

Chapter 20.04

DESIGN REVIEW

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20.04.005 Purpose. The procedures contained in this Chapter governing design review of site plans, architectural design of buildings or other structures, landscape plans and other site features, are established in order to achieve the following purposes:

A. To preserve and enhance the beauty of the City's natural and manmade environment;

B. To encourage the maintenance of a scale and character of individual buildings consistent with the overall scale and character of the community;

C. To discourage development of individual buildings which will dominate the Cityscape or attract attention to themselves through color, mass, or inappropriate architectural expression;

D. To ensure that new development, and/or the alteration or enlargement of existing development, occurs in a manner which maintains the attractiveness and character of the City, especially when the project is viewed from the City's streets, lanes, paths, and from adjacent properties, neighboring communities and the water;

E. To maintain and improve the quality of, and relationship between, individual buildings, and between structures and their sites, so that they contribute to the attractiveness of the neighborhood and the community;

F. To ensure that landscaping provide visually pleasing settings for structures on the site, and that the proposed landscaping blends harmoniously with the natural landscape, is appropriate to the design and function of the structures, and serves to soften or screen the structures when viewed from off-site;

G. To encourage the highest quality of architectural design, the use of natural materials, and emphasis on construction methods which are least disruptive to the site and community;

H. To balance private prerogatives and preferences with the public interest and welfare. (Ord. 90-5 § 2 (part), 1990.)

20.04.010 Planning Commission authority. The Planning Commission shall conduct the architectural and environmental design review provided for by this Chapter. (Ord. 90-5 § 2 (part), 1990; Ord. 75-1 § 4, 1975; Ord. 194 NS § 2, 1974; prior code § 25-1; Ord. 181 NS § 1 (part), 1972.)

20.04.015 Structures and improvements subject to design review—Exemptions—Staff review of applications for certain minor changes or improvements. A. Structures and improvements subject to design review. Except as exempted in Parts (B) and (C) of this Section, all new buildings, new structures and other exterior physical improvements, including any relocation or exterior addition, the extension or exterior change of a structure, landscaping changes, or any change to a previously approved project proposal, shall be subject to design review, whether or not a building permit is required, and whether the property is privately- or publicly-owned. Physical changes and improvements subject to design review under the foregoing shall include, but are not limited to, the following:

1. Location and design of any and all structures in any and all zones;
2. Construction or installation of fences, retaining walls, walkways, sidewalks, patios, decks, fountains, ponds, swimming pools, garbage or trash enclosures, and sport courts;
3. When a visually significant portion of a parcel is affected; landscaping projects, grading and filling of land, and the addition of trees which can be expected to exceed a height of 12 feet at maturity;
4. Parking and loading areas, carports, garages and driveways;
5. Exterior lighting, signs, skylights, satellite dishes, antennas and solar panels;
6. Exterior textures and colors for new construction, or for exterior repainting or refinishing if colors or materials are inconsistent with the provisions of Section

20.04.140;

7. The replacement or placement of utility distribution poles and facilities.

B. Exemptions. The following physical changes or improvements shall be exempt from the provisions of this Chapter:

1. Changes in color(s) and/or roof or siding material(s) of an existing structure, when such changes are consistent with the provisions of section 20.04.140;

2. Landscape changes and/or additions to existing landscaping when such changes/additions are not part of a larger project subject to approval by the Planning Commission, including but not limited to the addition of trees which typically will not exceed a height of 12 feet at maturity, removal of trees, and changes to landscaping not visible to the public under normal circumstances;

3. Minor changes to previously approved plans, which the Director of Planning and Building determines do not alter the intent of the approved design;

4. Any other work determined by the Director of Planning and Building to be minor or incidental in nature and consistent with the intent and objectives of this Chapter.

5. Solar energy systems as defined in Belvedere Municipal Code Chapter 16.32.

C. Staff review of applications for certain minor physical changes or improvements. The following physical changes or improvements may be processed as a Design Review Exception as provided in Section 20.04.020(B): Additions, extensions or exterior changes to, or reconstruction of existing single-family dwellings and related accessory structures that involve more than 0 but less than 250 square feet of new floor area, or those projects that involve the addition of an upper-level addition of up to 100 square feet. Notwithstanding the foregoing, if the Director of Planning and Building determines that the proposed improvements may be inconsistent with the goals and purposes of this Chapter, the Director of Planning and Building will refer the application to the Planning Commission for action. (Ord. 2016-5 § 3 (part), 2016; Ord. 2015-4 § 3, 2015; Ord. 2013-2 § 24 (part), 2013; Ord. 2013-2 § 24 (part), 2013; Ord. 2005-11 § 2, 2005; Ord. 2004-5 § 2, 2004; Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 47, 1980; prior code § 25-11; Ord. 181 NS § 1 (part) , 1972.)

20.04.017 Landscape projects subject to approval under the State Water Efficient Landscape Ordinance. A. The City of Belvedere is subject to the Water Efficient Landscape Ordinance (WELO), as may be amended from time to time by the California Department of Water Resources, and as implemented by a public water system within Belvedere's jurisdictional boundaries.

B. Depending on the size of the landscape area, new construction and rehabilitated landscapes that require City approval may be subject to the requirements of the WELO. Referral is made to the applicability section of the WELO as implemented by a public water system within Belvedere's jurisdictional boundaries.

