

Chapter 25.45 - HISTORIC PRESERVATION

- 25.45.002 Intent and purpose.
- 25.45.004 Definitions.
- 25.45.006 Properties listed on the historic register.
- 25.45.008 Procedures for the alteration of historic register structures.
- 25.45.010 Historic register property preservation incentives.
- 25.45.012 Procedures for the alteration of historic inventory properties (“K” and “E” rating).
- 25.45.014 Historic inventory property preservation incentives.
- 25.45.016 Procedures for the alteration of a neighborhood property (“C” rating).
- 25.45.018 Neighborhood property preservation incentives.
- 25.45.020 Process to modify a structure 45 years or older.
- 25.45.022 Property rating evaluation.
- 25.45.024 Historic property disclosure.
- 25.45.026 Unsafe or dangerous conditions.
- 25.45.028 Property owned by public agencies.
- 25.45.030 Property maintenance required.
- 25.45.032 Illegal demolition—penalty for violations.
- 24.45.034 Appeals.

25.45.002 Intent and purpose. The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the city that reflect special elements of the city’s architectural, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage to achieve the following objectives:

- (A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;
- (B) Enhance the visual character of the city by encouraging the preservation of those buildings that make a significant contribution to the older neighborhoods of the city, particularly to the designated register structures reflecting unique and established architectural traditions;
- (C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (D) Strengthen the economy of the city by protecting and enhancing the city’s attractions to residents, tourists and visitors;
- (E) Promote the private and public use of historic resources for the education, prosperity and general welfare of the people;
- (F) Stabilize and improve property values within the city.

25.45.004 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Archaic” means the historical components and assemblies that are essential to the integrity of a historic structure, but that are not in common use for new construction.

“Contributive “C” property - (See Neighborhood Property)

“Director” means the city's director of community development, or her/his designee.

“Design review” means review by the design review board pursuant to Section 25.05.040. The planning commission shall assume the same authority for design review for all projects located in the downtown specific plan area and for projects that the planning commission is the primary discretionary review authority, such as approval of a conditional use permit.

“Exceptional “E” property” means a property is in excellent condition and unique; some are eligible for the national register. Properties in this category have a California Office of Historic Preservation (OHP) status code of 1-5.

“Historic Integrity” means the ability of a property to convey its significance. Historic properties either retain integrity (this is, convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling and association.

“Historic assessment” means a historic building or site assessment to determine if a property is a historic resource or if a project will adversely affect a historic resource. An assessment shall be prepared by a consultant that meets the secretary of the interior's (SOI) professional qualifications standards, as defined in the Code of Federal Regulations, 36 CFR 61, or its successor.

“Historic register (or register)” means the list of properties formally designated as historic resources. The current list of designated properties will be kept on file at the city clerk’s office.

“Historic resources inventory (or inventory)” means a list of all the properties surveyed as part of a historic resource survey that was conducted pursuant to Section 5024.1(g) of the California public resources code. The list of properties or existing ratings may be modified time to time as when historic assessments are completed. The current list of properties contained in the inventory will be kept on file at the city clerk’s office.

“Heritage committee” means the committee, as established by city council, which serves an advisory role on matters pertaining to historic preservation as specified within this chapter.

“Insubstantial alterations” means exterior modifications that do not result in the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings. These changes are performed in such a way that the significance and integrity of a historical resource is not materially impaired. Examples include, but are not limited to, the following:

(1) Any alteration that does not independently require design review approval as specified in Section 25.05.040(B)(1) and other alterations that would not result in the destruction, relocation, or alteration activities that would materially change a historic resource's character-defining features, historical significance, or its exterior appearance.

(2) Maintenance, repair, restoration, or in-kind replacement of severely deteriorated architectural features or building components.

~~(3) Landscape alterations and installation, including the removal of trees not specifically designated or listed as a contributing feature of the property.~~

(43) Installation or replacement of electrical and/or plumbing equipment, utility work, or other mechanical and other building systems, including rooftop appurtenances not significantly visible from a public street and that would result in no change in the general appearance of the historic property.

(54) Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to match existing material, form, and general appearance.

