

CHAPTER 23.08

DESIGN REVIEW

23.08.010 Purpose.

A. It is the purpose of this Chapter to achieve and protect a residential, seaside community which is both beautiful and pleasant in character, by fostering and encouraging good design which encompasses the use of harmonious materials and colors, compatible proportional relationships and appropriate use of landscaping, and to protect the citizens of the City of del Mar by providing a design review process as hereinafter described. As a means to implement the Del Mar Community Plan intended to preserve and improve the City of del Mar as a beautiful, pleasant, residential community in which to live, work, shop, and pursue leisure time activities, and in order to protect the property values, natural environment, primary scenic views and the aesthetic quality of the community, this Chapter is to be applied in furtherance of the health, safety, and general welfare of the City. [Ord. 465, 849]

B. The Design Review Board shall fully consider the beneficial design impacts of a proposed project before analyzing the project for impacts that may violate the regulations of this Chapter.

23.08.020 Prohibitions.

A. It shall be unlawful for any person to construct, relocate, alter, remodel or otherwise modify the exterior of any structure, without first having obtained a Design Review Permit, when such activity is required by this Chapter to have a Design Review Permit.

B. No building permit or other development permits shall be issued relating to a structure for which a Design Review Permit is required until the Design Review Permit is obtained.

23.08.030 General Scope of Requirement. A Design Review Permit shall be required for the construction, relocation, alteration, remodeling or other modification of the exterior of all structures, whether public or private, except as follows:

A. Except as provided in Subsection B or C below, no Design Review Permit is required for the repair, restoration or reconstruction of a structure where such work maintains the outer dimensions and surface relationships of the existing structure. [Ord. 784]

B. For projects located within the CC, NC, BC, VC, PC, or RC zones, or within the BSC, Open Space, and Historical Preservation Overlay zones, no Design Review Permit shall be required for the repair, restoration or reconstruction of a structure where such work maintains the outer dimensions and surface relationships of the existing structure, unless such work will involve a modification of the exterior design features of the existing structure or involve a change in the exterior materials or colors in existence on such structure. "Modifications of the exterior design features" as used herein, includes, but is not limited to, the addition, deletion or modification of windows, doors, overhangs and chimneys. [Ord. 565]

C. For projects involving the installation of doors, windows or other transparent surfaces on portions of the outer surface of an existing structure where such doors, windows or other transparent surfaces do not currently exist, a Design Review Permit shall be obtained.

1. The requirement for receipt of a Design Review Permit shall not apply for the replacement of doors, windows or other transparent surfaces that currently exist, provided the surface area of the replacement door window or other transparent surface does not exceed the size of the door window or other transparent surface to be replaced by a factor of more than 10% and/or the replacement door window or other transparent surface is located on the same building plane and within three (3) feet of the location of the

door, window or other transparent surface to be replaced. [Ord. 784]

23.08.031 [Ord. 789 expired August 10, 2008]

23.08.035 Administrative Design Review.

A. An applicant for a project involving the construction, alteration, or remodeling of the exterior of a structure which requires a Design Review Permit may apply for an Administrative Design Review Permit in accordance with this section, so long as:
[Ord. 716]

1. The proposed project involves only a pool, spa or fence; or

2. The proposed project involves the modification of an existing structure and the outer vertical dimensions of such structure will not be extended or retracted by more than three feet in any lateral direction or involve an increase in height; or

3. The proposed project involves the installation of a skylight which measures not more than four feet in width or length and for which all proposed mechanized operating equipment is located on the interior of the structure on which the skylight is to be installed; or

4. The proposed project involves solely the installation of solar water-heating or solar air-heating equipment, with such equipment installed either on and extending no more than 30 inches above grade; or on an existing roof so as to be generally flush to, but in no event more than five inches above, the level of the roof to which it is mounted; or
[Ord. 740]

5. The proposed project involves the construction or installation of an accessory structure which measures not more than 48 square feet in area and not more than six feet in height and which meets all required setbacks pursuant to the provisions of Title 30, the Zoning Code.

B. Notice of the filing of an application for an Administrative Design Review Permit shall be mailed to persons owning property within 300 feet of the project site and posted on the property. The mailed notice of application shall advise persons that plans are available for public review at City Hall and that the application will be administratively approved unless a written objection is received by the Planning Department on or before a date specified in the notice which shall be ten (10) working days after the date of mailing.

