager, but shall not be less than five hundred dollars. Said bond shall be conditioned so as to require that:

A. The principal strictly comply with all requirements of this Section and any ordinance hereafter in effect regulating the demolition of buildings or structures in the City;

B. The principal pay for any and all damages to any fence, tree, pavement, street, sidewalk, sign or any other property belonging to the City resulting from demolition; and

C. The principal indemnify and hold harmless the City against any and all damages, judgments, cost and expense which may in any way accrue against the City as a consequence of the granting of any permit hereunder. (Ord. 86-8 § 2 (part), 1986.)

16.28.080 Standard conditions. The following conditions shall be attached to and made a part of all demolition permits, as standard conditions. These conditions may be amended from time to time by resolution of the Belvedere City Council:

A. All work shall be performed between eight a.m. and five p.m. Monday through Friday only;

B. No debris boxes shall be placed on City right-of-way without a valid encroachment permit first being obtained.

C. All work shall be completed by a specific date as determined by the Belvedere Planning Commission.

D. Obstruction or blockage, partial or complete, of any street so as to leave less than ten feet of unobstructed horizontal clearance for vehicles, shall not be permitted without first obtaining, twenty-four hours in advance, a street closure permit. Twelve feet of clearance shall be required for debris boxes or building materials. Streets shall be left clean and free of any debris at the end of each work day.

E. The site shall be left clean and free of all debris and materials from the demolition at the completion of work.

F. All areas of land from which buildings, structures or vegetation is removed shall be revegetated as directed by the Planning Commission;

G. The site shall be protected, as required by the City engineer, from trespassing and entry by persons not authorized to be on said site. Site protection may include fencing, signs, locked gates or such other measures as deemed necessary by the City engineer to protect the public health and safety.

H. The permittee shall provide to the City satisfactory evidence, prior to

commencing work, that all utility services have been notified and that all services including, but not limited to, water, gas and electricity have been terminated or removed from the structure to a safe location on the site, and that sanitary sewer service has been properly terminated to insure that disconnected sewer lines do not leak or spill sewage on or off the site.

I. Existing drainage structures and facilities shall not be demolished without prior written approval from the City engineer. If such demolition is authorized, a plan indicating how site drainage will be provided for, shall be submitted to and approved by the City engineer. (Ord. 86-8 § 2 (part), 1986.)

16.28.090 Special conditions. Attached and made a part of the demolition permit shall be all special conditions as deemed necessary in the judgment of the City engineer and the Planning Commission. (Ord. 86-8 § 2 (part), 1986.)

16.28.100 Hearing required. All applications for demolition permits shall be heard by the Planning Commission at a public hearing, and shall be subject to the rules for applications concerning the time deadlines and form of submittal as may from time to time be established by resolution of the Belvedere City Council. (Ord. 86-8 § 2 (part), 1986.)

16.28.110 Findings. The Planning Commission may approve, conditionally approve or deny any application upon making the following findings:

- A. That the demolition, as conditioned by the Planning Commission, will not have an adverse impact upon the public health, safety and/or welfare of the City;
- B. That the demolition will not remove from the City a building of recognized historical or architectural significance, until potential preservation options can be reviewed;
- C. That the demolition plan presented by the applicant, as approved, provides for adequate site protection during and following the demolition;
- D. That the time frame for accomplishing the demolition is reasonable.
- E. That the demolition will not remove a housing unit until options for maintaining housing on the property have been thoroughly considered;
- F. The proposed demolition is consistent with the goals of the City of Belvedere Housing Element. (Ord. 2011-4 § 30, 2011; Ord. 86-8 § 2 (part), 1986.)

16.28.120 Appeal. Any decision made by the Planning Commission pursuant to this Chapter to grant, condition or deny a demolition permit, may be appealed to the City Council pursuant to the procedures contained in Section 19.84.060. (Ord. 86-8 § 2 (part), 1986.)