C. In addition to the applications and data described elsewhere in this Chapter, applicants for projects which are subject to the WELO may be required to submit a landscape documentation package and to receive approval by the public water system within Belvedere's jurisdictional boundaries for that package before construction begins.

D. The most recent edition of the WELO as implemented by a public water system within Belvedere's jurisdictional boundaries shall be made available to the public, for review and purchase, through the City Planning Department. (Ord. 2012-1 § 2, 2012.)

20.04.020 Approval prerequisite to permit issuance-Minor and insignificant exceptions—Emergency exceptions. A. General. No building permit or other permit shall be issued by the Building Official for landscaping changes or site grading, construction, exterior alteration or extension of any structure or improvement, unless and until the site plan, the architectural plans (including elevations and Sections), and landscape plan, as required by the Director of Planning and Building pursuant to Section 20.04.080, shall have first been submitted for design review to and have been approved by the Planning Commission or the council on appeal, unless the improvements shall be determined to be minor and insignificant pursuant to Subsection B of this Section.

B. Minor and Insignificant Exceptions—Administrative Review.

1. As set forth in this Section, a particular addition or alteration to an existing structure or site may be approved by a staff approval or a design review exception, without submitting the matter to the Planning Commission for its approval. Such administrative approvals shall be limited in number as follows:

a. For a site or structure with no existing active design review approval, during any twelve-month period an applicant may obtain up to four administrative approvals, which may be in the form of either staff approvals, design review exceptions or a combination of the two. Any such administrative approval(s) shall be valid for a period of one year from the date of issuance.

b. For a site or structure with an existing active design review approval, administrative approvals to amend the existing active design review approval shall be limited to three such approvals at any time during the lifetime of the underlying design review approval, plus one such approval during the process of obtaining final inspection approval of the project. Administrative approvals under this Section may be in the form of either staff approvals, design review exceptions or any combination of the two. Any such administrative approval(s) granted shall not extend the term of the underlying design review approval.

2. Staff Approval. If the Planning staff determines that a particular alteration to an existing structure or site is insignificant and in no way defeats the purposes and objectives of this Chapter, approval may be granted therefor without submitting the matter to the Planning Commission for its approval, notwithstanding any other provision of this Section or Chapter. Such administrative review may cover, but is not limited to, changes in window and door locations and sizes, addition of skylights, and minor changes of colors or materials for existing or proposed structures, and is in general limited to alterations which do not include the addition of square footage. Such determination by the Director of Planning and Building shall be indicated on the building permit for such alteration and in a memorandum to the appropriate building department address file.

3. Design Review Exceptions. For exterior alterations and additions which the Director of Planning and Building determines are minor and in no way defeat the purposes and objectives of this Chapter, subject to the following procedure, design review approval may be granted therefor without submitting the matter to the Planning Commission for its approval, notwithstanding any other provision of this Section or Chapter. Such review may cover, but is not limited to, additions of up to one hundred square feet in size, and those changes which do not qualify for review under the procedure listed in Subsection (B)(2) of this Section. In order for the design review exception to be granted, the Director of Planning and Building, the Planning Commission Chairman and the City Manager must first indicate their approval of the proposal. If any one of the aforementioned City representatives determines that an application is not minor in

scope, the design review exception shall not be granted. Subject to submittal of additional required materials and fees, pursuant to Sections 20.04.080 and 20.04.090, the application shall be considered as a regular design review application at the next available meeting of the Planning Commission. If all of the aforementioned City representatives have indicated their approval, written notice of the design review exception shall be posted on the City Hall bulletin board and delivered or mailed to each owner of property within one hundred feet of the property for which such exception is to be granted. In lieu of written notice to property owners within one hundred feet of the project site, the applicant may provide the City with signatures of such property-owners on the project plans, indicating approval of the project. If all required signatures are provided, the Director of Planning and Building may grant the design review exception after posting of the written notice. If all required signatures from neighboring property owners are not provided, any interested person may appeal the design review exception by submitting written notice of such appeal to the Director of Planning and Building within ten calendar days of the posting and delivery or mailing, in which event the building permit shall be held in abeyance until approval is obtained from the Planning Commission, or from the City Council on further appeal. For purposes of filing an appeal, if the final day to appeal falls on a City Hall observed holiday or a day when City Hall is closed, the final day to appeal shall be extended to the next day City Hall is open for public business. The effective date of approval of the design review exception shall be indicated on the subject plans.

C. Emergency Exceptions. If the Building Official determines that a condition exists which requires immediate action to protect lives or property, he may grant an emergency permit to temporarily correct or ameliorate such condition without submitting the matter to the Planning Commission for approval or posting written notices. Within sixty days after an emergency permit has been granted, application shall be made for design review approval of permanent corrective measures. If said sixty-day period has lapsed without application for design review approval of permanent corrective measures, said emergency permit shall lapse and all temporary corrective measures shall be subject to Section 20.04.050. Construction of permanent corrective measures shall be completed within six months of application for said emergency permit. (Ord. 2016-5 § 3 (part), 2016; Ord. 2016-2 § 6, 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 2003-2 § 2, 2003; Ord. 99-1 § 1, 1999; Ord. 90-5 § 2 (part), 1990; Ord. 84-1 § 1, 1984; Ord. 80-1 § 40, 1980; Ord. 75-1 § 6 (part), 1975; prior code § 254; Ord. 181 NS § 1 (part), 1972.)

