

## Chapter 8.128 - RIDGELINE PROTECTION

### Sections:

#### 8.128.010 - Purpose.

This chapter establishes regulations for development on hillsides and near designated ridgelines in the town. The intent of these regulations is to:

- A. Implement general plan goals which call for the town to regulate development in a manner that maintains undeveloped hillsides and ridgelines in the town in a scenic natural setting, and other town policies related to ridgeline and hillside areas.
- B. Preserve and protect the town's unique semi-rural feel and scenic natural setting characterized by visually prominent ridgelines and hillsides that appear substantially free of visible development.
- C. Allow for a reasonable amount of development near ridgelines to support a range of community goals including increasing economic vitality, protecting public safety, supporting public recreation, and increasing housing choices.
- D. Allow for the continued use of land and existing structures on and near ridgelines consistent with the purpose of this chapter.
- E. Protect the public health, safety and welfare by reducing public exposure to geologic risks and other hazards common on and near ridgelines.
- F. Protect scenic resources by limiting the hillside development visible from the town's scenic corridors and other public places.

(Prior code § 8-5701)

( [Ord. No. 277](#), § 2, 4-25-2018)

#### 8.128.020 - Designation of ridgelines.

The location of major and minor MOSO ridgelines, significant non-MOSO ridgelines, and other non-MOSO ridgelines as defined in Section 8.04.020 (Definitions) shall be as shown in Figure CD-1 of the general plan.

(Prior code § 8-5702)

( [Ord. No. 277](#), § 2, 4-25-2018)

#### 8.128.030. - Applicability.

- A. MOSO Open Space. This chapter applies to all development within MOSO open space except for:
  - 1. Work necessary to eliminate or prevent a condition which is determined by the town to be a menace to life, limb or property or adversely affects the safety, use or stability of a public way or drainage way or channel;
  - 2. A fire trail approved by both the town council and the Moraga-Orinda Fire District.
- B. Areas Outside of MOSO Open Space. In areas outside of MOSO open space, the regulations in Chapter 8.128 apply to all development on hillsides and near ridgelines except for:

1. Agricultural activities, including animal grazing, vineyards, fruit and nut trees, and related structures such as open fences, troughs, water storage containers not greater than five thousand (5,000) gallons and eight feet in height, and similar agriculture-serving accessory structures. Enclosed or substantially enclosed structures with a roof are not allowed under this exception. Water storage containers permitted by this exception shall be located to minimize visibility from a scenic corridor to the greatest extent possible.
  2. Subdivisions of land that do not permit development that would otherwise be in conflict with this policy.
  3. Grading that does not require a grading permit pursuant to Municipal Code Title 14 (Grading).
  4. Construction of open fences, walls, and other "short" (meaning less than four feet tall) and "small" (meaning less than two hundred (200) cubic feet) accessory structures associated with uses and activities legally existing as of April 11, 2018.
  5. Modifications to existing structures pursuant to Municipal Code Chapter 8.20 (Nonconforming Uses, Structures and Lots).
  6. Roads crossing a ridgeline that comply with all applicable requirements in Municipal Code Section 8.128.060.A (Crossing Ridgeline Allowed).
  7. Unpaved recreational pathways and trails.
  8. Work necessary to eliminate or prevent a condition which is determined by the town to be a menace to life, limb or property or adversely affects the safety, use or stability of a public way or drainage way or channel.
  9. A fire trail approved by the Moraga-Orinda Fire District.
- C. Existing Uses and Structures. This chapter does not apply to the repair and maintenance of legally established existing structures or the continued operation of permitted existing uses. The town shall interpret and apply this chapter in a manner that allows for the continued use of existing structures consistent with applicable town standards and regulations.
- D. Additional Standards. In addition to the standards in this chapter, development shall also comply with all applicable hillside and ridgeline policies in the general plan, applicable design guidelines, and any applicable specific plan or area plan.