(65) Replacement of severely damaged or deteriorated windows when the replacement is done in-kind to match the existing materials, type, shape and general appearance. In-kind window replacement is not required for neighborhood properties (“C”-rated structures).

(76) Replacement of window panes in-kind or with double or triple glazing so long as the glazing is clear and untinted and the window does not alter the existing window material or general appearance. The replacement of existing archaic or decorative glass is not included in this exclusion.

(87) Repair or replacement of roofing, when replacement is done in-kind to match the existing in form and general appearance.

(98) Repair or replacement of roadways, driveways, and walkways when work is done in-kind to match the existing in material, form, shape, style and general appearance.

~~(10) Addition or replacement of awnings and building mounted signs.~~

(119) Repair or in-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed, including gates, fences, walls, hedges, freestanding walls, pergolas, gazebos and planting beds.

~~(1210)~~ Repointing and repainting of bricks on the exterior of a property, with no change in appearance.

~~(1311)~~ Removal of additions intended to restore the original appearance of a building, structure, site, or object.

~~(1412)~~ Other insubstantial rehabilitation work as determined by the director.

“Key “K” property” means a building that maintains its original integrity and demonstrates a particular architectural style or time period. Properties in this category have an OHP status code of 1-5.

“Mills act” means the state law as defined in Section 50280 of the California public resources code, which allows cities to enter into contracts with the owners of historic structures who may receive a reduction in property taxes.

“Neighborhood property” means structures that contribute to the overall character of the neighborhood, but are not unique or distinctive; however, these properties are still important to the streetscape of Laguna Beach. These properties are identified with a “C” rating and with an OHP status code of 6 or lower on the inventory. Properties not identified on the inventory may also be identified by the heritage committee as specified in Section 25.45.022.

“Replacement In-Kind” means the replacement of a building material or finish with the exact same materials as existing, or with a historically accurate replacement.

“Secretary of the Interior’s Standards” (SOIS) or The Standards, means a series of concepts about maintaining, repairing, and replacing historic materials, as well as designing new additions or making alterations. The Guidelines offer general design and technical recommendations to assist in applying the Standards to a specific property. Together, they provide a framework and guidance for decision-making about work or changes to a historic property.

“Substantial change” means demolition, destruction, relocation, or alteration such that the significance and integrity of a historical resource would be impaired.

25.45.006 Properties listed on the historic register.

(A) Purpose and Intent. The purpose of the Laguna Beach historic register is to provide a means to preserve, protect and enhance the most significant historic resources within the community, including buildings, structures, sites, objects, and landscape features. All subsequent identified potentially eligible resources shall be added to the register pursuant to the procedures

established in this chapter. Properties listed on the register may be identified on-site with an exterior marker or plaque displaying pertinent information about the property. The current list of homes on the register will be kept on file with the city clerk.

(B) Designation Procedures.

(1) The property owner shall complete the application for the proposed designation on a form provided by the department, include all information required and file the application with the department.

(2) The heritage committee will review the application for designation. In its consideration of placement on the register, the heritage committee may request additional information and plans ~~on~~ for any future planned changes to the structure. There shall be no filing fee for placement on the register.

(3) Recordation of a written agreement between the city and the property owner, acknowledging the owner's obligations and responsibilities to ensure preservation of the historic character of the structure shall be filed after the property is designated. This agreement is recorded with the County and will apply to any subsequent owners.

(C) Criteria for Historic Register Listing. Properties identified on the inventory with an "E" or "K" rating are eligible for listing on the register as the structures have been found to have individual historical, cultural, or architectural significance. Neighborhood properties ("C"-rated structures on the inventory) are not eligible for placement on the register. Other structures that have not been surveyed, but are found to meet one or more of the following criteria may also be eligible for the register:

(1) It exemplifies or reflects special aspects, character, interest or value as part of the heritage of the city

(2) The property retains sufficient architectural integrity to continue to evoke the sense of place and time with which it is historically associated;

(23) It is the location of significant or important historic event;

(34) It is identified with a person or persons or groups who significantly contributed to the cultural, artistic, or other important developmental aspects of the city, region, state, or nation;

(45) It exemplifies a particular architectural style, type, period, method of construction or way of life important to the city;

(56) It embodies distinguishing elements of outstanding attention to architectural design, detail, materials or craftsmanship;

(67) It represents the work of a notable builder, designer, architect, or artist;

(78) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city;

(89) It is one of the few remaining examples in the city, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen;

(910) It is a noteworthy example of the use of indigenous materials or craftsmanship.