20.04.030 Application for approval—Procedure generally—Review by Planning Commission. Applications for design review approval shall be filed with the Planning Department Secretary on forms prescribed by the Director of Planning and Building, and shall be accompanied by the information as outlined in Section 20.04.080, as well as by a filing fee in such amount as is prescribed from time to time by City Council resolution. The Planning Commission shall review the application at a scheduled public hearing following a determination by the Director of Planning and Building that the application is complete pursuant to Section 20.04.090. The applicant and all residents and property owners within a 300-foot-wide radius of the subject property shall be given twenty days' advance notice of the time, date and place of any public hearing by the Planning Commission during which the applicant's application will be considered. (Ord. 2016-5 § 3 (part), 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 2008-4 § 7, 2008; Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 41, 1980; Ord. 75-1 § 6 (part), 1975; prior code § 25-5; Ord. 181 NS § 1 (part), 1972.)

20.04.035 Time limits for construction. A. Purposes. The City Council finds that:

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

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

3. The City has seen numerous individual projects designed and built on a very large scale so that construction has often continued for many years, thus prolonging the adverse impacts created by those projects;

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

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

6. Because of the large monetary value of many of the construction projects in the City, substantial penalties should be imposed upon persons who violate the time limits imposed pursuant to this Chapter, so as to encourage compliance with such time limits and achieve the purposes of this Section.

B. Construction Time Limit Required. This Chapter shall apply to any project for which a design review approval is required, any project requiring a building permit with an estimated construction value of \$50,000 or greater, and/or any landscaping project with an estimated construction value of \$50,000 or greater that is associated with a building permit. As part of any application for design review, the applicant shall file a reasonable estimate of the cost of the proposed project, and based thereon, a construction time limit shall be established for the project in accordance with the guidelines set forth in Subsection C of this Section. The applicant shall submit all information requested by the Building Official to support the estimated value of the project, which information may include without limitation, an executed construction contract. Compliance with such time limit shall become a condition of design review approval. The time for completion of the project shall also be indicated on the building permit. For projects exceeding \$500,000 in project valuation, a detailed PERT or GANTT chart, including detailed information on the critical path of the project, may be required prior to the issuance of any building permit at the request of the City Building Official. Once approved, the property owner shall provide the City with written monthly job progress reports consistent with the approved PERT or GANTT chart if requested by the City Building Official.

C. Time Limit Guidelines.

1. Table. Except where a longer time period is approved pursuant to Subsection D of this Section, the maximum time for completion of approved alterations, additions, modifications, repairs, or new construction, following issuance of the building permit, shall not exceed the following:

Table: Construction Time Limits Based Upon
Demonstrable Estimated Project Value

Estimated Value of Project (\$)	Construction Time Limit (months)
\$0 to \$100,000	6 months
\$100,001 to \$500,000	12 months
Greater than \$500,000	18 months

2. Time Limit for Landscaping. To complete landscaping work approved as part of a larger construction project, the applicant may have an additional 90 days after the date of final inspection approval of the building permit for the main construction project. To receive the additional 90 days, the applicant must file an application and make a deposit against the timely completion of the landscaping work in an amount determined by the Building Official in consultation with the Director of Planning and Building. The additional 90 days does not apply to projects solely comprised of landscaping and related improvements.

D. Extension of Construction Time Limit.

1. An applicant may request a construction time limit extension at any time between the design review hearing and prior to building permit final. An applicant is limited to one construction time limit extension per project.

2. The Planning Commission has the authority to grant, conditionally grant, or deny a time limit extension request made at the time of a design review hearing based on the reasonable anticipation of one or more of the factors in this Subsection. The Planning Commission’s decision may be appealed in writing to the City Council.

3. The extension committee has the authority to administratively grant, conditionally grant, or deny a time limit extension request made after the issuance of a building permit based on one or more of the factors in this Subsection. The extension committee shall consist of the City Building Official, the Director of Planning and Building, and the Public Works Manager, who shall meet with the project contractor, architect and, at the applicant’s option, a representative or the applicant. The extension committee shall review the extension request within 10 working days of receiving a complete application. Within 10 working days of receiving the decision, the applicant may appeal the extension committee’s decision to the Planning Commission and the Planning Commission’s decision to the City Council. All appeals shall be scheduled within a reasonable time of the receipt of the appeal.

4. An application for a construction time limit extension shall be accompanied by complete working drawings for the construction, a written explanation of the reasons for the requested extension, any other information requested by Planning staff, and a fee as established by City Council resolution.

5. Projects with an initial 18-month construction time limit may receive a maximum 6-month extension for a total time limit of 24 months. Projects with an initial 6 or 12-month construction time limit may receive an extension, provided that such extensions do not result in a total construction time limit exceeding 18 months.

6. Landscaping Extension. When landscaping work, which was approved as part of a larger construction project, is delayed because of inclement weather, the applicant may file with the City Manager for an extension to complete the landscaping work. The request must be filed prior to, and may not exceed 30 days beyond, the final building inspection approval, issuance of an occupancy permit, or expiration of the 90-day landscaping time limit granted per Subsection C2 above, whichever occurs later. The City Manager shall grant said extension only if, in his or her opinion, such extension is warranted because of delays caused by inclement weather.