Chapter 16.30CONSTRUCTION AND DEMOLITION DEBRIS DIVERSIONSections:

| | |
|-----------|---------------------------------------|
| 16.30.010 | Definitions |
| 16.30.020 | Threshold for covered projects |
| 16.30.030 | Submission of waste management plan |
| 16.30.040 | Review of waste management plan |
| 16.30.050 | Compliance with waste management plan |
| 16.30.060 | Infeasibility exemption |
| 16.30.070 | Appeal |
| 16.30.080 | Enforcement |

16.30.010 Definitions. For the purposes of this Chapter, the following definitions shall apply:

A. “AB 939” means the California Waste Management Act of 1989, Public Resources Code Section 40000 et seq.

B. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever that applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.

C. “Building Official” means the designated City staff person(s) authorized and responsible for implementing this Chapter.

D. “Construction” means the building of any facility or structure, or any portion thereof, including any tenant improvements to an existing facility or structure.

E. “Construction and demolition debris” means used or discarded materials removed from premises during construction, demolition, or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

F. “Conversion rate” means the rate set forth in the standardized conversion rate table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a waste management plan.

G. “Covered project” shall have the meaning as set forth in Section 16.30.020A of this Chapter.

H. “Demolition” means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

I. “Diversion requirement” means the diversion of at least 50 percent of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption pursuant to this Chapter, in which case the diversion requirement shall be the maximum feasible diversion rate established by the Building Official for the covered project.

J. “Divert” means to use material for any lawful purpose other than disposal

in a landfill or transformation facility.

K. “Noncovered project” shall have the meaning as set forth in Section 16.30.020B of this Chapter.

L. “Performance security” means any performance bond, surety bond, money order, letter of credit, certificate of deposit, or similar financial guarantee as approved by the Building Official, submitted to the City pursuant to this Chapter.

M. “Person” means a person, corporation, association, or partnership.

N. “Project” means any activity which requires an application for a building or demolition permit from the City.

O. “Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

P. “Renovation” means any change, addition, or modification of an existing structure.

Q. “Reuse” means further or repeated use of construction or demolition debris.

R. “Salvage” means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

S. “Waste management plan” means a completed waste management plan application, approved by the City for the purpose of compliance with this Chapter, submitted by the applicant for any covered or noncovered project. (Ord. 2010-3 § 2 (part), 2010.)

16.30.020 Threshold for covered projects. A. Covered projects. Every construction, demolition, and/or renovation project within the City shall comply with the requirements of this Chapter. Failure to comply with any of the terms of this Chapter shall subject a person to the full range of enforcement mechanisms as set forth in Section 16.30.080.

B. Noncovered projects. Reroofing and window replacement projects are exempt from this Chapter, in addition to those permits which are issued solely as an electrical, plumbing or mechanical permit.

C. Compliance as a condition of approval. Compliance with the provisions of this Chapter shall be a condition of approval for any building or demolition permit issued for a covered project and shall be a condition for final City approvals of said permit, including the cessation of a project’s construction time limit period and the issuance of a certificate of occupancy. (Ord. 2010-3 § 2 (part), 2010.)

16.30.030 Submission of waste management plan. Applicants for building or demolition permits involving any covered project shall complete and submit a waste management plan application, on a waste management plan form provided by the City for this purpose, as part of the application packet for the building or demolition permit. The completed waste management plan application shall indicate all of the following:

A. The estimated volume or weight of project construction and demolition debris, by materials type, to be generated;

B. The estimated maximum volume or weight of such materials that can feasibly

be diverted via reuse;

C. The estimated maximum volume or weight of such materials that can feasibly be diverted via recycling;

D. The vendor and/or facility that the applicant proposes to use to collect or receive said materials; and

E. The estimated volume or weight of construction and demolition materials that will be transported to a landfill. In estimating the volume or weight of materials identified in the waste management plan, the applicant shall use the standardized conversion rates approved by the City for this purpose. (Ord. 2010-3 § 2 (part), 2010.)

16.30.040 Review of waste management plan. No building or demolition permit shall be issued for any covered project unless and until the Building Official has approved the waste management plan. Approval of a waste management plan shall not be required, however, where an emergency demolition is required to protect the public health or safety. The Building Official shall only approve a waste management plan application if he or she first determines that all of the following conditions have been met:

A. The waste management plan application provides all of the information set forth in section 16.30.030 of this Chapter;

B. The waste management plan application states that at least 50 percent of all construction and demolition debris generated by the project will be diverted; and

C. Payment of any required performance security deposit as required by the Building Official, to a maximum of 3 percent of the project valuation. (Ord. 2010-3 § 2 (part), 2010.)

