


Part 14. Building Department Policies

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 14.1 STAGING & PARKING PLAN REVIEW CRITERIA		
	Adoption Date: 2006	Adopted by: Existing Building Department Policy	
Revised Date: 6/8/2009 3/11/2019	Revised by: City Council motion City Council Resolution No. 2019-04		
Authority: City Council			

14.1.1 BACKGROUND

Construction projects that are subject to design review are required by the Planning Conditions of Approval to have a *Staging and Parking Plan* submitted and approved prior to permit issuance. Since City policy requires that no more than three vehicles which are related to the project are to be parked on City streets, the submitted Plan is to note where those vehicles will be parked as well as where materials storage will occur and how equipment, such as concrete trucks, will be utilized at the site. The *Staging and Parking Plan*, considered a ministerial duty, is reviewed by City staff and approved by the Chief of Police.

Because unusual site conditions often occur on Belvedere & Corinthian Islands, such as steep topography, narrow roadways and non-existent parking, staging and parking logistics becomes a crucial factor in the mitigation of the impact on a neighborhood from construction activity. When staff reviews *Staging and Parking Plans* the principal focus is on promoting a plan which decreases the overall impact of construction, specifically enhancing the preservation of life/safety considerations, including consistent emergency vehicle access, of entire neighborhoods. This approach is meant to provide for the wellbeing of as many Belvedere citizens as possible rather than emphasizing a benefit for an individual property owner.

A recent approval for a *Staging & Parking Plan* that promoted community wide enhancement of life/safety considerations during a construction project, but created a temporary view blockage of an adjacent property owner, created concerns regarding how staff reviewed *Staging and Parking Plans*, including what manner of process is available to those citizens who may disagree with the ministerial approval.

14.1.2 COMMENTS

At the June 2007 Planning Commission meeting the Planning Commission directed staff to present to the Commission recommendations to improve communications and notification of adjacent neighbors concerning construction impacts, such as noise, road closures, view obstructions and crews, were identified as problems for the Community. Subsequent to the meeting the City Manager, Building Official and City Planner met and developed an


administrative policy which addresses the processing and approval of *Staging and Parking Plans*.

The processing and approval of *Staging and Parking Plans* does not provide for an appeal process. Rather, the following noticing process of *Staging & Parking Plans* is meant to encourage neighbors who are adjacent to a project to review the *Plan* and to communicate to the project property owner, contractor, and the City any concerns with how the plan has been developed. It is the City's expectation that the parties would then cooperatively revise the *Plan* to meet the objections of the permittee and the concerns of the adjacent property owners.

14.1.3 POLICY/PROCEDURE

Staging & Parking Review Criteria

1. New building permit applications shall be posted on the City website and in the City e-newsletter.
2. Building permits which are scheduled for issuance will again be posted when arrangement for a pre-construction meeting have been finalized.
3. A courtesy notice shall be sent to all neighbors within 100 feet of "major projects" upon receipt of the building permit application.
4. Major projects will include:
 - a. new additions over 1000 square feet
 - b. Renovations involving more than 50% of the existing floor area
 - c. Demolitions (total of more than 50% of exterior)
 - d. New residences
 - e. Where the topography, shape of lot or site access may require unusual construction staging, parking arrangements or use of equipment

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 14.2 DREDGING PERMITS		
Adoption Date:	2006	Adopted by:	Existing Building Department Policy
Revised Date:	6/8/2009 3/11/2019	Revised by:	City Council motion City Council Resolution No. 2019-04
Authority:	City Council		

14.2.1 BACKGROUND

Over the years the Belvedere Building Department has issued periodic permits for dredging work, principally for work in the Belvedere Cove. The main reason, at that time, for the City’s interest in regulating dredging by use of a permit from the Building Department was to regulate the dredging operation work hours. Until 2006, however, no criteria had been established, in terms of specific fees, deposits, outside agency regulatory oversight or inspection responsibilities.

In January 20, 2006, Building Official Lee Braun wrote a memorandum to City Manager George Rodericks, in which a fee structure and extensive enforcement criteria were proposed for dredging projects, including a refundable deposit requirement. The document was reviewed and approved by the City Council, becoming the basis for Policy 14.2, Dredging Permits, within the City’s Administrative Policy Manual (APM). The memorandum, however, did not address such issues as dredging on City property or at locations other than the Cove.

14.2.2 COMMENTS

In late 2008, the City Manager, Planning Manager and Building Official undertook a review of Policy 14.2. It became apparent during the review that the Dredging Policy needed further development. Besides the questions raised earlier relating to dredging operation locations, the questions of when is a CEQA review or a Use Permit required were amongst issues discussed during the review.

The revised Policy is also an attempt to address the problem of a private dredging operation which results in creating a navigational impediment to a separate and adjacent navigational channel.

The March 2009 revised Dredging Policy is meant to be a comprehensive approach to regulating dredging within Belvedere’s city limits, while providing clarity in the administration of related federal, state and local requirements. Included in the revisions are changes to the fee structure, meant to be more applicable to the specific activity covered by the permit and the extent of oversight committed to the project by the City. The revised Policy was reviewed by the City administrative staff and the City Attorney’s Office prior to submission to the City Council for consideration.

14.2.3 DREDGING IN SAN FRANCISCO BAY WATERS

DREDGING PERMIT APPLICATION REQUIREMENTS

1. A Dredging Permit shall be required for any and all dredging taking place within the City limits of the City of Belvedere. In some cases, as discussed below, a Conditional Use Permit may also be required.
2. The Building Department Permit Form shall be used as the Dredging Permit and inspection form, with the dredging operation described in the “Activity” section of the form.
3. A \$10,000 refundable damage deposit is required prior to issuance of the dredging permit. The \$10,000 deposit requirement shall be met by one of two methods:
 - a) A deposit in the amount of the difference of the remaining balance of the CEQA deposit, should a CEQA review be required, and the required \$10,000 damage deposit, or
 - b) A separate \$10,000 damage deposit prior to permit issuance if it has been determined that a CEQA review is not required.
4. Two (2) copies of the project site plan.
 - The area/s of proposed dredging shall be shown on the site plan,
 - The location and labeling of all property lines immediately adjacent to the location/s of the proposed dredging work shall be shown on the site plan.
 - The site plan shall include the location of the City jurisdictional boundary, if adjacent to the proposed dredging activity.
5. Two (2) copies of applicable federal, state, regional, county agency, or private property owner, project approvals are required at the time of permit application, including:
 - Army Corps of Engineers
 - California Department of Fish & Game
 - California Department of Water Quality
 - Bay Conservation & Development Commission (BCDC)
 - State Lands Commission, or other regulating agency responsible for dredging projects on state owned lands, when one of the other state agencies referenced above is not responsible for approving work on state owned lands
 - County of Marin, for dredging projects on county owned lands
 - Affected private property owner’s approval, when a proposed dredging project extends onto an adjacent private property
6. Two (2) copies of pre-dredging soundings at the time of permit application.
7. Unless otherwise authorized in writing by the City Manager, dredging activity is limited to the work days and work hour requirements of Municipal Code Section 16.04.015.
8. Dredging contractors shall maintain a current City of Belvedere business license.

PERMIT FEES

1. A permit application fee - \$1,000
2. A permit issuance fee – based on Belvedere Building Permit Fee Schedule at one-half (1/2) project valuation.
 - Project valuation shall be verified by the submission of the executed contract with the dredging contractor.
3. Satisfaction of the aforementioned deposit requirement.