7. Construction Time Limit Extension Factors. Requests for construction time limit extensions shall be determined based on one or more of the following factors:

- a. Site topography
- b. Site access
- c. Geological issues
- d. Neighborhood considerations
- e. Other unusual factors
- f. Extreme weather events
- g. Unanticipated discovery of archeological resources
- h. Other conditions that could not have been reasonably anticipated at

the time of project application

E. Construction Time Limit Penalties

1. Upon failure of the applicant to complete construction by the established time limit, the Building Official shall issue a compliance order setting a date 30 days from the date of such order within which time the applicant shall be required to complete the construction, and advising the applicant that the following penalties shall be imposed if the applicant fails to comply with said order:

a. For the initial 60 days that the project remains incomplete beyond the compliance order deadline: a penalty of \$600 per day;

b. For the next 60 days (i.e., the 61st through the 120th day) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$900 per day; and

c. For any additional days (i.e., the 121st and subsequent days) beyond the compliance order deadline during which the project remains incomplete: an additional penalty of \$1,200 per day.

2. New construction shall be deemed completed for purposes of this Section upon the issuance by the City of a certificate of occupancy, per City Policy No. 14.4. A remodel shall be deemed completed for purposes of this Section per City Policy No. 14.4.

3. The applicant shall be notified in writing of the amount of any penalty imposed pursuant to this Section. Notice shall be served as provided in Section 1.14.040 of this Code. Service shall be deemed complete upon mailing or posting as required in that Section. Penalties imposed pursuant to this Section shall be paid within 60 calendar days of the date of the notice of penalty.

F. Appeal of Construction Time Limit Penalty.

1. A penalty imposed pursuant to this Section may be appealed in writing to the City Council no later than 10 calendar days from the date of service of the notice of the penalty, with payment of an appeal fee as established by City Council resolution. For purposes of filing an appeal, if the final day to appeal falls on a day when City Hall is closed, the final day to appeal shall be extended to the next day City Hall is open for public business. The applicant shall submit all information reasonably requested by Planning Staff related to the appeal including without limitation an executed construction contract.

2. Within a reasonable time of receipt of a construction time limit penalty appeal, the appeal shall be reviewed by an appeals committee consisting of the City's Building Official, Director of Planning and Building, Public Works Manager, and City Manager. The appeals committee shall conduct a meeting with the project contractor, architect and, at the applicant's option, the applicant and/or any other designated representative(s). The appeals

committee shall make a written recommendation to the City Council on whether to affirm, reduce, or remove the penalty based on one or more of the factors in this Subsection.

3. Table No. 2. The appeals committee may recommend a credit of a certain number of construction time limit days for projects which have incurred a penalty but have employed dismantling techniques, as approved in the project waste management plan, in the deconstruction of a building. The number of credit days shall not exceed the following:

Table No. 2: Allowable Credit Days for Dismantling Purposes Regarding Construction and Demolition Debris Diversion

Dismantling Category	Description of Dismantling Categories	Credit Days
Category I	Removal of interior features, including cabinets, plumbing and electrical fixtures	2 Days
Category II	Buildings of 1000 – 2500 sq. ft.	5 Days
Category III	Buildings of 2501 – 4000 sq. ft.	10 Days
Category IV	Buildings of 4001 sq. ft. and greater	15 Days

4. Construction Time Limit Penalty Appeal Factors. The City Council may affirm, reduce, or remove a penalty if the construction time limit was exceeded for reasons beyond the control of the applicant, which may include one or more of the following factors:

- a. Administrative appeals of the project filed by third parties
- b. Extreme weather events
- c. Unanticipated discovery of archeological resources
- d. Labor stoppages
- e. Acts of war or terrorism
- f. Natural Disasters

5. For the purposes of this Subsection, reasons beyond the control of the applicant shall not include:

- a. Delays caused by normal weather events
- b. Failure to adequately protect the job site from damage
- c. Failure of subcontractors to complete work according to schedule
- d. The use of custom and/or imported materials and/or highly specialized subcontractors
- e. Significant, numerous, and/or late design changes
- f. Failure of materials suppliers to provide materials in a timely manner

6. Any penalty finally imposed pursuant to this Section shall constitute a lien on the applicant’s property, to be imposed, recorded and satisfied as provided in Sections 1.14.160 through 1.14.190 of this Code.

7. The provisions of this Section are not the exclusive remedy for addressing violations of a construction time limit. In addition to penalties provided by this Chapter, the City may pursue all other actions and remedies provided by law including but not limited to administrative citations, administrative code enforcement, and nuisance abatement proceedings.

G. This Section shall be known and cited as the “Construction Time Limit Ordinance of the City of Belvedere.” (Ord. 2019-7 § 2, 2019; Ord. 2019-5 § 2, 2019; Ord. 2018-5 § 2, 2018; Ord. 2016-5 § 3 (part), 2016; Ord. 2016-3 § 2, 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 2010-4 § 1, 2010; Ord. 2009-2 § 1, 2009; Ord. 2006-10 § 1, 2006; Ord. 2006-4 § 3, 2006; Ord. 2002-2 §§ 2, 3, 2002; Ord. 2002-1 § 2, 2002; Ord. 99-1 § 2, 1999.)

20.04.040 Application—Notice of Planning Commission action—Approval conditions.

A. The Planning Commission may approve, conditionally approve or deny any application. Denial shall be without prejudice to a new application accompanied by substantially revised

plans and a new filing fee. The Planning Department Secretary shall mail or deliver to the applicant a copy of the Planning Commission or City Council resolution adopted in connection with the grant of approval or denial of any application for design review. Copies of any such Planning Commission or City Council resolutions shall be posted on the City Hall bulletin board and sent to the Building Official.

