

The residents of the City of Rancho Palos Verdes, by the adoption of this section, have made a finding that the peace, health, safety and welfare of the community will be served by the adoption of this section and by the regulations prescribed herein.

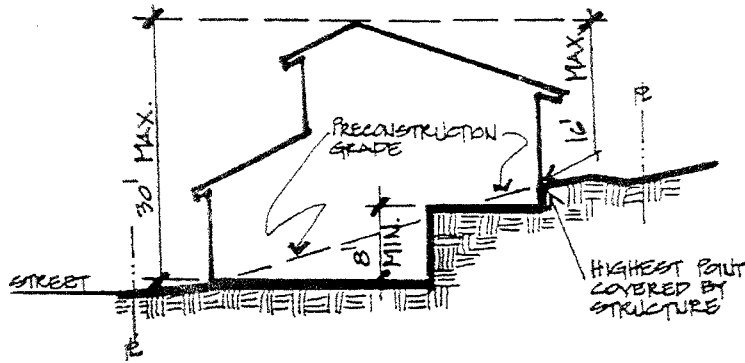
- A. Definitions. When not inconsistent with the context, the words used in the present tense include the future; words in the singular number include the plural; and those in the plural number include the singular. In carrying out the intent of this section, words, phrases and terms shall be deemed to have the following meanings ascribed to them:
1. "City" means the City of Rancho Palos Verdes and its employees and staff and those designated by the city council to act on behalf of the city.
  2. "City council" means the duly elected legislative body of the City of Rancho Palos Verdes.
  3. "Director" means the Director of the Planning, Building and Code Enforcement Department of the City of Rancho Palos Verdes.
  4. "Foliage" means natural growth of trees, shrubs and other plant life.
  5. "Lot coverage" means that portion of a lot or building site which is occupied by any building or structure, including trellises; decks over 30 inches in height (as measured from existing adjacent grade); parking areas; driveways; or impervious surfaces (impervious surfaces less than five feet in width and/or one patio area less than 500 square feet in area shall be excluded from the lot coverage calculation).
  6. "Neighborhood character" means the existing characteristics in terms of the following:
    - a. Scale of surrounding residences;
    - b. Architectural styles and materials; and
    - c. Front, side and rear yard setbacks.
  7. "Planning commission" means the Planning Commission of the City of Rancho Palos Verdes as defined in Chapter 2.20 (Planning Commission) of this municipal code.
  8. "Privacy" means reasonable protection from intrusive visual observation.
  9. "Scale" means the total square footage and lot coverage of a residence and all ancillary structures.
  10. "Setback" means the minimum horizontal distance as prescribed by this code, between any property line or private easement boundary used for vehicular and/or pedestrian access and the closest point on any building or structure, below or above ground level, on the property. In cases where there is no structure on a lot, setback shall mean the minimum horizontal distance between the property line or easement boundary line and a line parallel to the property line or easement boundary line. Please refer to Chapter 17.48 (Lots, Setbacks, Open Space Area and Building Height) for setback regulations.
  11. Shall and May. "Shall" is mandatory and "may" is permissive.
  12. "Structure" means anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which is located on or on top of the ground on a parcel of land utilized for residential purposes, excluding antennas, skylights, solar panels and similar structures not involving the construction of habitable area.
  13. "Style" means design elements which consist of, but are not limited to:
    - a. Facade treatment;
    - b. Height of structure;
    - c. Open space between structures;
    - d. Roof design;
    - e. The apparent bulk or mass of the structure; and
    - f. The number of stories.
  14. View. On the Palos Verdes peninsula, it is quite common to have a near view and a far view because of the nature of many of the hills on the peninsula. Therefore, a "view" which is protected by this section is as follows:
    - a. A "near view" which is defined as a scene located on the peninsula including, but not limited to, a valley, ravine, equestrian trail, pastoral environment or any natural setting; and/or
    - b. A "far view" which is defined as a scene located off the peninsula including, but not limited to, the ocean, Los Angeles basin, city lights at night, harbor, Vincent Thomas Bridge, shoreline or offshore islands.A "view" which is protected by this section shall not include vacant land that is developable under this code, distant mountain area not normally visible, nor the sky, either above distant mountain areas or above the height of offshore islands. A view may extend in any horizontal direction (360 degrees of horizontal arc) and shall be considered as a single view, even if broken into segments by foliage, structures or other interference.
  15. "Viewing area" means that area of a structure (excluding bathrooms, hallways, garages or closets) or that area of a lot (excluding the setback areas) where the owner and city determine the best and most important view exists. In structures, the finished floor elevation of any viewing area must be at or above existing grade adjacent to the exterior wall of the part of the building nearest to said viewing area.
  16. The "view restoration commission" means the Planning Commission of the City of Rancho Palos Verdes.