( [Ord. No. 277](#) , § 2, 4-25-2018)

#### 8.128.040. - Horizontal buffer standards.

- A. Major MOSO Ridgelines. Development is prohibited within five hundred (500) feet (measured horizontally in plan view) of the centerline of a major MOSO ridgeline.
- B. Significant Non-MOSO Ridgelines. Development is prohibited within two hundred (200) feet (measured horizontally in plan view) of the centerline of a significant non-MOSO ridgeline.
- C. Other Non-MOSO Ridgelines. There is no specific buffer or visual separation standard that applies to other non-MOSO ridgelines. Development on and near other non-MOSO ridgelines shall be designed to maintain Moraga's unique semi-rural feel and scenic natural setting to the greatest extent possible consistent with applicable general plan policies and with the design guidelines.
- D. Measurement of Buffer. Buffer distances are measured horizontally in plan view (i.e., from above, looking down).
- E. Roads Crossing Ridgelines. A road, together with attendant underground utilities may cross a ridgeline, if the planning commission finds that the crossing is necessary for the orderly development of the town, the road complies with all applicable requirements in Municipal Code Section 8.128.060 (Roads), the MOSO guidelines, and does not otherwise conflict with the Municipal Code.

( [Ord. No. 277](#) , § 2, 4-25-2018)

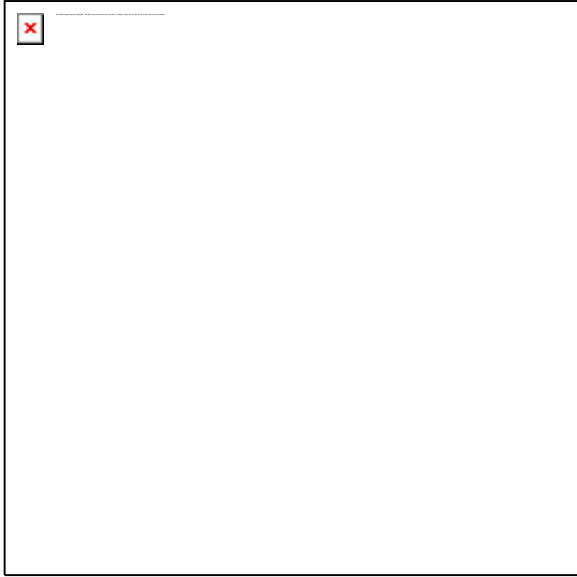
8.128.050. - Visual Separation—Scenic Corridor.