C. If no timely written objection is filed, the application shall be administratively approved by the Planning Director if it is deemed to be consistent with the provisions of the Del Mar Municipal Code.

D. If a timely written objection is filed, the application shall no longer be administratively processed and shall instead be processed in accordance with the other sections of this Chapter. [Ord. 565]

23.08.040 Definitions.

A. For purposes of this Chapter, a conclusion that a proposed design element is "unreasonable," must be supported by findings of fact regarding:

1. The extent to which the contested design element adversely impacts upon the purposes for which this Chapter is adopted.

2. Whether the project requires the inclusion of the contested design element in order for the project to be useable by the applicant.

3. Whether the project requires the inclusion of the contested design element in order to produce a project that is similar in quality to development in the neighborhood.

4. The availability of one or more alternatives to the contested design element that will produce a project that is useable by the applicant and similar in quality to development in the neighborhood.

B. For purposes of this Chapter, "primary scenic view" means a view of the ocean, the community, lagoons, canyons or other scenic vistas from the primary living area of a residence.

C. For purposes of this Chapter, primary living area shall mean that portion of a residence determined by the Design Review Board, or City Council on appeal, to be the main gathering and entertainment room used by residents and guests at the residence. [Ord. 784]

1. Each residence shall be limited to the designation of only one (1) primary living area.

2. Unless otherwise determined by the DRB, or City Council on appeal, the primary living area of a residence is that portion of the residence that is most often used by the occupants and their guests for gatherings and entertainment, consisting of the residence's living room, dining room or great room.

3. Under rare and extraordinary circumstances, the DRB, or City Council on appeal, may determine that another area of a residence is the primary living area when it has been demonstrated that due to extenuating circumstances, the occupants of the residence must use another portion of the residence, rather than its living room, dining room or great room, as the residence's main gathering and entertainment area.

4. In no case shall a bathroom, storage room, stairwell or hallway be designated as a primary living area.

D. For purposes of this Chapter, "bulk" and "mass" shall mean the appearance of volume given by the outer, visible envelope of a structure as viewed from surrounding public or private properties, this appearance generally attributable to the size of the structure and/or its architectural features. [Ord. 647, Sec.1]

23.08.050 [Repealed, Ord. 518]

23.08.060 Procedure.

A. The owner, or the owner's authorized agent, of the real property on which the construction activity is proposed, shall make application for a Design Review Permit to the Department of Planning and Community Development on a form approved by the City. To be received, that application must be accompanied by a filing fee in an amount set, from time to time, by resolution of the City Council together with whatever additional plans and information the Planning Department deems necessary to accomplish the purposes of this Chapter.

B. When the application has been received and deemed complete, the Department of Planning and Community development shall prepare a staff report and place the matter on the agenda of the next available meeting of the Design Review Board in accordance with the Board's adopted Policy Manual. Notice of the consideration of the matter shall be made as follows:

1. Posting of a notice at City Hall and on the project site at least ten calendar days prior to the matter being first considered.

2. Publishing a notice in the "Del Mar Surfcomber" or a newspaper of general circulation at least one week prior to the matter being first considered.

3. The mailing of a notice to all owners of property within a 300' radius of the exterior boundaries of the subject property at least ten calendar days preceding the hearing prior to the matter being first considered.

C. At the discretion of the Director, the matter shall either be set as a public hearing or be placed on the Consent Calendar of the agenda. If the matter is placed on the Consent Calendar and not removed there from, then by the adoption of the Consent Calendar, the matter shall be acted upon as recommended in the staff report. If the matter is removed from the Consent Calendar, it shall be continued to a date certain for the purpose of conducting a public hearing.

D. A matter shall be removed from the Consent Calendar at the request of any member of the Design

Review Board, public or staff, either by submission of a written request delivered to the City Clerk at least seven (7) days prior to the Design Review Board's initial consideration of the matter or by oral request made at the first consideration of the matter. At any time, the requesting party may withdraw the request to conduct a public hearing.

E. The Design review Board may, by majority vote, approve, disapprove in accordance with the provisions of this Chapter, conditionally approve or continue the application.