CEQA REVIEW, USE PERMIT, & DESIGN REVIEW

All dredging permit applications will be reviewed to determine whether CEQA review and/or a Conditional Use Permit are also necessary for the proposed project.

- A Use Permit may be required if dredging activity has not occurred in the past at the specific location and it is determined that the proposed dredging is not “maintenance dredging” in a previously dredged area.
- The Use Permit may not be required if an earlier Use Permit approval established the Use in the specific zone under consideration, and dredging activity occurred within 15 years of the current application date.
- A \$10,000 deposit will be required if it is determined that a CEQA review is necessary. CEQA review is necessary when a discretionary permit, such as a Conditional Use Permit or Design Review is required.


Also, all dredging permit applications will be reviewed to determine the applicability of the City’s design review requirements, if any, as identified in Municipal Code Chapter 20.04, Design Review and/or Chapter 20.06, Standards for Installation of Buoys, Piers, Gangways, Floats, Hoists and Related Structures on West Shore Road. Design Review may be required if the dredging is part of a larger project, such as a dock, pier, buoy, etc.

INSPECTIONS, FINAL APPROVAL AND RETURN OF DEPOSIT

1. Upon completion of the dredging operation, one (1) copy of post-dredging soundings is to be submitted to the Building Department.
2. Upon completion of the dredging operation, one (1) copy of dredging spoils disposal log, including verification of disposal at an approved site is to be submitted to the Building Department.
3. Upon receipt of the post-dredging soundings and disposal log the City will notify the property owners adjacent to the dredging work of the impending final approval of the dredging operation and will initiate a 30-day waiting period for damage reports.
4. Final approval of the dredging project will be granted, should the City not receive proof of damage to navigation areas on adjacent properties within 30-days of the noticing letter.
5. The final approval Notice of Dredging Project Approval shall substantially read:
*A 30-day waiting period is required prior to final approval.
During this period, should the City receive proof of damage to navigational areas on adjacent properties, approval will not be granted until the damage is remedied.*
6. The City reserves the right to require additional depth soundings, at the cost of the permit holder, should concerns be raised regarding damage to an adjacent navigational area.
7. The remaining deposit funds will be returned to the permit holder after the expiration of the 30-day wait period:
 - a) If no concerns or complaints are received by the City, or
 - b) Upon correction of complaints regarding navigational impediments.
8. Final City approval of dredging projects is signified by staff signature recordation on the City inspection record.

14.2.4 DREDGING WITHIN THE BELVEDERE LAGOON

Policy to be determined at a later date.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 14.3 F.E.M.A. REGULATIONS FOR SETBACKS IN THE V.E. FLOOD ZONE		
Adoption Date:	8/12/2013	Adopted by:	City Council Resolution No. 2013-28
Revised Date:	3/11/2019	Revised by:	City Council Resolution No. 2019-04
Authority:	City Council		

14.3.1 FINDINGS

The City of Belvedere participates in the National Flood Insurance Program (NFIP) and is therefore required to follow FEMA flood plain management regulations for development in flood prone areas, and;

Within Belvedere city limits there are both AE and VE flood zone designations, VE being the most restrictive; and

New Construction (NC) in the VE Zone must have the entire footprint of the building located landward of the mean high tide [Code of Federal Regulations (CFR) 60.3(e)(3)] while Substantial Improvement (SI) of an existing building in the VE Zone does not; and

Substantial Improvements (SI) of existing buildings in the VE Zone are defined as projects that cost 50% or more of the pre-improvement market value of the building (CFR Title 44 Section 59.1); and

An SI that increases the footprint and/or number of stories in the VE Zone is allowable pursuant to *FEMA Coastal Construction Manual 5-13*, Figures 2 and 3; and

FEMA does not define how much or what portions of an existing building must remain in order for an SI to not “cross-the-line” and be classified as NC. That classification rests with the local jurisdiction, under the direction of the Flood Plain Administrator; and

The only specific mention of the subject in FEMA literature is found in Unit 8 of the *Flood Plain Administrator’s Training Manual*, Page 8-20. It states:

“Reconstructions are cases where an entire structure is destroyed, damaged, purposefully demolished or razed, and a new structure is built on the old foundation or slab. The term also applies when an existing structure is moved to a new site. Reconstructions are, quite simply, “new construction.” They must be treated as new buildings.”

;and

From the text and illustrations in Unit 8 of the *Flood Plain Administrator's Training Manual*, one can conclude that an entirely new pier and foundation system would be allowable provided a significant portion of the existing structure above the piers was reutilized.

14.3.2 POLICY

- 1. Local Regulation.** Increases to the footprint or height of the SI structure are not regulated by FEMA, but rather by local zoning and design review code requirements. Belvedere need not restrict SI projects in the VE Zone to the original footprint to meet FEMA regulations, but shall regulate these matters through the normal zoning and design review functions of the City.
- 2. Retention of Original Structure.** SI projects shall retain 20-25% of the original structure in their original form/shape. Reuse of existing piers and foundations will count towards this percentage.
- 3. Responsibility of Design Teams.** It shall be incumbent on a project's design team, utilizing their creativity, to propose a reconstruction solution that can clearly be classified as an SI and not as NC by the Floodplain Administrator and potentially a FEMA auditor.
- 4. Building Official/Floodplain Administrator Discretion.** A case-by-case evaluation shall be made by the Building Official/Floodplain Administrator in order to provide the greatest flexibility to Belvedere property owners and their design teams, while still ensuring that the intent of the FEMA regulations are satisfied.
- 5. Determination of Classification.** The Flood Plain Administrator shall be responsible to interpret and apply floodplain regulations and the policies contained in this Resolution. He/she shall evaluate proposals for reconstruction/addition and make a determination as to their final classification as either an SI or NC for FEMA and Flood Plain Management purposes.
- 6. Classification Relative to Mean High Tide.** Notwithstanding Policy No. 5, those projects classified as NC must be entirely located landward of mean high tide. Projects classified as SI may remain and expand in their current location, provided they meet all construction standards for development in a floodplain.
- 7. Recourse When Reuse Not Practicable.** In the case of a reconstruction project in the VE Zone where suitable reuse is not practical and therefore must be classified as NC, the property owner may apply to the City Council for a variance to the FEMA requirements. If the findings required by the FEMA statutes can be made (CFR Title 44, Section 60.6), a variance may be granted to allow NC waterward of mean high tide.
- 8. Variance Findings Incorporated.** The findings required by CFR Title 44, Section 60.6(a)(1-7) are as follows:

“1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

“2. Variances may be issued by a community for new construction and substantial improvements 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, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section;

“3. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;


“4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

“5. A community shall notify the applicant in writing over the signature of a community official that (i) 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 (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section;

“6. A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator;

“7. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.”

9. Hardship Defined. A finding of “hardship” may be made if a property has sustained significant damage or is destroyed as a result of circumstances beyond the control of the property owner (such as flood, fire, etc.), such that 20-25% of the original structure cannot be retained.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 14.4 VIOLATION OF THE CONSTRUCTION TIME LIMIT ORDINANCE		
	Adoption Date: 1/10/2006	Adopted by: City Council Motion	
Revised Date: 6/14/2010 9/9/2013 3/11/2019	Revised by: City Council Motion City Council Resolution No. 2013-32 City Council Resolution No. 2019-04		
Authority: City Council			

14.4.1 **TIMELINE**

The following timeline is drawn from the ordinances contained in the Belvedere Municipal Code. This timeline is to be strictly followed by City Staff as they pursue the administrative remedy of a construction time limit violation.