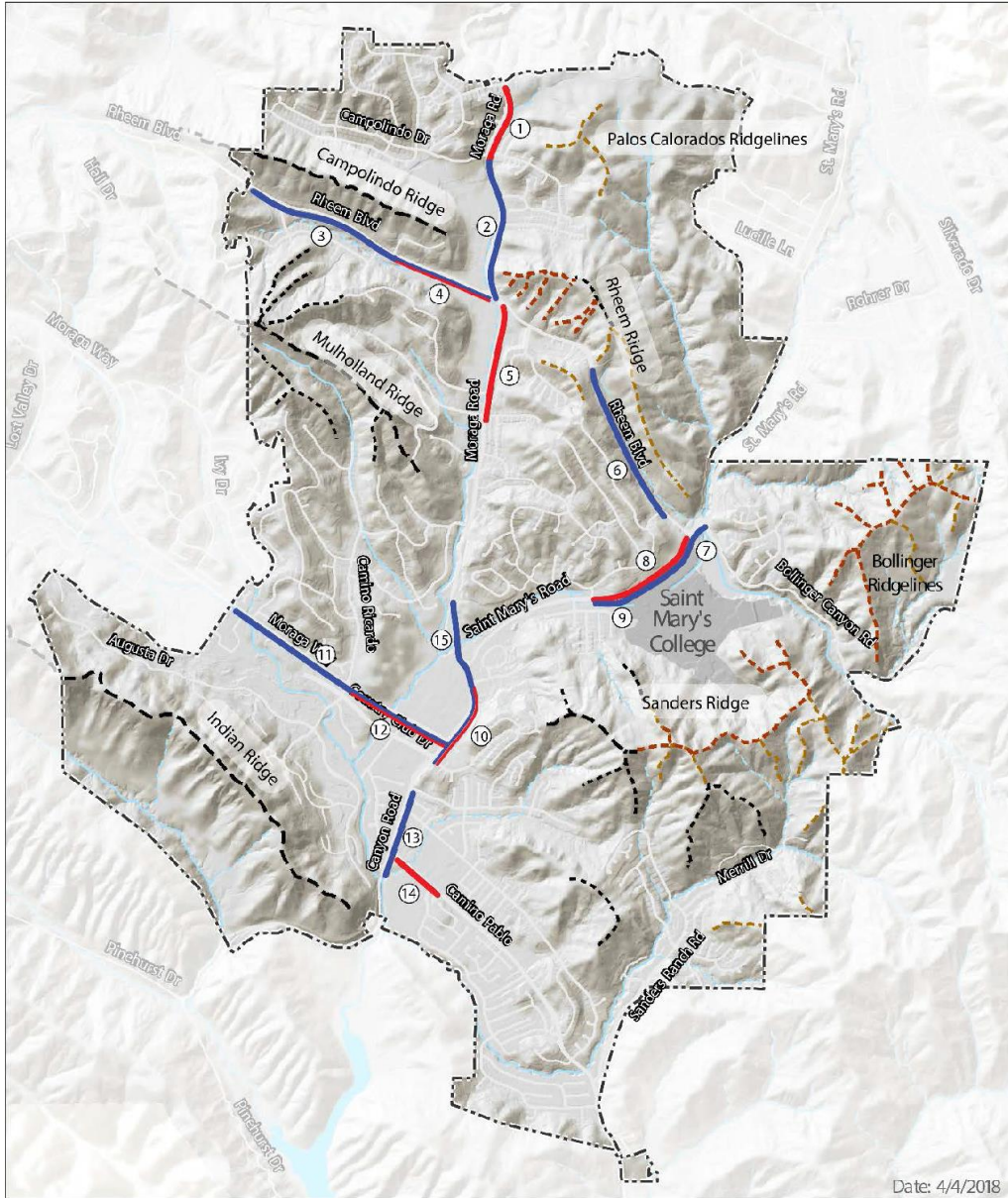
- A. Applicability. The visual separation requirements in this section apply to development in hillside areas when such development is visible from an affected view corridor and may impact the views of affected ridgeline and the hillsides below.
1. "Affected view corridor" means the scenic corridor segments described in Table 8.128-2 and shown in Figure 8-128-1.
  2. "Affected ridgeline" means the ridgeline visible from an affected view corridor as described in Table 8.128-2 and shown in Figure 8-128-1.
- B. Standards.
1. Structures in hillside areas shall be located and designed so that a minimum of thirty-five (35) percent of the vertical distance from the crest of the affected ridgeline (as mapped in Figure 8-128-1) to the "toe of slope elevation" for that affected ridgeline remains visible as undeveloped open space when viewed from the full length of the affected view corridor described in Table 8.128-2 and shown in Figure 8-128-1. The visual separation standard is illustrated in Figure 8.128-2.

Table 8.128-2:  
View Corridors from Which to Evaluate Project Compliance with Visual Separation Standard

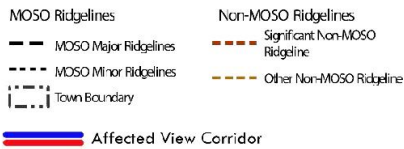
Affected Ridgeline	Affected View Corridor	Map ID
Palos Calorados	Moraga Road from Town Boundary to Campolindo Drive	1
Rheem (north face)	Moraga Road from Campolindo Drive to Rheem Boulevard	2
Campolindo (east end)	Moraga Road from Campolindo Drive to Rheem Boulevard	2
Campolindo (south face)	Rheem Boulevard from Moraga Road to Town Boundary	3
Rheem (west end)	Rheem Boulevard from La Salle Drive to Moraga Road	4
Rheem (south face)	Moraga Road from Donald Drive to Rheem Boulevard	5
Sanders Ridge	Rheem Boulevard from Fayhill to Fernwood; St. Mary's Road from Bollinger Canyon to Stafford Road; Lafayette/Moraga Regional Trail from Stafford Road	6,7,8