23.08.065 Citizens' Participation Program - Purpose.

A. The purpose of the Citizens' Participation Program is to ensure that applicants for projects requiring the receipt of a Design Review Permit conduct efforts to notify potentially affected parties of proposed developments early in the design phase of a project. The Citizens' Participation Program is also intended to give the applicants and their agents the opportunity to understand and respond to concerns raised about the project's potential impacts on the community. [Ord. 849]

B. The Citizens' Participation Program is not intended to produce complete consensus on all applications but to facilitate dialogue among applicants and neighbors early in the development review process.

23.08.066 Projects Requiring Implementation of a Citizens' Participation Program.

A. The requirement to implement a Citizens' Participation Program, as regulated in this chapter, shall apply to those applications for Design Review Permits that involve one or more of the following:

1. Any new detached structure that would contain more than 500 square feet of bulk floor, as bulk floor area is measured pursuant to the DMMC; or

2. Any addition of a second-story element to a one-story structure; or

3. Any project that, in the determination of the Planning Director, working in consultation with the Chairperson of the Design Review Board, holds the potential to cause adverse impacts on the surrounding neighborhood and therefore, warrants the implementation of a Citizens' Participation Program.

B. In order for an application for a Design Review Permit to be deemed complete and eligible for inclusion on a noticed agenda of the Design Review Board, the applicant shall submit evidence to the Director of Planning and Community Development that a Citizens' Participation Program has been implemented, where required and as regulated by this Chapter.

23.08.067 Required Components of a Citizens' Participation Program.

A. Implementation of a Citizens' Participation Program shall include all of the following steps:

1. A notice package shall be mailed to the parties on a distribution list consisting of: the owners of properties located within 300 feet of the project site; residents of properties located within 300 feet of the project site; and any persons who have submitted a written request to the City that they be given notice about development proposals at the project site. The notice package shall include a description of the project and a copy of the [most recent] preliminary plans for the project.

2. A letter shall be mailed to the parties on the distribution list inviting them to a meeting with the project applicant and/or their representatives to present and discuss the development proposal. The invitation shall include a convenient meeting time and location. The applicant shall have the flexibility to coordinate the required meeting either as a single meeting with all of the parties on the distribution list, or as a series of meetings with smaller groups from the distribution list.

B. The requirements for notice of a Citizens' Participation Program are separate and distinct from the noticing requirements for provision of notice of

a Design Review Board hearing, as required in this Chapter.

23.08.068 Submittal of Report Documenting Implementation of a Citizens' Participation Program.

A. Following implementation of the Citizens' Participation Program, the applicant or applicant's agent shall submit a written report to the Director of Planning and Community Development documenting the steps taken to implement, and the results of, the Citizens' Participation Program. The report required herein shall include all of the following information:

1. The distribution list for the notice package;

2. The dates and content of the notice package sent to neighbors and other parties as required by this section;

3. The dates and locations of all meetings to which interested parties were invited to discuss the development proposal;

4. The content, dates mailed, and number of mailings, including letters, meeting notices, newsletters and other writings distributed by the applicant or his/her representatives as part of the Citizens' Participation Program;

5. A list of the parties who attended meetings or otherwise participated in the Citizens' Participation Program;

6. A list of the comments raised at the Citizen Participation Program meeting(s), along with any correspondence received as part of the Citizens' Participation Program; and

7. An explanation as to how the project was modified as a result of those comments from the Citizens' Participation meeting(s), or if not, the rationale thereof.

23.08.070 Design Regulations. An application shall be approved unless the Design Review Board makes

findings of fact based upon the information presented during the hearing that support one or more of the regulatory conclusions contained in this Chapter.

23.08.072 Regulatory Conclusions - Generally.

A. The design is inconsistent with the Community Plan, General Plan, or Zoning Ordinance, including the Design Review standards contained within the Zoning Chapter of the underlying zone. [Ord. 637]

B. The design will create a private or public nuisance.

C. The design will adversely affect the health or safety of the neighborhood.

D. The design will create an unreasonable invasion of the privacy of neighboring properties.

E. The design will cause the surrounding neighborhood to depreciate materially in appearance or value.

F. The design will discourage occupancy, investment or orderly development in the neighborhood.

G. The proposed development fails to comply with a lawful requirement to accommodate individuals with physical disabilities, either by provision of handicap parking stalls, ramps, or the like.

H. The proposed development fails to site separate structures so as to avoid crowding.

I. The proposed development does not functionally use open space between separate structures.

J. The proposed development locates structures so as to unreasonably, adversely impact upon outdoor areas on adjacent properties.

