

City of Benicia

Chapter 2.56 HISTORIC PRESERVATION REVIEW COMMISSION

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2.56.010 Purpose.

The purpose of the historic preservation review commission is to identify, register, designate, preserve, protect, enhance and perpetuate those historic structures, districts and neighborhoods which contribute to the cultural and aesthetic heritage of Benicia; to foster civic pride in the beauty and accomplishments of the past; to stabilize and improve the economic value of certain historic structures, districts and neighborhoods; to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used; to conduct design review in historic overlay (H) districts as provided for in Chapter [17.108](#) BMC; and to advise and assist the city council in implementing the goals, policies and programs set forth in the city's general plan relating to preservation and enhancement of the city's historic character and protection of the city's archeological sites and resources. (Ord. 05-01 § 1; Ord. 01-3).

2.56.020 Established – Membership.

A historic preservation review commission is established in the city. The commission consists of seven voting members, each of whom is appointed by the mayor and confirmed by the city council. (Ord. 05-01 § 1; Ord. 01-3).

2.56.030 Members – Qualification.

A. Each member of the historic preservation review commission shall be a Benicia resident and have a demonstrated special interest, competence or knowledge of historic preservation.

B. Members shall, to the extent possible, be:

1. Professionals in the disciplines of history, architecture, architectural history, planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography, to the extent that such professionals are available in the community; or

2. Lay members who have demonstrated special interest, competence, experience, or knowledge in historic preservation.

C. At least two members shall be owners of a historic property within the historic district. One of these members shall be the owner of a residence in the historic district. The other member shall be the owner of either a residence or business property in the historic district. (Ord. 05-01 § 1; Ord. 01-3).

2.56.040 Members – Term of office.

A. The term of office for the members is four years. The appointment or reappointment of a member shall be made within 60 days of the expiration of the term or in the event of a vacancy. Each member serves until his/her successor is appointed and qualifies.

B. Of the seven members first appointed under this chapter, two members shall serve a four-year term, two members shall serve a three-year term, two members shall serve a two-year term and one member shall serve a one-year term. Thereafter, all members shall be appointed for four years, except as otherwise provided in BMC [2.56.130](#). (Ord. 05-01 § 1; Ord. 01-3).

2.56.050 Members – Compensation.

Each member of the commission serves without compensation. (Ord. 05-01 § 1; Ord. 01-3).

2.56.060 Meeting time and place.

The commission shall meet as often as necessary, but at least four times a year, with meetings held in a public place, advertised in advance, and open to the public, pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.) for open meetings. (Ord. 05-01 § 1; Ord. 01-3).

2.56.070 Quorum.

Four members of the commission constitute a quorum for the transaction of business. Approval of any matter shall be by majority vote of the members present at a meeting of the commission. A tie vote on any matter before the commission shall be deemed to be a disapproval thereof. (Ord. 05-01 § 1; Ord. 01-3).

2.56.080 Adoption of rules.

The commission shall adopt rules for the transaction of its business. (Ord. 05-01 § 1; Ord. 01-3).

2.56.090 Recordkeeping.

The commission shall keep a public record of its resolutions, transactions, findings and determinations. (Ord. 05-01 § 1; Ord. 01-3).

2.56.100 Officers – Appointment.

The commission shall elect a chairperson and a vice-chairperson from among its members. The chairperson and vice-chairperson serve for a term of one year and until the successor of each takes office. The commission shall also appoint a secretary. The secretary need not be a member of the commission. (Ord. 05-01 § 1; Ord. 01-3).

2.56.110 Officers – Duties.

A. Chairperson. The chairperson shall preside at all meetings of the commission. He/she shall appoint all committees and shall perform the duties necessary or incidental to his/her office.

B. Vice-Chairperson. The vice-chairperson is chairperson in the absence of the chairperson or in case of the inability of the chairperson to act.

C. Secretary. The secretary shall keep minutes of each meeting, shall record the official action taken and perform such other duties as the commission assigns. The secretary need not be a member of the commission. (Ord. 05-01 § 1; Ord. 01-3).