B.

Regulations.

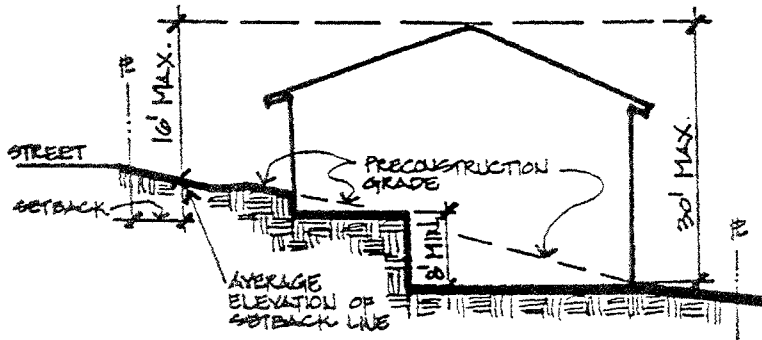
1. Building Height. Any individual or persons desiring to build a new structure or an addition to an existing structure shall be permitted to build up to 16 feet in height pursuant to subsection B of this section provided there is no grading, as defined in Section 17.76.040 (Grading Permit) of this title, to be performed in connection with the proposed construction, and further provided that no height variation is required, and all applicable residential development standards are or will be met. In cases where an existing structure is voluntarily demolished or is demolished as a result of an involuntary event, a height variation application will not be required to exceed 16 feet in height, provided that the replacement structure will have the same or less square footage and building height as the existing structure and will be reconstructed within the building envelope and footprint of the pre-existing structure. Approval for proposed structures or additions to existing structures exceeding 16 feet in height, may be sought through application for a height variation permit, which, if granted pursuant to the procedures contained herein, will permit the individual to build a structure not exceeding 26 feet in height, except as provided in subsection (B)(1)(d) of this section, or such lower height as approved by the city, measured as follows:
  - a. For sloping lots which slope uphill from the street of access or in the same direction as the street of access and for which no building pad exists, the height shall be measured from the preconstruction (existing) grade at the highest point on the lot to be covered by the structure to the ridgeline or the highest point of the structure, as illustrated in Figure 1 below.

FIGURE 1



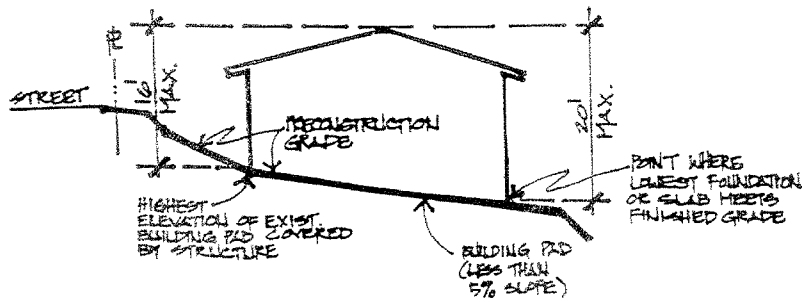
- b. For sloping lots which slope downhill from the street of access and for which no building pad exists, the height shall be measured from the average elevation of the setback line abutting the street of access to the ridgeline or the highest point of the structure, as illustrated in Figure 2 below.