(north face)	to Rheem Boulevard	
Bollinger Ridge	St. Mary's Road from Stafford Road to Rheem Boulevard	9
Indian Ridge (north face)	Moraga Road from St. Mary's Road to Country Club Drive; Moraga Way from Town Boundary to Moraga Road	10, 11
Sander Ridge (west end)	Moraga Way from Camino Ricardo to Moraga Road	12
Sanders Ridge (south face)	Canyon Road from Constance Place to Sanders Drive	13
Indian Ridge (east end)	Camino Pablo from Rimer Drive to Canyon Road	14
Mulholland Ridge	Moraga Road from Moraga Commons Park to Moraga Way	15





Data Sources: Town of Moraga, 2018; Contra Costa County 2013; USGS, 2006, 2013; PlaceWorks, 2018.



**Figure 8.128-1**  
Affected View Corridors and Ridgelines



2. For each affected ridgeline, "toe of slope elevation" means the contour line elevation, extending along the full length of the affected ridgeline, as shown in Table 8.128-2.
3. If the town determines that compliance with the standard when viewed from the full length of the affected view corridor renders any reasonable development project infeasible, the town may alternatively require the project to comply with the thirty-five (35) percent visual separation standard as viewed from one or more individual vantage points along the affected view corridor.

In such a case, the town shall select vantage points from which the project would be most visible and/or result in the greatest potential visual impact to the hillside and ridgeline as viewed from the scenic corridor.

4. Nothing in this chapter shall preclude the town from requiring additional visual simulations and view impact studies to determine compliance with town policies and/or evaluate potential environmental impacts under the California Environmental Quality Act (CEQA).