23.08.074 Regulatory Conclusions - Traffic, Parking and Pedestrian Circulation.

A. The vehicular or pedestrian circulation, including walkways, interior drives and parking,

access points to the public streets, widths of interior drives, general circulation, separation of vehicular traffic, or arrangement of parking areas, is not safe; is not as convenient as reasonably practicable; detracts from the design of the proposed structure; or adversely impacts neighboring property.

B. The design's traffic ingress, egress or internal traffic circulation will have an adverse effect on traffic conditions on abutting streets.

C. The design will create traffic hazards due to congestion, distraction of motorists or unsatisfactory access and egress.

D. The design will interfere with public access, rights-of-way or a public easement.

E. The design does not provide ingress/egress or maneuver area for emergency vehicles.

F. The circulation systems will cause conflicts among vehicular, bicycle, or pedestrian traffic.

G. The proposed development provides inadequate site distances for motorists and pedestrians entering or exiting the property.

H. The proposed development interferes with off-site circulation safety or efficiency.

23.08.076 Regulatory Conclusions - Topography and Landscaping.

A. The natural state topography or landscaping is not being preserved insofar as practical, by minimizing tree and soil removal.

B. The proposed grading or vegetation changes will unreasonably, adversely impact upon neighboring, developed areas.

C. The proposed development does not minimize the disruption of existing natural features such as trees and other vegetation, natural ground forms, and view.

D. The proposed development fails to blend the proposed grading with the contours of adjacent properties.

E. The proposed development fails to ensure that all on-site drainage patterns will occur on or through the areas designed to serve this function.

F. The proposed development unreasonably disrupts the existing natural topography or vegetation.

G. The proposed development fails to provide the sizing of landscape materials so that a mature appearance will be attained within a reasonable period of time following installation.

H. The proposed development fails to provide landscaping to minimize and disrupt the expansive appearance of parking lots or other large paved areas.

I. The proposed development fails to utilize landscaping to effectively compliment building elevations and soften the appearance of structures.
[Ord. 637]

J. The proposed development uses landscaping which is not well suited to Del Mar's climate without the use of extensive irrigation.

K. The proposed development fails to minimize hardscape surfaces and limit excessive paving.
[Ord. 637]

23.08.077 Regulatory Conclusions - Relationship to Neighborhood.

A. The design unreasonably blocks significant public coastal views.

B. The design detracts from the natural beauty of the coastal area.

C. The design is out of scale with other structures in the neighborhood.

D. The design is not harmonious with or is functionally incompatible with the surrounding

neighbor-hood in one or more of the following respects:

1. Color scheme
2. Structural siting on the lot
3. Existing improvements or natural elements in the area
4. Architectural features and ornaments
5. Type and quality of material
6. Existing and proposed open spaces areas

E. The component elements of the design are not in proportion to one another.

F. The design would adversely affect the lighting or noise quality of the local neighborhood.

G. The proposed development unreasonably fails to screen from the view from neighboring properties and public places, unattractive features such as storage areas, trash enclosures, transformers, service yards, loading docks and ramps, utility buildings, or other design elements of the project which adversely impact upon the visual quality of the neighborhood; by failing to use setbacks, landscaping, fencing, siting or structures.

H. The proposed development unreasonably encroaches upon primary scenic views of neighboring property.

I. The proposed development fails to minimize noise created by the proposed project (traffic, air conditioning, use, etc.) that may negatively impact the proposed project.

J. The proposed development fails to minimize noise from the surrounding area that may negatively impact the proposed project.

K. The exterior lighting is not functional, subtle or architecturally integrated with the building's style, materials, or colors.

L. The proposed development fails to avoid similar or identical building facades on the same or adjacent parcels. [Ord. 637]

23.08.078 Regulatory Conclusions - Building Design.

A. The proposed development fails to coordinate the components of exterior building design on all elevations with regard to color, materials, architectural form and detailing to achieve design harmony and continuity.

B. The proposed development fails to limit the number of materials on the exterior face of the building resulting in inharmonious design and lack of continuity.

C. The proposed development fails to minimize roof penetrations by grouping all plumbing vents and ducting and mechanical equipment together.

D. The proposed development fails to design and/or screen all rooftop mechanical and electrical equipment as an integral part of the building design.