2.56.120 Absence of members from meetings.

A. If a member of the commission is absent without cause from two successive regular meetings of the commission, the office becomes vacant automatically. The commission shall immediately notify the council of the vacancy.

B. A member is not absent without cause if his/her absence is:

1. Due to illness; or
2. Unavoidable and the member gives the secretary of the commission notice before the day of the meeting that he/she will be absent and giving the reason for the absence. (Ord. 05-01 § 1; Ord. 01-3).

2.56.130 Removal – Vacancy filling.

A member of the commission may be removed by four affirmative votes of the council. A vacancy is filled in the same manner as the original appointment. A person appointed to fill a vacancy serves for the remainder of the unexpired term. (Ord. 05-01 § 1; Ord. 04-3 § 3; Ord. 01-3).

2.56.140 Powers and duties.

The commission shall:

A. Conduct design reviews for restoration, remodeling and development projects in the historic overlay (H) zones in accordance with Chapter [17.08](#) BMC and/or Chapter [17.54](#) BMC, or which involve city-owned historical buildings. Ensure that restoration, remodeling and new development complies with the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the criteria contained in the general plan and the criteria in the adopted historic plans for each district. Support decisions by specific findings based on the "Secretary of the Interior's Standards for the Treatment of Historical Properties," the general plan and the adopted historic plans for each district, as detailed in the relevant sections of the Benicia Municipal Code, as they may be amended from time to time;

B. Maintain a program to compile, record and update an inventory of cultural resources within the city. The inventory shall be based on comprehensive surveys conducted in conformance with state survey standards and procedures;

C. Make policy recommendations to the city council on matters that relate to historic preservation and the restoration of designated buildings and districts;

D. Review and certify CEQA documents for projects which require only HPRC approval and review CEQA documents and make recommendations for approval to the planning commission and city council as appropriate;

E. Each commission member is expected to annually attend an informational or educational meeting, seminar, workshop or conference that pertains directly to the work of the commission or would be approvable by the State Office of Historic Preservation;

F. Produce an annual report, in accordance with the requirements of certified local government, on the activities of the commission;

- G. Oversee and establish a program to assist owners of historic homes in lower-income areas to apply for low interest loans through community development block grants (CDGBs), when available;
- H. Oversee the publicizing of opportunities and incentives for historic preservation to owners of historic buildings;
- I. Oversee the maintenance of a list of historic preservation review commission educational materials. These items will have been determined by the commission as providing important background information necessary for commissioners to do the work of the commission. The commission may modify this list at its discretion. As soon as is practicable after appointment, commissioners are required to review the items on this list;
- J. Pursuant to the program established by the city council, oversee a program for property tax incentives in accordance with the California Mills Act and recommend to the city council execution of Mills Act agreements. Provide potential buyers with information about the California Mills Act and federal investment tax credits;
- K. Maintain a program to coordinate with the California Archaeological Inventory to develop and maintain an inventory of existing and potential archaeological sites;
- L. Maintain a program to inform title companies that properties in Benicia may be affected by historic preservation regulations;
- M. Work with Main Street, the Benicia Historical Society, the Benicia Historical Museum at the Camel Barns, and other community groups on historic preservation issues;
- N. Recommend nomination of properties for the California and National Register;
- O. Create, maintain and increase the community awareness of our historic resources;
- P. Oversee the administration of the city's official historic plaque program; and
- Q. Perform other duties as provided by the city council. (Ord. 05-01 § 1; Ord 01-3).

Chapter 17.54 H HISTORIC OVERLAY DISTRICT

Sections:

- [17.54.010](#) Specific purposes.
- [17.54.020](#) Applicability and zoning map designator.
- [17.54.030](#) Land use and development regulations.
- [17.54.040](#) Criteria for establishment of H district.
- [17.54.050](#) Criteria for designating landmark buildings.
- [17.54.060](#) Conservation plan required.
- [17.54.070](#) Application requirements.
- [17.54.080](#) Review and approval.
- [17.54.090](#) Establishment of H districts and landmark designation.
- [17.54.100](#) Demolition and design review procedures.
- [17.54.120](#) Maintenance of structures and premises.