FIGURE 2



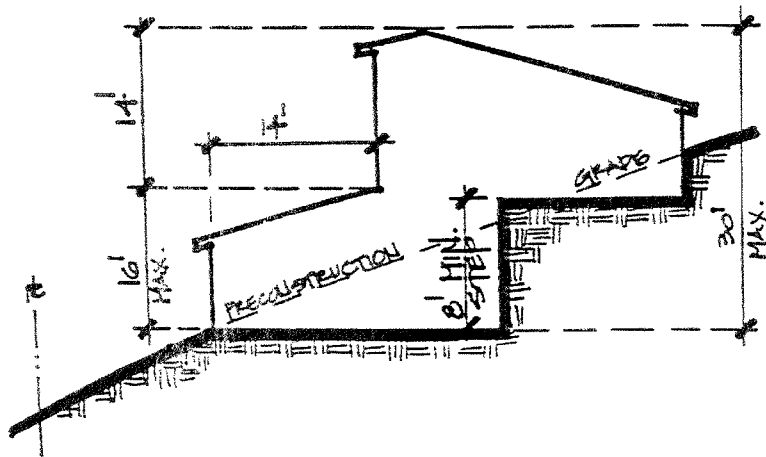
- c. For lots with a "building pad" at street level or at a different level than the street or lot configurations not previously discussed, the height shall be measured from the preconstruction (existing) grade at the highest elevation of the existing building pad area covered by the structure to the ridgeline or highest point of the structure, as illustrated in Figure 3 below. Portions of a structure which extend beyond the "building pad" area of a lot shall not qualify as the highest elevation covered by the structure, for the purposes of determining maximum building height. Structures allowed pursuant to this subsection shall not exceed 20 feet in height, as measured from the point where the lowest foundation or slab meets finished grade, to the ridgeline or highest point of the structure. Otherwise, a height variation permit shall be required.

FIGURE 3



- d. On sloping lots described in Sections 17.02.040(B)(1)(a) and 17.02.040(B)(1)(b) of this chapter, the foundation of the structure shall contain a minimum eight foot step with the slope of the lot, as illustrated in Figure 4 below. However, no portion of the structure shall exceed 30 feet in height, when measured from the point where the lowest foundation or slab meets finished grade to the ridge line or highest point of the structure. The 30-foot height shall not exceed a horizontally projected 16 foot height line (from the high point of the uphill step of the structure).
2. Setbacks for Sloping Lots. On lots which slope uphill from the street of access and where the height of a structure is in excess of 16 feet above the point where the lowest foundation or slab meets the ground, areas in excess of the 16 foot height limit shall be set back one foot from the exterior building facade of the first story, most parallel and closest to the front property line, for every foot of height in excess of 16 feet, as measured from the point where the lowest foundation or slab meets the ground, as illustrated in Figure 4 below.

FIGURE 4



3. Foliage Obstruction. No person shall significantly impair a view from a viewing area of a lot by permitting foliage to grow to a height exceeding:
- The height determined by the view restoration commission through issuance of a view restoration permit under Section 17.02.040(C)(2) of this chapter; or
  - If no view restoration permit has been issued by the view restoration commission, a height which is the lesser of:
    - The ridge line of the primary structure on the property; or
    - Sixteen feet.

If foliage on the property already exceeds the provisions of subdivisions (i) and (ii) of Section 17.02.040(B)(3) of this chapter on the effective date of this section, as approved by the voters on November 7, 1989, and significantly impairs a view from a viewing area of a lot, then notwithstanding whether any person has sought or obtained issuance of a view restoration permit, the foliage owner shall not let the foliage exceed the foliage height existing on the effective date of this section (November 17, 1989). The purpose of this paragraph is to ensure that owners of foliage which violates the provisions of this paragraph on the effective date of this section shall not allow the foliage to increase in height. This paragraph does not "grandfather" or otherwise permit such foliage to continue to block a view.