(D) Findings of the Heritage Committee. Upon review of the application and any supporting material, the heritage committee shall adopt findings that the registered property does or does not meet the criteria for listing on the register, contained in this chapter. The findings of the heritage committee shall contain the following information:

(1) Explanation of the significance or lack of significance of the property under consideration;

(2) Explanation of the integrity or lack of integrity of the property under consideration;

(3) Identification of the important character-defining exterior architectural, site or landscaping features of the property under consideration;

(E) Removal from the Historic Register. Removal from the register can be initiated by the property owner or by the city. The application shall provide evidence that the property no longer retains its historic integrity and/or that the property does not meet any of the criteria listed in Section 25.45.006(C). A historic assessment may be requested as part of the application and will be paid for by the applicant. The decision to remove a structure from the register shall be considered at a public hearing by the city council with recommendation from the heritage committee.

(F) Repayment or Restoration of Benefits/Incentives. The city council shall take into consideration repayment or restoration of any utilized benefits/incentives as set forth in Section 25.45.010 of this chapter when (a) the property owner or the city initiates a request to remove the structure from the register; or (b) anytime unauthorized modifications to the historic structure are made including demolition and partial demolition of an historic structure. Additional penalties for unauthorized demolition are also specified in Section 25.45.030 of this chapter. Filing fees for removal of a structure from the register shall be determined by resolution by the city council.

(G) C-rated structures that have been placed on the register prior to the adoption of this ordinance will remain as historic resources unless an application to remove the property from the register has been filed pursuant to 25.45.006(E).

25.45.008 Procedures for the alteration of historic register structures.

(A) Application. Application shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director.

(B) Review. Prior to the issuance of a building permit to alter any historic structure, the design review board shall review the proposed changes in accordance with Chapter 25.05 of this title and find the proposal consistent with the city's design guidelines. Interior changes shall not be reviewed unless the changes involve interior elements that are integral to the historical building design or if the interior area is part of a public space. Prior to design review board review of alterations to any register structures, the heritage committee shall provide a recommendation on the proposed change(s). Repair or replacement of existing materials with similar-in-kind or historically appropriate materials, in the same location, does not require design review approval.

(C) Heritage Committee Review. The heritage committee or the design review board may request that a historic assessment paid for by the applicant be prepared prior to the review of the project.

(D) Environmental Determination. During its review, the design review board will adopt the appropriate environmental determination pursuant to the California Environmental Quality Act (CEQA). A historic assessment prepared at the applicant's expense will be required to evaluate a projects potential environmental impact.

(E) Pre-construction Meeting. Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector assigned to inspect the structure, a city staff member, ~~and~~ the project architect/~~or~~ designer and historic monitor (if required). This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects in protecting and avoiding destruction of the identified historic fabric that is to be retained.

25.45.010 Historic register property preservation incentives.

Structures listed on the register are eligible to apply for the following preservation benefits. The consideration of benefits shall occur at a public hearing and the granting of any benefit shall be conditioned upon the recordation of a written agreement between the city and property owner that ensures preservation of the building's historic character. The notice of public hearing shall include notice that the applicant is requesting approval of historic preservation incentives and what those requested benefits are.

(A) Parking. The following benefits are subject to design review approval, except when a conditional use permit is required, in which case the city council shall be the final approval authority, upon recommendation by the planning commission. The planning commission shall consider recommendations of the heritage committee.

(1) Designated single-family dwellings that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least one parking space has been provided onsite.

(2) Designated multiple-family dwellings that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.

(3) Designated structures located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design.

(4) Designated "E"-rated structures located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, and only if, integral to the historic building design.

(B) Building Permit and Planning Application Fees. All building permit and planning application fees for structures placed on the register will be refunded for those projects if, prior to the finalization of the building permit, the heritage committee finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund.