17.54.010 Specific purposes.

The specific purposes of the H **historic** overlay district are to:

- A. Implement the city's general plan;
- B. Deter demolition, destruction, alteration, misuses, or neglect of **historic** or architecturally significant buildings that form an important link to Benicia's past;
- C. Promote the conservation, **preservation**, protection, and enhancement of each **historic** district;

D. Stimulate the economic health and residential quality of the community and stabilize and enhance the value of property;

E. Encourage development tailored to the character and significance of each **historic** district through a conservation plan that includes goals, objectives, and design criteria. (Ord. 87-4 N.S., 1987).

17.54.020 Applicability and zoning map designator.

The H **historic** overlay district may be combined with any zoning district. Each H overlay district shall be shown on the zoning map by adding an “-H” designator to the base district designation followed by the number of the district based on the order of adoption. (Ord. 87-4 N.S., 1987).

17.54.030 Land use and development regulations.

A. The land use and development regulations applicable in an H district shall be as prescribed for the base district with which it is combined unless modified by another overlay district; provided, that the requirements of the district conservation plan shall govern where conflicts arise.

B. Exceptions for **Historic** and Architecturally Significant Structures.

1. The community development director may grant a use permit for an exception to the land use regulations of the base district with which an H district is combined when such an exception is necessary to permit the **preservation** or restoration of an **historic** or architecturally significant building, structure or site.

2. Applications for such use permits shall be filed with the community development director on a form provided. The community development director shall refer all applications for an exception under this section to the **historic preservation** review commission (HPRC) for a report and recommendation. In making a decision, the community development director shall make a written finding that shall specify the facts relied upon in rendering his decision. A copy of this written finding, together with all evidence presented to the community development director, shall be filed in the planning department. The written finding and decision shall be mailed to the applicant and shall be subject to appeal to the planning commission. Decision-making authority on such use permits may be deferred to the planning commission at the option of the community development director. Upon their decision in such instances, an appeal may be made to the city council as prescribed in Chapter [1.44](#) BMC. (Ord. 07-59 § 1; Ord. 05-03 § 4; Ord. 87-4 N.S., 1987).

17.54.040 Criteria for establishment of H district.

A. A portion of a base district shall be eligible for inclusion in an H district if one or more of the following criteria, rigorously applied, are met:

1. The area possesses character, interest, or value as part of the heritage of the city.

2. The area is the location of a significant historical event.

3. The area is identified with a person or group that contributed significantly to the culture and development of the city.

4. Structures within the area exemplify a particular architectural style or way of life important to the city.

5. Structures within the area are the best remaining examples of an architectural style in a neighborhood.

6. The area or its structures are identified as the work of a person or group whose work has influenced the heritage of the city, the state, or the United States.

7. The area or its structures embody elements of outstanding attention to architectural or landscape design, detail, materials, or craftsmanship.
8. The area is related to a designated **historic** building or district in such a way that its **preservation** is essential to the integrity of the building or district.
9. The area's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood.
10. The area has potential for yielding information of archaeological interest.
11. The area's integrity as a natural environment strongly contributes to the well-being of the people of the city.

B. Portions of a base zoning district that do not meet the above criteria may be included in an H district if inclusion is found to be essential to the integrity of the district. (Ord. 87-4 N.S., 1987).

17.54.050 Criteria for designating landmark buildings.

Individual buildings may be designated as **historic** or architecturally significant landmarks if one or more of the criteria set forth in BMC [17.54.040](#) are met. A landmark so designated shall be eligible for the same review procedures as buildings and structures within an H district. (Ord. 87-4 N.S., 1987).

17.54.060 Conservation plan required.

Prior to filing an application for an H district, the applicant shall prepare an **historic** district conservation plan with the assistance of the planning department. Each conservation plan shall contain:

- A. A map and description of the proposed district, including boundaries; the age, setting, and character of structures; urban design elements and streetscapes; major public improvements; and proposed objectives to be achieved;
- B. A statement of the architectural or historical significance of the proposed district;
- C. A list of specific alterations that should be subject to design review in order to protect the architectural or historical character of the proposed district;
- D. A set of specific performance guidelines for new construction and alterations necessary to preserve the character of the proposed district;
- E. Proposed rules and regulations for design review. (Ord. 87-4 N.S., 1987).

