

## **CHAPTER 10.46**

# **HISTORIC OVERLAY DISTRICT AND LOCAL REGISTER**

### **10.46.010 Purpose**

In addition to the general purposes established in Section 10.10.030 (Title and Purpose), the specific purposes of this chapter establishing regulations for the Historic overlay district and properties listed on the local register are as follows:

- A. To provide uniform regulations for the Historic overlay district and sites and structures listed on the local register;
- B. To preserve structures that are unique and irreplaceable assets to the city and its neighborhoods;
- C. To deter demolition, alteration, misuse or neglect of historic or architecturally significant structures and sites;
- D. To provide flexible land use and development regulations to allow preservation of structures and sites;
- E. To provide a review process for alterations, modifications and additions to structures within the Historic overlay district and/or listed on the local register; and
- F. To provide a process for listing a site or structure on the local register.

### **10.46.020 Applicability**

The requirements of this Chapter apply to proposed land uses and physical alterations to structures located within the Historic overlay district and for all sites and structures listed on the local register. In addition, the requirements of Chapters 10.20 through 10.28 (Zoning District Regulations), Chapter 10.40 (General Development Regulations), Chapter 10.42 (Sign and Awning Regulations), Chapter 10.44 (Specific Use Requirements), and any other applicable requirements of this Title shall apply.

### **10.46.030 Conflicts Between Provisions**

In the event of any conflict between this Chapter and other chapters of this Title, the more restrictive regulations shall apply.

### **10.46.040 Conditional Uses**

Notwithstanding Section 10.46.030 (Conflicts Between Provisions), alternate uses may be allowed for structures and/or sites within the Historic overlay district and/or listed on the local register with a Conditional Use Permit provided the following findings can be made:

- A. Exception to land use regulations is necessary to permit the preservation or restoration of an historic or architecturally significant structure or site;
- B. Proposed use of historic or architecturally significant structure or site will require minimal alterations to structure;
- C. Alterations will be consistent with Secretary of Interior Standards for Rehabilitation;
- D. A Preservation Agreement has been prepared and recorded specifying the uses allowed on subject property and preserving property from demolition;
- E. The Historic Landmarks Board has considered the proposed use and recommends approval; and
- F. A public hearing has been noticed and held in accordance with Chapters 10.60 (Conditional Use Permits) and 10.82 (Public Hearings).

**10.46.050 Procedures for Listing a Site or Structure on Local Register**

Individual structures, structures and sites with historic or architectural significance may be listed on the local register, in accordance with the following procedures:

- A. **Initiation and Application.** The Historic Landmarks Board, Planning Commission or City Council may initiate listing a site or structure on the local register. A private interested party may also request listing a site or structure on the local register.
- B. **Submittal Requirements.** The following information shall be submitted with any private-party application to list a site or structure on the local register:
  - 1. A map showing the location of the structure and plans or photographs of the structure's exterior;
  - 2. A statement of the architectural or historical significance of the site or structure proposed for listing on the local register and description of the particular features that should be preserved; and
  - 3. Any additional information requested or required by the Community Development Director, including plans or materials deemed necessary to support and process the application.

Applicants may alternatively submit State Department of Parks and Recreation Historic Resources Inventory Form.

- C. **Listing Sites or Structures on the Local Register.** Individual structures may be listed on the local register if all of the findings in Section 10.46.050.F (Findings) can be made. A structure or site listed on the local register shall be subject to the same review procedures, and eligible for the same preservation incentives, as structures within the Historic overlay district.
- D. **Public Hearings.** The Historic Landmarks Board and Planning Commission shall make

a recommendation to the City Council to list a property on the local register following a public hearing.