B. In granting conditional approval, the Planning Commission shall include such conditions as are reasonable and necessary or substantial compliance with the criteria set forth in this Chapter. Applications and their accompanying plans, elevations and other supporting materials shall be endorsed to indicate the action taken by the Planning Commission.

C. Design review approval shall not become final and no permit shall be issued in connection therewith until the expiration of the period within which appeals may be filed, and if filed, decided pursuant to Section 20.04.070. (Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 42, 1980; Ord. 75-1 § 6 (part), 1975; prior code § 25-6; Ord. 181 NS § 1 (part), 1972.)

20.04.050 Effect of noncompliance—Structures deemed public nuisance—Retroactive approval—Abatement authority. A. Any building permit or occupancy permit hereafter issued in conflict with this Chapter shall be void. Any work or structure or improvement which lacks or is not in compliance with Planning Commission approval or conditional approval is in violation of this Chapter, may be stopped by order of the Building Official, and shall be declared to be unlawful and a public nuisance. Each day on which a violation continues shall be regarded as a new and separate violation. This subsection may be enforced by all available legal and administrative remedies including but not limited to: Nuisance Abatement (Municipal Code Chapter 8.12); Administrative Remedies (Municipal Code Chapter 1.14); and/or 3) Administrative Citations (Chapter 1.15).

B. Retroactive Design Review.

1. An application may be made for retroactive design review for a structure which lacks or is not in compliance with Planning Commission approval or condition of approval or built or commenced without design review approval, by application and submission of an application fee as established by resolution of the City Council, and plans and other data in the prescribed form and conditions. An application for retroactive design review shall be processed as provided in Sections 20.04.020 and 20.04.030 of this Code, provided however, that any application that would qualify for administrative approval pursuant to Section 20.04.020(B) shall be processed according to the procedures set forth for a design review exception pursuant to Section 20.04.020(B)(3).

2. If the Planning Commission finds, based upon substantial evidence in the record, that the applicant has intentionally proceeded with construction without obtaining the required design review approval, the Planning Commission may deny the application for retroactive design review on that ground alone. If the application is denied, City staff shall set the matter for a hearing before the City Council to determine whether a public nuisance exists and the appropriate abatement thereof.

C. If so ordered by the City Council, the City attorney shall immediately commence an action or proceeding to abate, remove, restrain or enjoin any such public nuisance, to restrain or enjoin any person from erecting, construction, altering or extending a structure or using any premises in violation of the provisions of this Chapter. The Building Official shall promptly report to the Director of Planning and Building any and all such violations which come to his or her attention. (Ord.2020-04 § 2, 2020; Ord. 2019-5 § 3, 2019; Ord. 2016-5 § 3 (part), 2016; Ord.

2013-2 § 24 (part), 2013; Ord. 2002-3 § 2, 2002; Ord. 99-1 § 3, 1999; Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 43, 1980; Ord. 75-1 § 6 (part), 1975; prior code § 25-7; Ord. 181 § 1 (part), 1972.)

20.04.060 Duration of approval, conditional approval and exceptions. A. Approval or conditional approval of design review applications shall be valid for one year from the date of action by the Planning Commission, or by the City Council on appeal, unless a building permit has been issued for the project within said one-year period, in which case the design review approval shall be valid as long as there is an active building permit for the project. In granting approval or conditional approval, the Planning Commission may designate a later expiration date if it determines that the criteria of this Chapter would still be served. Design review exceptions shall be valid for one year from the date of approval indicated on the plans pursuant to Section 20.04.020B, unless a building permit has been issued for the project within said one-year period, in which case the design review approval shall be valid as long as there is an active building permit for the project. Prior to expiration of the design review approval, extensions of not more than one year from the original date of expiration may be granted by the Director of Planning and Building, with the approval of the City Manager. Extensions of any duration may be granted by the Planning Commission.

B. A design review approval, conditional approval or exception may be transferred from the owner to whom it has been issued to successive owners of the property prior to expiration of the approval.

C. When demolition or removal of any existing structure is a part of design review approval, said demolition or removal shall be completed, and all debris removed from the site, within ninety days of design review approval or such other date as the Planning Commission or the Director of Planning and Building determines to be in furtherance of the criteria of this Chapter. (Ord. 2016-5 § 3 (part), 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 44, 1980; Ord. 75-1 § 6 (part), 1975® prior code § 25-8; Ord. 181 § 1 (part), 1972.)

20.04.070 Appeal of Planning Commission action. The applicant or any interested person may file an appeal with the City Council from any denial, approval or conditional approval of any application by the Planning Commission pursuant to this Chapter. Said appeal shall be in writing and shall be filed with the City Clerk not later than the 10 calendar days after the Planning Commission's action. For purposes of filing an appeal, if the final day to appeal falls on a City Hall observed holiday or a day when City Hall is closed, the final day to appeal shall be extended to the next day City Hall is open for public business. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this Chapter, and shall be accompanied by a filing fee as is hereafter fixed from time to time by City Council resolution. The City Clerk shall, not less than ten calendar days prior to the date set for the Council hearing on the appeal, give written notice to the appellant, his representative, the property owner, and all residents and property owners within a 300-foot wide radius of the subject property, of the date, time and place of the public hearing. The Council may affirm, reverse, remand or modify the decision of the Planning Commission, at all times being guided by the criteria set forth in this Chapter. The Building Official, Director of Planning and Building, and Planning Commission shall each be advised of the Council decision. (Ord. 2016-5 § 3 (part), 2016; Ord. 2016-2 § 5, 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 2008-4 § 8, 2008; Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 45, 1980; Ord. 75-1 § 6 (part), 1975; prior code § 25-9; Ord. 181 § 1 (part), 1972.)