4. Removal of Foliage as Condition of Permit Issuance. The city shall issue no conditional use permit, variance, height variation, building permit or other entitlement to construct a structure, or to add livable area to a structure on a parcel utilized for residential purposes, unless the owner removes that part of the foliage on the lot exceeding 16 feet in height or the ridge line of the primary structure, whichever is lower, that significantly impairs a view from the viewing area of another parcel. The owner of the property is responsible for maintaining the foliage so that the views remain unimpaired. This requirement shall not apply where removal of the foliage would constitute an unreasonable invasion of the privacy of the occupants of the property on which the foliage exists and there is no method by which the property owner can create such privacy through some other means allowed within the development code that does not significantly impair a view from a viewing area of another property. The initial decision on the amount of foliage removal required or the reasonable degree of privacy to be maintained shall be made by

the director, the planning commission or the city council, as appropriate for the entitlement in question. If the permit issuance involves property located within the Miraleste Recreation and Park District, the findings of Section 17.02.040(C)(2)(c)(vi) of this chapter shall apply. A decision by the director on either of these matters may be appealed to the planning commission, and any decision of the planning commission may be appealed to the city council.

5. Determination of Viewing Area.

- a. The determination of a viewing area shall be made by balancing the nature of the view to be protected and the importance of the area of the structure or lot from where the view is taken. Once finally determined for a particular application, the viewing area may not be changed for any subsequent application. In the event the city and owner cannot agree on the viewing area, the decision of the city shall control. A property owner may appeal the city's determination of viewing area. In such event, the decision on the viewing area will be made by the body making the final decision on the application. A property owner may preserve his or her right to dispute the decision on the viewing area for a subsequent application, without disputing the decision on a pending application, by filing a statement to that effect and indicating the viewing area the property owner believes to be more appropriate. The statement shall be filed with the city prior to consideration of the pending application by the city.

C. Procedures and Requirements.

1. Preservation of Views Where Structures are Involved.

- a. Any person proposing to construct a structure above 16 feet shall submit a height variation permit application to the city. A determination on the application shall be made by the director in accordance with the findings described in Section 17.02.040(C)(1)(e) of this chapter. The director shall refer a height variation application directly to the planning commission for consideration under the same findings, as part of a public hearing, if any of the following is proposed:
  - i. Any portion of a structure which exceeds 16 feet in height extends closer than 25 feet from the front or street-side property line; or
  - ii. The area of the structure which exceeds 16 feet in height (the second story footprint) exceeds 75 percent of the first story footprint area (residence and attached garage);
  - iii. Sixty percent or more of a garage footprint is covered by a structure which exceeds 16 feet in height (a second story);
  - iv. The portion of the structure which exceeds 16 feet in height is being developed as part of a new single-family residence; or
  - v. Based on an initial site visit, the director determines that any portion of a structure which is proposed to exceed 16 feet in height may significantly impair a view as defined in this chapter.
- b. The applicant shall take reasonable steps established by the city council to consult with owners of property located within 500 feet of the applicant's property. The applicant shall obtain and submit with the application the signatures of the persons with whom the applicant consulted. Where a homeowners' association existing in the neighborhood affected has provided written notice to the director of its desire to be notified of height variation applications, the applicant shall mail a letter to the association requesting its position on the application. A copy of this letter and the response of the association, if any, shall be submitted with the application. A fee shall be charged for the application as established by resolution of the city council.
- c. The director shall, by written notice, notify property owners within a 500-foot radius of the subject property and the affected homeowners' association, if any, of the application and inform them that any objections to the proposed construction must be submitted to the director within 30 calendar days of the date of the notice.
- d. The applicant shall construct on the site at the applicant's expense, as a visual aid, a temporary frame of the proposed structure.
- e. A height variation application to build a new structure or an addition to an existing structure, either of which exceeds 16 feet in height up to the maximum height permitted in subsection (B)(1) of this section, may be granted with or without conditions if the following findings can be made:
  - i. The applicant has complied with the early neighbor consultation process established by the city;
  - ii. The proposed new structure that is above 16 feet in height or addition to an existing structure that is above 16 feet in height does not significantly impair a view from public property (parks, major thoroughfares, bike ways, walkways or equestrian trails) which has been identified in the city's general plan or coastal specific plan, as city-designated viewing areas;
  - iii. The proposed new structure is not located on a ridge or a promontory;
  - iv. The area of a proposed new structure that is above 16 feet in height or addition to an existing structure that is above 16 feet in height, as defined in subsection B of this section, when considered exclusive of existing foliage, does not significantly impair a view from the viewing area of another parcel. If the viewing area is located in a structure, the viewing area shall be located in a portion of a structure which was constructed without a height variation permit or variance, or which would not have required a height variation or variance when originally constructed had this section, as approved by the voters on November 7, 1989, been in effect at the time the structure was constructed, unless the viewing area located in the portion of the existing structure which required a height variation permit or variance constitutes the primary living area (living room, family room, dining room or kitchen) of the residence;
  - v. If view impairment exists from the viewing area of another parcel but it is determined not to be significant, as described in subsection (C)(1)(e)(vi) of this section, the proposed new structure that is above 16 feet in height or addition to an existing structure that is above 16 feet in height is designed and situated in such a manner as to reasonably minimize the impairment of a view;