Figure 8.128-2: Visual Separation Standard

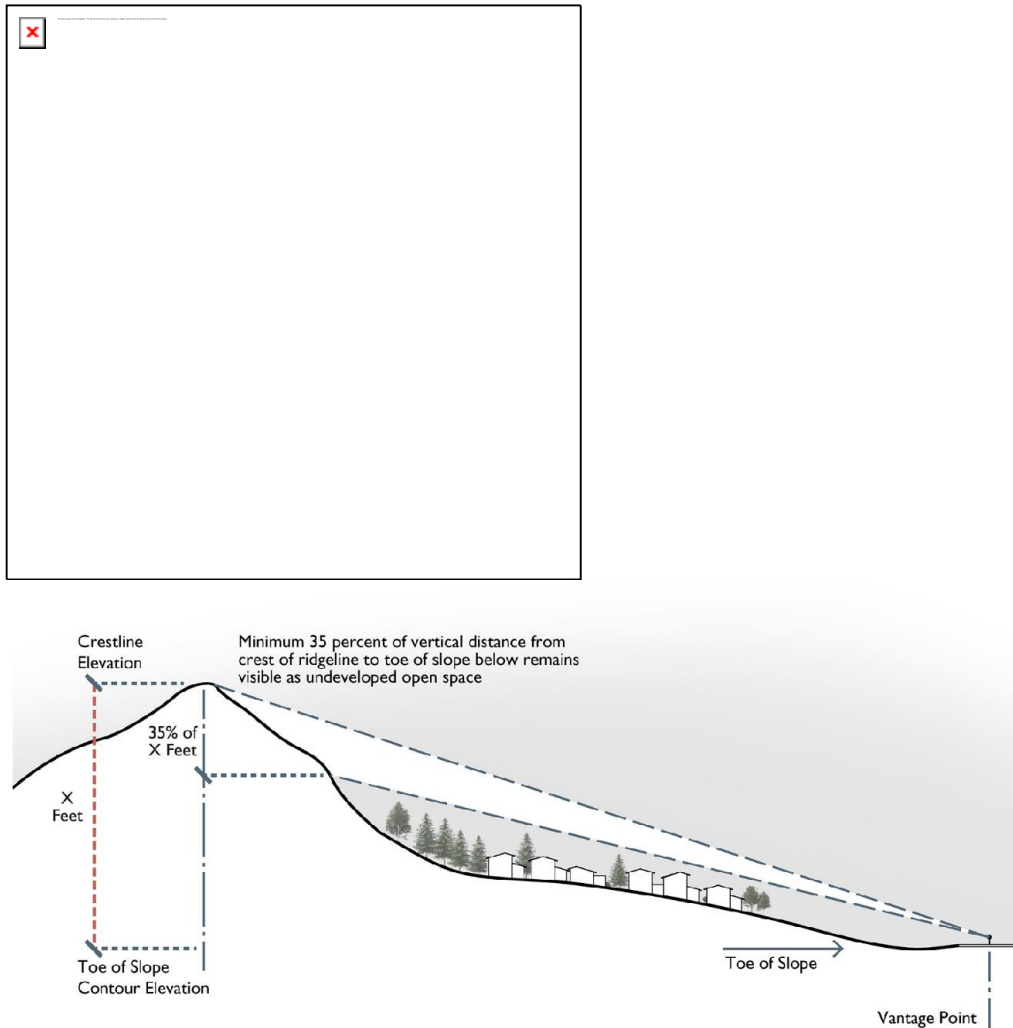


Table 8.128-2: Toe of Slope Contour Elevation

Affected Ridgeline	Vantage Points	Toe of Slope Contour Elevation (above mean sea level)
Palos	1	670 ft.

Campolindo	2	620 ft.
Rheem	3, 4, 5	610 ft.
Sanders (North)	6, 7, 8	650 ft.
Sanders (South)	12, 14	550 ft.
Bollinger	9	630 ft.
Indian	10, 13, 15	550 ft.
Mulholland	11	550 ft.

5. For proposed structures that would be visible on a hillside below an affected ridgeline as viewed from a affected view corridor, the applicant shall prepare a visual simulation demonstrating compliance with this standard. Visual simulations shall utilize the road centerline as the location from which the simulation at any designated vantage point is developed, and shall be prepared in a manner consistent with the town's guidelines for visual representation of proposed development projects.
  6. Prior to town action on the proposed project, the applicant shall install story poles as required by the planning director demonstrating project compliance with this standard and in accordance with the town's guidelines for visual representation of proposed development projects. The story poles shall be installed to reflect the various height points of the project as it will be built, including any increase in elevation that will be attributable to pad elevation. Story poles shall be photographed by the town from specified, reproducible locations. During and after project construction, the town shall take comparable photographs from the same locations to confirm that visual impacts of completed structures are reasonably consistent with those indicated by the story poles. In cases when site topography or other physical constraints prevent the installation of story poles, the planning commission may allow an alternative method to demonstrate compliance, including additional visual simulations, three-dimensional models, and other graphic modeling techniques.
- C. Exemptions. The town council may grant exceptions to the standards in this section in accordance with Section 8.128.070 (General Exceptions).

( [Ord. No. 277](#), § 2, 4-25-2018)

#### 8.128.060. - Roads.

##### A. Crossing Ridgeline Allowed.

1. The planning commission may allow a road, together with attendant underground utilities, to cross a major MOSO ridgeline, a minor MOSO ridgeline, or a significant non-MOSO ridgeline upon finding that the crossing is necessary for the orderly development of the town, the road complies with all applicable requirements of Section 8.128.060, and it does not otherwise conflict with the Municipal Code.