17.54.070 Application requirements.

A. Filing of Petition. An application for an H district or landmark designation may be initiated by the planning commission or city council, or by filing a petition requesting establishment of the district with the community development director, accompanied by the required fee. If initiated by petition, the application shall include:

1. The proposed conservation plan for the district as prescribed by BMC [17.54.060](#);
2. A form bearing the signatures of the owners of 51 percent of the land area within the proposed district.

B. Application Contents. An application for a landmark designation shall contain:

1. A map showing the location of the building or structure and building plans or photographs of the building exterior;
2. A statement of the architectural or historical significance of the proposed building and description of the particular features that should be preserved; and
3. Except when initiated by the city, the consent of the owner or authorized agent to the proposed designation is required. For purposes of this section, each condominium owner's association shall be deemed the property owner of common areas.

Prior to accepting the application as complete, the community development director may request additional information, plans or materials deemed necessary to support the application. A planning commission public hearing on the petition shall be held within 90 days of the date the petition is accepted as complete. (Ord. 87-4 N.S., 1987).

17.54.080 Review and approval.

A. Neighborhood Workshop. The planning department shall conduct a neighborhood workshop in the proposed district to explain the proposal and the amendment process to neighborhood residents. Notice of the workshop shall be given in the same manner prescribed for zoning map amendments by BMC [17.120.040](#).

B. Notice and Public Hearing. After the neighborhood workshop, the proposed district shall be the subject of public hearings before the planning commission and the city council. The hearings shall be set, noticed, and conducted as prescribed by Chapter [17.120](#) BMC.

C. Contents of Public Notice. In addition to the information prescribed by Chapter [17.120](#) BMC, notice of a public hearing for the establishment of an H district or designation of a landmark shall include a statement that original petitioners have the right to withdraw their support of the district at any time prior to the hearing, and that property owners who have not signed the petition have the right to do so prior to the date of the hearing. (Ord. 87-4 N.S., 1987).

17.54.090 Establishment of H districts and landmark designation.

A. Required Findings. In addition to the findings required by Chapter [17.120](#) BMC, the planning commission and city council shall find that the proposed district or landmark has a significant architectural or historical character that can be preserved and enhanced through appropriate controls on new development and alterations to existing buildings and landscaping.

B. Adoption of Conservation Plan. An ordinance establishing an H district shall include an **historic** district conservation plan in the form submitted or as revised by the planning commission or city council. The plan's performance guidelines may modify the land use and development regulations of the base zoning district, but shall not significantly alter the regulations. A performance guideline shall be found to be a significant alteration of base district regulations if it substantially prevents property from being used in accord with the provisions of the base district, or creates a substantial number of nonconforming uses or structures.

C. Effects on Projects Initiated Prior to Effective Date. No provision of this chapter shall apply to projects initiated prior to the effective date of an ordinance establishing an H district or designating a landmark. Such projects shall be considered nonconforming uses, subject to the provisions of Chapter [17.98](#) BMC. For the purposes of this subsection, a project shall be deemed initiated if an application, plans, and materials for concept or development plan review have been filed and accepted as complete.

D. Amendments to Adopted Conservation Plans. Procedures for an amendment to an adopted conservation plan shall be initiated in the same manner as an application for a zoning map amendment (Chapter [17.120](#) BMC). (Ord. 87-4 N.S., 1987).

17.54.100 Demolition and design review procedures.

A. In General. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter [17.108](#) BMC. Design review and approval shall be the responsibility of the community development director or the design review commission, as the case may be.

The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the design review commission. Prior approval of the community development director or the design review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.

B. Criteria. In addition to the requirements of Chapter [17.108](#) BMC, the community development director or design review commission, as the case may be, shall consider the proposed demolition, new construction, or alteration in the context of the adopted conservation plan and the architectural or historical value and significance of the site and structure in relation to the overlay district. These considerations shall include the visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, building siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors, and textures.

C. Required Findings. No demolition permit shall be issued for demolition of any **historic** structure within an H district or for demolition of a designated landmark without prior review and approval by the design review commission. Demolition permits for nonhistoric structures within the H district may be approved by the community development director. To assist any evaluation by the design review commission, the community development director shall submit a report and recommendation to the design review commission.