EXAMPLE OF AN OWNER WHO APPEALS, LOSES & FAILS TO PAY								
EVENT	# DAYS	ACTION TAKEN BY:			EVENT DESCRIPTION	MAIL DELIVERY		
		OWNER	COUNCIL	STAFF		REGULAR	PROOF OF SERVICE	HAND DELIVERY
A				B.O.	PENALTY AMOUNT LETTER MAILED TO OWNER. PAYMENT DEADLINE IS "A" + 60 (BMC 20.04.035E3).		X (BMC 20.04.035E3; 1.14.040)	
B		X			TIMELY APPEAL RECEIVED (ON OR BEFORE "C").			
	B OR B + 1			D.C.C.	SET UP REVIEW COMMITTEE MEETING OF BUILDING OFFICIAL, PLANNING DIRECTOR, CITY ENGINEER AND CITY MANAGER TO MEET WITH PROJECT CONTRACTOR, ARCHITECT, & (AT APPLICANT'S DISCRETION) THE APPLICANT &/OR HIS DESIGNATED REP(S). (BMC 20.04.035E4).			
	B OR B + 1			D.C.C.	SET APPEAL HEARING FOR NEXT AVAILABLE REGULAR CITY COUNCIL MEETING THAT ALLOWS 15 DAY'S NOTICE (BMC 1.14.060B).			

EVENT	# DAYS	ACTION TAKEN BY:			EVENT DESCRIPTION	MAIL DELIVERY		
		OWNER	COUNCIL	STAFF		REGULAR	PROOF OF SERVICE	HAND DELIVERY
	B OR B + 1			D.C.C.	MAIL NOTICE TO OWNER RE: APPEAL ACCEPTANCE; DATE OF REVIEW COMMITTEE MTG; DATE OF PUBLIC HEARING;		X	
C	A + 10 CALENDAR DAYS (BMC 20.04.035E4; 1.04.010C-1).				APPEAL DEADLINE.			
	E - 3/10			D.C.C.	MAIL AGENDA & STAFF REPORT TO OWNER.	X		
D	A + 60 (BMC 20.04.035E3).				PAYMENT DEADLINE GIVEN IN PENALTY AMOUNT LETTER.			
E	DATE DETERMINE D BY "B+1"		X		PUBLIC HEARING ON CTL APPEAL.			
	E + 1			D.C.C.	AGENDIZE ADOPTION OF RESOLUTION GIVING CC. DENIAL OF APPEAL FOR NEXT COUNCIL MTG. CONSENT CALENDAR.			
	F - 3/10			D.C.C.	MAIL AGENDA & STAFF REPORT TO OWNER.	X		
F			X		ADOPTION OF RESOLUTION OF DENIAL AS PART OF THE CONSENT CALENDAR (BMC 1.14.070D; 1.14.080). (THIS IS THE DATE THE PENALTY IS FINALLY IMPOSED, FOR THOSE WHO APPEAL, PER BMC 20.04.035E7 & 1.14.160B). RESO MUST INCLUDE FINDINGS OF FACT (BMC 11.14.070D). IT MAY STATE THAT THE PENALTY IS DUE IN FULL WITHIN 60 DAYS OF THE DATE OF PASSAGE OF THE RESOLUTION (BMC 20.04.035E3) & THAT FAILURE TO PAY BY THAT DATE MAY RESULT IN ADDITIONAL CHARGES FOR INTEREST & ADMINISTRATIVE COSTS AND A LIEN BEING FILED AGAINST THE PROPERTY. (BMC 1.14.160B)			
G	F + 1			D.C.C.	FILE NOTICE OF ASSESSMENT OF ADMINISTRATIVE PENALTIES AND OF INTENTION TO RECORD LIEN AGAINST REAL PROPERTY WITH COUNTY RECORDER (BMC 1.14.160C).			X
G	F + 1			D.C.C.	MAIL NOTICE OF COUNCIL ACTION, COPY OF ADOPTED RESOLUTION, & COPY OF NOTICE OF ASSESSMENT OF ADMIN. PENALTIES TO OWNER. THIS ACTION SETS THE 90-DAY CLOCK TICKING FOR OWNER TO FILE A WRIT OF MANDATE.		X	
G1	F + 60				DATE THE PENALTY DUE IN FULL. INTEREST BEGINS ACCRUING ON ANY UNPAID AMOUNT. (BMC 20.04.035E3, 1.14.160B)			

EVENT	# DAYS	ACTION TAKEN BY:			EVENT DESCRIPTION	MAIL DELIVERY		
		OWNER	COUNCIL	STAFF		REGULAR	PROOF OF SERVICE	HAND DELIVERY
H	G + 90	X			DEADLINE TO FILE TIMELY WRIT OF MANDATE.			
	I - 10+ (BMC 1.14.160G)			D.C.C.	NOTICE OF LIEN HEARING TO OWNER.		X (BMC 1.14.160G & 1.14.040)	
	I - 3/10			D.C.C.	MAIL AGENDA & STAFF REPORT TO OWNER. OFFER TO WAIVE INTEREST & ADMINISTRATIVE COSTS IF THEY PAY PENALTY IN FULL BEFORE THE LIEN HEARING.	X		
I			X		LIEN HEARING. COUNCIL ADOPTS LIEN RESOLUTION SETTING FINAL AMOUNT TO BE LIENED AGAINST PROPERTY.			
	I + 1			D.C.C.	NOTICE OF COUNCIL ACTION MAILED TO OWNER WITH COPY OF LIEN RESOLUTION.		X	
J	I + 30 (BMC 1.14.180A).			D.C.C.	LIEN RESOLUTION TO COUNTY RECORDER WITH COPY TO TAX COLLECTOR FOR PLACEMENT ON PROPERTY TAX ROLLS.			X
K	UNKNOWN	X		C.M.	SOME TIME AFTER LIEN RESOLUTION FILED, OWNER PAYS FINE. CITY MANAGER MAILES TO OWNER NOTICE OF RELEASE OF LIEN. RESPONSIBILITY OF OWNER TO RECORD THE NOTICE.		X	

Timeline examples continued on next page.