(C) Building Code Deviations. The city may allow deviations from Title 14 when findings can be made by the director that the historic building is in conformance with the California Historical Building Code.

(D) Additions to Commercial Structures. Designated commercial structures may add up to fifteen percent of the existing floor area, not to exceed five hundred square feet, without providing additional parking and without bringing any existing nonconformities into compliance with current zoning regulations, subject to design review. The addition must be removed if the historical building is removed from the register.

(E) Setback Flexibility. Additions to designated structures shall be allowed to maintain setbacks up to the line of existing encroachments, provided that all setbacks as required by the Uniform Building Code are maintained for new construction.

(F) Rear Yard Setback Relief. New structures, or additions to existing structures, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.

(G) Density Bonuses. Designated structures located in the R-2 residential medium density zone, the R-3 residential high density zone, local business professional zone, and in the downtown specific plan area may be eligible for residential density bonuses. See Section 25.18.004(Y) and the downtown specific plan for applicable provisions.

(H) Official Recognition. Designated structures shall be eligible for special plaques that identify the historic elements of the property. The cost of the plaque will be paid for by the city.

(I) Priority Processing. Designated properties shall receive priority building and planning/zoning division plan check processing.

(J) Financial Incentives. Owners of properties rated “K” or “E” on the register are eligible to apply for a Mill’s Act contract. Owners of any historic property listed on the register are eligible to apply for any other local, state and national financial benefits, if any.

(K) Bed and Breakfast incentives. Refer to Section 25.22.050.

(L) Relief from Nonconforming Structure Requirements.

(1) Major remodels to designated structures may be allowed without bringing existing nonconformities into compliance if it is determined that such a major remodel will not diminish or detract from the historic significance of the original structure, and if such major remodel is found to be compatible in scale and character with the surrounding neighborhood.

(2) Properties located in multifamily zones (R-2 and R-3), where only one unit currently exists, may apply for additional units without bringing existing nonconformities into conformance, if it is determined that the additional unit(s) will not diminish or detract from the historic significance of the original structure, and if such additional unit(s) is/are found to be compatible in scale and character with the surrounding neighborhood. Requests for this benefit shall be subject to design review with recommendation of approval provided by the heritage committee.

25.45.012 Procedures for the alteration of historic inventory properties with an “E” or “K” rating.

(A) Purpose and Intent. Properties identified with an “E” or a “K” rating on the inventory have been found to be outstanding or good historical, architectural examples and are individually unique. These properties are considered historic resources.

(B) Application. Application to modify a property listed on the inventory shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director.

(C) Review. The director will review the proposed changes for compliance with this chapter and will evaluate if the project constitutes a substantial or an insubstantial modification as defined in Section 25.45.004.

(D) Design Review Approval. A building permit shall not be issued for any exterior alteration or enlargement of a building or structure listed on the inventory (with an “E” or “K” rating) without receiving design review approval, after a recommendation of the heritage committee, unless the project is determined to be an insubstantial change as specified in Section 25.45.004. The design review board, upon recommendation of approval provided by the heritage committee, shall review all material provided as part of the application and approve the proposed project if it finds the work:

(1) Complies with the SOI standards or if the project does not demonstrate strict compliance with the SOI standards, the work protects and preserves the historic and architectural qualities and the character-defining features that qualify the property for listing on the inventory;

(2) Complies with the goals and policies of this chapter;

(3) Complies with the goals and policies of the general plan and any applicable specific plan.

(E) Determination of Consistency with the SOI Standards. A historic assessment prepared at the city's expense will be required for projects that require design review as specified in Section 25.05.040, or to help in determining if the proposed project will create a substantial alteration.

(F) Insubstantial alteration. In making a determination for insubstantial alterations, the director shall ensure that the integrity of the property is maintained, that all character-defining features are maintained, and that no change will be authorized that would diminish the historic integrity of the property. A qualified preservation professional may be obtained, when necessary, to assist in making the determination.

(G) Pre-construction Meeting. Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector assigned to inspect the structure, a city staff member and the project architect/designer. This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects/designers in protecting and avoiding destruction of the identified historic fabric that is to be retained.

