

## Chapter 17.63

## VIEW ASSESSMENT

## Sections:

- 17.63.010 Purpose and intent.
- 17.63.020 Definitions.
- 17.63.030 Application of zoning regulations.
- 17.63.040 Procedures and requirements for structure development permits.
- 17.63.050 Exemptions.
- 17.63.060 Expiration of permits.

**17.63.010 Purpose and intent.**

The hillsides, canyons, and natural geographic features of the city of Solana Beach constitute a limited natural resource in their scenic value to all city residents and visitors. These unique features have also led to a development pattern whereby vista points and views from lots have been created. The community character and property values will be adversely affected if the impact of new construction on existing viewsheds is not assessed and regulated. It is therefore the purpose and intent of this chapter:

A. To provide a process for the view assessment committee to review all feasible solutions for development and choose that alternative which provides the best balance between the owner's desire to develop his/her property in accordance with applicable regulations and the neighbor's desire to protect his/her view. This chapter does not create a right to an unobstructed view.

B. To preserve the existing character of established residential neighborhoods, and the desire to protect, where feasible, public and private views, aesthetics, and other property values in a manner which is compatible with reasonable development of property.

C. To implement those sections of the general plan land use element which call for the adoption of ordinances to encourage the preservation of private views where feasible.

D. To promote the health, safety and general welfare of the public by preventing the needless destruction and impairment of these limited, unique, and irreplaceable views for this and future generations.

E. To provide a public notification process to encourage the resolution of view impairment issues by those property owners directly affected

without further involvement of the city. (Ord. 201 § 1, 1994)

**17.63.020 Definitions.**

For purposes of this chapter the following words, phrases and terms shall have the following meanings:

A. "Building setback" means the minimum distance as prescribed by this title between any property line, or private easement boundary used for vehicular and/or pedestrian access, and the closest point on any building or structure above ground level on the property.

B. "Lot coverage" means that portion of a lot or building site which is occupied by any building or structure.

C. "Neighborhood character" means the existing characteristics of a neighborhood in terms of the following:

1. Scale of residences in the vicinity of the subject property;
2. Style of residences in the vicinity of the subject property;
3. Building setbacks to other property in the same zone.

D. "Owner" means the person who has submitted an application for a structure development permit.

E. "Privacy" means reasonable protection from intrusive visual observation and/or noise.

F. "Scale" means the total square footage, apparent bulk and lot coverage of a residence and accessory structures.

G. "Structure" shall mean 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, and exceeding seven feet in height.

H. "Style" shall mean design elements which consist of the following:

1. Height of structure;
2. Open space between structures;
3. Roof shape;
4. The mass of the structure;
5. Number of stories.

I. "Viewing area" shall be that area of the structure (excluding bathrooms, hallways, garages or closets) or lot (excluding the building setback areas) where the view assessment committee, or the city council on appeal, determines the best and

most important view exists. 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 that viewing area. The determination 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.

J. "View assessment committee" shall be a committee of seven persons appointed by the city council and vested with authority to administer this chapter. The terms and qualifications for service on the committee shall be established by the city council. The committee shall consist of resident members who are also property owners within the city of Solana Beach. The community development director or the community development director's designee shall be an ex officio member of the committee. The city council adopted "guidelines and toolkit" shall be applied to assist in the implementation of this chapter and shall be binding on the view assessment committee. (Ord. 201 § 1, 1994)

#### **17.63.030 Application of zoning regulations.**

Building height, building coverage, and building setback regulations for all zones shall be as set forth in the applicable provisions of this title, subject to specific design modifications as determined necessary by the view assessment committee or the city council on appeal to achieve the purpose and intent of this chapter. The city council adopted "guidelines and toolkit" shall be utilized in conjunction with this chapter. (Ord. 201 § 1, 1994)