- E. Historic Landmarks Board hearing and recommendation.** A public hearing shall be noticed and held by the Historic Landmarks Board, consistent with Chapter 10.82 (Public Hearings.) The purpose of the public hearing shall be to receive testimony from persons interested in listing the structure or site on the local register, and to adopt a recommendation to the Planning Commission. The Historic Landmarks Board shall submit a written report conveying the Board's recommendation on the proposed amendment to the Planning Commission. The report shall provide reasons for the recommendation to place the structure or site on the local register and address its consistency with relevant General Plan and Specific Plan policies.
- F. Findings.** The Historic Landmarks Board and Planning Commission may recommend, and the City Council may approve, listing a structure or site on the local register if all of the following findings can be made:
1. The structure or site proposed for the local register is significant to local, regional, state or national history.
  2. Listing the proposed structure or site on the local register has been subject to environmental review and the appropriate findings have been made.
  3. Listing the proposed structure or site on the local register will preserve the historic character or integrity of the structure or site.
  4. Structure or site proposed to be listed on local register has a significant architectural or historical character that can be preserved or enhanced through appropriate controls and incentives on new development and alterations to existing structures and landscaping.
- G. Planning Commission hearing and recommendation.** A public hearing shall be noticed and held by the Planning Commission, consistent with Chapter 10.82 (Public Hearings). The purpose of the public hearing shall be to receive testimony from persons interested in the listing the proposed structure or site on the local register, to consider the recommendations of the Historic Landmarks Board and to adopt a recommendation to the City Council. The Community Development Department, on behalf of the Planning Commission, shall submit a written report conveying the Commission's recommendation on listing the proposed structure or site on the local register to the City Council. The report shall address the Historic Landmarks Board's recommendation, provide reasons for the Planning Commission's recommendations on listing the structure or site on the local register, and address its consistency with relevant General Plan and Specific Plan policies. The recommendation to the City Council shall be in the form of a resolution and shall include findings, as identified in subsection (F) (Findings) and reasonable conditions of approval, including any special criteria that shall apply to the structure or site.
- H. City Council.** A public hearing shall be noticed and held by the City Council, consistent with Chapter 10.82 (Public Hearings.) The purpose of the public hearing shall be to hear testimony regarding listing the proposed structure or site on the local register and

consider the recommendations of the Historic Landmarks Board and the Planning Commission.

- I. **Resolution.** The City Council may approve, approve with conditions or deny a request to list a structure or site on the local register. Any decision shall be in the form of a resolution and shall include findings. The City Council may also specify special design or other criteria to be applied to listing the structure or site on the local register. Any application of conditions or criteria shall be subject to review and comment by the Historic Landmarks Board and Planning Commission.

#### **10.46.060 Procedures for Demolition, Addition or Modifications**

Design Review shall be required for any proposal to demolish, make an addition to, or otherwise modify an existing structure that is located in the Historic overlay district or is listed on the local register. Design Review shall be conducted in accordance with Chapter 10.54 (Design Review Procedures) and the following:

- A. **Submittal requirements.** In addition to the submittal requirements established by Chapter 10.54 (Design Review Procedures), any application for demolition, addition or modification to existing structures in the Historic overlay district, or listed on the local register, shall include the following:
  1. Plans showing all historic elements of structure or site, including materials and date of construction;
  2. Plans showing proposed alterations of all historic elements of structure or site, including materials to be removed, materials to be added, and materials to be altered;
  3. Explanation of proposed changes to historic structure or site, including the reasons for alterations, addition or demolition;
  4. Explanation of use of State Historic Building Code and the way the code is being applied to the project, if applicable; and
  5. Explanation of the use of the Secretary of Interior Standards, if applicable.
- B. **Joint meeting.** Design review shall be subject to review and approval by the Historic Landmarks Board and Planning Commission. A joint meeting shall be held to conduct Design Review. A subcommittee of the Historic Landmarks Board and Planning Commission may be formed and convene to review Design Review Permit applications and work with applicants.
- C. **Prior approval required.** Prior approval by the Historic Landmarks Board shall be required for any permit issued by the Building Official for construction, alteration, enlargement, or demolition of a structure located in a Historic overlay district or listed on the local register.
- D. **Review criteria.** In addition to the requirements of Chapter 10.54 (Design Review

Procedures), the Community Development Director and Historic Landmarks Board shall use the following when reviewing and approving any proposed demolition, new construction or alteration to existing structures or landscaping:

1. Applicable design or other guidelines;
2. The architectural or historical value and significance of the site and structure in relation to the overlay district; and
3. The visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, structure siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors and textures.

The Historic Landmarks Board and Planning Commission shall review removal and/or alteration of landscape materials for consistency with any applicable design guidelines.

**E. Additional demolition procedures.** The following procedures shall also apply to any application for a demolition permit for a structure that is listed on the local register or located in a Historic overlay district:

1. If, after review of request for a demolition permit, the Historic Landmarks Board or Planning Commission determines the structure itself has historic, architectural or cultural interest or value, the Board and Commission may withhold approval of demolition for 180 days (from the date of Board or Commission action) or until environmental review, whichever occurs later. The 180-day delay shall be for the purpose of providing time to explore alternatives to demolition. During the 180 days, the Planning Commission may direct the Community Development 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.
2. At the end of the 180-day period, the demolition permit shall be issued if the requirements of the California Environmental Quality Act and Title 11 (Environmental Protection) have been met.