- vi. There is no significant cumulative view impairment caused by granting the application. Cumulative view impairment shall be determined by: (a) considering the amount of view impairment that would be caused by the proposed new structure that is above 16 feet in height or addition to a structure that is above 16 feet in height; and (b) considering the amount of view impairment that would be caused by the construction on other parcels of similar new structures or additions that exceed 16 feet in height;
  - vii. The proposed structure complies with all other code requirements;
  - viii. The proposed structure is compatible with the immediate neighborhood character;
  - ix. The proposed new structure that is above 16 feet in height or addition to an existing structure that is above 16 feet in height does not result in an unreasonable infringement of the privacy of the occupants of abutting residences.
- f. Written notice of the director's or planning commission's decision shall be sent to the applicant, his/her representative and to all parties who responded to the original notice.
  - g. The decision of the director may be appealed to the planning commission by the applicant or any person who responded in writing to the director prior to the director's decision; provided, the appeal is filed in writing within 15 calendar days after the date of the director's decision. The appellant shall pay an appeal fee as established by resolution of the city council.
  - h. Notice of the public hearing for an initial determination of a height variation application by the planning commission or an appeal to the planning commission and/or city council shall be mailed 30 calendar days prior to the hearing, to property owners within 500 feet of the applicant's property, as well as any additional property owners previously determined by the city to be affected by the proposal.
  - i. In hearing an appeal of the director's decision, the planning commission shall grant the application and cause a permit to be issued, only if it finds that all of the requirements of subsection (C)(1)(e) of this section have been met.
  - j. A decision of the planning commission may be appealed to the city council by the applicant or any person who commented orally or in writing to the planning commission; provided, the appeal is filed in writing within 15 calendar days after the date of the planning commission's decision. The appellant shall pay an appeal fee as established by resolution of the city council. In order to grant a permit, the city council must determine that all of the requirements listed in subsection (C)(1)(e) of this section have been met.
2. Restoration of Views Where Foliage is a Factor.
- a. Any resident owning a residential structure with a view may file an application with the city for a view restoration permit. The applicant shall file with the application proof that the applicant consulted, or attempted to consult, with the property owner whose foliage is in question. The applicant shall pay a fee for the view restoration permit as established by resolution of the city council.
  - b. The application shall be submitted to the view restoration commission. Written notice of the time and place for the hearing on the application shall be sent to the applicant and the property owner(s) of the foliage involved at least 30 calendar days prior to the meeting of the commission. Commission members shall inspect the site prior to the public hearing. Only view restoration commission members who make a site inspection may participate in the public hearing.
  - c. In order for a view restoration notice to be issued, the commission must find:
    - i. The applicant has complied with the early neighbor consultation process and has shown proof of cooperation on his/her part to resolve conflicts;
    - ii. Foliage exceeding 16 feet or the ridge line of the primary structure, whichever is lower, significantly impairs a view from the applicant's viewing area, whether such foliage is located totally on one property, or when combined with foliage located on more than one property;
    - iii. The foliage to be removed is located on property, any part of which is less than 1,000 feet from the applicant's property line(s);
    - iv. The foliage significantly impairing the view did not exist, as view impairing vegetation, when the lot from which the view is taken was created;
    - v. Removal or trimming of the foliage will not cause an unreasonable infringement of the privacy of the occupants of the property upon which the foliage is located;
    - vi. For property located within the boundaries of the Miraleste Recreation and Park District, the commission shall also find the removal or trimming of the foliage strikes a reasonable balance between meeting the purposes of this section, as set forth in the ordinance approved by the voters on November 7, 1989, and preserving the historical developments of the Miraleste Recreation and Park District area with a large number of trees.
  - d. Should the commission make findings requiring issuance of a view restoration permit, the director shall send a notice to the property owner to trim, cull, lace or otherwise cause the foliage to be reduced to 16 feet or the ridgeline of the primary structure, whichever is lower, or such limit above that height which will restore the view. The property owner will have 90 calendar days to have the foliage removed. The applicant shall be responsible for the expense of the foliage removal and/or replacement ordered pursuant to this subsection only to the extent of the lowest bid amount provided by contractors licensed to do such work in the City of Rancho Palos Verdes and selected by the applicant. After the initial trimming, culling, lacing or removal of the foliage, the owner, at the owner's expense, shall be responsible for maintaining the foliage so that the view restoration required by the view restoration permit is maintained.
  - e.