25.45.014 Historic inventory property preservation incentives

~~(A) Incentives. Structures listed as an "E" or "K" rated structure on the inventory are eligible to apply for the following preservation benefits:~~

~~(1) Parking. Single-family dwellings that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure if at least one parking space has been provided onsite.~~

~~(2) Setback Flexibility. Additions to neighborhood properties shall be allowed to maintain setbacks up to the line of existing encroachments, provided that all setbacks as required by the Uniform Building Code are maintained for new construction.~~

~~(3) Rear Yard Setback Relief. New structures, or additions to existing structures, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.~~

~~(4) Priority Processing. Neighborhood properties shall receive priority building and planning/zoning division plan check and permit processing.~~

~~(B) Review. The consideration of benefits and the granting of any benefit shall occur at a public design review hearing, after a recommendation of the Heritage Committee. The notice of public hearing shall include notice that the applicant is requesting approval of neighborhood preservation incentives and what those requested benefits are. The design review board shall review the proposed project and the requested benefits for consistency with the city design guidelines as specified in Section 25.05.040(G).~~

Structures listed on the inventory are eligible to apply for the following preservation benefits. The consideration of benefits shall occur at a public hearing and the granting of any benefit shall be conditioned upon the recordation of a written agreement between the city and property owner that ensures preservation of the building's historic character. The notice of public hearing shall include

notice that the applicant is requesting approval of historic preservation incentives and what those requested benefits are.

(A) Parking. The following benefits are subject to design review approval, except when a conditional use permit is required, in which case the city council shall be the final approval authority, upon recommendation by the planning commission. The planning commission shall consider recommendations of the heritage committee.

(1) Single-family dwellings identified on the inventory that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least one parking space has been provided onsite.

(2) Multiple-family dwellings identified on the inventory that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.

(3) Structures identified on the inventory located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design.

(4) "E"-rated structures identified on the inventory, which are located in commercial zones, may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if, ~~and only if,~~ integral to the historic building design.

(B) Building Permit and Planning Application Fees. All building permit and planning application fees for structures placed on the register will be refunded for those projects if, prior to the finalization of the building permit, the heritage committee finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund.

(C) Building Code Deviations. The city may allow deviations from Title 14 when findings can be made by the director that the historic building is in conformance with the California Historical Building Code.

(D) Additions to Commercial Structures. Commercial structures identified on the inventory may add up to fifteen percent of the existing floor area, not to exceed five hundred square feet, without providing additional parking and without bringing any existing nonconformities into compliance with current zoning regulations, subject to design review. The addition must be removed if the historical building is removed from the register.

(E) Setback Flexibility. Additions to structures listed on the inventory shall be allowed to maintain setbacks up to the line of existing encroachments, provided that all setbacks as required by the Uniform Building Code are maintained for new construction.

(F) Rear Yard Setback Relief. New structures, or additions to existing structures, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.

(G) Density Bonuses. Structures identified on the inventory which are located in the R-2 residential medium density zone, the R-3 residential high density zone, local business professional zone, and in the downtown specific plan area may be eligible for residential density bonuses. See Section 25.18.004(Y) and the downtown specific plan for applicable provisions.

(I) Priority Processing. Properties identified on the inventory shall receive priority building and planning/zoning division plan check processing.

25.45.016 Procedures for the alteration of a neighborhood property (“C” rating).

(A) Purpose and Intent. Neighborhood properties contribute to the overall character and history of the neighborhood, though they are not unique or distinctive. These properties are not considered historic resources under CEQA. In an effort to preserve these structures’ contribution to the village atmosphere and neighborhood character, special consideration should be given to these properties during the design review process.

(B) Application. Application to modify a neighborhood property shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director.

(C) Review. The director will review the proposed changes for compliance with this chapter and will evaluate if the project constitutes a substantial or an insubstantial modification as defined in Section 25.45.004.

(D) Design Review Approval. A building permit shall not be issued for any exterior alteration or enlargement of a building or structure listed on the inventory (with a “C” rating) without receiving design review approval, with recommendation of approval provided by the heritage committee, unless the project is determined to be an insubstantial change as defined in Section 25.45.004. Windows and doors may be replaced in the existing opening with similar or new materials.