#### **17.63.040 Procedures and requirements for structure development permits.**

A. Application for Structure Development Permit. Any owner proposing to construct a new structure, or an addition to an existing structure, exceeding a height of 16 feet above existing grade, shall be required to submit an application for a structure development permit to the city. The application shall be in a form established by the community development director and shall contain sufficient information and plans to permit review pursuant to this chapter, including a complete set of preliminary plans, a site plan and all exterior elevations. The applicant (sometimes called "owner" in this chapter) shall also submit a current property owner list, postage, and one set of mailing labels for all property owners and occupants within 300

feet of the subject property or for the nearest 20 properties, whichever is greater. An application processing fee in an amount established by city council resolution shall be paid at the time of submission of the application. In the case of very minor additions to existing structures, the community development director has the authority to determine whether or not a structure development permit is required. The community development director also has the authority to waive the requirement, established by subsection B of this section, to erect story poles as a part of the application for a structure development permit for projects where there is no likelihood of a view impairment; provided, however, that if an application for review of the project is filed, the view assessment committee may require that story poles be erected. When a project requires both a city council discretionary permit under the applicable provisions of this title and a structure development permit under this chapter, the applications shall be consolidated and the matter heard by the city council according to the procedures established elsewhere in this title. An application for view assessment under subsection E of this section is required for a hearing on a consolidated application. Notice of the review period will be mailed by city staff in accordance with the above requirements and applications for view assessment must be reviewed within 30 days in accordance with subsection E of this section. The city council shall decide the consolidated application based on the standards of both the zoning ordinance and this chapter. Prior to the city council hearing, staff shall refer the consolidated application to the view assessment committee for a report, which report shall be filed within 60 days.

B. Roofline "Story" Poles. Unless waived by the community development director pursuant to subsection A of this section, as a part of the application for a structure development permit including permits consolidated with a city council discretionary permit, the applicant shall erect, or cause to be erected, temporary poles connected with string marked with colored pennants sufficient to show the height and general outline of the proposed structure. If the community development director has waived the requirement for story poles, the view assessment committee may require the poles upon a determination by the committee that the poles will aid in making the required determinations under this chapter. The accuracy of the

structural outline established by the story poles shall be verified by a signed statement of a licensed land surveyor on a story pole plot plan. Conformance of the structure, as approved or conditionally approved, to the structural outline established by the story poles, or by the conditionally approved structure development permit if different, shall be verified before final inspection of the framing by a licensed land surveyor.

C. Mediation. At the time that an application for a structure development permit is filed the applicant may make an offer in writing to submit the matters of any view impairment to mediation by a private independent mediator. When a person accepts an owner's offer to submit a matter to mediation, or when the owner accepts an offer to mediate made by a person whose view may be impaired, either party to the mediation shall notify the community development director that the matter will be submitted to mediation and all time periods for action by the community development director or the view assessment committee shall be stayed until the owner notifies the community development director in writing that mediation has been concluded. If the matter of view impairment is successfully mediated, the owner shall submit revised plans showing any revisions agreed to during the mediation process along with a written statement of the mediator that the matter has been successfully mediated. If the matter is successfully mediated, the community development director shall refund the application fee paid by the owner, unless the proposed project also requires a city council discretionary permit under the zoning ordinance in which case the portion of the fee which is attributable to the view review process shall be refunded. If more than one person from more than one property have accepted an owner's offer to mediate or have voluntarily offered to submit the matter of a view impairment to mediation, the amount of the owner's application fee refunded for a successful mediation shall be proportional to the number of successfully resolved disputes. Further, if the matter is successfully mediated, the community development director shall refund to any person who has filed a request for view assessment, and with whom the owner has successfully mediated, the fee for filing the application for view assessment. If the matter is not successfully mediated, the conclusions of the mediator shall not be submitted to, or considered by, the view assessment committee. It is the

intention of the city council that mediation be used to resolve view impairment issues whenever feasible. To that end, the community development director is authorized to keep a list of private mediators for reference. Any person who is qualified to act as a professional mediator and requests to be included on the list of mediators shall be included on the list. The cost of mediation shall be borne by the parties according to the usual practices of the mediator. The city council further finds that the refund of application fees to persons who successfully mediate disputes through private mediation serves the public interest by encouraging mediation and by reducing the staff time necessary to review and process applications.

D. Notice. Except where the community development director determines a project to be exempt from the permit requirement, the city shall mail written notice to all property owners and occupants within a 300-foot radius of the subject site or the nearest 20 property owners, whichever is greater, of the pending application. Notice shall not be given until roofline, "story" poles have been erected. Only one notice (addressed to the homeowners' association) shall be required for all properties within a condominium subdivision. Notice shall be deemed given on the date of mailing of the notice. The notice shall include all of the following:

1. A brief description of the structure;
2. A statement that the application and plans for the structure are available for public review in the planning department office;
3. A statement that residents who believe that their views may be impaired by the structure are encouraged to contact the subject property owner directly to work out a mutually acceptable solution;
4. A statement informing all property owners of their right to file an application for view assessment within 30 days of the date of the notice; and
5. If the owner has made an offer to submit the matter to mediation, the fact of that offer.