EXAMPLE OF AN OWNER WHO DOES NOT APPEAL & WHO FAILS TO PAY

EVENT	# DAYS	ACTION TAKEN BY:			EVENT DESCRIPTION	MAIL DELIVERY		
		OWNER	COUNCIL	STAFF		REGULAR	PROOF OF SERVICE	HAND DELIVERY
A				B.O.	PENALTY AMOUNT LETTER MAILED TO OWNER. (NOTE: THIS IS THE DATE THE PENALTY IS FINALLY IMPOSED, FOR THOSE WHO DO NOT FILE AN APPEAL, FOR PURPOSES OF BMC 1.14.160C & 20.04.035E6.)		X	
B	A + 10 CALENDAR DAYS (BMC 20.04.035E4; 1.04.010C1)	X			APPEAL DEADLINE.			
C	A + 60 (BMC 20.04.035E3)	X			PAYMENT DEADLINE THAT WAS GIVEN IN PENALTY AMOUNT LETTER. (PAYMENT PUT IN ABEYANCE UNTIL AFTER THE CITY COUNCIL APPEAL HEARING.)			
	C + 1			D.C.C.	FILE NOTICE OF ASSESSMENT OF ADMINISTRATIVE PENALTIES AND OF INTENTION TO RECORD LIEN AGAINST REAL PROPERTY WITH COUNTY RECORDER.	X		
	C + 1			D.C.C.	SET DATE FOR LIEN HEARING "D" (NEXT REGULAR COUNCIL MEETING THAT WILL ALLOW AT LEAST 10 DAYS NOTICE TO OWNER - BMC 1.14.160G). PROPOSED LIEN TOTAL INCLUDES: 1) ORIGINAL PENALTY; 2) INTEREST FROM DATES "C" THROUGH "D"; 3) COST FOR STAFF TIME IN PREPARING LIEN HEARING REPORT, 4) COST OF NOTICE OF HEARING.			
	C-1, WHICH MUST BE D - 10+ (BMC 1.14.160G)			D.C.C.	MAIL NOTICE OF LIEN HEARING & COPY OF NOTICE OF INTENT TO FILE LIEN TO OWNER.		X (BMC 1.14.160G & 1.14.040)	
	D - 3/10			D.C.C.	MAIL AGENDA & STAFF REPORT TO OWNER. OFFER TO WAIVE INTEREST & ADMINISTRATIVE COSTS IF THEY PAY PENALTY IN FULL BEFORE THE LIEN HEARING.	X		
D	Date based on "C+1".		X		LIEN HEARING. COUNCIL ADOPTS LIEN RESOLUTION SETTING FINAL AMOUNT TO BE LIENED AGAINST PROPERTY. INCLUDES INTEREST & ADMIN COSTS FOR PERIOD FROM "C" THROUGH "E."			
E	D + 1			D.C.C.	NOTICE OF COUNCIL ACTION MAILED TO OWNER WITH COPY OF LIEN RESOLUTION.		X	
F	D + 30 (BMC 1.14.180A, 1.14.160A).			D.C.C.	LIEN RESOLUTION TO COUNTY RECORDER WITH COPY TO TAX COLLECTOR FOR PLACEMENT ON PROPERTY TAX ROLLS.			X
G	UNKNOWN	X		C.M.	AT SOME POINT AFTER LIEN FILED, OWNER PAYS FINE. CITY MANAGER MAELS TO OWNER NOTICE OF SATISFACTION OF LIEN. RESPONSIBILITY OF OWNER TO RECORD THE NOTICE.		X	

14.4.2 PROJECT FINAL APPROVALS RELATIVE TO THE C.T.L. ORDINANCE

Background

Belvedere Municipal Code (BMC) Section 20.04.035, Time Limits for Construction, provides for a maximum amount of time for completion of a construction project without incurring a penalty. The time varies, based on valuation, and can be either, 6-months, 12-months or 18-months. There are provisions within the Code to provide for time extensions, under certain circumstances, of up to 6-months.

Belvedere experiences a continuous stream of large numbers of construction projects on private property. The Time Limits for Construction Ordinance was developed as a result of the adverse impacts on neighborhoods, as well as the community, that construction projects often create. Besides the visual impact of the construction site, other deleterious effects of construction projects include, creating long-term noise disturbances to neighbors and the loss of on-street parking in the area of the project.

Section 20.04.035, sometimes referred to as the CTL Ordinance, (Construction Time Limit) only applies to projects that have received design review. Even a minor project that has received design review, such as new windows, is subject to the provisions of Section 20.04.035. Penalties for violating the CTL Ordinance can be significant, up to \$200,000.

For reference, Building Department Policy Number 1, Ancillary & Repair Permits, Regarding CTL Ordinance & Final Approval, discusses and defines what kind of projects are not subject to the CTL Ordinance. Building Department Policy Number 4, Minor Serial Permits Subject to the CTL Ordinance, presents the criteria by which all permits issued for a single project are considered to be subject to the CTL Ordinance.

Comments

Building Department Policy Number 7 describes when CTL start time is triggered. A significant problem for staff in enforcing the CTL Ordinance, however, has been, under what circumstances is a project considered completed and the assigned CTL time for a project should no longer apply.

The Building & Planning staffs held a series of meetings for the specific purpose of developing the criteria by which a project was considered complete to the degree that it should no longer be subject to Construction Time Limits. The central focus while developing the criteria was the determination of what elements of a project, once completed, would largely eliminate the negative effects of the project on a neighborhood, and the community. One example of eliminating a negative effect of a construction project is when major concrete elements have been completed, no longer requiring cement trucks and pumpers at the site. Excessive noise, parking and traffic impacts no longer occurs when this activity ceases. Taking this approach in developing the CTL completion criteria harmonizes the Policy with the intention of the Ordinance, thereby achieving a major reduction, or the elimination, of the adverse effects of construction projects.

This Building Department Policy has been reviewed & approved by the City Council. It is also recorded in the City's Administrative Policy manual in Part 14, Building Department Procedures, as City Policy No. 302.06.

Policy

BUILDING INTERIOR ELEMENTS SUBJECT TO CTL FINAL APPROVAL

- All residential dwelling units, including second units & second kitchens, must comply with the latest edition of the International Property Maintenance Code in terms of habitation requirements. (These buildings must have a completed kitchen, including permanent food preparation and preservation equipment, at least one completed bathroom, conforming bedroom & additional habitable room of at least 120 sq. ft.);
- All life/safety features must be installed and functional throughout the building, including smoke detectors, permanent guardrails, permanent handrails, required tempered glazing and exit system components;
- Electrical systems are to be fully completed, including all permanent light fixtures, receptacles and switches being in place. (In lieu of a permanent light fixture an approved cover plate may be installed at the location of the fixture mounting box, except in the case where the light fixture in question provides the code required room lighting.);
- Permanent plumbing fixtures in other than the required bathroom are required to be in place at the time of the landscape final approval; and
- In rooms other than the required kitchen, bathroom, conforming bedroom & 120 sq. ft. habitable room, finish materials including paint, architectural trim, tile, marble, finish wooden floor and carpeting must be completed at the time of landscape final approval.

PROJECT CONSTRUCTION ELEMENTS SUBJECT TO CTL FINAL APPROVAL

- Project main structure, including decks and accessory buildings greater than 50 sq. ft. (These buildings must have all exterior finishes completed, including lighting fixtures, final painting and/or power washing. Accessory buildings include, but are not limited to, detached garages, carports, guesthouses, pool houses, potting, sheds and tool sheds. Exterior finishes of one accessory building less than 50 sq. ft. qualifies as a decorative elements to be completed as part of landscape approval.);
- Accessory structures, including site-built features such as detached decks, patio covers, outdoor fireplaces, hillside elevators, docks, outdoor kitchens, including operable plumbing, electrical and mechanical fixtures;
- Poured in place, thus considered permanent, spas, pools and fountains (Tile and finish surface materials above the water line are considered part of the landscape element.);
- Permanent equipment, including mechanical and auxiliary power systems such as solar photovoltaic and generators, mechanical boat lifts or boat storage equipment;
- Mechanical and plumbing enclosures related to permanent spas, pools and fountains (This relates to typical conditions of approval regarding sound attenuation requirements.);
- All concrete flat work, including patios, driveways and walkways;
- Exterior finish materials on doorway landings, verifying compliance with the latest edition of the California Residential Code, as adopted by the City, relative to floor elevations at the required exit doors and other exterior doors.
- All concrete, masonry or stonewalls greater than 18" in height;
- Entry columns, trellises, arbors and walkway covering;

- Permanent guardrails and all other permanent life safety features;
- All perimeter fencing; and
- Chimney spark arrestors.