20.04.080 Application—Data to be submitted. The owner or his authorized agent shall submit all of the information listed below with each application for design review approval in order to be placed on an agenda for Planning Commission consideration, unless the Director of Planning and Building determines that a particular item is not necessary for a particular application. Sufficient details, and information, and number of plan set copies shall be provided so that a thorough design review determination can be made by the Planning Commission, using the criteria established by this Chapter. Documents shall be in a consistent format. Data shall be submitted in such a manner as will facilitate clarity of interpretation and presentation. Additional information may be requested by the Planning Commission after the Director of Planning and Building has determined that the application is complete and it has been provided to the Planning Commission for review and consideration.

A. Application forms and fees: Design review, variance, exception, revocable license, demolition, and/or other permit application forms as required by the Director of Planning and Building, signed by the property owner;

B. Environmental information form or claim of categorical exemption and site photographs;

C. Site plan: One-eighth inch scale, or approximate equivalent engineering scale.

1. Show and clearly indicate all property lines, setback lines, rights-of-way and easements, including the edge of the street pavement on both sides of the street along the frontage, as well as the high-water line for properties along Belvedere Lagoon, Belvedere Cove, or San Francisco Bay, when applicable;

2. Show outlines of proposed structures and existing structures, including story pole locations for new structures, where deemed necessary by Subsection 20.04.080J of this Title or by the Director of Planning and Building or Planning Commission;

3. Show distances from existing and proposed structures to property lines, and dimensions of the parcel,

4. Show driveways, off-street parking spaces, pedestrian walks, decks and docks, when applicable;

5. Indicate approximate location of structures on each adjacent property, and where possible, the elevations of floor levels;

6. Show existing and proposed contours in areas where they in any way affect the placement of structures. Contour lines should be extended to include adjacent structures, where they are affected by the proposal;

7. Provide a detailed computation table, indicating the square footage of the property and the square footage of the lot coverage of all existing/proposed buildings, including garages and all other covered structures, but excluding roof overhangs. Indicate the existing and proposed values for lot coverage and total floor area;

D. Floor plans: At one-eighth inch or one-quarter inch scale, show floor plans of all floor levels, including any unfinished space, and indicate the gross floor area of each floor as defined by Section 19.08.203 of Title 19:

E. Elevations: One-eighth inch or one-quarter inch scale.

1. Show all existing and proposed exterior building elevations (existing and proposed may be combined in one elevation only if new construction is clearly indicated and if the drawing remains clear and uncomplicated as to the intent and character of the changes),

2. Indicate the design details of fences, exterior lighting fixtures, retaining

walls, trellises/arbors, and other site furnishings, when applicable (if the final design has not yet been determined, further approval shall be obtained prior to issuance of a building permit),

3. Indicate the height of structures above existing natural grade, and indicate all floor level elevations,

4. Indicate materials and colors of existing and proposed structures, submitting samples if different from existing structures;

F. Roof plan: Indicate existing and proposed roof plan at one-eighth inch or one-quarter inch scale (may be indicated on the site plan if roof overhangs are clearly shown);

G. Site Cross-Section: At one-eighth inch or one-quarter inch scale, show a cross-section of the site through the structure, indicating the slope of the property and the extent of proposed cut and fill;

H. Boundary survey: A survey showing necessary elements of a site, as determined by the Director of Planning and Building or Planning Commission, may be required by the Director of Planning and Building or Planning Commission for an application for design review accompanied by an application for a variance, an application for construction within a public right-of-way or easement, an application for floor area exception, an application for improvements on a property boundary, including but not limited to a fence, or if the Director of Planning and Building is unable to determine compliance with setback or other Zoning Ordinance requirements;

I. Preliminary landscape plan: Show all existing trees (with diameter measured at 4.5 feet above grade on the uphill side of the tree and species noted) and indicate any trees which are to be removed. Indicate size and species of proposed plant materials (including common name.) Indicate all new and existing impermeable surfaces. Submittal of a final, binding, landscape plan shall be required for approval by Planning staff and the Planning Commission Chairman prior to issuance of a building permit;

J. Story poles: Preliminary story poles sufficient to indicate the height and shape of the proposed structure or additions shall be placed on the site at least twenty days prior to the first meeting date, final story poles shall be placed on the site at least ten days prior to the first meeting date, and all story poles shall be removed no later than ten days following the final City action on the project application. Story poles shall be connected at their tops with colored tapes or ribbons to clearly indicate ridges, eaves and other major elements of the building profile. Story poles shall be required for all applications for second story additions and all new buildings or major additions. Story poles may be required for hearings before the City Council as well. Story poles are intended to indicate to all interested parties the sense of mass of the project, as well as potential view blockages from adjacent properties and streets. It is the intent that story poles reasonably indicate building corners, setbacks or other physical aspects of the application. An elevation survey prepared by a licensed surveyor may be required by the Director of Planning and Building or Planning Commission to certify the accuracy of the heights and locations of the story poles;

K. Perspective drawings, renderings and a scale model of the proposal, including scale models of all or parts of adjacent residences, prepared at one-eighth inch scale, are required for all proposed new residences. Information such as additional site photographs, perspective drawings, renderings, shadow studies, and building or site models may be required by the Director of Planning and Building or the Planning Commission for any project as needed to fully and clearly understand the project.