E. Application for View Assessment. Any person who owns or has lawful possession of a residence from which a view may be impaired by the proposed structure, or the community development director in the case of an impact to a public view, may, within 30 days of the date of notice, file an application for view assessment. The application shall include a description of the "viewing area" as

defined in this chapter and the extent of impairment. An application processing fee in an amount established by city council resolution shall be paid at the time of submission of the application. If an application for view assessment is filed, all issues in dispute including, if necessary, the determination of a viewing area, shall be resolved by the view assessment committee. The view assessment committee shall hold a public meeting not more than 30 days after the last date for filing an application for view assessment. All applications for view assessment with respect to a proposed project shall be heard at the same hearing. Unless the applicant for the permit consents to a longer time period, the view assessment committee shall render its decision within 30 days following the first meeting on the application. If during the view assessment committee meeting the project is redesigned to extend outside the originally proposed three-dimensional building envelope, the meeting shall be continued and the new design noticed in conformance with subsection D. The decision of the view assessment committee shall be incorporated as a condition of the structure development permit and any other discretionary permits required for the proposed structure. Written notice of the view assessment committee's decision shall be sent to the owner and all parties who filed for view assessment.

If no application for view assessment is filed within 30 days of the original date of notice, all rights to review are waived and the community development director shall grant the structure development permit unless any other city council discretionary permit is required by this title or the application does not comply with other applicable zoning or building laws.

F. Findings. In making a decision on a matter for which view assessment has been requested, the view assessment committee shall be required to make the following findings:

1. The applicant for the structure development permit has made a reasonable attempt to resolve the view impairment issues with the person(s) requesting view assessment. Written evidence of a good faith voluntary offer to meet and discuss view issues, or of a good faith voluntary offer to submit the matter to mediation, is hereby deemed to be a reasonable attempt to resolve the view impairment issues.

2. The proposed structure does not significantly impair a view from public property (parks,

major thoroughfares, bike ways, walkways, equestrian trails) which has been identified in the city's general plan, local coastal program, or city designated viewing areas.

3. The structure is designed and situated in such a manner as to minimize impairment of views.

4. 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 caused by the proposed structure; and (b) considering the amount of view impairment that would be caused by the construction on other parcels of structures similar to the proposed structure.

5. The proposed structure is compatible with the immediate neighborhood character.

G. Appeals. The decision of the view assessment committee may be appealed to the city council by the owner or the person(s) who requested the view assessment only after written documentation that interested parties participated in mediation or some other nonbinding form of alternative dispute resolution. Subsection C of this section authorizes the community development director to keep a list of private mediators for reference. The cost of mediation shall be borne by the participants according to the usual practices of the mediator. Mediation must be requested in writing within 10 days of the date of notice of the decision of the view assessment committee with a copy of the written request also shared with the community development director. If upon completion of mediation, the dispute has not been resolved, only those parties who participated in the mediation may file an appeal of the view assessment committee decision. The decision of the mediator will be reviewed by the community development director to confirm that the mediated agreement is consistent with all provisions of the SBMC. If the mediated agreement meets the SBMC standards, the city council shall adopt a resolution of approval. If the mediated decision does not meet SBMC standards, it shall be returned to the mediator. If the mediator provides a written statement that the parties were unable to resolve the issues, then an appeal may be filed in accordance with the following provisions:

1. A notice of appeal must be filed in writing with the community development director (a) within but no later than 10 days after the date of a written decision by a mediator following confirmation by the community development director that

the decision is final, or (b) within 10 days of written notification that mediation has not been successful, or (c) within 60 days of the date of the decision of the view assessment committee. The 60-day period may be extended if progress is being made through mediation and all parties in mediation agree to the extension. If mediation has been successful and the decision becomes final, then no appeal is necessary. Assuming the design, conditions and standards associated with the mediation project meet all city standards, the community development director will prepare a resolution for city council approval on the consent calendar. The notice of appeal shall contain a statement of the grounds for the appeal. The community development director shall mail the notice of appeal to all persons who submitted oral or written testimony to the view assessment committee at the hearing on the project. The appellant shall pay the cost of the mailing.

2. At the time of filing a notice of appeal, an appeal fee to cover the cost of the appeal in an amount established by city council resolution shall be paid to the extent that payment is required by the city council resolution establishing the fee.