E. The proposed development fails to limit the amount of design components which unnecessarily add bulk and mass to the building but which are not calculated as floor area ratio (FAR) pursuant to DMMC Title 30, the Zone Code. [Ord. 647, Sec.2]

23.08.079 Regulatory Conclusions - Signs.

A. The proposed signage fails to relate to its surroundings in terms of size, shape, color, texture, and lighting so that it is not complimentary to the overall design of the building and is not visually compatible with other approved conforming signs in the neighborhood.

B. The proposed signage fails to convey its message legibly and clearly.

C. The proposed signage is not weather resistant and vandal-resistant.

D. The proposed freestanding sign fails to provide external lighting which is screened from direct view and/or which does not impact upon adjacent properties, motorists or pedestrians.

E. The proposed freestanding sign fails to utilize plant materials effectively to integrate the sign with the ground plane and screen out low level flood lighting.

F. The profile of the proposed freestanding sign is unreasonably high.

G. The proposed signage used struts, braces, or guy wires to support said signage.

23.08.080 Satellite Antennas.

A. It shall be unlawful for any person to erect or maintain an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit without first having obtained the approval of the Design Review Board.

B. The proposed antenna shall be approved so long as the location, size, design and operating characteristics of the satellite antenna are compatible with and do not adversely affect, in a material manner, adjacent uses, residences, structures or natural resources, with consideration given to, among other things, the following:

1. The effect upon the character of the neighborhood;

2. The effect upon views from public and private vantage points;

3. The effect upon environmental quality or natural resources; and

4. Any other relevant impact of the proposed use on the surrounding area.

C. Satellite antennas shall be located, designed and screened so as to cause the least visual impact on

views from surrounding properties and from public areas.

D. Satellite antennas may be erected on the ground in setbacks if no danger to public health, safety or welfare exists.

E. No more than one satellite antenna shall be permitted on a lot.

F. Notwithstanding the above, the regulations of this Section shall not be administered so as to:

1. Prevent reception of satellite delivered signals from major communications satellites that, when viewed in a conventional television set, are at least equal in picture quality to those received from local commercial television stations; or

2. Impose costs on the potential user of the antenna that are excessive in light of the purchase and installation costs of the equipment.

G. If an applicant claims that an imposed regulation violates one or both of the provisions of Section F, the applicant shall deposit with the City a sum determined by the Director of Planning and Community development to obtain an expert evaluation and opinion. Any unused portion of the deposit shall be refunded to the applicant upon a final determination on the application.

23.08.090 Guidelines. By resolution, passed from time to time, the Design Review Board may announce design guidelines, which, though not binding, are intended to provide guidance to applicants.

23.08.100 Imposition of Conditions.

A. The Design Review Board, or City Council on appeal, shall have the authority to impose such conditions and safeguards as it deems necessary to protect and enhance the health, safety, and welfare of the surrounding area, and to insure that the proposed project for which design review approval is sought, fully meets the criteria as set forth in this Chapter.

B. No Design Review Permit shall require a condition which is not reasonably related to the project for which the Design Review Permit is requested.

23.08.110 Expiration. Three years from the date of final approval of a Design Review Permit, the Permit will expire, unless a building permit has been issued and substantial construction has been accomplished in reliance upon the Design Review Permit. [Ord. 641, Ord. 757]

23.08.120 [This Section has been repealed.]
[Ord. 641]

23.08.130 [This Section has been repealed.]
[Ord. 641]

23.08.140 [This Section has been repealed.]
[Ord. 619]

23.08.150 Posting of Performance Bonds. Whenever a Design Review Permit is granted upon any condition or limitation, the person seeking the Design Review Permit may be required to furnish security in the form of money or surety bond in an amount sufficient to insure compliance with the conditions and limitations upon which such Design Review Permit is granted. Every such bond shall be in a form satisfactory to the Department of Planning and Community Development, shall be payable to the City, and shall be conditioned upon compliance with the conditions and limitations upon which the Design Review Permit is granted.

23.08.160 Reapplications. At least one year shall have elapsed since the effective date of disapproval of the application or revocation of a Design Review Permit before filing a new application seeking substantially the same Design Review Permit for any of the same property.

23.08.170 Covenant. At the discretion of the Director of Planning and Community Development, to accomplish the purposes of this Chapter, the Design Review Permit may be issued in the form of a covenant to be signed by the permittee and recorded with the County Recorder.