PROJECT ELEMENTS CONSIDERED LANDSCAPING AND NOT SUBJECT TO CTL FINAL APPROVAL

- Tile and finish surface materials for spas, pools and fountains at surface areas above the water line;
- Portable, cord connected, spas and fountains;
- Surface finish materials on all cement patios, driveways and walkways;
- Surface finish materials on concrete or masonry walls greater than 18” in height;
- All concrete, masonry or stone walls less than 18” in height;
- Irrigation systems and lighting associated with landscaping;
- External security features, including cabling and cameras; and
- All softscape improvements, including approved plant materials and trees.

CITY REQUIREMENTS AT COMPLETION OF LANDSCAPING ELEMENT

- Removal of porta potties;
- Removal of temporary barriers or fencing; and,
- Removal of all construction & landscaping equipment from the site.
- Reevaluation of building permit

Required signatures for final approval for CTL purposes shall be sequential; a Fire District’s representative shall be first, the Building Inspector’s approval, second and a Planning Department representative’s final approval shall be last. The Planning Department representative’s signature shall determine the completion of the project for CTL purposes.

14.4.3 ESTABLISHING PROJECT START DATE FOR CONSTRUCTION TIME LIMIT

Background

How the date of completion regarding the CTL is determined for a project is a crucial element in the administration of the Ordinance. The current practice for establishing the date of required completion is based on the assumption that construction begins on the date of the permit issuance.

However, a number of issues may occur which could, and often do, interfere with a contractor commencing work on a project at the time of permit issuance. Some examples are unanticipated rains, a delay in a property owner’s ability to vacate an existing residence or contractor mobilization difficulties. Therefore, it is inequitable to expect that construction begin immediately after permit issuance on all occasions.

Comments

A practice of allowing a contractor to request a new start date, for CTL purposes, has been successfully established in that the contractor is required to submit a letter to the Building Official stating that he was unable to start construction at the time of permit issuance and

indicate the proposed starting date. The letter must be received prior to any construction activity and allow enough time for the Building Official, or his representative, to visit the construction site for the purposes of verifying that no construction activity has occurred.

Policy

A contractor may petition in writing for a CTL completion date other than what is stated on the Building Permit due to inactivity immediately after the permit issuance. A new CTL start date will be assigned on the following basis:

1. The request must be made in writing.
2. The request must be received well enough in advance of actual construction so as to allow the Building Official the opportunity to verify that no construction activity has occurred.
3. The Building Official will respond in writing within 15-days of receipt of the request, noting the verification of construction inactivity and assign a new start date. This assumes that no construction activity has occurred.
4. If any evidence of construction activity, such as partial demolition, has occurred the request for a new start date must be denied.
5. Should a new CTL start date be assigned:
 - a. The notification letter is to be attached to the permit;
 - b. The new CTL completion date, based on the new CTL start date, is to be written on the permit, referencing the attached notification letter.
 - c. The completion date is to be revised in the Building Official's Outlook calendar, deleting the old date and recording the new date, for purposes of sending out the CTL Compliance letter.

14.4.4 MID-PROJECT CONSTRUCTION TIME LIMIT ASSIGNMENT

Background

Belvedere Municipal Code (BMC) Section 20.04.035, Time Limits for Construction, provides for a maximum amount of time for completion of a construction project without the imposition of a penalty. The time varies, based on valuation, and can be six months, 12 months, or 18 months. There are provisions within the Code to provide for time extensions, under certain circumstances, of up to six months.

Belvedere experiences a continuous stream of construction projects on private property. The Construction Time Limit Ordinance (Section 20.02.035 BMC) was developed as a result of the adverse impacts on neighborhoods, as well as the community, that construction projects often create. Besides the visual impact of the construction site, other deleterious effects of construction projects include the creation of long-term noise disturbances to neighbors and the loss of on-street parking in the area of the project.

The Construction Time Limit (CTL) Ordinance applies only to projects that have received design review. Even a minor project that has received design review--such as installation of new windows--is subject to the provisions of Section 20.04.035. Penalties for violating the CTL Ordinance can be substantial: up to \$200,000.

For reference, Building Department Procedure No. 008.1, “Ancillary & Repair Permits, Regarding CTL Ordinance & Final Approval” discusses and defines what kind of projects are not subject to the CTL Ordinance. Building Department Procedure No. 008, “Minor Serial Permits Subject to the CTL Ordinance,” presents the criteria by which all permits issued for a single project are considered to be subject to the CTL Ordinance.

Comments

The imposition of a construction time limit is predicated on the project being subject to design review. It follows that if a construction project is not subject to design review, no construction time limit is assigned at the time of building permit issuance. This is not an unusual occurrence, typical examples being kitchen and bathroom remodels.

Often, however, projects which begin as interior work expand to exterior elements of the building. When this occurs, design review of the proposed expanded work is usually required. Sometimes the expanded work is the result of construction defects discovered during the interior work, or the desire of the property owner for a more extensive project. On most occasions, an application for design review is received prior to the expanded work.

At other times, the progression of the construction work to unapproved exterior elements of a building, whether deliberate or accidental, is concealed or a permit application is delayed in order to avoid design review, or the property owner intends to apply for design review at a later date, or believes that the work does not require design review. Unfortunately, staff has also encountered construction projects where a small interior project is proposed and permitted and the applicant later, near the end of the project, deliberately expands the project to the exterior of the building in an effort to "game" the system and escape construction time limit issues. Regardless of the motive or lack thereof, when applicants deliberately or accidentally circumvent design review and the requisite construction time limit, there can be long-term negative neighborhood impacts. In essence, a property owner may conduct work on an extensive construction project without the imposition of a construction time limit until the project is nearly complete.

Based on these scenarios, staff has developed policy criteria for assigning construction time limits to on-going projects which previously were not subject to design review and consequently were not assigned a construction time limit.

Policy/Procedure

UNAPPROVED EXTERIOR WORK SUBJECT TO DESIGN REVIEW--STOP WORK ORDER

When non-approved exterior work, subject to design review, is discovered by staff, a Stop Work Order shall be issued. The Stop Work Order shall apply to the unapproved work exterior work only.

PERMIT ISSUANCE

A new building permit shall be issued only after the on-going project, originally not subject to a construction time limit, has received a design review approval.

1. The purpose of the new building permit is to memorialize the inception of a project construction time limit and the scope of the expanded work.
2. The assigned construction time limit applies to the entire project, including project elements that previously were not subjected to a construction time limit.
3. For purposes of the permit, the valuation shall be for the entire project, including the new exterior element/s which are the subject of the design review approval, and the previously permitted interior work. Permit fees previously paid for the interior work shall be deducted from the new permit fee liability. For accounting purposes, this fee transaction shall be referenced on the new permit.
4. The valuation shown on the new building permit shall establish the length of the assigned construction time limit for the entire project.
5. For the purpose of establishing a Construction Time Limit deadline for the project, the project start date shall be recorded as the date that the initial construction permit was issued.


CONSTRUCTION TIME LIMIT EXTENSIONS

Applicants who have received a construction time limit based on the criteria contained in this policy, and who object to the construction time limit assigned to the project because of insufficient time to complete their project without incurring penalties, are encouraged to make application for an extended construction time limit period through the City's Construction Time Limit Review Committee, as referenced in Municipal Code Section 20.04.035D3.