2. For major MOSO ridgelines and significant non-MOSO ridgelines, a road may be located within the horizontal ridgeline buffer for only the minimum distance necessary to cross the ridgeline.
  3. For minor MOSO ridgelines, a road may be located within two hundred (200) feet of the crest of the ridgeline for only the minimum distance necessary to cross the ridgeline.
  4. Roads crossing a ridgeline, where allowed, shall comply with the following standards:
    - a. Roads shall be located and designed to minimize visibility when viewed from a road or other public place; and
    - b. On-street parking is prohibited on roads within the horizontal ridgeline buffer for major MOSO and significant non-MOSO ridgeline and within two hundred (200) feet of a minor MOSO ridgeline. The road shall be designed with the minimum width necessary to accommodate only through traffic without parking; and
    - c. Streetlights shall not be permitted on ridgelines; and
    - d. Road placement should minimize glare from vehicle lights visible from public places and nearby homes; and
    - e. All utilities shall be undergrounded with cost to be borne by the project developer.
  5. A "road" means any public or private thoroughfare constructed of any material approved by the town that provides permanent vehicle access to abutting property or a public right-of-way. Roads may include associated and parallel pedestrian pathways, bicycle lanes or paths, sidewalks, single-use or multi-use trails, and on-street parallel parking spaces, that are an integral part of or directly adjacent to a road approved by the town consistent with this section.
  6. A road is considered to "cross a ridgeline" if it rises in elevation on one side of a ridgeline, extends over the ridgeline crest, and then descends down the hillside on the opposite side of the ridgeline.
- B. Design Guidelines. Any road crossing a ridgeline shall comply with the design guidelines for roads in Section R4 (Roads and Sidewalks) in the town design guidelines.
- C. Exceptions. The reviewing authority may grant exceptions to the standards in Section 8.128.060.A upon finding that:
1. There are no feasible and reasonable development alternatives to the proposed road that would comply with the standard(s) and the road is necessary for the orderly development of the town; and
  2. The project with the exception achieves the purpose of this chapter as set forth in Section 8.128.010 to the greatest extent possible.

( [Ord. No. 277](#), § 2, 4-25-2018)

#### 8.128.070. - General Exception.

The town council may grant an exception to any requirement in Chapter 8.128 (Ridgeline Protection) to avoid a taking of property under the Constitutions of the United States and the State of California. However, the applicant bears the burden of proof to demonstrate to the satisfaction of the town council, with clear and convincing evidence, that the exception is necessary to avoid a taking. If such an exception is granted it shall be granted so as to only allow the minimum deviation necessary to avoid a taking.

( [Ord. No. 277](#), § 2, 4-25-2018)

## Sections:

Footnotes:

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**Editor's note**— Ordinance No. [277](#), § 2, adopted April 25, 2018, repealed the former ch. 8.136, §§ 8.136.010—8.136.090, and enacted a new ch. 8.136 as set out herein. The former ch. 8.136 pertained to slope density and derived from the prior Code.

8.136.010. - Purpose.

This chapter describes the process for the Town to approve a development project in a Hillside Area through either: 1) a Hillside Development Permit; or 2) additional findings for the approval of other discretionary permits required by the Town. These approval requirements are intended to ensure that development in Hillside Areas preserves Moraga's scenic qualities, minimizes environmental impacts, and reduces exposure to geologic and other hazards.

( [Ord. No. 277](#), § 2, 4-25-2018)

8.136.020. - Applicability.

The approval requirements established in this chapter apply to any of the following types of development where such development is subject to a building permit, and where the development is in a Hillside Area as defined in Section 8.04.020 (Definitions):

- A. Construction of a new primary structure.
- B. Construction of an accessory building or structure over 400 square feet in size.
- C. Expansion of the footprint of an existing building or structure, either as a single project or when construction spans over a five-year period and the addition or expansion would add more than 500 square feet, or 35 percent of the footprint of the habitable building area, whichever is smaller.
- D. A project involving grading or construction of retaining walls where the project would be subject to Design Review.
- E. Subdivisions of land.

( [Ord. No. 277](#), § 2, 4-25-2018)

8.136.030. - Approval requirements.

- A. Hillside Development Permit. Where a proposed development project subject to the requirements of this chapter does not require a use permit, grading permit, subdivision map, or other discretionary permit, the project shall nonetheless require a Hillside Development Permit as described in Section 8.136.040 (Hillside Development Permits).
- B. Other Discretionary Permits. Where a proposed development project subject to the requirements of this chapter requires a use permit, variance, conceptual development plan, grading permit, or other discretionary permit, the reviewing authority may approve the permit only after making the findings in Section 8.136.050 in addition to the findings required for the other discretionary permit(s).
- C. Subdivisions.