1. For Demolitions.

a. If, after review of the request for a demolition permit, the design review commission determines that the structure itself has historical, architectural or cultural interest or value, the commission may withhold approval for demolition for 180 days (from the date of commission action) or until environmental review is completed, whichever occurs later.

During the 180 days, the design review commission may direct the planning department to consult with recognized **historic preservation** organizations and other civic groups, public agencies and interested citizens; make recommendations for acquisition of property by public or private bodies or agencies; explore the possibility of moving one or more structures or other features; and take any other reasonable measures.

At the end of the 180-day period, the demolition permit shall be issued if environmental review determines there will not be a significant impact on the environment and all requirements of this title are met or, if there may be substantial environmental damages, that specific economic, social or other considerations make infeasible the mitigation measures or alternatives identified during environmental review.

b. If, after review of the request for a demolition permit, the design review commission determines that the building or structure has no substantial historical, architectural, or cultural interest or value, a building permit for demolition may be issued.

2. For New Construction or Alterations. The director or the commission shall not grant design approval for new construction or alterations unless it finds that the proposed new construction or alteration will be compatible with and help achieve the purposes of the H district.

3. For Removal or Alteration of Certain Landscape Materials. The director's or commission's approval shall be required for removal or alteration of landscape materials identified as significant resources by the **historic** district conservation plan. Removal or alteration of such landscape materials shall require a finding that the proposed removal or alteration will not affect the character of the H district, or that the safety of persons or

property requires the removal or alteration. No provisions of this subsection shall be construed as restricting routine maintenance of landscape materials.

D. Economic Hardship Waiver. If an applicant for design concept or design approval presents evidence of inability to meet the cost of complying with a condition of approval, the director or the commission may grant the approval with the requirement that all conditions be met within a period of up to five years. If such conditions are not met within five years, the property owner shall be subject to the enforcement provisions of Chapter [17.128](#) BMC.

E. Effective Date – Appeals. Decisions of the director or commission shall be final on the tenth business day after the date of the decision, unless appealed in accordance with Chapter [1.44](#) BMC. (Ord. 07-59 § 2; Ord. 93-1 N.S. § 5, 1993; Ord. 87-4 N.S., 1987).

17.54.120 Maintenance of structures and premises.

All property owners in H districts and owners of designated landmarks shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter. Good repair includes and is defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises. (Ord. 87-4 N.S., 1987).

Chapter 17.108 DESIGN REVIEW

Sections:

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17.108.110	Design review guidelines.

17.108.010 Purposes.

Design review is intended to implement general plan policies. More specifically, the purposes of design review are to:

A. Ensure that the location and configuration of structures are visually harmonious with their sites and with surrounding sites and structures, and do not unnecessarily block scenic views from other buildings or public parks or dominate their surroundings to an extent inappropriate to their use;

B. Ensure that the architectural design of structures, their materials and colors are visually harmonious with surrounding development and with the natural landforms and vegetation of the areas in which they are proposed to be located;

C. Ensure that plans for the landscaping of open spaces conform with the requirements of this title, and that they provide visually pleasing settings for structures

on the site and on adjoining and nearby sites and blend harmoniously with the natural landscape;

D. Prevent excessive and unsightly grading of hillsides, and preserve natural landforms and existing vegetation where feasible;

E. Ensure the provision of adequate, safe and efficient parking and circulation areas, which conform to the requirements of this title;

F. Provide a functional, efficient, and attractive site design which is sensitive to existing uses in the area and to the topography and conditions of the site;

G. Ensure that new development is consistent with specific design guidelines developed for use within the community, where applicable, and to any specific plan or planned development plan. (Ord. 92-9 N.S. § 23, 1992; Ord. 87-4 N.S., 1987).

17.108.020 Applicability.

A. In an H **Historic** Overlay District. Design approval shall be required prior to issuance of a zoning permit for all projects that involve demolition, construction, or changes in exterior colors or materials, except signs.