3. Within 10 days following the filing of a notice of appeal the appellant shall file with the community development director a statement on appeal which includes: (a) the grounds for the appeal; (b) a summary of the evidence presented to the view assessment committee; (c) a summary of the evidence presented during mediation as well as any written conclusions from the mediator; and (d) any argument the appellant wishes to make supporting the appeal. Upon receipt of the statement, the community development director shall make the statement available as a public record.

4. At a subsequent city council meeting which is more than 10 days after the filing of the appellant's statement on appeal, the city council shall conduct a hearing on the appeal.

5. Notice of the hearing on appeal shall be mailed 10 days prior to the hearing to the appellant(s), to the owner, to all persons who requested view preservation review and to all persons who appeared at the view assessment committee meeting or submitted comments for consideration by the view assessment committee. The determination of the city council on appeal includes a consideration of the following matters: (a) the issues submitted to the view assessment committee and

identified in the notice of appeal; (b) the evidence presented to the committee at the hearing on the matter and any additional evidence which the city council finds could not reasonably have been submitted to the view assessment committee; (c) the resolution of the view assessment committee; (d) a transcript of the hearing before the committee if one has been prepared by the appellant(s) or other person and presented to the city council for its consideration; (e) written statements by persons authorized to appear at the public hearing; and (f) oral presentations by persons appearing at the public hearing. The city council shall permit any person who appeared at the committee hearing or who submitted written comments to the committee to be heard at the hearing on appeal and may permit any other person to be heard. The city council may exercise its independent judgment as to the matter, but shall not overturn the decision of the committee except on the affirmative vote of three members of the city council. The decision of the city council is final. (Ord. 317 § 1, 2003; Ord. 312, 2003; Ord. 288 § 1, 2002; Ord. 201 § 1, 1994)

#### **17.63.050 Exemptions.**

A structure development permit pursuant to SBMC 17.63.040 shall not be required for the following development:

A. Any development project in conformance with a valid, unexpired site development plan, site development permit or building permit approved, conditionally approved or issued before the effective date of the ordinance codified in this chapter.

B. Any development project for which a site development plan, site development permit, or building permit has been requested and stamped as conditionally approved for processing prior to February 5, 1990.

C. The reconstruction of a structure which has been destroyed, in whole or in part, by fire or natural disaster, subject to the provisions for nonconforming uses as set forth in Chapter 17.16 SBMC. (Ord. 201 § 1, 1994)

#### **17.63.060 Expiration of permits.**

Unless a different time is otherwise specifically stated in the permit, structure development permits shall expire and become void 24 months from the date of final approval unless a building permit is issued in accordance with the permit and construction is commenced and diligently pursued toward

a permit under Ordinance No. 133 for which building permits have not been issued and construction commenced. The notice shall be mailed within 30 days of the date of adoption of the ordinance enacting this chapter. (Ord. 201 § 1, 1994)

## Chapter 17.64

### COMPREHENSIVE SIGN ORDINANCE

#### Sections:

- 17.64.010 Purpose and intent.
- 17.64.020 Definitions.
- 17.64.030 Sign permit requirements.
- 17.64.040 Prohibited signs.
- 17.64.050 Signs permitted by conditional use permit only.
- 17.64.055 Permitted temporary and special event banners.
- 17.64.060 Signs or actions exempt from permit requirements.
- 17.64.070 Removal of temporary signs not subject to a sign permit.
- 17.64.080 Signs permitted upon the issuance of a sign permit.
- 17.64.090 Required signs.
- 17.64.100 Historic or culturally significant signs.
- 17.64.110 Comprehensive sign plans.
- 17.64.120 Temporary special event signs.
- 17.64.130 Design review standards.
- 17.64.140 Application, review and appeal procedures.
- 17.64.150 Nonconforming signs.
- 17.64.160 Abatement requirements.
- 17.64.170 Maintenance of permitted signs.
- 17.64.180 Violations.
- 17.64.190 Removal of illegal signs.

#### **17.64.010 Purpose and intent.**

A. It is the intent of these provisions to establish a comprehensive system for the regulation of all signs within the city.

The city recognizes the need of signs to identify businesses and property within the community. The city also recognizes that signing is an important design element of the physical environment which serves to express both the owner of a sign and the community. Regulations consistent with community goals and objectives are necessary to ensure both individual expression and an attractive community character.

It is the purpose of these regulations to enhance the aesthetic nature of the community by eliminating visual clutter, while permitting effective communication by owners and occupants of property. In so doing, it is anticipated that these regulations