

Ordinance No. 5227

Ordinance of the Council of the City of Palo Alto Amending Section 16.04.090 of the Palo Alto Municipal Code to Adopt Local Amendments to the California Building Code, Adopting Chapter 16.61 to Impose Penalties for Abandoned Construction and Related Findings

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

Amendment of Section 105.5 of the California Building Code is justified on the basis of a local geological condition. The City of Palo Alto is subject to earthquake hazard caused by its proximity to San Andreas fault. This fault runs from Hollister, through the Santa Cruz Mountains, epicenter of the 1989 Loma Prieta earthquake, then on up the San Francisco Peninsula, then offshore at Daly City near Mussel Rock. This is the approximate location of the epicenter of the 1906 San Francisco earthquake. The other fault is Hayward Fault. This fault is about 74 mi long, situated mainly along the western base of the hills on the east side of San Francisco Bay. Both of these faults are considered major Northern California earthquake faults which may experience rupture at any time. Thus, because the City is within a seismic area which includes these earthquake faults, the modifications and changes cited herein are designed to better limit property damage and risk to public safety as a result of seismic activity by encouraging prompt completion of construction.

SECTION 2. Section 16.04.090 of the Palo Alto Municipal Code is amended to read as follows:

**16.04.090 Section 105.5 Expiration**

Section 105.5 of Division II of the California Building Code is amended to read:

**105.5 Expiration.** Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. For the purpose of this section, failure to progress a project to the next level of required inspection shall be deemed to be suspension of the work.

The chief building official is authorized to grant, in writing, no more than three extensions of permits that would otherwise expire for periods not more than 180 days each and may require: 1) that the construction documents be revised to comply with current codes; and 2) payment of all current and applicable fees. Extensions shall be requested in writing and justifiable cause demonstrated. Additional extensions beyond three may only be granted with the approval of the City Council.

The chief building official is authorized to grant, in writing, one or more renewals of the expired permits and may require: 1) that the construction documents be revised to partially or fully comply with current codes; 2) payment of a fee; and 3) payment of a penalty pursuant to Chapter 16.61 of the Palo Alto Municipal Code, as it may be amended from time to time.

**SECTION 3.** Chapter 16.61 (Expired Permits for Residential Construction and Demolition) of the Palo Alto Municipal Code is adopted to read as follows:

**16.61.010 Application**

This chapter shall apply to all residential construction and demolition, including, but not limited to, all additions, alterations, modifications, repairs, and improvements, that require a building permit or demolition permit.

**16.61.020 Timely Renewal of Expired Permits**

In the event a permit expires under section 16.04.090 for suspension or abandonment of work, the property owner shall seek renewal of the permit within thirty (30) days following its expiration.

**16.61.30 Penalty for Expired Permits**

A property owner shall be subject to the following penalties for violation of section 16.61.020:

<b>Time from permit expiration</b>	<b>Penalty</b>
0 to 30 days	\$0
31st day through 60th day	\$200.00 per day (i.e., \$6,000.00 maximum penalty applicable to this 30-day period)
61st day through 120th day	\$400.00 per day (i.e., \$24,000.00 maximum penalty applicable to this 60-day period)
121st day and every day thereafter	\$800.00 per day

- (a) For purposes of this section, if a renewed permit expires and the property owner has not advanced a project to the next level of required inspection, the calculation of penalties shall relate back to the date of the previous permit expiration.
- (b) The chief building official may reduce or waive a penalty accrued under this chapter upon finding that the property owner acted in good faith and either: (1) the delay was attributable to circumstances beyond the property owner's control; or (2) imposition of the full accrued penalty would harm the public interest, provided, however, that and reduction or waiver of more than \$10,000 must be approved by the City Council.

**16.61.040 Appeal of Assessed Penalty**

A property owner may request a hearing to contest a citation issued under this chapter in accordance with Chapter 1.12.

**16.61.050 Construction of Fence**

In the event a permit remains expired for more than thirty (30) days, the chief building official may require the construction of a wood fence at least six (6) feet tall, if necessary to secure the property from unauthorized entry and to minimize the aesthetic impacts of the construction visible from the public right of way. Such fence shall comply with the requirements of Chapter 16.24.

**16.61.060 Public Nuisance Declared**

Any violation of this chapter shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided in Chapter 9.56 of the Palo Alto Municipal Code.

SECTION 4. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

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SECTION 6. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: December 9, 2013

PASSED: January 13, 2014

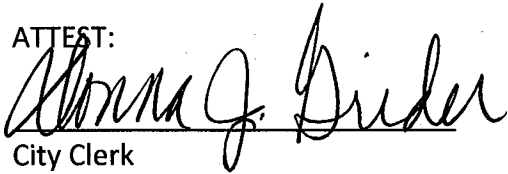
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NOES:

ABSENT:

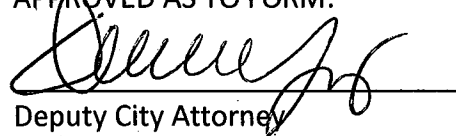
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ATTEST:

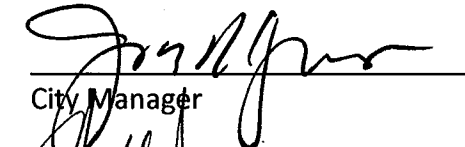
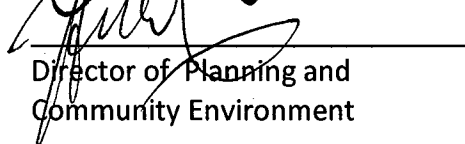
  
City Clerk

  
Mayor

APPROVED AS TO FORM:

  
Deputy City Attorney

APPROVED:

  
City Manager  
  
Director of Planning and  
Community Environment