14.4.5 POLICY REGARDING SUCCESSIVE MINOR CONSTRUCTION ACTIVITY

Building permits which are subject to design review, yet are minor in scope may be issued with independent CTL dates of completion based on the following criteria:

- Building permits that are to be considered under this policy must be minor in scope.
 - For purposes of this policy minor in scope means a maximum valuation of \$25,000 for each permit.
 - No more than three trades may be required in the scope of work of each permit.
- No more than three building permits, which are subject to the CTL Ordinance time for completion requirements, may be issued in a one-year period, based on the date of issuance of the first permit.
- Building permits issued under this Policy may be subject to only administrative design reviews and not Planning Commission approvals in whole or in part.
- In the opinion of the Building Official the issuance of successive building permits under this policy will not create conditions which violate the *Purpose* Section of Ordinance 20.04.035:
 - Long-term adverse noise disturbances to neighbors.
 - Loss of inadequate parking in the immediate vicinity of the project.
 - Frequent road closures.
- Each of the permits under consideration must meet all of the criteria contained in this policy.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 14.5 CONDITIONAL TEMPORARY CERTIFICATES OF OCCUPANCY		
	Adoption Date:	7/11/2005	Adopted by:
Revised Date:	5/11/2009 3/11/2019	Revised by:	City Council Motion City Council Resolution No. 2019-04
Authority:	City Council		

14.5.1 BACKGROUND

The issuance of a conditional temporary certificate of occupancy allows a property owner to move into their newly completed home prior to the completion of the entire construction project once the home has met required health and safety standards as verified by inspection.

The issuance of certificates of occupancy, including a temporary certificate of occupancy, is a ministerial duty.

14.5.2 COMMENTS

Prior to the City Council’s approval for the issuance of temporary certificates of occupancy, the City denied occupancy to newly constructed residences if they were in violation of the City’s Construction Time Limit (CTL) Ordinance (BMC 20.04.035).

This practice created difficulties in the administration of the CTL Ordinance. Since existing dwellings technically retain their certificate of occupancy when a remodel and/or an addition occurs, a homeowner whose project was subject to the CTL Ordinance, but did not involve the construction of a new building, could move into his completed structure--even though it might be in violation of the CTL Ordinance--as soon as it met building code and habitability requirements. A property owner whose project involved the construction of a new structure, and was in violation of the CTL Ordinance, was officially not allowed to move into his new home until the project met all City requirements, excluding landscaping. Since there was no exact description of what those requirements were, the approval for occupancy had the potential to be arbitrary and vary from project to project.

This situation was remedied by revising the language within Subsection 20.04.035E2 of the Municipal Code, which now reads, “New construction shall be deemed completed....upon the issuance by the City of a certificate of occupancy, per City policy. A remodel shall be deemed completed for purposes of this Section upon final building inspection approval.” A Building Department policy was then developed to provide the criteria by which a construction project is deemed complete for purposes of the CTL (see Policy 14.4 of this Manual). This Subsection applies to all projects subject to the CTL Ordinance and provides guidance in itself as to the

conditions required in order to issue a Conditional Temporary Certificate of Occupancy.

The criteria contained in the model Conditional Temporary Certificate of Occupancy was reviewed and approved by the City Attorney as well as the City Council (see Section 14.5.4). The City Council also reviewed the policy criteria for CTL project final approval.

14.5.3 POLICY

Temporary conditional occupancy can be granted for a new structure when it meets the conditions described in Administrative Policy Manual Subsection 14.4.2, Project Final Approvals Relative to the CTL Ordinance"--including all the items listed under Building Interior Elements Subject to CTL Final Approval and Project Construction Elements Subject to CTL Final Approval--and when the property owner has signed the Temporary Certificate of Occupancy document.

The model Conditional Temporary Certificate of Occupancy in the following section includes the basic conditions to be agreed to for all such certificates. However, other conditions can be included that are relative to specific projects, including cash deposits or time related performance requirements regarding remaining components of the project.

14.5.4 MODEL CERTIFICATE



CITY OF BELVEDERE
Conditional Temporary Certificate of
Occupancy
Regarding (address), Belvedere, California


Pursuant to the Belvedere City Policy for the granting of Conditional Temporary Certificates of Occupancy, as approved by the Belvedere City Council and as described in the Belvedere City Administrative Manual, Chapter 63, temporary occupancy is being granted to the property owners of (address), subject to the following conditions. By signature to this document the property owner acknowledges said Conditions and is thereby granted Conditional Temporary Occupancy approval.

The fully executed document constitutes the Certificate.

1. The property owner agrees to fully indemnify and hold the City harmless regarding all matters relative to the subject construction project.
2. Prior to the issuance of a Conditional Temporary Certificate of Occupancy, the Building Department must grant approval of the interior of the residence as described in the Building Interior Elements Subject to Construction Time Limit (CTL) Final Approval Section of the Belvedere City Administrative Manual.
3. The property owner shall certify that they will pay any CTL penalties which they may have incurred within 60-days of the Notice of Penalty.
4. The property owner shall agree to submit a final and accurate accounting of all construction costs, including relevant aspects of the landscaping, at the conclusion of the project for the purpose of permit fee re-evaluation and pay any fees due as the result of a valuation that has increased over what was stated on the building permit/s.
5. Issuance of a Conditional Temporary Certificate of Occupancy does not represent a final *approval* by the Building or Planning Departments of the specific requirements for the project's completion pursuant to any discretionary or ministerial permits. A project is not deemed complete until both the Building & Planning Departments *have determined in writing* that all conditions of approval have been met. Failure to complete the remainder of the project requirements pursuant to any Building Permit and/or Planning Approval in a timely manner *may* constitute a public nuisance under Belvedere Municipal Code Section 8.12.010 (B). Maintenance of a public nuisance may result in the revocation of any discretionary approvals, including but not limited to and Design Review, Variance, Exception to Floor Area, *and/or* Conditional Use Permit approvals. Revocation of a discretionary approval will result in a violation of the Belvedere Municipal Code constituting a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment for each and every day the violation continues.

Property Owner Date

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	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 14.6 PERMIT FEE REVALUATION		
Adoption Date:	6/14/2010	Adopted by:	City Council Motion
Revised Date:	3/11/2019	Revised by:	City Council Resolution No. 2019-04
Authority:	City Council		

14.6.1 BACKGROUND

Section 108.3 of the California Building Code (CBC) provides as follows:

The applicant for a permit shall provide an estimated permit value at the time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

The City of Belvedere requires that, prior to permit issuance, the property owner and architect, or contractor, sign a Acknowledgment of Construction Responsibility Form. (Attachment No. 1) The Form provides a number of basic understandings regarding construction requirements in Belvedere. By signing the Form, the owner and project representatives acknowledge that they have read, understand, and will comply with each of the points listed on the Form. Each item of information describes one of the more relevant aspects of construction regulation in Belvedere, such as the Construction Time Limit Ordinance, conformance to design review approvals, and the potential impact on a project when a Stop Work Order is issued. Item five describes Belvedere’s permit fee revaluation process, which occurs at the conclusion of a construction project.

