

7/7/16

## Chapter 25.45 HISTORIC PRESERVATION

### 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 which make a significant contribution to the older neighborhoods of the city particularly to the designated historic 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. (Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

### 25.45.004 General provisions.

- (A) Laguna Beach Historic Register. The city clerk shall maintain a current record of historic structures on the city's historic register. ~~Structures identified on the historic resources inventory (which was officially recognized per Resolution 82-111) and those structures identified~~

~~as heritage structures in the South Laguna Specific Plan shall be referred to as the historic inventory and are eligible to apply for placement on the city's historic register. Structures on the historic resources inventory which are placed on the historic register are classified into three categories of historical significance, "E" Exceptional, "K" Key and "C" Contributive. For a complete description of these categories see the city's historic resources element.~~

(B) Design Review Approval. The building official shall not issue a permit for construction, exterior alteration or enlargement of a building or structure listed on the city's historic register without receiving design review approval during a public hearing. Interior modifications and minor exterior alterations shall be exempt as noted in Section 25.05.040(B)(2)(b) and (c) (design review). The building official shall not issue a permit for demolition of a building or structure listed on the city's historic ~~inventory or~~ register until the procedures for demolition listed in Section 25.45.010 of this chapter have been completed.

(C) Heritage Committee. The heritage committee, as established by city council, will serve an advisory role on matters pertaining to historic preservation as specified within this chapter.

(D) Designation Procedures.

(1) Structures ~~identified on the historic inventory~~ shall be placed on the historic register upon submittal of a completed application to the city clerk and 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. ~~Applications shall contain information on remodels or exterior alterations made after official recognition of the historic resources inventory (December 21, 1982) or the South Laguna Specific Plan (September 1983), whichever is applicable.~~ There shall be no filing fee for application to the historic register. Only the property owner may apply for placement on the historic register.

(2) ~~If a structure is not on the historic inventory, but the owner desires inclusion of the structure on the historic register, application shall be made to the heritage committee.~~ Any structure considered for placement on the historic register must be at least fifty years old and the following criteria shall be used in consideration:

(a) Structures that most retain their original appearance and architectural integrity using the rating system of “E,” “K” and “C” as described in the historic resources element of the general plan;

(b) Structures that most represent character, interest or value as part of the heritage of the city;

(c) The location as a site of significant historic event;

(d) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;

(e) The exemplification of a particular architectural style or way of life important to the city;

(f) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.

(3) In its consideration of placement on the register, the heritage committee may request information and plans on any future planned changes to the structure. Placement on the register shall be recommended by the heritage committee and finalized by the heritage committee staff liaison. There shall be no filing fee for register consideration.

(E) Removal from the Historic Register. Removal from the register can be initiated by the property owner or by the city and shall be subject to city council approval with recommendation from the heritage committee.

(F) Repayment or Restoration of Benefits/Incentives. The decision to remove a structure from the historic register shall be considered at a public hearing by the city council and shall take into consideration repayment or restoration of any utilized benefits/incentives as set forth in Section 25.45.006 of this chapter when (a) the property owner or the city initiates a request to remove the structure from the historic 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 25.45.014 of this chapter. Filing fees for removal of a structure from the register shall be determined by resolution by the city council. (Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

#### 25.45.006 Historic register preservation incentives.

Structures listed on the city's historic 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 board 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) Historic single-family dwellings that are nonconforming due to 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 original square footage of the structure and that at least one covered parking space has been provided on-site. When a second residential unit is being added to a historic structure under the provisions of Chapter 25.17 (Second Residential Units), parking shall be in accordance with the requirements of that chapter unless modified by the city council for purposes of achieving the goals of the historic preservation ordinance.

(2) Historic multiple-family dwellings that are nonconforming due to 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 original square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.

(3) "E" rated historic 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.

(4) Historic structures located in commercial zones and which have “K” or “C” ratings 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.

(B) Building Permit and Planning Application Fees. All building permit and planning application fees for structures placed on the historic 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.

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

(D) Additions to Historic Commercial Structures. Historic 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 review and approval by the design review board. The addition must be removed if the historical building is removed from the historic register.

(E) Setback Flexibility. Additions to historic 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) Density Bonuses. Historic structures located in the local business professional zone and in the downtown specific plan area may be eligible for residential density bonuses. See Section 25.18.002(O) and the downtown specific plan for applicable provisions.

(G) Official Recognition. Properties on the historic register shall be eligible for special designation plaques.

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

(I) Relief from Nonconforming Structure Requirements.

(1) Structures listed on the historic register may be allowed to add more than fifty percent of the original structure without bringing existing nonconformities into compliance if it is determined that such an addition will not diminish or detract from the historic significance of the original structure, and if such addition 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 will not diminish or detract from the historic significance of the original structure, and if such additional unit is found to be compatible in scale and character with the surrounding neighborhood. Requests for this benefit shall be subject to approval by the design review board with recommendation of approval provided by the heritage committee. (Ord. 1458 § 1, 2006; Ord. 1309 § 2, 1995; Ord. 1179 § 5, 1989).