To the extent legally permissible, trees or foliage on property owned by any governmental entity, except the city and the Miraleste Recreation and Park District, shall be subject to view restoration control, as per the provisions of this section; except, that the foliage shall be trimmed or removed 30 calendar days following issuance of the notice. Trees and/or foliage located on city property, or in the public right-of-way, as defined in Chapter 17.96 (Definitions), shall be subject to view restoration control.

- f. The view restoration commission may impose such reasonable conditions or restrictions on the approval of a view restoration permit as may be found to be appropriate or necessary to protect the public health, safety or welfare or the foliage owner's reasonable enjoyment of his or her property. Such conditions or restrictions may include, but are not limited to: (1) requiring the complete removal of the subject foliage when the commission finds that the trimming, culling, lacing or reducing of that foliage to 16 feet or the ridge line is likely to kill the foliage, threaten the public health, safety and welfare, or will destroy the aesthetic value of the foliage that is to be pruned or reduced in height, provided that the property owner consents to the removal; and (2) requiring replacement of such foliage when the commission finds that removal without replacement will cause a significant adverse impact on: (a) the public health, safety and welfare, (b) the privacy of the property owner, (c) shade provided to the dwelling or the property, (d) the energy-efficiency of the dwelling, (e) the health or viability of the remaining landscaping, or (f) the integrity of the landscape plan, provided that the property owner consents to the replacement.
- g. The applicant, the owner of the property where the foliage is located, or any other interested person may appeal the decision of the view restoration commission to the city council by filing with the city clerk a written notice of appeal, including the grounds for the appeal, and any specific action being requested by the appellant, together with the appeal fee established by resolution of the city council, within 15 calendar days after the view restoration commission adopts the resolution setting forth its decision. The decision of the view restoration commission is final if no appeal is filed within 15 calendar days. If such an appeal is timely and properly filed, a copy of the findings of the view restoration commission and all materials on file with the director shall be transmitted to the city council, which shall be part of the appeal hearing record, together with the notice of appeal and any other written materials submitted by interested parties. Additional written materials shall be submitted to the city clerk at least seven calendar days prior to the date that the appeal will be heard by the city council.