16.30.050 Compliance with the waste management plan. A. Diversion requirement—documentation. The applicant for each project shall comply with the requirement that at least 50 percent of the total construction and demolition debris generated by the project shall be diverted via reuse or recycling, unless the applicant is granted an infeasibility exemption pursuant to Section 16.30.070 of this Chapter, in which case the diversion requirement shall be the maximum feasible diversion rate determined by the Building Official for the project. Prior to requesting a Building Department final inspection approval of any covered project, the applicant shall submit to the Building Official documentation that the applicant has met the diversion requirement for the project. Required documentation shall include all of the following:

1. Receipts from the vendor or facility which collected or received the construction and demolition debris showing the actual weight or volume of the material received;

2. A copy of the previously approved waste management plan application for the project setting forth the actual volume or weight of each material to be diverted or taken to a landfill; and

3. Any additional information the applicant believes is relevant to determining a good faith effort in complying with the requirements contained in this Chapter.

B. Weighing of waste. Applicants shall make reasonable efforts to ensure that all construction and demolition debris diverted or taken to a landfill is measured and

recorded using the most accurate method of measurement available. To the extent practical, all debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the City for this purpose.

C. Determination of compliance and release of performance security. The Building Official shall review the information submitted under Subsection A of this Section and determine the extent to which the applicant has complied with the diversion requirement, as follows:

1. Full compliance. If the Building Official determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall cause the performance security to be released in full to the applicant.

2. Good faith effort to comply. If the Building Official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this Chapter. In making this determination, the Building Official shall consider the availability of markets for the debris transported to the landfill, the size of the project, and the documented efforts of the applicant to divert construction and demolition debris. If the Building Official determines that the applicant has made a good faith effort to comply with this Chapter, he or she shall release the performance security, or a portion thereof to be determined in the Building Official's sole discretion, to the applicant. Any portion of the performance security not released to the applicant shall be forfeited to the City and shall be used for the purposes of promoting recycling within the City.

3. Noncompliance. If the Building Official determines that the applicant has not made a good faith effort to comply with this Chapter, or if the applicant fails to submit the documentation required by Subsection A of this Section within the required time period, then the performance security shall be forfeited to the City. All forfeited performance securities shall be used for the purposes of promoting recycling within the City. (Ord. 2010-3 § 2 (part), 2010.)

16.30.060 Infeasibility exemption. A. Application. If an applicant for a covered project believes that due to unique circumstances it would be infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the waste management plan application. The applicant shall indicate on the waste management plan application the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

B. Granting of exemption. If the Building Official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate the rate on the waste management plan application. The Building Official shall return a copy of the waste management plan application to the applicant marked “Approved for Infeasibility Exemption.”

C. Denial of exemption. If the Building Official determines that it is possible

for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall have 30 days to resubmit a waste management plan application. If the applicant fails to resubmit the waste management plan application, or if the resubmitted waste management plan application does not comply with this Chapter, then the Building Official shall deny the waste management plan application. (Ord. 2010-3 § 2 (part), 2010.)

16.30.070 Appeal. Decisions of the Building Official pursuant to this Chapter, including but not limited to the granting or denial of an exemption, the determination whether the applicant has acted in good faith, and the amount of security to be released, may be appealed to the City Council in writing and shall be filed with the Deputy City Clerk within seven calendar days after notification of such decision. The appeal shall be accompanied by a filing fee as is hereafter from time to time set by City Council resolution. (Ord. 2010-3 § 2 (part), 2010.)

16.30.080 Enforcement. In addition to the withholding of final City approvals and the return of any security deposits, a violation of any provision of this Chapter may be enforced by any of the procedures provided for in Belvedere Municipal Code Chapter 1.12 and/or 1.14. (Ord. 2010-3 § 2 (part), 2010.)