B. In All Other Districts. Design approval shall be required prior to issuance of a zoning permit for all projects in all other zones, except single-family residences and related accessory buildings, that involve new construction or exterior alterations and additions, except signs. (Ord. 07-21 § 11; Ord. 01-6 N.S., 2001; Ord. 89-1 N.S. § 49, 1989; Ord. 87-4 N.S., 1987).

17.108.030 Sequence of design review.

Design review shall consist of two steps:

A. Preliminary consultation between the project sponsor and the community development director to discuss design guidelines and establish design criteria applicable to the site and use.

B. Design review by the community development director or the design review commission, as prescribed by this chapter. Approval shall require the findings prescribed in BMC [17.108.040\(A\)](#). (Ord 87-4 N.S., 1987).

17.108.040 Scope of design review.

A. Required Findings. Design approval shall require a finding that the design of a project is consistent with the purposes of this title.

B. Limits on Conditions Required. Changes in a project required as a condition of design approval shall not include use, density, FAR, private open space, parking, or loading requirements more restrictive than those prescribed by applicable district regulations or a valid use permit or variance. (Ord. 87-4 N.S., 1987).

17.108.050 Initiation of design review.

A. Preliminary Consultation. Preliminary consultation shall be initiated by requesting an appointment with the community development director or a designated representative.

B. Design Review. Design review shall be initiated by filing the following with the community development director:

1. A completed application form; and
2. Six sets of the following:

- a. A fully dimensioned site plan showing the locations of existing and proposed structures, driveways, walks, walls, fences and open spaces, property lines, right-of-way lines, dedications and easements, and the relation of the site to the surrounding area;

- b. A fully dimensioned landscape plan if required by BMC [17.70.190](#);
- c. Architectural drawings, renderings, or sketches drawn to scale showing elevations of proposed structures and describing exterior materials. Perspective drawings or scale models also may be required at the discretion of the community development director;
- d. Floor plans showing the proposed use and exterior wall openings;
- e. Proposed screening of all exterior equipment and electrical equipment;
- f. Proposed exterior lighting fixtures using catalog cuts or sketches; and
- g. Samples or descriptions of all proposed exterior materials and paint colors, including surfacing materials for paved areas.

C. Consolidated Review. An applicant may request simultaneous design review and approval of development plans under Chapter [17.112](#) BMC if:

1. Development plans and materials are submitted in lieu of, or in addition to, plans and materials required for design review;
2. All other requirements for a zoning permit have been met; and
3. The applicant acknowledges in writing an understanding of the risk of loss if development plans are disapproved or substantial redesign is required. (Ord. 87-4 N.S., 1987).

17.108.060 Review responsibilities.

A. By the Community Development Director. The community development director shall be responsible for design review for projects in the IG, IL, and IW districts, and for projects outside the district that involve construction of less than 2,500 square feet of floor area.

B. By the **Historic Preservation** Review Commission. The **historic preservation** review commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for projects not subject to community development director review. The **historic preservation** review commission shall hold a public hearing, as provided in BMC [17.108.080](#), and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter [1.44](#) BMC. (Ord. 07-67 § 1; Ord. 07-21 § 12; Ord. 01-6 N.S., 2001; Ord. 99-1 N.S.; Ord. 92-15 N.S. § 20, 1992; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. § 51, 1989; Ord. 87-4 N.S., 1987).

17.108.070 Review process and time limits.

A. Prerequisite for Review. Unless an applicant selects consolidated review, as provided in BMC [17.108.050](#)(C), review of development plans shall follow design review.

B. By Community Development Director (IG, IL, and IW Districts). The community development director shall review plans submitted for design approval within 30 days of receipt and shall approve, conditionally approve, or disapprove the plans. Within five working days after a decision, notice shall be mailed to the applicant.

C. By Design Review Commission (R, C, IP, OS, PS and PD Districts, and H Overlay District). After a duly noticed public hearing, the design review commission shall approve, conditionally approve or disapprove the plans. Within five working days of a design review commission decision, the secretary of the commission shall mail notice of the decision to the applicant.