L. Electronic copies of oversized documents: Whenever plans or other documents

larger than 8.5” by 14” are submitted for design review approval, an electronic version on CD must be submitted at the same time. One electronic copy must be included whether as part of an initial filing or when changes are subsequently submitted as part of the approval process. The preferred format for electronic submissions is Design Web Format—DWF (.dwf); however, for maps and documents which were not created in AutoCAD, the submission may be made in Adobe Portable Document Format—PDF (.pdf). No format other than DWF and PDF will be accepted. The electronic copy shall comply with the following standards:

1. Design Web Format—DWF (.dwf): All pages of the map shall be included in one DWF document, and the total file size of the DWF file shall not exceed 2mb per page (e.g. a ten-page drawing must be equal to or less than 20mb).

2. Adobe Portable Document Format—PDF (.pdf): The original page size shall be no larger than 24" x 36". Resolution shall be 200 to 600. All pages shall be included in one PDF document. The total size of the PDF file shall not exceed 2mb per page (e.g., a ten-page drawing must be equal to or less than 20mb).

M. A current title report or preliminary title report is required for all applications.

N. A preliminary door and window schedule, keyed to project floor plans, is required for all applications involving new doors and windows. (Ord. 2016-5 § 3 (part), 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 2008-4 § 9, 2008; Ord. 2004-6 § 7, 2004; Ord. 94-2 § 1, 1994; Ord. 90-5 § 2 (part), 1990; Ord. 86-6 § 5, 1986; Ord. 80-1 § 46, 1980; Ord. 77-28 §§ 1, 2, 1977; Ord. 75-1 § 6 (part), 1975; prior code § 25-10; Ord. 181 NS § 1 (part), 1972.)

20.04.090 Completeness of application materials. Once an application for design review has been submitted, the Director of Planning and Building shall review the accompanying materials to make certain that all necessary items have been submitted and found complete before the application will be placed on an agenda for consideration. Applications which are not determined to be complete shall not be placed on an agenda for consideration. (Ord. 2016-5 § 3 (part), 2016; Ord. 2013-2 § 24 (part), 2013; Ord. 90-5 § 2 (part), 1990.)

20.04.100 Design review criteria and standards. The Planning Commission shall be guided by the criteria set forth in Sections 20.04.005 and 20.04.110 through 20.04.210 in considering design review applications and in making its determination whether to approve, conditionally approve, or disapprove each application. The Planning Commission must find an application to be in substantial conformance with these criteria in order to be approved, and may deny an application for failure to conform to any single criterion. (Ord. 90-5 § 2 (part), 1990; Ord. 75-1 § 6 (part), 1975; prior code § 25-12 (part); Ord. 181 NS § 1 (part), 1972.)

20.04.110 Preservation of existing-site conditions. To preserve the landscape in its natural state, the removal of trees, vegetation, rock, and soil should be kept to a minimum. Projects should be designed to minimize cut and fill areas, and grade changes should be minimized and kept in harmony with the general appearance of the neighboring landscape. All disturbed areas should be finished to a natural appearing configuration and planted or seeded to prevent erosion. (Ord. 90-5 § 2 (part), 1990; Ord. 80-1 § 48, 1980.)

20.04.120 Relationship between structures and the site. There should be a balanced and harmonious relationship among the structures on the site, between the structures and the site

itself, and between the structures and those on adjoining properties. All new buildings or additions constructed on sloping land should be designed to relate to the natural land forms and step with the slope in order to minimize the building mass and bulk and to integrate the structure with the site. (Ord. 90-5 § 2 (part), 1990; prior code § 25-12(c); Ord. 181 NS § 1 (part), 1972.)

20.04.130 Minimizing bulk and mass. A. All new structures and additions should be designed to avoid monumental or excessively-large dwellings which are out of character with their setting or with other dwellings in the neighborhood. All buildings should be designed to relate to and fit in with others in the neighborhood and not designed to attract attention to themselves.

B. To avoid monotony or an impression of bulk, large expanses of any one material, including widow glazing, on a single plane should be avoided, and large single plane retaining walls should be avoided. Vertical and horizontal elements should be used to add architectural variety, to break up building planes and planes of window glazing, and to avoid monotony. (Ord. 2019-3 § 2 (part), 2019; Ord. 90-5 § 2 (part), 1990.)

20.04.140 Materials and colors used. A. Building designs should incorporate materials and colors that minimize the structures' visual impact, that blend with the existing land form and vegetative cover, that relate to and fit in with structures in the neighborhood, and that do not attract attention to the structures themselves.

B. Materials which blend easily with the landscape, such as natural wood shingles and siding, are preferred. Other materials, such as metals which develop an attractive, naturally-oxidized finish, used brick, stone, stucco, and concrete should be used in moderation. Use of concrete block, manufactured stone or brick, unpainted metal, galvanized metal or metal subject to ordinary rusting is discouraged.

C. Soft and muted colors in the earth tone and wood tone range are preferred and generally should predominate. Other colors and materials are acceptable only if the Planning Commission determines they are appropriate for the building setting, and are compatible with those of other buildings in the vicinity. Trim and window colors should be compatible with and complementary to the other building colors.