(E) Design Guidelines. Physical improvements and building modifications shall be designed and located in a manner that best preserves the city’s village atmosphere and the existing streetscape. Design review is required to determine if a project complies with the city’s design guidelines to ensure that the proposed modifications:

- (1) Maintain the current relationship to the neighborhood;
- (2) Are consistent with the pattern of open space existing in the neighborhood;
- (3) Are designed in such a way that visible mass conforms to the scale of the neighborhood and that the building heights are appropriate to the neighborhood;
- (4) Consider the existing setback pattern in the neighborhood;
- (5) Locate garages and driveways in a manner compatible with the established neighborhood pattern and that new garages are designed to preserve the existing scale of the neighborhood.

25.45.018 Neighborhood property preservation incentives.

~~(A) Purpose and Intent. Structures identified by the heritage committee as a neighborhood property or properties with a “C” rating on the city’s inventory, are eligible to apply for preservation benefits. These properties are not considered historic resources under CEQA. However, in an effort to preserve these structures’ contribution to the village atmosphere and neighborhood character, these properties may qualify for the following preservation incentives:~~

~~(1) Parking. Single family dwellings that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title~~

~~when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure if at least one parking space has been provided onsite.~~

~~(2) — Setback Flexibility. Additions to neighborhood properties shall be allowed to maintain setbacks up to the line of existing encroachments, provided that all setbacks as required by the Uniform Building Code are maintained for new construction.~~

~~(3) — Rear Yard Setback Relief. New structures, or additions to existing structures, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.~~

~~(4) — Priority Processing. Neighborhood properties shall receive priority building and planning/zoning division plan check and permit processing.~~

~~(A) Parking. The following benefits are subject to design review approval, except when a conditional use permit is required, in which case the city council shall be the final approval authority, upon recommendation by the planning commission. The planning commission shall consider recommendations of the heritage committee.~~

~~(1) Single-family dwellings which are identified as neighborhood properties, and those that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least one parking space has been provided onsite.~~

~~(2) Multiple-family dwellings which are identified as neighborhood properties, that are nonconforming because of substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.~~

~~(3) Structures in commercial zones, which are identified as neighborhood properties, may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of fifty percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include all exterior and visible interior elements if, and only if, integral to the historic building design.~~

~~(4) “E”-rated structures located in commercial zones, which are identified as neighborhood properties, may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent based on the degree to which the historic character of the building is preserved and/or enhanced. The historic character of the building shall include exterior and visible interior elements if integral to the historic building design.~~

~~(B) Building Permit and Planning Application Fees. All building permit and planning application fees for structures placed on the register will be refunded for those projects if, prior to the finalization of the building permit, the heritage committee finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund.~~

~~(C) Building Code Deviations. The city may allow deviations from Title 14 when findings can be made by the director that the historic building is in conformance with the California Historical Building Code.~~

~~(D) Additions to Commercial Structures. Commercial structures, which are identified as neighborhood properties, may add up to fifteen percent of the existing floor area, not to exceed five hundred square feet, without providing additional parking and without bringing any existing~~

nonconformities into compliance with current zoning regulations, subject to design review. The addition must be removed if the historical building is removed from the register.

(E) Setback Flexibility. Additions to neighborhood property shall be allowed to maintain setbacks up to the line of existing encroachments, provided that all setbacks as required by the Uniform Building Code are maintained for new construction.

(F) Rear Yard Setback Relief. New structures, or additions to existing neighborhood properties, may be constructed within five feet of a rear property line. New improvements may not encroach into a blufftop setback.

(G) Density Bonuses. Structures identified on the inventory which are located in the R-2 residential medium density zone, the R-3 residential high density zone, local business professional zone, and in the downtown specific plan area may be eligible for residential density bonuses. See Section 25.18.004(Y) and the downtown specific plan for applicable provisions.

(I) Priority Processing. Neighborhood properties shall receive priority building and planning/zoning division plan check processing.