D. Action Required. All decisions shall be based on the findings required by BMC [17.108.040](#). Any conditions imposed shall be reasonable and designed to assure attainment of the purposes and standards established by this title. (Ord. 01-6 N.S., 2001; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. §§ 52, 53, 1989; Ord. 87-4 N.S., 1987).

17.108.080 Notice and public hearing by design review commission.

A. Time of Hearing. Within three working days after acceptance of a complete application for design review, the community development director shall set a date, time, and place for the hearing. A public hearing shall be held within 60 days of receipt of the application, unless the applicant agrees to a later date.

B. Notice. Notice of a public hearing required by this chapter shall be given in the following manner:

1. Posted Notice. Notices shall be posted at least 10 days prior to the hearing on the site of the project.

2. Mailed or Delivered Notice. At least 10 days prior to the hearing, notice shall be mailed to the applicant and all owners of property within 300 feet of the boundaries of the site, as shown on the last equalized property tax assessment roll.

C. Public Hearing. At the time and place set for the public hearing, the commission shall hear comments on the proposed design. The commission may continue a public hearing without additional notice. (Ord. 92-9 N.S. §§ 24, 25, 1992; Ord. 89-1 N.S. § 54, 1989; Ord. 87-4 N.S., 1987).

17.108.090 Effective date – Lapse and renewal – Alterations.

A. Effective Date. Design review decisions shall become effective on the tenth day after the date of the notices of decision required by this chapter, unless appealed as provided in Chapter [1.44](#) BMC.

B. Lapse of Approvals. Design approval shall lapse two years from its effective date unless:

1. A building permit has been issued and construction diligently pursued; or
2. An occupancy permit has been issued; or
3. The approval is renewed.

C. Renewal. The community development director or the design review commission, as the case may be, may renew design approval for a period of one year upon determining that the findings made remain valid. Application shall be made in writing prior to the lapse of the original approval, but no more than 120 days prior to that date.

D. Changed Plans. The community development director or the design review commission, as the case may be, may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications. (Ord. 07-67 § 2; Ord. 92-9 N.S. § 24, 1992; Ord 89-1 N.S. §§ 55, 56, 1989; Ord 87-4 N.S., 1987).

17.108.100 Appeals.

A. Rights of Appeal and Review. Design review decisions of the community development director may be appealed by any interested party to the **historic preservation** review commission. Design review decisions of the **historic preservation** review commission may be appealed, by any interested party, to the planning commission.

B. Procedures – Public Hearings. Procedures for appeals shall be as prescribed by Chapter [1.44](#) BMC.

C. Limits on Appeals. Appeal decisions of the **historic preservation** review commission shall be final. (Ord. 07-67 § 3; Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).

17.108.110 Design review guidelines.

The design review commission may adopt guidelines for design review consistent with the purposes of this chapter to facilitate the review process. (Ord. 92-9 N.S. § 24, 1992; Ord. 87-4 N.S., 1987).

Chapter 17.124 APPEALS AND CALLS FOR REVIEW

Sections:

- [17.124.010](#) Purpose and authorization for appeals.
- [17.124.020](#) Failure to act.
- [17.124.030](#) New appeal.

17.124.010 Purpose and authorization for appeals.

A. Appeals. To avoid results inconsistent with the purposes of this title, decisions of the director of community development and the **historic preservation** review commission may be appealed to the planning commission, and decisions of the planning commission may be appealed to the city council in accordance with Chapter [1.44](#) BMC.

B. Calls for Review. As an additional safeguard to avoid results inconsistent with the purposes of this title, decisions of the director of community development or the **historic preservation** review commission may be called up for review by the planning commission, and decisions of the planning commission may be called up for review by the city council in accordance with Chapter [1.44](#) BMC. (Ord. 07-69 § 1).

17.124.020 Failure to act.

Failure to act within the time limits prescribed in Chapter [1.44](#) BMC shall be deemed affirmation of the original decision, provided the requirements specified for development projects in Government Code Section 65956 et seq. have been met. (Ord. 07-69 § 1).

17.124.030 New appeal.

Following denial of an appeal or certification of a decision called for review, any matter that is the same or substantially the same shall not be considered by the same body within one year, unless the denial or certification is made without prejudice. (Ord. 07-69 § 1).