#### 25.45.008 Procedures for the alteration of historic register structures.

(A) Prior to the issuance of a building permit to remodel or alter any historic structure (with the exception of minor exterior modifications), 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 following applicable rehabilitation guidelines. Interior changes shall not be reviewed unless the changes involve interior elements which are integral to the historical building design. Prior to design review board review of alterations to any historic structures, the heritage committee shall provide a recommendation on the proposed change(s). A structural and historical assessment of the structure to determine if proposed alterations can be accomplished without removing the identified historic character defining features of the structure shall be

submitted for heritage committee and design review board consideration. Plans shall be submitted for the alteration of historic structures clearly identifying the actual historic character defining fabric (elements such as siding, windows, doors, moldings, etc.) of the structure that will be retained and/or removed.

(B) Rehabilitation Guidelines. The following guidelines shall be used to evaluate any proposed alteration to structures on the historic register:

(1) When altering or adding to historically significant structures, the historic character of the original structure shall be retained. Any changes shall be guided by the policies of the city's historic resources element and specific plans where applicable.

(2) Alterations and additions to any historically significant or architecturally significant building shall not introduce some new or conflicting element and shall complement the prevailing architecture.

(3) Every reasonable effort shall be made to provide a compatible use for the property which requires minimal alteration to the building.

(4) The removal or alteration of any historic material or distinctive architectural features shall be avoided.

(5) Changes which may have occurred over time are evidence of the history and development of the building. These changes may have acquired significance in their own right and shall be preserved except where such changes have occurred inappropriately.

(6) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be preserved.

(7) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material shall be the same material as the original if at all possible, or shall match in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (8) Surface cleaning of historic structures shall be conducted carefully and gently. Sandblasting and other cleaning methods that damage historic materials shall not be utilized.
- (9) Contemporary design for alteration and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural materials, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- (10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure will be unimpaired.
- (C) 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/or heritage committee member and the project architect. 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. (Ord. 1458 § 1, 2006; Ord. 1309 § 3, 1995; Ord. 1179 § 5, 1989).

#### 25.45.010 Procedures for demolition.

The following procedures shall be applied to all historic structures listed on the historic register, ~~and those structures listed on the historic inventory.~~

- (A) Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code.
- (B) Applicants for demolition of historic buildings which appear on the city's historic ~~inventory or register~~ or as required in this chapter shall make application for a demolition permit with the department of community development.
- (C) Upon receipt of the application to demolish, the department of community development shall, within thirty days, solicit input from the heritage committee prior to scheduling the request for public hearing before the design review board. Public notice for the design review board



hearing shall be subject to the provisions of Section 25.05.065, except that if a coastal development permit is required pursuant to Chapter 25.07, noticing for that type of permit shall instead be carried out through the public notice provisions of Section 25.07.014.

(D) Design Review Board Action. After the appropriate environmental review, pursuant to the California Environmental Quality Act (CEQA), the design review board shall receive a recommendation from the heritage committee and shall address and mitigate the cumulative impacts of allowing the demolition of structures that contribute to the overall neighborhood character or streetscape, but which may be individually insignificant. After conducting the public hearing, the design review board shall take the following action:

Approve permit, subject to a waiting period of up to ninety calendar days to consider relocation and/or documentation.

(1) During the waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the city once a month for the first two months following the design review board's hearing. Such advertisement shall be one-quarter page in size and shall include a photograph of the structure, the address at which the structure proposed for demolition is located, information as to how arrangements can be made for relocation and the date after which a demolition permit may be issued. Evidence of this publication must be submitted to the department of community development prior to issuance of a demolition permit.

(2) Any application for relocation of the structure shall be filed within the specified waiting period as determined by the design review board.

(3) The design review board may extend the waiting period up to one hundred eighty days if it determines that relocation is imminent.

(4) During the continuance period, the heritage committee may investigate relocation of the building or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

(5) During the continuance period, the applicant may pursue plan approval.

(E) Findings. Prior to the issuance of a demolition permit, the design review board shall make one of the following findings:

- (1) The action proposed is consistent with the purposes of the ordinance and the historic resources element of the general plan; or
- (2) There are no reasonable alternatives to demolition. (Ord. 1577 § 11, 2013; Ord. 1555 § 11, 2011; Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

#### 25.45.012 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. (Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

#### 25.45.014 Illegal demolition—Penalty for violations.

(A) The removal or demolition of any structure listed on the historic register without an approved demolition permit shall result in a five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.

~~(B) The removal or demolition of any structure listed on the historic inventory without an approved demolition permit shall result in a two-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.~~

~~(C)~~B In addition to the repayment or restoration provisions of Section 25.45.004(F) of this chapter, any person who partially demolishes a structure listed on the city's ~~historic inventory or~~ historic register may be subject to an administrative penalty of up to one hundred thousand dollars for each violation. The determination of the application of this provision and the amount

of the penalty fee shall be determined at a public hearing by the city council upon recommendation from the heritage committee. The determination shall be based on the extent of the partial demolition and the benefits received, including setback and parking incentives. (Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