Chapter 16.32

SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

Sections:

- 16.32.010 Definitions.
- 16.32.020 Purpose.
- 16.32.030 Applicability.
- 16.32.040 Solar energy system requirements.
- 16.32.050 Duties of the Building Department and Building Official
- 16.32.060 Permit review and inspection requirements.

16.32.010 Definitions. The following definitions apply to this Chapter:

- A. “Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- B. “City” means the City of Belvedere.
- C. “Common interest development” means any of the following:
 - 1. community apartment project.
 - 2. condominium project.
 - 3. planned development.
 - 4. stock cooperative.
- D. “Electronic submittal” means the utilization of one or more of the following:
 - 1. email.

2. the internet.
3. facsimile.

E. “Reasonable restrictions” on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

F. “Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance” means:

1. For water heater systems or solar swimming pool heating systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.

2. For photovoltaic systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

G. “Small residential rooftop solar energy system” means all of the following:

1. a solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal;

2. a solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City, and all state and County of Marin health and safety standards;

3. a solar energy system that is installed on a single or duplex family dwelling; and

4. a solar panel or module array that does not exceed the maximum legal building height as defined by the City.

H. “Solar energy system” means either of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

2. Any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

I. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact based on objective, identified, and/or written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Ord. 2015-4 § 2 (part), 2015.)

16.32.020 Purpose. The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City and expanding the ability of property owners to install solar energy systems. The Ordinance allows the City to achieve these goals while protecting the public health and

safety. (Ord. 2015-4 § 2 (part), 2015.)

16.32.030 Applicability. A. This Ordinance applies to the permitting of all small residential rooftop solar energy system in the City.

B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements are not covered under this Ordinance. (Ord. 2015-4 § 2 (part), 2015.)

16.32.040 Solar energy system requirements. A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City, local fire department, and all other applicable laws and regulations.

B. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.

C. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and electronics engineers, and accredited testing laboratories such as Underwriters Laboratories, and, where applicable, rules of the Public Utilities Commission regarding safety and reliability. (Ord. 2015-4 § 2 (part), 2015.)

16.32.050 Duties of the Building Department and Building Official. A. All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible City Website.

B. Electronic submittal of the required permit application and documents by email and/or facsimile shall be made available to all small residential rooftop solar energy system permit applicants.

C. An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

D. The City's Building Department shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.

E. The small residential rooftop solar system permit process, standard plan, and checklist shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the "California Solar Permitting Guidebook" adopted by the Governor's Office of Planning and Research, as may be amended from time to time.

F. All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code sections 65850.55, 66015, and 66016, and Health and Safety Code section 17951. (Ord. 2015-4 § 2 (part), 2015.)

16.32.060 Permit review and inspection requirements. A. The City Building Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems on or before September 30,

2015. Upon receipt of a complete application that satisfies the requirements of the approved checklist and standard plan, the Building Department shall issue a building permit or other nondiscretionary permit the same day for over-the-counter applications, and within one to three (1-3) business days for electronic applications. A building official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City Planning Commission, and subsequently to the City Council as applicable.

B. Review of an application and/or appeal of a use permit pursuant to this Section shall be limited to a review of whether the application meets local, state, and federal health and safety requirements.

C. If a use permit is required, a building official may deny an application for the use permit if the official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the City Planning Commission, and subsequently to the City Council as applicable.

D. Any condition imposed on the approval of an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest reasonable cost.

E. “A feasible method to satisfactorily mitigate or avoid the specific, adverse impact” as used in this Section includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions Civil Code section 714(d)(1)(A)-(B) defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

F. A City shall not condition approval of an application on the approval of an association, as defined in Civil Code section 4080.

G. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

H. Only one inspection shall be required and performed by the City Building Department for small residential rooftop solar energy systems eligible for expedited review. A separate fire inspection may be performed by the Tiburon Fire Department.

I. The inspection shall be done in a timely manner and include consolidated inspections where feasible. An inspection shall be scheduled within two (2) business days of a request and provide a two (2) hour inspection window.

J. If a small residential rooftop solar energy system fails inspection, a subsequent inspection may be performed, but need not conform to the requirements of this Ordinance. (Ord. 2015-4 § 2 (part), 2015.)