1. For subdivisions that are accompanied by a proposed conceptual development plan and/or whose application otherwise identifies the location, type, and intensity of new development within the subdivision, the reviewing authority may approve the subdivision only after making the findings in Section 8.136.050 in addition to making all findings and determinations required by the Town of Moraga Subdivision Ordinance and the California Subdivision Map Act.
  2. For subdivisions that do not identify the location, type, and intensity of new development, the reviewing authority may approve the subdivision only after finding that the subdivision complies with all applicable General Plan policies pertaining to hillside development in addition to making all of the findings and determinations required by the Town's Subdivision Ordinance and the California Subdivision Map Act. In such cases, the reviewing authority shall attach a condition to the subdivision approval requiring the Town to make the findings in Section 8.136.050 prior to approving proposed development in the subdivision.
- D. Projects Requiring Subsequent Approvals.
1. For projects requiring subsequent approvals (e.g., a general development plan after conceptual development plan), the Town shall make the findings required by this chapter once, and at the earliest possible time, when sufficient project detail is available to consider the required findings.
  2. If a proposed project requires subsequent approvals and sufficient project detail is not available with the initial approval, the reviewing authority shall attach a condition to the initial approval requiring the Town to make the findings in Section 8.136.050 at the next earliest subsequent approval when sufficient project detail is available to consider the required findings.

( [Ord. No. 277](#), § 2, 4-25-2018)

#### 8.136.040. - Hillside development permits.

This section applies to projects requiring Hillside Development Permits as identified in Section 8.136.030.A (Hillside Development Permits).

- A. Reviewing Authority. The reviewing authority for a Hillside Development Permit is the authority charged with the duty of passing upon any land use entitlement, permit, or design review approval, as applicable. In the case of an application which requires only building permit approval, the reviewing body is the Zoning Administrator.
- B. Application Submittal and Review. Hillside Development Permit applications shall be filed and reviewed in compliance with Article 1 (Applications) of Municipal Code Chapter 8.12 (Administrative Procedures). The application shall include the information and materials required in a form specified by the Planning Department, together with all required application fees.
- C. Planning Commission and Design Review Board Notification. For applications where the Zoning Administrator is the reviewing authority, the Planning Director shall notify the Planning Commission and Design Review Board of the application when the Hillside Development Permit application is filed with the Town.
- D. Public Notice and Hearing. The reviewing authority shall provide public notice, review and act on a Hillside Development Permit in compliance with Municipal Code Chapter 8.12 (Administrative Procedures). Where the Zoning Administrator is the reviewing authority, the procedure for review shall follow that required for Design Review approval set forth in Municipal Code Section 8.72.090, except that the findings for approval set forth in Section 8.136.060 shall apply.
- E. Conditions of Approval. The reviewing authority may attach conditions of approval to a Hillside Development Permit to achieve consistency with the General Plan, Municipal Code, and any applicable specific plan or area plan adopted by the Town Council.

- F. Appeals. Decisions of the reviewing authority on Hillside Development Permits may be appealed as described in Article 4 (Decision and Appeals) of Chapter 8.12 (Administrative Procedures).

( [Ord. No. 277](#), § 2, 4-25-2018)

8.136.050. - Findings for approval.

To approve a project that requires only a Hillside Development Permit, the reviewing authority shall make all of the findings below. To approve a proposed project subject to the requirements of this chapter as specified in Section 8.136.020 (Applicability) and which requires a use permit, variance, conceptual development plan, grading permit, subdivision map, or other discretionary permit, the reviewing authority shall make all of the findings below in addition to the findings required for the other discretionary permit(s).

- A. The proposed development is consistent with the General Plan, Municipal Code, Design Guidelines, and any applicable specific plan or area plan adopted by the Town Council.
- B. The proposed development is designed to minimize visual impacts, protect scenic resources, and maintain Moraga's semi-rural feel to the greatest extent possible.
- C. The proposed development protects biological, hydrological, and other environmental resources to the greatest extent possible.
- D. The proposed development is designed and located to minimize exposure to landslides and other geologic hazards.
- E. The proposed development minimizes soil displacement and utilizes grading techniques that blend with natural slopes and achieve a natural appearance.
- F. The proposed development will not be detrimental to the public health, safety, and welfare.

( [Ord. No. 277](#), § 2, 4-25-2018)