Because the valuation of virtually all projects in Belvedere increases during the actual construction process, the City requires that the property owner provide the final project costs on a Statement of Total Project Costs for Revaluation Form. (Attachment No. 2) Permit fees are then assessed for the difference between the original permit fees, based on the stated valuation on the permit application, and the final valuation figure. The Revaluation Form notes which aspects of the project costs should be included and which excluded in the determination of the final valuation. If the City holds a damage deposit, any additional fees are deducted from the damage deposit and the difference is refunded to the property owner, unless the fees exceed the deposit amount, in which case the property owner is invoiced for the additional fees. Once the project revaluation process has been completed, including the payment of any fees due to the City, the Building Department Secretary memorializes the final valuation figure by noting the additional valuation figure and final permit fees on a building permit form, which is labeled, “Revaluation Permit.”

14.6.2 COMMENTS

Belvedere instituted the permit fee revaluation process in the early 1990's. Over the years the Belvedere process has been refined in consultation with the City Manager and advice from the City Attorney's Office, resulting in a more uniform and effective process.

Recent changes to the procedures address a construction process that is largely facilitated from the water, and the impact of such a process on a project's valuation. Specifically, the costs for staging and facilitating the construction process from waterside barges can be quite exorbitant. When considering that specialized types of marine vessels are involved, such as tugs and landing craft, as well as the construction delays which will be incurred due to tidal conditions, the resulting costs incurred by a property owner for a marine-facilitated construction project are well beyond typical construction norms.

A property owner who undertakes a construction project and opts to use a marine-based construction process to mitigate the impacts of the project on adjacent neighbors and the community at large should not be penalized through the revaluation process for the costs of those mitigation measures. The property owner, in a sense, is providing a service to neighbors and the community while incurring exceptional personal costs. These costs are beyond what would normally be required to complete the construction project. For this reason, the additional construction costs incurred because of a marine-facilitated construction process should not be included in the over-all construction valuation for the purposes of determining final permit fees. .

14.6.3 BASIC POLICY/PROCEDURE


- All building permits, at the time of final approval, and prior to the return of any construction damage deposit, will be subject to the City's project revaluation and additional permit fee process.
- Additional fees assessed due to increased project valuation include:
 - Plan Review
 - Building Permit
 - Road Impact Fee
 - SMIP (State Seismic Motion Instrumentation Program)
 - State Building Standards Fee
 - Additional ancillary fees, such as plumbing, mechanical and electrical shall only be assessed when the Building Official has determined that ancillary work had been conducted without payment of the appropriate fee or if there has been a clearly discernable increase in the scope of the permitted ancillary work.

14.6.4 POLICY/PROCEDURE FOR MARINE-RELATED COSTS

In the case of projects that incur marine-related costs specifically to mitigate neighborhood and community impacts, the additional construction valuation related to the costs incurred from the use of marine equipment shall not be considered when determining additional permit fees based

on increased project valuation.

- Before a reduction in project revaluation can be considered, a written request for a reduction in project revaluation, based on marine-related costs, shall be made by the property owner or property owner's representative.
- The request for reduction in project revaluation shall include documentation of the marine-related project costs.
- The City shall make the final determination as to the exact amount of marine-related costs that shall be authorized as a deduction from the final valuation costs.
- Once the final determination for revaluation deduction is made, the additional fees noted above shall be calculated on the new revaluation for the project.
- Projects that incur marine-related costs because using waterborne craft or equipment provides the most cost effective method of construction shall not be entitled to a revaluation reduction of those marine-related costs. An example would be using a barged crane to facilitate an element of construction because a land-based crane could not access the site or would be more expensive. The final determination as to what is or is not authorized as a marine-related reduction for revaluation purposes shall be made by the City.

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL POLICY 14.7 ADMINISTRATION OF SUBSTANTIAL IMPROVEMENT REQUIREMENT FOR PROJECTS WITHIN DESIGNATED FLOODPLAINS		
	Adoption Date:	3/8/2021	Adopted by:
Revised Date:	-	Revised by:	-
Authority:	City Council		

14.7.1 BACKGROUND

We intend the following Administrative Policies to help ensure the consistent and predictable application of floodplain regulations to projects within the City’s flood zones. No one policy shall be dispositive. For example, if a project is not subject to floodplain regulations under one policy or Municipal Code section, it may still be subject to such regulations pursuant to another policy or Municipal Code section.

The Federal Emergency Management Agency (“FEMA”) has designated two floodplain areas in Belvedere, which are the AE and VE Zones. Projects in these Zones are subject to the Floodplain Management Code sections in the Belvedere Municipal Code, Chapter 16.20, and applicable FEMA regulations.

Pursuant to Chapter 16.20, any construction project that constitutes a “substantial improvement” is required to be elevated a minimum of 1 foot above Base Flood Elevation (“BFE”), with minor differences between the separate zones. Municipal Code, section 16.20.040 provides that a “substantial improvement” is any project where the cost equals or exceeds 50% of the market value of the structure prior to the start of construction. Municipal Code section 16.20.035(AK) further provides that “market value” is the appraised valuation for the property minus the land value as determined by an appraiser.

To assist in establishing whether a project constitutes a substantial improvement subject to Floodplain regulations, an applicant submits with the Design Review application an estimate of construction costs and an appraisal of the structure. If the Floodplain Administrator calculates that the cost of the project equals or exceeds 50% of the structure’s appraised value, then the project is a substantial improvement and must be elevated pursuant to Floodplain rules.

However, there have been questions raised regarding the accuracy of some structure appraisals and project cost estimates. If an applicant wishes to avoid raising the structure pursuant to Floodplain requirements, there is an incentive to overvalue the structure and undervalue the estimated cost of construction. For example, if the appraised value of the structure appears high, and/or the cost of construction appears low, the cost of construction will be less likely to meet the 50% threshold required for a substantial improvement, thereby avoiding Floodplain

regulations.

The intent of the following policies is to provide tools for the Floodplain Administrator to make the “substantial improvement” determination by confirming the accuracy of both the appraised value of a structure and the estimated costs of construction. These tools will help provide consistent and predictable determinations for whether a project constitutes a substantial improvement and must be raised per Floodplain regulations.

If the Floodplain Administrator determines that a project constitutes a substantial improvement subject to floodplain regulations, then the Floodplain Administrator shall inform the Planning Commission of this determination in writing at the time the project is reviewed by the Planning Commission. This determination will advise the Planning Commission’s review of the project.

14.7.2 COMMENTS

1. Demolition In Flood Zone Presumptively Substantial Improvement Subject to Floodplain Regulations

This Administrative Policy provides that any project located in a designated flood zone that meets the definition of a demolition in BMC section 19.08.136, determined at the time of building permit issuance, is presumptively a substantial improvement subject to Floodplain regulations, unless the individual facts and circumstances of the project indicate otherwise. BMC section 19.08.136, defines demolition as:

19.08.136 Demolition. “Demolition,” for the purposes of this Title and Title 20, means the razing of a building, removal of a dwelling unit, or the removal of more than fifty percent of the total exterior wall and roof area from the grade up, including all exterior openings. Removing a residential second unit or converting a duplex into a single unit is considered a demolition. The following activities shall not be considered to be demolitions within the meaning of this definition: a retrofit (see Section 19.08.458); maintenance, repair and/or replacement of exterior surfaces, so long as the materials are consistent with the requirements of Section 20.04.140 “Materials and colors used;” and other maintenance efforts deemed by the Building and Planning Departments to be minor in nature and scope. It is the intent of this definition to ensure that all alterations to existing structures that are part of a major project for the remodel, alteration, construction, or repair of a home or accessory structure are reviewed by the City through a Design Review process, pursuant to Title 20 of the Belvedere Municipal Code.