D. All roof materials and colors (including equipment, but excluding skylights) should have nonglossy, earth tone or wood tone finishes that minimize glare and are compatible with their environment and surroundings. All exposed metals, such as roof vents, chimneys and spark arrestors, should be painted flat black or painted a color which minimizes their visibility, or should be of natural copper or bronze-finished aluminum.

E. Retaining walls should be wood, stone, or concrete. Concrete walls and other concrete surfaces should be textured, colored to match adjacent soil or plant color, or faced with wood, brick, or stone.

F. Large, unbroken planes of window glazing can, in some cases, create excessive glare and light reflection during the day and light transmission during the night, and should generally be avoided to minimize this impact. In evaluating window glazing, the Planning Commission may consider mitigating factors including but not limited to the location of the property and windows, proximity to water and the risk of light reflection off the water, effectiveness of landscape screening, the use of light reduction glass, and architectural elements that would reduce the impact of the windows. (Ord. 2019-3 § 2 (part), 2019; Ord. 90-5 § 2 (part), 1990; prior code § 25-12(d); Ord. 181 § 1 (part), 1972.)

20.04.150 Fences and screening. A. Fences should be compatible with the design of the site, structures, and landscaping as whole, should screen garbage areas, mechanical equipment and accessory structures from public view, and should preserve privacy between adjacent dwellings without significantly blocking views. Temporary deer barriers such as staked wire and chain link are prohibited if installed in the public view, except for purposes of securing site during construction and for protection of new plantings for a period of 90 days or less.

B. Fences should be designed and located so that they are architecturally compatible with the design of the building, are aesthetically attractive, and do not significantly block views from any public or private property. Wire or chain link fences are discouraged, except as temporary barriers on construction sites or new plantings as allowed in this Section. (Ord. 2018-7 § 5, 2018; Ord. 90-5 § 2 (part), 1990; prior code § 25-12(e); Ord. 181 NS § 1 (part), 1972.)

20.04.160 Privacy. Building placement and window size and placement should be selected to give consideration to the privacy of adjacent buildings. (Ord. 90-5 § 2 (part), 1990.)

20.04.170 Drives, parking and circulation. Walkways, driveways, curb cuts and off-street parking should be planned and designed so as to minimize interference with smooth traffic flow, to encourage separation of pedestrian from vehicular traffic, and to be as safe and convenient as is practical. They should not be out of relationship with the design of the proposed buildings and structures on the site, and should not intrude on the privacy of, or conflict with the appearance of neighboring properties. (Ord. 90-5 § 2 (part), 1990; prior code § 25-12(g); Ord. 181 NS § 1 (part), 1972.)

20.04.180 Exterior lighting, skylights and reflectivity. A. Exterior lighting should not create glare, hazard, or annoyance to neighboring property owners or to passers-by. Lighting should be shielded and directed downward, with location of lights coordinated with the approved landscape plan. Lamps should be low wattage, should be incandescent, and except for outdoor Christmas lights, shall not be colored.

B. Where visible from off-site locations, skylights should not have white or light opaque colored exterior lenses.

C. Large areas of glass on the roof or walls of a building that reflect or project substantial amounts of light towards nearby structures should be avoided. (Ord. 90-5 § 2 (part), 1990; prior code § 25-12(I); Ord. 181 NS § 1 (part), 1972.)

20.04.190 Consideration of non-conformities. The proposed work shall be viewed in relationship to any non-conformities, as defined in Title 19, and where it is determined to be feasible and reasonable, consideration should be given to conditioning the approval upon the mitigation or elimination of such non-conformities. (Ord. 90-5 § 2 (part), 1990; Ord. 77-28 § 3, 1977; prior code § 25-13; Ord. 181 NS § 1 (part), 1972.)

20.04.200 Landscape plans—Purpose. A. Landscape plans should be compatible with the character of the site and surrounding developed properties. Native or natural-appearing vegetation, with generally rounded, natural forms, should be placed to appear as loose, informal clusters.

B. Landscape plans shall include appropriate planting to soften or screen the

appearance of structures as seen from off-site locations and shall include appropriate screening for architectural elements, such as building foundations, deck supports and retaining walls, that cannot be mitigated through architectural design.

C. Landscape plans should provide privacy between properties. Choice of landscape materials should take into consideration the future impact which new planting may have in significantly obstructing views from nearby dwellings.

D. Landscape plans shall include appropriate planting to repair, reseed and/or replant disturbed areas to prevent erosion. (Ord. 90-5 § 2 (part), 1990.)

20.04.210 Landscape plans—Materials. A. Plant materials native to northern California and Marin County, and those that are drought-tolerant, are encouraged. Evergreen species are encouraged for use in screen planting situations. Because of high water usage, turf areas should be minimized and narrow turf areas, such as in parking strips, should be avoided.

B. Landscape plans should include a mix of fast- and slow- growing plant materials. Fast-growing trees that have a short life span should be used only when planted with others which reach maturity at a later age.

C. Landscape plans should include water-conserving irrigation systems. While irrigation will probably be required initially in order to establish the new plants, the plant material should be selected so that once established, much of the major site landscaping would survive solely on rainfall.

D. Depending on the size of the landscape area, landscapes may be subject to the specific conservation requirements of the State Water Efficient Landscape Ordinance as implemented by a public water system within Belvedere's jurisdictional boundaries. Reference is made to the Ordinance as implemented by the Marin Municipal Water District, copies of which are available through the City Planning Department. (Ord. 2012-1 § 3, 2012; Ord. 90-5 § 2 (part), 1990.)