**F. Design Review Findings.** The Historic Landmarks Board and Planning Commission may approve a Design Review Permit to allow new construction or alterations to a property within the Historic overlay district or listed on the local register, if all of the following findings can be made, to the extent applicable:

1. The proposed new construction or alteration is compatible with the architectural and historical features of the structure and/or district.
2. The historical context of the original structure or district has been considered during the development and review of the proposal.

3. The criteria for listing the structure or site on the local register does not apply, or the Historic overlay district will not be affected by the new construction or alterations.
4. The State Historic Building Code is being applied to minimize alterations to the original historic structure.
5. The Secretary of Interior Standards for Treatment of Historic Properties have been used to review and consider the new construction and proposed alterations.
6. Alternative uses and configurations have been considered as part of the Design Review process.
7. Findings specified by Chapter 10.54 (Design Review Procedures) can be made.
8. The proposed new construction or alteration will be compatible with, and help achieve the purposes of, the Historic overlay district.

**G. Landscaping Findings.** The Historic Landmarks Board and Planning Commission may approve a Design Review Permit to allow landscaping beyond routine maintenance if the following findings can be made:

1. Proposed removal or alterations will not affect the character of the Historic overlay district or structure listed on the local register; or
2. The safety of persons or property requires the removal or alteration.

**H. Demolition Findings.** The Historic Landmarks Board and Planning Commission may approve a Design Review Permit to allow partial or complete demolition of a structure listed on the local register or located in the Historic overlay district if the following findings can be made:

1. and the requirements of the California Environmental Quality Act and Title 11 (Environmental Protection) have been met.
2. Alternatives to demolition have been considered, including reusing the structure with an alternate use that may not be consistent with existing zoning.
3. All financial alternatives have been evaluated, including use of Historic Tax Credit and acquisition by a third party.

**I. Effective Date.** Decisions of the Historic Landmarks Board and Planning Commission shall become effective ten (10) days after the decision date, provided no appeals have been filed.

**J. Appeals.** All decisions of the Historic Landmarks Board and Planning Commission may be appealed to the City Council within ten (10) days of the decision date. City Council appeal considerations shall be subject to the same requirements of the Historic Landmarks Board and Planning Commission and shall include consideration of any applicable plans or guidelines. Any significant change to a permit by the City Council

shall be referred to the Historic Landmarks Board and Planning Commission for review and comment prior to final action.

#### **10.46.070 Incentives for Preservation**

Owners of property within the Downtown Historic overlay district, or owners of property listed on the local register, are eligible to apply for the following preservation benefits:

- A. Fees.** Design Review application fees, for structures located in the Downtown Historic overlay district, or listed on the local register, may be waived by the Community Development Director for those applications which restore and rehabilitate the significant character of the structure.
- B. Building Code Exceptions.** Deviations from Title 8, Building Code, will be allowed when the construction is in conformance with the State of California Historic Building Code.
- C. Development Standards.** Exceptions to development standards (including but not limited to setback, height, parking, coverage, floor area ratio (FAR)) may be granted for legal nonconforming structures. Planning Commission may grant an exception if the following findings can be made:

  - 1. The exception is the continuation of an existing condition and the exception will not exceed the deviation already existing on the structure.
  - 2. The exception would be more in character with the architectural character of the structure than adhering to the standard requirements.
  - 3. The exception would not be in violation of the State Historic Building Code provisions for health and safety, would not be detrimental to any adjacent property and would not be injurious to public health, safety or welfare.
- D. Additional Uses.** Uses that are not normally allowed in a base zoning district may be allowed in structures that are located in the Historic overlay district or listed on the local register, subject to a Conditional Use Permit (Chapter 10.60). Historic Landmarks Board and Planning Commission shall consider the impact of adaptive reuse proposals on the integrity of the historic structure and the neighborhood and shall make findings specified in Section 10.46.040 (Conditional Uses).
- E. Parking.** Uses in sites or structures within the Downtown Historic overlay district or listed on the local register may be eligible for reduced parking requirements, consistent with Section 10.40.110.D.3 (Historic District Overlay) and 10.40.110.G (Other Reductions).
- F. Written Agreement.** The granting of any exceptions shall be conditional upon a written agreement between the City and the property owner that ensures preservation of the structure's significant character. The agreement shall give the City the right to revoke the approval at any time the applicant has not complied with the conditions of approval. The agreement shall be recorded with the County Recorder.
- G. Termination.** The approval of exceptions from the standard Code provisions for

structures in a Historic overlay district or listed on the local register, is terminated when the structure is demolished, or when the structure is altered in a manner that destroys or diminishes the significant character of the structure. All benefits derived from approval shall be removed.