Upon receiving the notice of appeal, the city clerk shall schedule the matter for review at a forthcoming meeting of the city council. At the city council meeting, oral testimony shall be limited to five minutes in length for each of the parties whose properties are affected by the decision and two minutes per person for other individuals. Oral testimony shall be limited to the issues raised in the written appeal. At the conclusion of the oral presentation, the city council may do one of the following:

- i. Affirm the decision of the view restoration commission and approve the application upon finding that all applicable findings have been correctly made and all provisions of subsection (C)(2) of this section are complied with;
  - ii. Approve the application but impose additional or different conditions as the city council deems necessary to fulfill the purposes of subsection (C)(2) of this section;
  - iii. Disapprove the application upon finding that all applicable findings cannot be made or all provisions of subsection (C)(2) of this section have not been complied with; or
  - iv. Refer the matter back to the view restoration commission to conduct further proceedings. The remanded proceedings may include the presentation of significant new evidence which was raised in conjunction with the appeal. The city council shall state the ground(s) for the remand and shall give instructions to the view restoration commission concerning any error found by the city council in the commission's prior determination.
- h. If, after 90 calendar days, the foliage has not been removed or trimmed in accordance with the requirements of a view restoration or view preservation permit, the City of Rancho Palos Verdes will authorize a bonded tree service to trim, cull, lace or remove the identified foliage at the owner's expense. In the event that the city is required to perform the work, the foliage owner will be billed for all city expenses incurred in enforcing the view restoration or preservation permit (including reasonable attorneys' fees). If the property owner does not pay the city for the amount set forth on the invoice, the city may record a lien or assessment against the foliage owner's property, pursuant to Chapter 8.24 (Property Maintenance) of this code, or pursue any and all available criminal or civil remedies for recovery of said city expenses in accordance with paragraph i of this section or Chapter 1.08 (General Penalty) of the code.
  - i. The remedies provided in this section are in addition to and do not supersede or limit any other remedies and penalties available under provisions of other applicable city ordinances, the laws of the State of California, or the laws of the United States. In the event of any violation of this section, the city may pursue any and all available criminal or civil remedies to prevent or remedy violations of this section set forth in Chapter 1.08 (General Penalty) of the code or as otherwise provided by law. The city shall be entitled to recover its attorneys' fees and costs arising from any civil action or administrative proceeding to enforce the provisions of this chapter and the code if the city is the prevailing party and provided it made the election to seek attorneys' fees at the commencement of the action. A responsible person shall be entitled to recover his or her attorneys' fees if the city made the election to seek attorneys' fees at the outset of the action and the responsible person prevails in that action. In no such legal action shall an award of costs, including reasonable attorneys' fees, to a prevailing party exceed the amount of costs, including reasonable attorneys' fees, incurred by the city in the action or proceeding.

(Ord. 481 § 10, 2008; Ord. 442 § 1, 2006; Ord. 405 §§ 7—9, 2004; Ord. 400U §§ 7—9, 2004; Ord. 389 § 5, 2003; Ord. 386 § 3, 2003; Ord. 355 § 8, 2000; Ord. 340 § 8 (part), 1998; Ord. 329U § 1, 1997; Ord. 319 § 8, 1997; Ord. 298 § 1, 1994; Ord. 262 §§ 2, 3, 1991; Proposition M, passed November 7, 1989; Ord. 194 § 5 (part), 1985; Ord. 114 § 1, 1979; Ord. 90 § 1, 1977; Ord. 78 (part), 1975)