~~(B) Review.~~ The consideration of benefits and the granting of any benefit shall occur at a public design review hearing. The notice of public hearing shall include notice that the applicant is requesting approval of neighborhood preservation incentives and what those requested benefits are. The design review board shall review the proposed project and the requested benefits for consistency with the city design guidelines as specified in Section 25.05.040(G).

24.45.020 Procedures for the alteration of structure 45 years or older.

(A) Application. Application to demolish, relocate, or substantially change a building structure 45 years or older shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the director.

(B) Director Determination. Within thirty (30) days of receipt of an application as described in subsection (A) of this section, the director shall make a determination of whether the property maintains its original integrity and therefore could be ~~is~~ eligible to be classified as an “E” or “K”-rated property or as a neighborhood property (“C”-rated). In making this determination, the director may apply the eligibility criteria and factors specified in Section 25.45.006(C). The director may also request that a historic assessment at the cost of the city be prepared to evaluate the property.

(1) If the director finds that the property may be eligible to be classified as an “E” or “K”-rated property or as a neighborhood property (“C”-rated), then the proposed exterior modifications shall be forwarded to the heritage committee for review as prescribed by Section 24.45.022 to determine the appropriate rating of the property.

(2) If the director determines that the property ~~is not eligible to be classified as an “E” or “K” rated property or as a neighborhood property (“C” rated), no longer retains historic integrity, then~~ the permit to demolish, relocate, or substantially alter the property shall be ~~issued~~ processed without further restrictions under this chapter.

(C) Public Notice. Public notice of the director’s determination as described in subsection (B)(2) of this section shall be subject to the provisions of Section 25.45.022. The director will provide a 14-day notification pursuant to section 25.05.065(D) of the determination as described in subsection (B)(3).

25.45.022 Property rating evaluation.

(A) Intent and Purpose. The property owner or authorized agent or the director may request

that the heritage committee review the property rating for the following properties (this process does not apply to structures listed on the register (the process to designate or remove a property from the register is specified in Section 25.45.006):

- (1) Properties listed on the inventory;
 - (2) Neighborhood properties (“C”-rated);
 - (3) A property which has never been surveyed or evaluated.
- (B) Applications. Applications shall contain such information as prescribed by the director.
- (C) Public Notice. Public notice shall be subject to the provisions of Section 25.05.065.
- (D) Heritage Committee Review. The heritage committee shall conduct a public hearing to determine the appropriate property rating. The heritage committee may also request that a historic assessment at the cost of the city be prepared to evaluate the property. After consideration of all testimony and evidence presented at the public hearing the heritage committee shall determine if the property should be classified as an “E” or K”-rated property, as a neighborhood property, or if the property has no historic significance.

25.45.024 Historic property disclosure.

(A) Definitions. For purposes of this section, the following terms shall have the meanings set forth below:

(1) “Agreement of sale” means any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another.

(1) “Buyer” means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent with the object of entering into a real property transaction. “Buyer” includes vendee or lessee.

~~(2) “Offer to purchase” means a written contract executed by a buyer acting through a selling agent, which becomes the contract for the sale of the real property upon acceptance by the seller.~~

(32) “Owner” means any person, co-partnership, association, corporation, or fiduciary having legal or equitable title or any interest in real property.

~~(43) “Real property transaction” means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase the sale or exchange of any real property.~~

(54) “Sale” means a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of California Civil Code Section 2985, and transactions for the creation of a leasehold exceeding one year’s duration.

~~(65) “Selling agent” means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.~~

(B) Agent Disclosure. If real property has been included in the register or by the city of Laguna Beach, the owner ~~or the selling agent~~ of the property of his representative shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property’s historic status. The owner ~~or the selling agent~~ or his representative shall provide the notice to the buyer before expiration of any inspection contingency period, and in any event before transfer of title.

(C) City Disclosure. If a real property is more than 45 years of age, then the city will to the best of its ability, identify the year of construction and state that the property could be considered as a historic resource during the development process. This information will be provided on a real property report.

(D) Penalty. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in chapter 14.76.090 of the municipal code.