A substantial improvement is a project where the cost of a project equals or exceeds 50% of the value of the structure prior to construction. In most cases, the cost of construction to replace a demolition – which is defined as including the removal of more than 50% of exterior wall and roof areas – will exceed 50% of the structure’s value, thereby qualifying as a substantial improvement. However, the Administrative Policy provides that the Floodplain Administrator retains discretion to determine, based on the unique facts of the particular case, that a demolition does not constitute a substantial improvement.

2. Preferred Appraisal Method and Independent Third Party Appraisals and Evaluations

The City finds that in most circumstances, the “Actual Cash Value” appraisal method, which is accepted by FEMA, is accurate and should be used. The Actual Cash Value appraisal method evaluates the cost to replace a structure on the same parcel with a new structure of like-kind and quality, minus depreciation due to age and use.

The Administrative Policy provides that initial appraisals submitted with building permit applications shall use the Actual Cash Value approach, unless the Floodplain Administrator in his/her discretion determines otherwise, based on the particular property.

The Administrative Policy also allows the City to hire an independent licensed appraiser to evaluate the appraisal submitted by an applicant, and/or perform an independent appraisal of a structure. All costs for any such appraisal and/or analysis shall be paid by the applicant. The third-party appraiser shall use the Actual Cash Value appraisal methodology unless otherwise determined by the Floodplain Administrator based on the particular property.

3. Standardized Per Square-Foot Cost Estimate

Establishing an accurate project cost estimate is an important component in determining whether a project constitutes a substantial improvement.

An applicant submits an estimated project cost with a building permit application. In most cases an applicant’s project cost estimate is a rough estimate by the architect, designer, and/or property owner. These estimates may be inaccurate because a contractor has not been selected, final “build” drawings have not been prepared, or other reasons. If estimate project costs increase after issuance of a building permit, the project may trigger the 50% threshold for substantial improvement, compelling the City to rescind project approvals, require modification of the project, or require the home to be raised pursuant to Floodplain regulations.

To avoid this outcome, and to provide predictable and accurate project cost estimates, the Administrative Policy provides that the Floodplain Administrator may compare the applicant’s estimated project costs with an estimated project cost using a standardized cost per square foot set forth in the latest version of the Craftsman National Building Cost Manual (the “NBCM”). The NBCM provides a national and statewide average per square foot valuation for construction within specific regions of all 50 states, including the Bay Area, and considers the size and configuration of the home, as well as the type of construction.

For example, the most common type of home built in Belvedere’s Floodplain qualifies as luxury construction. The NBCM provides a cost per square foot of construction as \$388.89 for luxury construction in the Bay Area with a local area multiplier of 27%. For a 2,600 square foot home, staff would initially multiply the square footage of the project by the cost per square foot, \$388.89. This totals \$1,011,114.00. That total would then be adjusted with the local area modifier of 27%. This totals \$1,284,114.78. Therefore, the total cost of construction for this project would be \$1,284,114.78, or \$493.89 per square foot.

Additionally, for projects consisting of remodels, staff has developed a scope of work valuation worksheet to evaluate and document the valuation of the proposed construction. Staff would utilize a percentage of the square foot valuation provided above for areas of the proposed remodel, with a higher percentage being given to areas commonly known to have higher construction costs, such as kitchens and bathroom, as well as, areas with more extensive construction.

If the NBCM project cost estimate is greater than the project cost estimate submitted by the applicant, the NBCM cost estimate shall be used in the substantial improvement analysis. The Floodplain Administrator has the discretion to use the applicant's project cost estimate if appropriate based on facts and circumstances of a particular project.

4. Time Period of Inactivity Between Construction Projects

FEMA regulations prohibit the “phasing” of construction projects. Phasing construction projects is defined as separating a large construction/remodel project into multiple smaller projects to keep the total project valuation under the Substantial Improvement threshold.

In order to address this issue, this policy requires a minimum of one year of construction inactivity between projects. The one-year timeframe will begin at the finalization of the initial building permit. Any subsequent building permits will not be issued until a minimum of one year following a building permit final. Should a building permit need to be issued during the time of required inactivity, the valuation of the initial building permit and any other building permit issued during that time, will be added together for the purposes of making a Substantial Improvement designation.

Additionally, during the time of construction inactivity, the site and structure must be safe and habitable, as determined by the Building and Planning Departments. The structure and/or site shall appear finished and shall not appear incomplete or unfinished in any way during the time of required inactivity between projects. A complete or finished appearance may require the installation of site improvements, landscaping, or other features required by the Planning and Building Departments.

14.7.3 POLICY/PROCEDURE

1. A Demolition in Flood Zone Presumed Substantial Improvement for Floodplain Regulation Purposes.

If a project located in a designated floodplain constitutes a “demolition” as defined in Belvedere Municipal Code chapter 19.08, determined at the time of building permit issuance, then the project presumptively will be considered a substantial improvement pursuant to Belvedere Municipal Code chapter 16.20 and as such, must comply with all applicable Floodplain regulations. In his or her discretion, based on unusual facts or circumstances, the Floodplain Administrator may determine a demolition is not a substantial improvement and is not required to satisfy Floodplain regulations.

2. Use of Independent Licensed Appraisers and Preferred Appraisal Method

The Actual Cash Value appraisal method evaluates the cost to replace a structure on the same parcel with a new structure of like-kind and quality, minus depreciation due to age, use, and neglect. The Actual Cash Value appraisal method is accepted by FEMA.

The initial appraisal submitted with a Design Review application shall use the Actual Cash Value approach, unless otherwise agreed to by the Floodplain Administrator based on the facts and circumstances of the particular property. All submitted appraisals shall use FEMA approved appraisal methodologies. Currently, FEMA approved appraisal methodologies can be found at <https://www.fema.gov/media-library-data/20130726-1535-20490-4788/unit8.pdf>

Additionally, in its discretion, the City may hire an independent licensed appraiser to evaluate any appraisals submitted by an applicant, and/or perform an independent appraisal of a structure's fair market value. The applicant shall pay all costs of such evaluations and/or appraisals. Appraisals and appraisal evaluations shall use the Actual Cash Value appraisal methodology, unless otherwise directed by the Floodplain Administrator based on the facts and circumstances of the particular property.

3. Standardized Per Square-Foot Cost Estimate

In his or her discretion, the Floodplain Administrator may analyze the accuracy of an applicant's estimated project cost by comparison with the standardized project cost per square foot construction established in the latest version of the Craftsman National Building Cost Manual (the "NBCM"). If the NBCM project cost estimate is greater than the project cost estimate submitted by the applicant, the NBCM cost estimate shall be used in the substantial improvement analysis. Notwithstanding anything to the contrary in this section, the Floodplain Administrator may use the applicant's project cost estimate if appropriate based on the facts and circumstances of the particular project.

4. Time Period of Construction Inactivity Between Projects

Unless there is a period of at least 12 months of construction inactivity between the finalization of an initial building permit and the issuance of subsequent building permits, the value of such projects will be added together for purposes of making a Substantial Improvement determination. During this time of construction inactivity, the site and structure must be safe and habitable as determined by the Planning and Building Departments. Each project must receive final inspection approval from the City. The structure/site must appear in finished form and shall not appear incomplete in any way during the time of inactivity between projects. This may require the installation of site improvements, landscaping, or other features required by the Planning Department.