25.45.026 Unsafe or dangerous conditions. None of the provisions of this chapter shall be construed to prevent any demolition necessary to correct the unsafe or dangerous conditions of any structure, feature, or part thereof, when such condition has been declared unsafe or dangerous by the building official or the fire chief and where the proposed measures have been declared necessary by such official to correct such conditions. However, only such work as is necessary to correct the unsafe or dangerous condition may be performed. In the event any structure or other feature shall be damaged by fire or other calamity, the building official may specify, prior to the commission's review, the amount of repair necessary to correct any unsafe conditions.

25.45.028 Property owned by public agencies. Public agencies that own property in the city shall be notified of the provisions of this chapter and encouraged to seek the advice of the heritage committee before the construction, alteration, demolition, or relocation of any potential historic resource.

5.45.030 Property maintenance required.

(A) The heritage committee and city council intend to preserve from deliberate or inadvertent neglect the exterior portions of any property listed on the register and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee, or occupant of any listed property shall fail to undertake such repairs or maintenance as are necessary to prevent significant deterioration of the exterior of the property beyond the condition of the property on the effective date of the listing by the heritage committee.

(B) No owner, lessee, or occupant of any listed property in the register shall fail to comply with all applicable provisions of this code and other ordinances of the city regulating property maintenance, including, without limitation, weed control, garbage, and housing.

(C) Before the city attorney files a complaint in municipal court for failure to maintain the property on the listed site, the ~~heritage committee or the director~~ shall notify the property owner, lessee, or occupant of the need to repair, maintain, or restore the property, and shall give the owner a minimum of thirty days to perform such work.

25.45.32 Illegal demolition penalty for violations.

(A) Penalties. The following penalties shall be determined by the city council after a public hearing.

(1) The removal or demolition of any structure listed on the register without an approved demolition permit shall result in up to a five-year stay, as determined by the City Council upon a recommendation of the Heritage Committee, in the issuance of a building permit for any new construction at the site previously occupied by the historic structure. Demolition is defined under the definition of major remodel in Section 25.08.024.

(2) The removal or demolition of any structure listed on the inventory, or a structure more than 45 years of age, without an approved demolition permit shall result in up to a two-year

stay, as determined by the City Council upon a recommendation of the Heritage Committee, in the issuance of a building permit for any new construction at the site previously occupied by the historic structure. Demolition is defined under the definition of major remodel in Section 25.08.024.

(3) In addition to the repayment or restoration provisions of Section 25.45.010 of this chapter, any person who partially or completely demolishes a structure listed on the inventory or register may be subject to an administrative penalty of up to one hundred thousand dollars for each violation, as determined by the City Council upon a recommendation of the Heritage Committee. The determination shall be based on the extent of the partial demolition and extent of the historic elements which have been removed and the benefits received, including setback and parking incentives.

24.45.034 Appeals.

(A) Intent and Purpose. It is the intent and purpose of this section to provide standardized appeal procedures for discretionary decisions made under this title.

(B) Director Determinations.

(1) Any determination made by the director pursuant to Sections 25.45.012(C), 25.45.016(C) may be appealed to the city council. Appeals shall be addressed to the city council on a form prescribed by the city and shall state all grounds for the appeal. Any appeal must be filed with the city clerk within fourteen (14) calendar days of the determination. Appeals shall be accompanied by the filing fee as adopted by resolution of the city council. The city manager shall set the date for an appeal public hearing before the city council and shall not be limited by the time period specified in Section 25.05.070(B)(6). Notice shall be provided to the applicant fourteen (14) calendar days prior to the date of the city council hearing of the appeal.

(2) An appeal of the director's determination pursuant to Sections 25.45.020(B) must be filed with the city clerk within fourteen (14) calendar days of the determination date. If this determination is appealed, then such appeal shall be heard by the Heritage Committee as prescribed in section 25.45.022.

(C) Heritage Committee Decisions. Rating determinations made by the heritage committee pursuant to Sections 25.45.022(E) may be appealed subject to the provisions set forth in Section 25.05.070.

(D) Modifications and Alterations. Decisions made by the design review board or planning commission as provided under this title may be appealed subject to the provisions set forth in Section 25.05.070.